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FACULTY OF SOCIAL SCIENCES
POLITICAL SCIENCES SPECIALIZATION &
CENTER OF POST-COMMUNIST POLITICAL STUDIES
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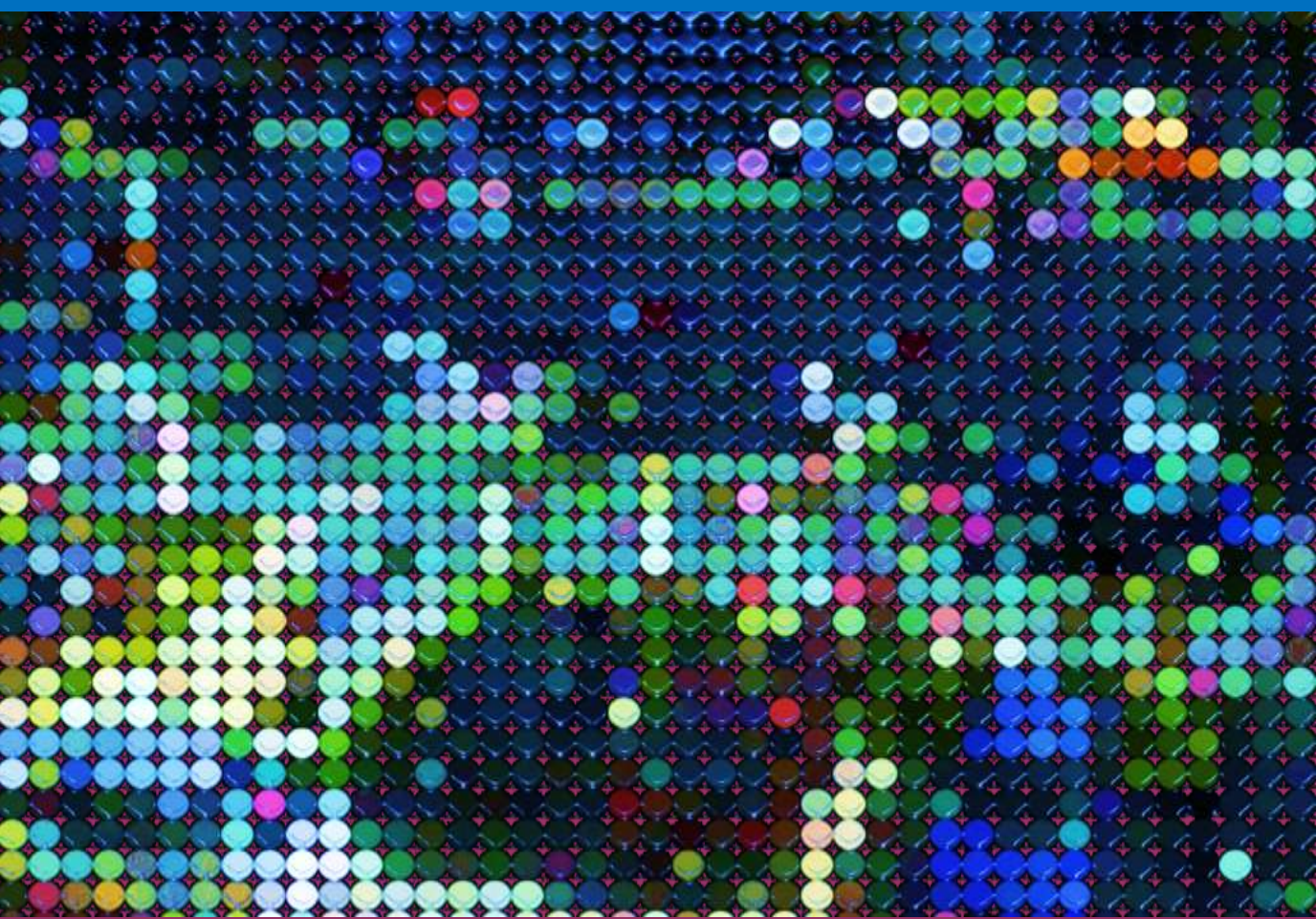

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EDITORS' NOTE

Social Action and Protection of Rights in Multilevel Governance

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

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

RSP issue 55/ 2017: Editorial Objectives

In September 2017, the third issue of the Revista de Ştiinţe Politice. Revue des Sciences Politiques (hereinafter **RSP**) documents the assessment of the social action and protection of rights in the multilevel governance. The current issue describes the scholarly inputs and outputs rejoining the social, political, cultural and legal facets enabling the multilevel governance, including empirical researches, quantitative and qualitative studies, monitoring of EU legal documentation, as well as monographic presentations of the social trends and structures.

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The third issue of the journal published in 2017 (issue no. 55/ 2017) recognizes the conceptual and analytical developments of the social action and protection of rights interlinks in multilevel systems as follows:

1) The protection of cultural rights and the politics of recognition (author: Daniel Cojanu);
2) The socialist trends in the modern societies and the feedback of the social structures (author: Florin Nacu);
3) The ideological identity within the dialogues of the communist party and the foreign leftist political formations (author: Adrian Cojanu);
4) The social agenda and civic participation and the EU institutional governance debate (monitoring of the EU legal database) (authors: Anca Parmena Olimid and Cătălina Maria Georgescu);
5) The developments of proportionality and territorial representations in the Slovak parliamentary elections (author: Jakub Charvát);
6) The quest of sovereignty (case study Bosnia and Herzegovina) (author: Adisa Avdić-Küsmüş)
7) The emergence of a new profession in public administration (case study data protection officer) (author: Andra Maria Brezniceanu);
8) The national and confessional enquires in contemporary periodical (monographic study) (author: Gabriela Grigore);
9) EU and international variations on the rights to a healthy environment (author: Ilie Adrian Barbu);
10) The health parameters in rural marginalized areas (authors: Gabriela Motoi and Mihaela-Alexandrina Popescu);
11) The exercise and limits of powers of the autonomous administrative authorities (author: Cristian Radu Dragomir);
12) The European Court of Human Rights enquires on the excessive length of processes in the Romanian national law (author: Adriana Florina Bălăşoiu (Marta);
13) The political participant and representation in post-communist Montenegro (the politics of multiculturalism) (author:DanijelaVuković-Ćalasan);

RSP issue 55/ 2017: Research methods and focus. Issue 55/2017 seeks to gather the major challenges in the field of social sciences research emphasizing the recent development of the research communities and social structure by

a) exploring case studies and theorizing new paths of the institutional cleavages,
b) interviewing rural and/ or urban communities,
c) using focus group research,
d) monitoring the EU legal documentation,
e) enabling empirical methods,
f) enquiring and sampling the electoral processes,
g) assuming literature review and monographic research of the social trends,
h) facilitating the exploration of the emergence of new professions and managing their structural and legal dynamics in comparative law,
i) mapping the connection between research variables in the area of the EU social agenda,

j) drafting the historical links using the archives data and historical institutionalism to generate a theory on the left political formation during the communist period.

RSP issue 55/ 2017: Editorial policies

RSP issue 55/ 2017 (September 2017) undergoes major editorial advances taking into consideration that the current issue is dedicated to historical, social, cultural, legal and political encounters ensuring both professional analysis and experience in the field of social action and protection of rights.

Wishing you all the best,

The RSP Editors

RSP • No. 55 • 2017: 12-21

ORIGINAL PAPER

Cultural Rights and the Politics of Recognition

Daniel Cojanu*

Abstract
The universalism of individual human rights confronts today the reality of a social landscape made up of diverse ethnic groups and traditions that survive and claim to be publicly recognized. In the political philosophy of the last two decades, the issue of cultural identity has become more significant than that of social justice. From the beginning, the deontological liberalism of John Rawls has sent the problem of cultural diversity and of identity claims in the private sphere of existence, arguing that the public space shouldn't be governed by values, but according to some neutral, consensual principles. Although later he admitted the pluralism of values and of lifestyles and the opportunity of a partial and overlapping consensus. In the communitarian political philosophy (Charles Taylor, Will Kymlicka), cultural rights have been accepted as collective rights of specific communities (ethnic groups, historical minorities or nations), that implies the normative relevance of inherited identities which are the object of recognition politics. Other philosophers have interpreted the cultural rights as individual rights, expressing the belonging of the individual to a cultural community (Alain Renaut). We intend to analyse the tension between: deontological principles and ethno-cultural membership, universalism of human rights and particularism of cultural rights, chosen identities and the recognition of inherited ones.

Keywords: *cultural rights, ethnic groups, politics of recognition, inherited identities, relativism*

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Deontological liberalism and pluralism of lifestyles

The issue of cultural identity has been the greatest challenge for the political philosophy of the last decade of the last century. The concept extended beyond the limits of sociological analysis, it was no longer applied to a simple social fact, universally acknowledged, but claimed a philosophical evaluation. It had to be assessed the normative relevance of cultural identity, the importance of this notion to formulate identity claims in public space, to understand the tensions between the universalism of human rights and cultural relativism. The social picture of the changing world (complicated by the intensification and diversification of the phenomenon of migration) required the reconsideration of the ethnic identity, its importance for the formulation of the politics of recognition and the acceptance of cultural rights as legitimate norms regulating the coexistence of different ethnic groups in the national states, with an acknowledged ethnic majority, as well as in the multi-national ones.

Methodologically, the philosophical reflection on cultural rights should be based on a preliminary examination of meaning that this expression has in common speech. In common speech, cultural rights are often mistaken for the right of access to culture. Things get more complicated when we realize that cultural rights can be considered both as rights of individuals to express their belonging to a group and as special rights of the groups (be they groups of immigrants or historical minorities). Moreover, cultural rights represent a topic of reflection for contemporary political philosophy, both for the communitarian and for the liberal one.

The first question is: what kind of rights are cultural rights, derivative or *sui generis*? For the advocates of methodological individualism, cultural rights do not exist or are derived. They are the ones who interpret any society as a consensual association: the society is a sum of individuals. Just individuals have ontological reality, only they do exist. That is why, an individualist like Rawls in *A Theory of justice* believes that only individuals may have rights (Martin, 1985). The issue of cultural rights, in an individualistic approach of social arrangements, depends ultimately on whether a special status is granted for the cultural groups or whether they are interpreted like the other human groups as mere voluntary association. The social contract theories (and Rawls' theory is not an exception) are normative theories which, to legitimize the political order who protects individual rights, are forced to postulate a natural state and an initial moment of human association (of contractual kind). If any society is a form of voluntary and consensual association, a form of mutually beneficial cooperation, there is no reason to keep those social arrangements that prove themselves oppressive, restrictive and unfair. The social contract theories legitimize the civil disobedience and represent a theoretical instrument to encourage the change of those forms of social organization which are unjust or institutionally inefficient.

The normative model that Rawls proposes for any just society is based on the distinction between public space and private sphere. It will be right (and fair) that society which derives its rules, procedures and institutions from certain principles that do not arise from a particular vision of the world or over the good. Rawls proposes a mental experiment according to which the constitutive principles of just society are freely chosen and consented by the human individuals as rational agents which perform their choice behind “a veil of ignorance”. The veil of ignorance is a metaphor that Rawls uses to depict the epistemic conditions that should exist for the ideal choice of these principles, when the people don’t know the benefits and the social positions arising from the social

competition, right after they enter the society. The two principles are: „First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others. Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all" (an equivocal principle that corrects the detrimental effects of the competition through an equity theory, in fact by accepting the state intervention). According to Rawls, it will be a fair society the society that will allow forms of coexistence and cooperation that maximizes the individual freedom and will allow the state to intervene through social protection policies and progressive tax system to reduce the negative social effects of inequalities arising from social competition. (Rawls, 1971: 60)

Justice as fairness that Rawls has in mind is a regulative principle of instrumental reason which interprets societies as simple artefacts, as useful constructions of promoting individual rights and interests. In such a perspective, the cultural identity which ethnic groups refer to as the basis of their unity and continuity, is a mere fiction, it is an ideological construct designed to justify the survival of certain historical groups. The belonging of individuals to ethnic groups cannot be invoked along with the principles of justice (as stipulated by the deontological liberalism) to regulate the public space. That is why they are sent to the private sphere of the individual existence or of the elective affinities and tastes shared by the members of civil society. Cultural identity has, according to deontological liberalism of Rawls, the same fate with the values, beliefs, worldviews and the conceptions of the good. They are irrelevant for the regulation of public space. What Rawls wanted to say is that the ethno-cultural membership (as well as the values, the moral beliefs or ideals) should not influence the choice of the principles of justice, the rational and deontological way in which it is necessary to regulate our coexistence.

Rawls's theory already assumes a certain social ontology and a certain philosophical anthropology. The veil of ignorance is a kind of suspension of judgment, a procedural ascesis in order to create the opportunity to think a just society, which does not derive its principles from the moral conceptions. For this, the human individuals as rational agents are designed not just as selfish and interested beings, able to decide voluntary, consensually, based on a deductive calculation, the optimal form of advantageous social cooperation. They are conceived as beings that shall be defined mainly by the ability to choose and not by what they choose or by the context of their choice. The second principle founding a just society was intended to correct the injustices coming from inequalities of status and wealth that arise in social competition. But it did not manage to solve the inequities that arise in the ethno-cultural co-existence.

The ethnic cultures, which justify the identitary claims and the politics of recognition, are founded on what makes people different. What distinguishes them not as individuals but what distinguishes their cultural environments. Human nature doesn't defy cultures and rooting, or diversity; human nature is cultural and is expressed as difference (Taylor, 1994: 27-28).

Classical liberalism tends to ignore the issue of cultural differences. Because being part in communities and traditions limits the freedom and the associated rights of the individual. In general, the liberal tradition tends to minimize the importance of cultural differences, which it considers irrelevant for the elaboration of cohabitation rules. Nevertheless, the neo-liberal theories applicable to multicultural societies, promote the models of tolerance and integration.

The capitalist economic development has created the possibility for man to detach himself from the fixed roles and predetermined identities, inherited by tradition, culture, etc. Markets tend to weaken and discard particular identities. In these circumstances, it is desirable to promote a plural and diverse society, but how to maintain social cohesion. One believes that the institution of citizenship, establishing equal rights and duties for all citizens, could achieve this desideratum. The principle of citizenship implies that the state is neutral in relation to cultural differences. In the 90s of the last century, under the conditions of the political transformations that made the transition from national to multinational, the neutrality principle had to be adjusted, adapted to the new circumstances. It now raises the question of the transition from equal citizenship to *differentiated citizenship*, in terms of the recognition of historical minorities and distinct ethnic groups by the state.

This version of citizenship, proposed by Will Kymlicka, is less understood as a system of unitary assignment of rights and duties, but as a political institution where the symbolic goods, the identity markers, the signs of cultural affiliation are redefined and negotiated. And these gain importance in the differentiated allocation (by the state) of material resources and facilities designed to preserve their identity and to make them visible as distinct groups in the public space (Kymlicka, 1995). Kymlicka strives to develop a liberal theory applicable to multicultural societies and to add to the principles of justice as fairness, of social justice the new principles of *ethno-cultural justice.*

Representatives of the classical liberal tradition believed that respect for individual rights indirectly ensures the specificity of belonging to distinct ethnic groups. They argued that the list of human rights should not be complicated with additional rights. Because otherwise one of the fundamental principles of the liberal tradition would be questioned: that of the state's neutrality with respect to the beliefs of its citizens. If the state does not have to preoccupy with the particular conceptions of the good, it shouldn't be concerned neither with the associated cultural diversity. The conceptions the good are usually correlated to the cultures where they appear. Norms of living together within the cultures are formulated by reference to a conception of good shared among the members of a cultural community.

Cultural diversity as fact and norm

Culture as difference, expressing a distinctive identity, is not just an inevitable anthropological given, is not only a fact, but is also a norm. Herder considered that the humanity expresses itself necessarily as difference, that to be human means first of all to belong to a nation (Volk), to have specific roots, which cannot be compared with the destiny of the other peoples.\ (Herder, 1774: 509-510). It is true that cultural diversity makes us familiar with other ways of life; but to what extent could they be viable options for us (who we are shaped by the western way and prepared to accept only those cultures that we resemble). We will try to enrich our culture with practices and ingredients of those cultures which are compatible to ours (Parekh, 2000: 165). There are authors that derive the right of human beings to their own culture from the anthropological fact that they are culturally shaped; thus cultural diversity appears as being justified and as a necessary and legitimate result of the exercise of this right. Their argument tells us why the belonging to a culture is important; it doesn't tell us why cultural diversity is good. It shows us that cultural diversity is an unsurpassable fact, but not why it would be desirable, i. e. a value. The formal right to culture doesn't guarantee the effective promotion of cultural diversity.

In many concrete situations, the culture of majority can have a tendency of assimilation; the dominant culture often rewards only those who comply. They will progressively abandon their culture, thereby contributing to erase the cultural diversity (Parekh, 2000: 166). So, the formal guarantee of this right is not enough.

Society must create the conditions for its exercise. The romantics of liberal orientation have brought the aesthetic argument in favour of cultural diversity: it creates, they said, a more pleasant world, aesthetically speaking. But cultures contain normative systems, moral values and cannot be reduced to mere objects of contemplation. We have to point out that diversity has a moral justification, not only an aesthetic one.

The liberal spirit recognizes the importance of cultural diversity since it encourages competition between different ideas and ways of life. Cultural diversity is good because it gives us the opportunity of contact and dialogue, so giving us the possibility to better understand the degree of our cultural conditioning, to what extent our individual identity is constructed, keeping as reference the collective and inherited identity of the culture of belonging. No matter how rich it may be, no culture incorporates all values and the whole range of human possibilities. The principle of cultural diversity should be formulated as follows: other cultures are valuable, even if they are not available options for us. The other cultures are valuable precisely because they don't resemble ours and in so far they don't resemble. The identity that highlights them is the *ipse identity*, the identity through difference. „Different cultures thus correct and complement each other to new forms of human fulfilment" (Parekh, 2000: 167).

Cultural diversity is also a condition of human freedom. Human beings will be able to think critically and exercise their freedom only if they will be able to step out the area of their inherited culture to meet the other cultures. There is no Archimedean point, of neutrality, objectivity and cultural deconditioning from which we can look detached and evaluate all the cultures, but we can come out of our culture when we try to know and understand another. Through this exercise of contact, empathetic dialogue and detachment from the coordinates of our own culture, we come to better understand ourselves, we become aware of the specificity and limitations of our own tradition. As a precondition of freedom and self-knowledge, cultural diversity is an asset that is not derived from individual choices, but makes them possible, is a condition of freedom and human welfare.

Human rights and cultural relativism

There is the risk that the atomistic individualism to generate a levelling and homogenizer vision on the social life. The antidote was the emergence of the ideal of authenticity, with the correlative effect of pluralism. An important role in formulating this ideal was played by the Romanticism, which revalue the inwardness cultivated in the Christian tradition, giving new meaning to subjectivity. When they are in harmony with nature, feelings are recognized as having also creative power. In general, the Romantic Movement considers spontaneity, imagination, creativity or intuition as virtues that favour the authenticity and the power of expression, a comprehensive cognitive attitude, aiming the synthesis and accepting ambiguity and diversity.

Modernity rejected the organic model of social organization - considered as an impediment to human emancipation (the idea that man can accomplish only as an individual - vs - that it can accomplish itself only within a community, within a specific cultural tradition). The identity that I understand to assume is not fully satisfied unless it is recognized by the other. If the tradition and the past prevent the emancipation of man,

it means they are seen as illegitimate, they cannot establish the modern way of people's life, nor their identity.

The typical modern attitude favourable to emancipation transformed gradually the ideal of autonomy into the one of independence, which implied the rejection of all roots and of all inherited social ties. The emancipation movement overlaps the ideology of progress, which consists in the devaluation of the past, the appreciation of the future and in the imperative to cut with the past. The emancipation is seen as the release (i.e., the achievement) of the true human potential, providing the detachment of individual from the birth circumstances (which are understood as accidental, not constitutive). Therefore it implies the denial of the limiting affiliations, which restrain the freedom if they are interpreted as constitutive ingredients of individual identity.

The detachment from the context of belonging is sustained simultaneously with the assertion of the fundamental resemblance of people. The progress and the emancipation are understood not as recognition of singular identities, but as their assimilation into a dominant model. If the classical ideal meant accordance with the order of things, with nature, the modern liberal ideal, that is the detachment from customs, traditions, the denial of belonging to a particular humanity, the challenge of the inherited organic links in a certain community (Gemeinschaft) means the imperative to overcome the natural order of things. Because the natural order of things means diversity; for the new modern universalistic ideal, it cannot fulfil anymore a regulatory function to justify, to legitimize the relations between people; therefore it doesn't deserve to be discovered, respected and followed.

The portrait of the social space changes accordingly: the society appears as a sum, as an addition of individuals who are defined by intrinsic qualities like freedom or reason, people acting without any *a priori* compulsion, which are susceptible to choose their own goals and values that will guide their actions. The ideal of emancipation contains implicitly a plus of rationality. The disengaged reason considers that only a society of this kind is legitimate. The deontological liberalism ignore the empirical circumstances of the people's existence and try to find the conditions of possibility for a just (i.e. rational) society.

According to this interpretation, the rights and liberties unite people, but their visions of the good, their finalities and interests separate them. It becomes difficult to come to a consensus regarding the formulation of the common good. In this ideological landscape, the private sphere (defined by lineage, belonging, inherited ties, kinship, elements which have no significance for structuring the public space) is rigorously separated from the institutional order (that of sociability, where we define ourselves as citizens with interchangeable political capacities). That's why the public space, directed by formal, neutral and impersonal law, is a space of non-distinction in identity terms.

Paradoxically, the identity differences are located in the private sphere, but the proper place of their recognition is the public sphere. Given that modern mentality has endeavoured to discredit programmatically the hierarchical values, the belonging to the traditional communities and their specific ways of life (related to habitat, profession, social environment and the specific social role attributed in the past to men and women), given that globalization has extended the process of non-distinction to the perimeter of the private sphere (that of filiation), the search for authenticity was a natural reaction to the tendencies of fragmentation and homogenization. The frequency with which human rights are invoked today seems to be rivalled only by the frequency with which the cultural

relativism is invoked when someone performs a lucid and objective evaluation of the relationship between ethnic and religious groups in the current social landscape.

Human rights, more specifically understood as inalienable and imprescriptible natural rights of human individuals, pass into the public eye as unproblematic acquisitions of the political and legal modernity, that defy any attempt to re-discuss their ontological status and normative relevance. These rights are invoked to counteracting any oppressive or discriminating policy against individuals or minorities. Since they form the insurmountable texture of any political and legal debate, being the supreme regulative instance of the relations among people, the rights are treated as self-evident and endowed with a substantial reality. Initially conceived as fine regulative criteria, they have become imperceptibly, because of their long application and invocation, substances, constitutive ingredients of human nature.

The problem is therefore to sustain simultaneously both natural and universal human rights and cultural relativism, for example. I met people who claim the both theses without feeling embarrassed about the obvious inconsistency when they state simultaneously and under the same criterion the two positions. Even more strange is that they accept that the human rights theory is based on a theory of human nature, where natural rights would have the status of universal anthropological invariants, like reason or language. But to treat generic man (which is actually a postulate, a mental experiment necessary to formulate the theory) as real man in flesh and blood, it is just one step. It is fair and legitimate to ask the question: which are essential for the understanding of man, the natural universal features or the particular cultural determinations? A cultural relativist would notice first that the generic man and its natural and universal rights are just some theoretical postulates.

For the consistent relativist, it is clear that these normative exigencies are just simple conventions useful to support certain social practices and policies of protest, specific to a particular era and culture. Any universalism tends to ignore and even erase the differences. In its canonical form, the theory of human rights appears itself not very inclined to acknowledge the cultural diversity for two reasons: first, because of its essential individualism and because of the abstract manner in which it conceives the individual possessing such rights; then, because of its historical privileged and preferential connections with the Western culture, or at least with one the constituent traditions of this culture. The human rights discourse was constantly confronted with the human diversity expressed by the plurality of religious traditions and of the cultural values. It inevitably raises the question of the compatibility of the discourse with the values, if assuming the diversity wouldn't lead somehow to the annihilation of either discourse or values.

Cultural rights and the politics of recognition

Kymlicka offers an argument to justify the differentiated rights of ethnic groups by making appeal at the value of cultural diversity. By culture, Kymlicka understands societal culture and interprets it like this: „The sort of culture that I will focus on, however, is a societal culture—that is, a culture which provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres" (Kymlicka, 1995: 76). According to this argument, cultural diversity is important because it increases the cultural resources and diversifies the lifestyles available to society. Different cultural groups incorporate alternative ways to make life meaningful and provide different approaches of adaptation at unforeseen circumstances.

Cultural Rights and the Politics of Recognition

Cultural rights have been discussed starting with the debate on cultural diversity. The Declaration concerning cultural diversity and cultural rights elaborated by the group of Fribourg put the debate on the trail of that about human rights. Wishing to cover a large range of issues, the Declaration created the confusion between the rights of access to symbolic goods (the cultural identity) and the rights of claims. Cultural rights are defined by comparison with individual fundamental rights. A quite satisfactory definition of the ethno-cultural community is counterbalanced by the article which states that people have the right to choose the culture that represents them. „Le terme «culture» recouvre les valeurs, les croyances, les convictions, les langues, les savoirs et les arts, les traditions, institutions et modes de vie par lesquels une personne ou un groupe exprime son humanité et les significations qu'il donne à son existence et à son développement" (Art 2, a) (Meyer-Bisch, 1998: 5) Cultural identity is also acknowledged, it becomes an essential ingredient of individual dignity - which is a value sustained by the Enlightenment ideology of human rights.

The dignity of man is incomplete if it doesn't include the expression of cultural identity: „l'expression «identité culturelle» est comprise comme l'ensemble des références culturelles par lequel une personne, seule ou en commun, se définit, se constitue, communique et entend être reconnue dans sa dignité" (Art 2, b) (Meyer-Bisch, 1998: 5) In the absence of public recognition, cultural identity will be perceived and interpreted as a serious form of oppression comparable to the violation of universal rights, of freedom of conscience and expression. In the current context, the respect for the dignity of human individuals includes the recognition of their dimension of concrete historical beings, which owes their own way of life to specific traditions, ethnic groups and culture of origin. Culture as collective identity involves communion, sharing of certain determinations (qualities and practices), and will always engage the community; that is why culture also means a *cultural community*: „par «communauté culturelle», on entend un groupe de personnes qui partagent des références constitutives d'une identité culturelle commune, qu'elles entendent préserver et développer" (Art 2, c) (Meyer-Bisch, 1998: 5) If we take this sense into account, it becomes problematic to choose the culture. Deontological liberalism creates the illusion of mobility of human subjects against the cultural determinations, the illusion of autonomy and disengagement.

The social anthropology of Rawls' theory postulates a separation of the self from its goals and values; these are interpreted as a simple object of individual choice: „The priority of the self over its ends means that I am not merely the passive receptacle of the accumulated aims, attributes and purposes thrown up by experience, not simply a product of the vagaries of circumstance, but always, irreducibly, an active, willing agent, distinguishable from my surroundings, and capable of choice" (Sandel, 1982: 19). It's a normative theory endowed with power of seduction: for expressing a right that meets unanimous consent creates the illusion of an effective possibility of social choices. In the spirit of this theory, the expression of cultural rights defines and describes cultural right as a right of free choice of cultural references (of those who best represent people) as an extension of individual rights, in particular as an extension of the right to free expression (of beliefs, lifestyle, etc.).

Anyone, be it alone or in common, is entitled „de choisir et de voir respecter son identité culturelle dans la diversité de ses modes d'expression; ce droit s'exerce dans la connexion notamment des libertés de pensée, de conscience, de religion, d'opinion et d'expression" (Art 3, a) (Meyer-Bisch, 1998: 5)

The deontological, procedural vision doesn't understand that man is made of values and contexts, that they are its constituents, that cultural identity is important in a different way than freedom of expression or the right of access to cultural resources: „To identify any set of characteristics as *my* aims, ambitions, desires and so on, is always to imply some subject 'me' standing behind them, and the shape of this 'me' must be given prior to any of the ends or attributes I bear." (Sandel, 1982: 19) To support human dignity, it is now necessary to recognize identity as a differentiated identity, and the ethno-cultural factor plays a major role in this respect; There are two lines of thought and political action: „ For one, the principle of equal respect requires that we treat people in a difference-blind fashion. The fundamental intuition that humans command this respect focuses on what is the same in all. For the other, we have to recognize and even foster particularity" (Taylor, 1994: 43).

The politics of equal dignity accuses the politics of difference that it violates the principle of non-discrimination by giving up that essential dimension of the liberal belief that the state should ignore the differences in order to treat everyone the same.

The politics of difference reproaches the policy of equal dignity that it tends to assimilation, denying in fact any distinctive identity, imposing the homogeneity of individuals and groups and not adapting to the representations they have made about themselves. Consequently, the politics of difference has to define non-discrimination, taking the differences between citizens as the basis of differentiated treatment.

Cultural rights create the normative framework for individuals to be entitled to have access to a good and meaningful life in their cultures of belonging. Anthropologically, these cultures can provide their existential landmarks and values, in order to give their lives a meaning and to make them feel fulfilled. On the other hand, preserving these cultures is possible only if their identity is recognized, the fact that they provide a distinct anthropological experience. The politics of recognition is the condition of possibility for the cultural rights. For the non-recognition of the distinctive identity of the other (ethnic group, minority) leads to the denial of one's own identity; and identity (the one that gives meaning to life) is as important as negative freedom, giving its content. Only by recognizing in the public space the alterity, the distinctive identity of the ethno-cultural groups, of the historical minorities or of the majority in the national states, the cultural rights are respected and create social effects.

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The Socialist Trend in the Modern Romania and Its Influence on the Social Structures

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Abstract
The article depicts the manner in which the socialist trend tried to influence the political life in modern Romania. The socialists tried to create theoretical patterns, influenced by similar trends from the industrialised societies of the Western Europe, along with those coming from the neighbouring Eastern society, the Tsarist Russia. The social conditions from Romania were not similar to those of the occidental states, as much as the level of the political culture did not allow the peasants and the workers to fight a battle. Moreover, the electoral system left only limited possibilities for the front-ranker peasants, who only wished to enlarge their property, not to adhere to the socialist values. Many of the socialists integrated among the liberals, those who remained faithful reorienting themselves towards the communist trend, after 1981. On the background of a relative antipathy against Russia, especially after 1979, the Romanian politicians kept the socialists under observation. After 1921, when the socialists organised themselves in the Communist Party from Romania, their ideological affiliation to the Soviet directives, obliged them to adopt an antinational attitude, not only an "anti-oligarchic" one, which, in 1924, outlawed them, for the following two decades.

Keywords: *socialism, oligarchy, political trends, social structures, revolution*

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Introduction. Chronological landmarks

In the modern Romania, during 1859-1918, the ideas that can be framed into the socialist trend, entered relatively late in the autochthonous political space. This fact is due to the economical situation from our country, more precisely to the share that each occupation was holding in Romania. Agriculture was continuing to supply more than two thirds from the gross domestic product and 75% of the export realised by the national economy, while the labourers did not exceed more than 5%. The electoral system from Romania was one based on qualification, allowing only symbolic chances to a possible socialist electorate. The socialist ideas had been emerging from the occidental environment, where the industry was well represented, on the Russian political line. Another reason, for the peripheral interest on addressing the socialist ideas, was the maintaining, in the public space, of a reticent attitude towards the Tsarist Russia, preponderantly after the War of Independence, after which, in the exchange for Dobrogea, Russia regained the domination over the districts from the south of Basarabia, Cahul, Ismail, Bolgrad, which would conferred it the access to the Danube, districts that it had lost in 1856, after the Paris Peace Conference.

There can also be cited here the special situation in which another category of the autochthonous labour power was, that of the craftsmen and traders. Plenty of them were local Jews, who did not have Romanian citizenship, which they could obtain only if article 7 of the Constitution from 1866 was modified, and only due to individually applications, in which they requested naturalisation. It was obvious that an eventual socialist affinity would have created them problems in obtaining the naturalization and, implicitly, the Romanian citizenship.

Although in the Marxist Romanian historiography it was an attempt to create a connection between the wish of the peasants to do the agrarian reform and the fight for the socialist ideas, the reality was radically different. The socialists generally wanted to create the common property, especially in industry, being marginally interested in the peasantry, being positioned in the situation to not agree at all with the aspirations of the peasants, because they wanted to own a property, and the one who had already had it, to enlarge it. The year of 1865 marks the emerging of "Telegraful Român"-Romanian Telegraph, in which there can be noticed a social-democrat way of thinking. In 1872, Zamfir Arbore, Gheorghe Nădejde, Ion Nădejde, Titus Dunca published "Lucrătorul român"-Romanian worker. In 1881, Constantin Dobrogeanu Gherea began the publishing of "Contemporanul"-The contemporary. Three years later, at Bucharest, it was founded The "Human Rights" Centre for Social Studies. The first socialist thinker from Romania, who tried to create a connection between the preoccupation of the peasants for a generalised agrarian reform, and the propagation of the socialist ideas, was Constantin Dobrogeanu Gherea. He was the author of the leaflet "Ce vor socialiştii români"-"The desires of the Romanian socialists", in 1886, which represented the basis of the socialist political platform, until the formation of Great Romania, in 1918 (Hitchins, 1994: 363-364). In 1888, after the finishing of the great liberal governing, (1876-1888), there were elected the two first socialists in the Deputies Assembly: Vasile Morţun and Ion Nădejde. On the 15th of August 1888, Alexandru Beldiman published the first issue of "Adevărul"-The truth newspaper. Between 1890 and 1894, Constantin Mille published "Munca"-The work magazine. The first socialist Romanian party was founded on the 31st of March 1893, at Bucharest, being called the Socialist-Democrat Party of the Labourers from

Romania. In August, the same year, at Zurich, took place the conference of the Socialist International, which the delegation of the Romanian socialists attended. Although in 1897, in Romania, there were almost 6 000 members of SDPLR, this party dissolved. The hardest strike was from the group of the "generous", who joined the National Liberal Party (110 ani de social democrație-101 years of democracy, 2003: 1-3). In the interval January 1906-July 1907, there can be documented many notable actions, both in the occupied Romanian provinces, and the Old Kingdom. We mention, for this reason, the founding of a Romanian department of the Social-Democrat Party from Hungary, at Lugoj, the founding of Social-Democrat Romanian Party from Bucovina.

In the Old Kingdom, in 1906, it was founded the General Confederation of the Syndicates from Romania, and in 1907, in July, it was constituted the Socialist Union and the general Commission of the Syndicates. Under these names, it was desired the reconstituting of the socialists' political expression, after the government had achieved the dissolution of the socialist clubs from villages and towns (Nacu, 2013: 315).

On the 31st of January, it was founded the Romanian Social Democrat Party. In March, it was created a youth organisation too. In the same year, Constantin Dobrogeanu Gherea published "Neoiobăgia"-The new-serfdom, a work that described in a critical manner the harsh situation of the peasantry, whose interests were affected by the category represented by leaseholders, who had imposed themselves as intermediaries between the landlords and the manpower, represented by the peasants.

The period 1910-1918 was marked by a series of events, important for the existence of the socialist trend. Thus, in 1912, it was established "Cerc feminin"-Woman's club. In 1913, a group of Romanian socialists attended the Congress of the Socialist International at Zimmerwald, declaring themselves pacifists, while the world was preparing for the World War I.

In 1917, whilst Romania was territorially reduced to Moldova and a pro-German Government was set up at Bucharest, the Romanian socialists founded an Active Social-Democrat Committee, in exile, at Odessa. In January 1918, it was renamed The Romanian Revolutionary Committee, with the headquarters at Moscow. There were Romanians who believed in the socialist ideas in Transylvania and Bucovina too, who helped at the creation of the Romanian National Committees from these provinces. The Union from Alba Iulia, from the 1st of December 1918, registered 150 socialist delegates. On the 11th of December 1918, it was adopted a new name for the party, transforming it into the Socialist Party.

The influence of the socialist trend on the political reforms from Modern Romania (1859-1918). Its position as related to other social trends

The platform of the Romanian socialists, broadly, is founded on the ideas that Constantin Dobrogeanu Gherea had taken from Karl Marx, Friedrich Engels and Karl Kautsky. The last one proposed a socialism based on the existence of a parliament, meaning that the socialists could express their conceptions during the parliamentary debates. Thus, the ideas of revolution and uprising were not the first ones, among the socialist preoccupations, but nevertheless, they were not excluded either. The uprisings were regarded as retrograde actions, as medieval reminiscences. Constantin Dobrogeanu Gherea considered that the institutional basis and the autochthonous manner of thinking were able to assimilate the influences that would come from the outside of Romania, fact that was obviously opposing the ideas of Titu Maiorescu, the author of "forms without a substance" (Dobrogeanu-Gherea, 1910: 1-3). Moreover, the political platform and the

socialist trend spread in the same time with other trends, such was the Populism of Constantin Stere and the Semanatorism, promoted by Nicolae Iorga. To them, it was added the pro-peasant trend, endorsed by Constantin Dobrescu Argeş, Ion Mihalache.

Constantin Dobrogeanu Gherea believed that the chance for a modern Romania was represented by the acceleration of industrialisation, seen as similar with "to exist or not to exist". He was opposing these trends, asserting that: "as a general phenomenon of our social life, it is not only the socialism that can be depicted as an exotic plant, but, in the same manner and for the same meaning, our entire life, as a modern state, is an exotic plant; not only the socialism results from the deep social conditions of our national life, but, in the same manner and for the same meaning, not all the occurrences from our modern life emerge...we are dealing with a law specific for the backward societies, those left behind from the social development, in their capitalist development" (Dobrogeanu-Gherea, 1988, III: 481). We ought to specify another aspect, represented by the fact that the Romanian government was preoccupied to control the spreading of the socialist ideas. Hence, the institutions that were assuring public order (Police, Gendarmerie, Security) had the task to follow the propagandists expulsed from Russia, accused of coming there with the purpose to play into the Petersburg government's hands, with the intention to make Romania unstable. After 1883, Romania had secretly adhered the Triple Alliance, concluding a treaty with Austro-Hungary, to which Germany and Italy had also adhered, a situation maybe not known by the Russian government, but surely presumed.

The revolts from 1888 and 1907 were the consequence of the conditioned endured by the peasantry, which nevertheless did represent a condition meant to produce an uprising. It was actually the more complex result generated by certain factors, among which the interest for destabilisation, created by the force embodied by the Tsarist Russia. The socialists were subjected to control, from the governors, due to the fact that, one way or another, they were promoting the changing ideas, including a revolution: "one of the common causes, I might say the classical cause of the social revolutions, is the disagreement and the antagonism between the economical-material, moral and cultural fund of the society, and its political-social form, between real, as to fact condition, and its formal, as to law one… Next to the consistent changes of the social background, of the actual state of the society, it is usually a political-social formation, a legitimate old state, the last redoubt of the privileged upper-classed, who find here the last resort of their privilege" (Dobrogeanu-Gherea, 1988, III: 498). Practically, the socialist ideas were being propagated on two, or even three levels: through social-democrats, somehow close to the progressive liberals, through the socialist with international affinities, and the communists, who were planning to start a revolution that would change the old arrangements. The entering of Romania into to War for the Reunion, for Entente, transformed it into the ally of the Tsarist Russia, which had made the commitment to offer military support. The presence of the Russian and Romanian troops on the same side of the battle-front, was creating the danger that the socialist agitators, and even the communists, would act according to their interests.

Basically, the presencec of the danger represented by the Tsarist Russia, determined the political decisional factors from Bucharest to consider a series of reforms. During the war, whilst the social revolution and the Bolshevik counter-revolution were breaking out, the modification of the electoral law and the agrarian reform were postponed for after the end of the war, by King Ferdinand.

The directions of the Romanian socialists' platform

In 1910, the Social-Democrat Party, created a political platform based on three directions: political, economic and agrarian. In the view of the socialists, it was necessary the introduction of the universal voting for all the Romanian citizens who were 20 years old, the taking place of the elections on the free days, the establishing of autonomy and decentralisation in administration, the abrogation of the law that was stipulating the expulsing of foreigners (a service for the socialists colleagues that would have arrived on the Romanian territory), the regulation of the right to strike, the reduction of the military service, the abolishment of the political suspects' trials, in the military courts.

Economically, the socialists wanted that the minimal age for the employment of the workers to be 14 years old, the working programme to be of 8 hours, Sunday to be declared free day, to be created an institution that would assure social rights (pension funds, unemployment benefit, sickness or permanent disability benefit), to be introduced the progressive taxation (Dohotaru, 2013:1-4). As concerning the agrarian department, the socialists wanted to be abolished the payments in kind, a medieval reminiscence, to make possible the constitution of a public landed fund, the leasing on a duration of least half of a century, of the properties held by associations of peasants, to exist communal pastures, to be forbidden the acquisition of land, from the state, by private people and associations.

Fundamentally, the socialists from Romania, desired to impose an autochthonous industry that would process oil, ore, agricultural products, constituted after the redirection of funds obtained after the export. They also fought for the decreasing of the illiteracy rate. In the newspaper "Adevărul", there was given advice for the prevention of diseases, such is the lime-washing, the airing out of the rooms, the personal hygiene, especially at the countryside. The socialists could not have a dialogue with the democrat groups, because the governments tried to limit their activity, to dissolve their clubs. The socialists were protesting against the fact that the taxes paid by the payees were diverted towards the maintaining of the control and repression apparatus. Moreover, the promotion of anti-militarism, was based on the fact that the peasants were fighting a war, without having an economic motivation, besides the national one (Dohotaru, 2013, 5-8).

Constantin Dobrogeanu Gherea also analysed the initial fight for power, between the landlords and the forming bourgeoisie, which accompanied the stages for the creation of the modern Romanian state: "from the beginning, this fight ought not have emerged especially between the oligarchy represented, on one hand by the category of the great landlords, the class that tended, due to its overwhelming economic importance, to seize the political influence, and, on the other hand, the other classes, the young bourgeois classes, which in their turn, desired to take control over a significant share of the oligarchic-political power" (Dobrogeanu-Gherea, 1988, V: 179). The socialists were criticising the fact that the peasants were receiving individual plots, instead of the right to commonly farmed wider surfaces, leased for symbolic prices, whose production to be valued on the national market.

Constantin Dobrogeanu Gherea depicted realistically the way in which the category of the landlords modified its confirmation, in the detriment of the relation with the peasantry. Practically, the new created situation made indistinct the differences between the landlords and the bourgeois: "the highest number of estates were bought for an insignificant price, by the traders enriched in the state's departments, by lawyers enriched from the public businesses. Other oligarchs, using their political influence, took hold of the state's estates… The poor boyars, deprived along with their children, had to

look for means of existence in the only place where they could find – the state: as civil servants, who were aspiring at better jobs, as politicians and professionals in policy, increasing the phenomenon of characteristic oligarchy… As soon as the great property started to be administrated by the liberals, between them and the conservator landlords, there was settled an patriotic agreement, *as regarding the reports of the agrarian production, and the more effective way to exploit the peasants' work; it was also commonly agreed the economic and judicial new-serfdom – one of the most painful and harrowing page from the history of the long oppressed Romanian peasantry. Through this agreement, there were even more wiped the fundamental differences between the two parties. The Romanian oligarch, lawyer or not, enriched in, and from the state's businesses, buys an estate and becomes, this way, a great landlord*" (Dobrogeanu-Gherea, 1988, V: 180-181).

Unlike the later communists, the socialists regarded the idea of revolution as a series of changes. Initially, they wanted a parliamentary competition, but it was regarded, not without a good reason, as an attempt to destroy Romania, through destabilisation. The ascension of the socialism represented the danger that imposed the governors the need for reforms, immediately after the Great Union. It was then when there was regulated the question for granting the citizenship to the national Jews, all the other minorities, whose members did not enjoy the protection of another state, or chose to remain in Romania. The universal voting and the agrarian reform were promised and, out of the fear that the Romanian soldiers would fraternise with the Russian regiments led by the Bolsheviks, which were retreating from the first line, and committing abuses, including the disarming of the isolated units and the taking of prisoners among the military men. The breaking out of the Bolshevik revolution, determined the orientation of a high share of the socialists towards the ideas from the Soviet Russia, fact that culminated with the affiliation to Comintern and the creation, on the 8th of May 1921, on the Communist Party from Romania.

Personalities of the socialist trend

The adepts of the socialist orientation intended to create the basis for a new political order. They imposed themselves due to a diminished interest of the governors as regrading education, health, political rights for a high share of the population made of peasants, and a smaller part one, made of workers, an ascending category, after 1859. Their publications – books, magazines, newspapers, had the purpose to inform and to prepare the population, who was struggling with difficult economic conditions, to have access to politic, economic, along with cultural, medical etc. information. Yet, the personal education of the peasants, consequent with the values of the Romanian countryside, especially those of the Orthodox religion, made them reticent to the "ideological imports". At the end of the 19th century and the first years of the 20th century, some of the peasants, who left for the cities, as workers, came in touch with some socialist ideas (Stăiculescu, 2005:1-3).

The fact that, in 1888, or 1907, there were other interests, besides the dissatisfactions of the peasants about the difficult economic situation, can be obviously noticed from the aspect that the revolt from 1907 was repressed including with army, later, in the war for the reunion, there were no soldiers, neither corporals nor non-coms, to revolt against the superiors who had given the order to open fire on them and the members of their families, during the uprising.

The sociologist Henri H.Stahl, in his work *Gânditori și curente de istorie socială românească*-Scholars and Romanian social history trends, mentions the ideas of Constantin Dobrogeanu Gherea (1855-1920), an adept of the "social-democrat ideas". He was born in the Tsarist Russia, (Ukraine, Ekaterinoslav), in a Jewish family (his real name was Solomon Katz). He was naturalized in Romania, where he came when he was 20 years old, around 1875, being expulsed for his socialist ideas (Stahl, 2001: 2012): "We ought to grant a special attention to Dobrogeanu Gherea, due to his exceptional merits, both in the Romanian sociology, therefore in the sociological analysis of the Romanian problems, and from the point of view of history, in general. Usually, Gherea is mentioned in our literature in relation to his special merits of literary critic, being especially analysed his polemics with Titu Maiorescu, on the topic "art for art" or "art with a tendency". Nonetheless, Gherea is far more important as a sociologist, than as a literary critic, because he discussed issues more important than the literary ones. If his merits as a sociologist have not been cherished lately, this is due to his "social-democrat", Menshevist, politic position, which was opposed to the Bolshevik one. Yet, it is imposed a more objective analysis of his theories, at least as far as Plehanov was reanalysed, acknowledging his cultural value, in very important areas.

About Gherea, there have been gathered enough insignificant details regarding his life, starting with the age of 20, until he arrived in Romania, as a refugee Russian revolutionary; because he belonged to the group of Narodniks that we have previously mentioned, who soon became not only the authorized spokesman of the new-created social-democrat party, but also a respected and cherished scholar, influencing many Romanian intellectual groups. Yet, what is missing, is a detailed study on addressing the fundamental problems of his way of thinking, mainly the way in which he operated the passing from a "Narodnik" conception, to the "Marxist" one, similar to that taken by Plehanov, in Russia. We do not have knowledge about the manner in which Plehanov could influence Gherea; nevertheless, a study of this problem is necessary, so someone ought to try one soon, basing their research on the thorough study of Plehanov and the other Narodniks' works, who moved towards the Marxist trends. It is not possible for us to do it, due to the fact that the works of these Russians are known only translated in French and Romanian, but only few of them, the other being all printed in Russian, therefore inaccessible.

And we are especially lacking a study referring to the genesis of Gherea's theory on the decisive importance that the capitalist impact had on our social history: it is formulated as a general law on the faith of all "the backward countries from the sphere of capitalism", having as first consequence the birth of some hybrid forms of the "new-serfdom", a mixture of feudal realities, with capitalist ones".

However, Constantin Dobrogeanu Gherea has the tendency to criticise the reforming initiatives, in the name of ideology that he represented. Hence, he condemns "the exaltation" of the forty-eighters, whose political platform he considered to be "a failure", and to minimalize the role of the reform from 1848: "Let's take into consideration two ways of being put in the possession of land: one founded on the interests of the producers and the other on the great properties, of the bourgeoisie. The first appropriation had as leading principle the owning of the entire land by the peasant-producers, including it in the rural communes, its inalienability, the enclosing of a part of it for grazing and the dividing of the other parts among the peasant-producers and its redistribution after 15 years, for example. On these grounds, owning enough and too much land and grazing plot, not sharing from the highest share of their products, as today, being landlords, therefore

not interested in the over-working the land, the landlords would have become rich with every passing year; moreover, each year there would have been improved the working tools, and the fields of Romania would have been lovelier. The production and richness would have grown on this basis, relatively wise and righteous (truly just and good they can be only in the socialist society), the bourgeoisie itself would not be so spoiled and rotten, the liberal thoughts would have been more fertile, bearing the fruit of righteousness; the relations with Europe would have been useful, instead of ruining.

It is understandable that this new form of appropriation would have left much to be desired. Through the natural game played by the economic powers, and also in the commune, could have been developed a rich and a poor class, even a proletarian one; but, under these circumstances, the development of these classes would have needed centuries, and until then, the intellectual and moral development from our country would have actioned against the founding of the rural proletariat, and the social changes from Europe would have regarded Romania as a healthy, strong, wealthy and moral people, which could have easily received more accomplished, more socialists social forces". "But for such an appropriation, we should have had a stronger, enlightened peasant power, which it was not, and the appropriation would have been entirely different (…) let's assume here the fact that, back then, the landlords conspired against the peasants and chose a more useful instrument when cheating them, which would have led to an appropriation of the peasants with small portions of land, that way being compelled to do statute labour, on the rest of the land, obtained from the boyars" (Stahl, 2001:2012). Hence, Constantin Dobrogeanu Gherea remains the man of his time. He considers that the reforms can be also done after the proper understanding of their necessity, by the oligarchy. Yet, the idea that the workers should also enjoy political rights, is viable only if the oligarchy allows their granting. Then, the oligarchy is no longer a "class enemy", but a conjectural partner. From here, it results the problem of "the vicious circle", which Dobrogeanu-Gherea encounces, but cannot solve.

Therefore, he remained in the position of theoretician, while other socialist leaders, aware of the necessity for partnership, chose to join the liberal ranks: "more important economic reforms can be obtained by the working people only by having, as a fighting tool, certain political rights. But we are spinning inside a circle then, from which we cannot escape; the political reforms are useless without the economic ones, and the last ones cannot be obtained without the first ones. The exit from this circle is a very simple one; it ought to be done along with certain political reforms, appropriate economic reforms and, especially, one must not forget that the most significant are the last ones". Finally, we can notice that Dobrogeanu-Gherea did not intend to offer saving solutions. For him, along with his colleagues, the collaboration with "the oligarchy" was not something impossible. By theorising the problems faced by the Romanian society and policy, he considered useful to try an eventual "historical reconciliation": "social life is too complex for the evil to be reduced to a single cause. In Neoiobăgia I have shown a more fundamental cause of the evil, but nobody can deny that the oligarchic political regime did not cause immense damage to this country. Sometimes the public voice exaggerates, by attributing this regime the evil deeds that it can hardly be hold responsible for. Come what may, in the country, one can always hear: «Policy is responsible for all the bad things, policy is our damnation», and by policy, they mean our oligarchic regime". Vasile Morțun and Ioan Nădejde are two representatives of the socialist trend that, later on, joined the liberal ranks, after they had reached the conclusion that the socialists, as a party, were not able to fulfil the ideas provisioned in their political platform. Vasile

Morțun even managed to attract numerous industrial workers among the liberals, who, in this manner, developed a policy of attracting new members. Sofia Nădejde, the wife Ioan Nădejde asserted herself as a promotor of the Romanian feminism. She had the intellectual force to confront Titu Maiorescu, the author of a theory that proclaimed the woman inferior to man, from the intellectual point of view.

Conclusions

The socialist trend from Romania was constituted under the influence of the occidental ones, received here though the immigrants that arrived, especially, due to their expulsion, from Tsarist Russia. Since the beginning, we have intended to follow two directions: the internal specificity and the ability to adapt. The Romanian socialists as Ioan Nădejde (1854-1928), Vasile Morțun (1860-1919), Zamfir Arbore (1848-1933), Constantin Dobrogeanu-Gherea (1855-1920), Cristian Racovski (1873-1941), Constantin Mille (1861-1927), designed an idealist political platform, difficult to achieve, under the political circumstances from Romania. Cristian Racovski was a physician. With Bulgarian origins, he activated in several countries, where he militated for the socialist ideas. In Romania, he activated intermittently, between 1903 and 1917, leaving then for the Soviet Russia, where he held different positions, including during the Soviet Union, later a victim of the Stalinist repression. Many of the so-called "generous" socialists joined later the liberal ranks. Dobrogeanu-Gherea preferred the position of theoretician, of critic of the oligarchy, without excluding entirely the hypothesis of seizing the leading position, one day. Constantin Dobrogeanu Gherea willingly exaggerated numerous aspects. He criticised the forty-eight revolution and trend, he found breaches including in the agrarian reform from 1864. He considered that the division of the land in small surfaces was another attempt of the political oligarchy to stop the generalised revolt of the peasants, with the purpose to later enslave them, which he called "the new-serfdom". Although the researchers, among which Henri H. Stahl reveal the qualities of sociologist of Constantin Dobrogeanu-Gherea, we cannot entirely agree with him. It is obvious that the mentioned aspects of the socialist author on addressing the political deficiencies from Romania are real, but from here to the compromising of the fundamental reforms that constituted the bedrock of the social structures in modern Romania, or the platform of the people from 1848, is a long way. It was the background of the revolution agreed by the socialists in different measures that determined the representatives of the political class to make the decision, before the end of World War I, to deal with the agrarian and electoral reform at the peace conference.

The socialist spirit did not have the force of other trends, as the Populism, the Semanatorism, or the Pro-Peasants Trend. An adversary of it was the electoral system, along with the education of the peasants that did not allow them the possibility to adopt the foreign models. Not even the Russian trend of the Narodniks, nor the trend of the Iconographers attracted them too much. The peasants wanted from the political system an agrarian reform, the workers, a growing category, yet still small, aspired to better working conditions, considering that the politicians can offer them. Basically, the idea of revolution, after 1848, lacked the elites who had once been capable to promote themselves, the forty-eighters being the ones who had built the modern state, assuring its independence, while their followers were only trying to modernise and to achieve the union of all the Romanians.

Even under the circumstances of the universal voting, after the Great Union, the socialist ideas, associated with the communist power from Moscow, which had stopped

the diplomatic relation with Romania, entered with difficulty. The declaration of the Communist Party as illegal, in 1924, only three year after its creation, while at Moscow were ordered anti-Romanian actions, determined the diminishing in the number of people who had adhered to this ideology, and the actions of revolt to become clandestine, taking place as activities of the political trends who had been outlawed. The fact that the Romanian socialism from the modern era was a relatively modest trend, vaguely remembering of the left wing of the democratic parties, determined the later communist to minimalize the role of the socialists from the second half of the 19th century, the "official history" of the communist trend starting from 1921, and being artificially built by hyperbolising the myth of "the illegal activity".

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The Ideological Identity of the Romanian Communist Party as Reflected in the Dialogues with the Left Belgian Political Formations

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Abstract
In the process of building socialism, like the other communist parties in Eastern Europe, PCR was based on a set of values and principles with origins in the Marxist-Leninist ideology. However, the dissident attitude of the Romanian communism towards Moscow in the sixties would imprint some peculiarities of a doctrinal identity.
In PCR's case, an expression of this identity has constantly manifested in the international relations engaged by the Romanian state, a domain in which Ceaușescu used to consider himself as a spokesman of the socialist doctrine. In its definition and argumentation, the concept of democracy was vital, both for the discourse of the socialist or communist parties in Western Europe and for that of the parties in the Eastern Block. But amid the historical demarcation between socialism and capitalism, the communist would use the concept of democracy in their own terms and acceptations, because, as compared to the political regimes with single party, the West-European communist/socialist parties had developed and functioned within multiparty democracies, sharing a different vision of the construction of socialism.
The goal of the present article is to analyse the ideological identity of the Romanian communism, having as documentary source the content of the dialogues between PCR and the Belgian Left parties. The research identifies Ceaușescu's vision on multiparty systems and regimes and on the ones with single party, as well as the concept of democracy in its particular acceptations.

Keywords: *ideological identity, multiparty, single party, PCR, socialism, democracy*

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Introduction

Either if we speak about Eastern or Western Europe, initially, communism was based on the same Marxist-Leninist principles in the process of building socialism. After World War II, the Western communist parties would embrace in some ideological aspects also principles of liberal democracy, while the parties in the Eastern Block would comply with the so-called popular democracy (socialist democracy). The Western communists' assent to the democratic political game in a multiparty environment as well as the assent to the idea that the communist ideology can be put into practice also through a peaceful transition to socialism have caused an ideological repositioning of those parties, repositioning called Euro-communism in the mid 70's. Certainly, these tendencies of the communist movement in Western Europe can be considered a sign of a distancing from Moscow. Similar dissident acts were also present in the case of the socialist states in the East. Thus, the Socialist Republic of Romania would fight for a weakening of the Soviet control through a rather nationalist policy, at the same time keeping the ideological model of popular democracy and the single party system.

PCR and popular democracy

As the thoroughly-conducted studies show us, for the communists, the concept of democracy was vital in order to argument and articulate the Marxist-Leninist ideology. Against the background of the historical divide between socialism and capitalism, the communists would use the concept of democracy in their own meanings, not just in order to justify the regime, but also to consolidate the effort to build socialism.

The deviation and reinterpreting of this concept from its classical meanings settled by the liberal ideology would lead to it being claimed from the perspective of the interpretations, the liberal one, that of political pluralism, typical for capitalist societies, with a democratic liberal regime, and the socialist one, specific for the so-called popular democracies.

Paradoxically, we find that the understanding of the democratic principles, and even of the democratic political regime, in general, is different even inside the communist world.

There were significant differences between the socialist states of Eastern Europe, as well as between those of the Soviet Union. The socialist societies in these states, although applying the same principles as in the socialist democracies, were different from one another through the intensity, extent and effectiveness of the centrally - operated control, as well as by the scale of popular support or opposition. Not least, such societies were differently characterized by their political reformative strength (Verdery, 1996: 38). Moreover, the Western European socialist - communist parties, at least from the perspective of the principles that were supposed to lay at the foundation of democracy, had a different view on the building of socialism. The talks within the meetings of the Romanian communist leaders with delegations of Belgian communists and socialists stand proof for that. Most records of those talks contain debates on topics regarding the way communism was applied, manifested in Western societies, the analysis of the democratic principles, the building of socialism in general.

The superiority of popular democratic and, of course, that of the political systems in which it manifested itself, was praised in many ways. In the communist doctrine it was believed that social achievements, even the historical events, were influenced by the form of popular democracy. For instance, in the communist theorists` minds, the victory over the Nazi

system in World War II was due to the superiority of social system in the Soviet Union, which applied a socialist democracy (Mitin, 1950: 5).

In the studies written by the classics of the Marxist - Leninist ideology, the main feature of the bourgeois democracy was that it was a democracy of the exploiting minority headed against the exploited majority. In other words, the bourgeois democracy was built upon the dominance of private property over the means of production, being accused of being formal, false and incomplete.

In the Romanian studies of the communist regime period, *the socialist* way-as the economic and political system of the socialist states was named, called on what the communists named *an authentic democracy.* The theorists of the system considered that such democracy manifested, by virtue of the legit character awarded by the masses, for the benefit of the working class and with the goal of a grand social achievement. From the point of view of a socialist country, like Romania, the general perception was that the communist parties in Western Europe were to be seen as the leaders of the fight for democracy in the sense that they were fighting for the unification of those political forces as democratic anti - monopole alliances led by the working class. Moreover, also in the name of democracy there had to take place national liberation revolutions or the new states were consolidating in the wake of the fall of imperialism (Lecuța, 1979: 35, 36).

While, with the Western communist parties a review of the concept of democracy was manifest, with the soviet - influenced communist parties, the authentic democratic principles were those of a socialist democracy. In his talks with the Western European communists on the topic of democracy, Ceausescu would stay loyal to the same principles as they were designed by the Marxist - Leninist ideology. Therefore, from the ideological point of view, Ceausescu would actually stay loyal to the soviet doctrine, but he would overlap upon those popular democratic principles, singularities of nationalist doctrine.

The Western communist parties also made use of the concept of socialist democracy, but with principles similar to the bourgeois democracy. For instance, in the Belgian communists perception, socialist democracy in the Eastern socialist states was difficult to apply exactly because of an authentic democratic culture was lacking. They claimed that the level of industrialization and the very low living standard in those countries, as well as the almost non-existing democratic tradition at the moment when the communists overtook the political power constituted obstacles in the formation and efficient functioning of the actually democratic institutions. The results achieved in the process of building socialism and of raising the living standard as an output of this process created larger material bases focusing on the very issue of socialist democracy. This meant that once a level was reached in the building of socialism, its further development created a change in the quality of the methods used, a more supple and less coercive and bureaucratic in the application of the democratic socialism principles. Thus, Belgian communists explained why such were even more necessary with Czechoslovakia, where the industrial development and the pre-socialist democratic traditions, unlike other states, were not subjected to the Stalinist patterns in the process of building socialism (Nudelhole, 1968: 11).

Frequently, N. Ceaușescu's dialogues with various members of communist and socialist parties in Western Europe have generated polemics on subjects as the building of socialism in a multiparty system or the interpretation of the democracy concept. For example, N. Ceaușescu had a different view in understanding the socialist democracy compared to the Western Left parties. In a conversation with the president of the Belgian delegation, Georges Dejardin, Ceaușescu expressed his opinion that the socialist and even the communist parties in the West were looking upon democracy only in its external form.

It is highly possible that, by this phrase, the Romanian leader thought that the socialists in this area of Europe were limited to accepting the general principles of democracy and didn't share principles of democracy such as equality-an economic one, of course, in the Marxist sense. In the same conversation, the Romanian leader considered that in the West the communist had abandoned in their discourse the principle of the economic equality in its Marxist acception. For Ceausescu, the socialist democratic principles were "those principles by which the legal working conditions are provided and the national income is properly distributed, which insure the society's participation in the country's social-economical life" (ANIC, fund CC al PCR – secția Relații Externe, dossier no. 76/1969: 17) and through which the economic equality could be achieved, because "socialist democracy stands, mainly for the elimination of economic equality" (ANIC, fund CC al PCR – secția Relații Externe, dossier no. 76/1969: 17).

Thus, to Ceaușescu, economic inequality was incompatible to democracy. He considered that the socialist states had already solved one of the essential issues of democracy by putting into practice the equality towards the means of production, towards the social product and towards the national income (ANIC, fund CC al PCR – secția Relații Externe, dossier no. 76/1969: 17).

The socialist states, since they had central control mechanisms, were perceived by the western political analysts as powerful states, applying an autocratic regime. Indeed, a society where power is set on a hierarchy from the centre down, manifests a political power and a population control, but, from the economic point of view, the socialist state was destined to bankruptcy in the long run. The frailty of socialism began with the very system of centralized planning, system that wasn't even planned, nor properly controlled by the centre (Verdery, 1996: 39). Actually, authors like Katherine Verdery did not see the communist states as being powerful, but rather weak. In fact, the leaders of socialism only in part and intermittently managed to gain a positive or supportive attitude among the population they represented, meaning by that-being perceived as legit. A feature of socialist societies in the post-war Europe was that the political regimes were constantly undermined by certain forms of internal resistance or sabotage. Unfortunately, resistance in Romania was too much intimidated by an aggressive oppressive regime on all society levels, the dissident movement playing a quite weak role inside, being more audible in the expat community.

It is interesting to see that N. Ceausescu accepted the reality according to which western workers had higher incomes and enjoyed more material benefits than those in the Eastern socialist states. However, replied Ceausescu to G. Dejardin, this welfare of the western states citizens was not the result of the economic superiority of the capitalist world, but rather the result of a long historical evolution during which such societies are the heirs of empires which applied a colonial exploitation policy upon other people. Therefore, morally speaking, the praises for exceeding its own condition, of setting up a new social system by their own efforts, belonged to Romania (ANIC, fund CC al PCR – secția Relații Externe, dossier no. 76/1969: 18).

The multiparty system and the single party in the dialogues PCR-PSB

In the communist doctrine, the single party expressed best the interests of the Soviet Union people or those of the other socialist states. The argument in favor of the single party was the idea of unity. Quite often, in the soviet propaganda writings, the party was named "single and united party". The theory of communist doctrine believed that the Western bourgeois societies were divided into social classes with opposing goals, therefore, these societies were torn apart by the fight between these social groups (Mitin, 1950: 23). To be

more precise, it was believed that these groups with their own interests were represented by political parties. On the other hand, in a society freed of class differences, such as the one governed by popular democracy, there was no space for more than one party.

In Ceausescu's opinion, one of the goals of building socialism was to defend popular democracy. According to the communist doctrine, the single party had the responsibility to make sure that the socialist system would be safe from any attack. Thus, in the name of socialist democracy, Eastern totalitarian regimes could resort to the most diverse methods to suppress any type of opposition. Paradoxically, this way, in the name of democracy, the very breach of democratic principles regarding freedom (of expression, of the press, etc) was made legit. Such was the belief upon which the single party justified its reason to exist. On the other hand, in the liberal spirit, the Western states multiparty systems offered the opportunity for debate and dialogue to all opinion groups and trends, including those who did not share or practice liberal ideas, meaning communist parties and the supporters of the providential state.

With the Romanian Communist Party, it embodied the paradoxes specific to the single party, being the part standing for the whole, the political group which, as we well know, had almost eliminated the idea of civil society, in the name of popular interest. Like the other communist parties in Western Europe, who had signed the Warszaw Agreement, but in a more radical manner, R.C.P. suppressed, through state – run means and institutions, through oppression, censorship and propaganda, the natural rights and liberties in the name of civil rights and liberties. Obviously, the word "freedom" was not taken out of the vocabulary of the communist propaganda, being, on the contrary, assigned a new meaning and used abusively to legitimize the imposed regime.

The socialist and communist parties in the West had a significantly different situation compared to the communist parties in the Eastern Block. First of all, the Western communist parties have arisen and functioned in multiparty regimes, as a mere actor of the political scene, most of the time as part of the opposition or sometimes part of the government in a system with a very powerful opposition. The democratic game in Western Europe was not just for show, but one based on rules, a game in which the respect for the rights and liberties of the people, the existence of political opposition or that of civil society were more than just bare words. The socialist or communist parties were able to practice equality-based and state-focused convictions, on which they could build political strategies to achieve the political power, exactly because of a functional democratic framework that allowed the plurality of views.

In the acception of the states with popular democracies, the party was a superior expression, an act of maturity of a democratic regime. An intriguing aspect in the dialogues between Ceausescu and the Belgian socialist delegation in 1969 is the Romanian leader's position towards the multiparty system as part of the process of building socialism. Ceausescu considered that it was possible only if all the parties had the same point of view on the matter (ANIC, fund CC al PCR – secția Relații Externe, dossier no. 76/1969: 20). In these conditions, he stated, the political parties had no reason to exist. In other words, they could naturally be dissolved, without being necessary to be removed by the means of the traditional Marxist-Leninist revolution. In Ceausescu's opinion, the single party was a result of the composition of all the progressive political forces, of the working class' unity and eventually of the will of the entire people. Besides, Ceausescu's position in a dialogue with G. Dejardin is more than suggestive: "We are heading towards the development of the democracy, not towards the development of the parties; on the contrary, we're heading towards the abolishing of the parties because, as society evolves to unity the contradictions would disappear (...). Of course,

this is not an urgent problem, but in the historical development this is the problem of the unity of the working class, having a single political party. The essential issue is that the working class can evolve to government class" (ANIC, fund CC al PCR – secția Relații Externe, dossier no. 76/1969: 21).

Ceaușescu and the Eurocommunism thesis

The main topics related to the socialist doctrine on Ceausescu's discussion agenda with the Western communists were old debate topics even between the European socialists and communists. In Western Europe the communist parties felt the need for a new view on the way to set in a socialist regime. During such ideological debates, the trends were new and with a reforming shade, promoting the possibility of peaceful ascent to power by obeying a pluralist political framework. At the same time, by obeying such pluralist and law-based framework specific to Western countries, it also meant that within the process of building socialism, the working class' dictatorship would not have been necessary anymore.

Although such ideological issues regarding the building of socialism manifested through talks between communists and socialists/social-democrats, as early as the 60's, they would be theorize as late as 1977 in the Spanish Communist Party president's study, Santiago Carrillo, called "Eurocommunism and state" .

The dynamics of the debates within the communist movement brought to the table of dialogue also the leaders of the communist parties in Spain and Romania. Like other contacts with the leaders of Western European Communist parties, the meeting with Carrillo was part of the foreign policy line that the Communist Party was following: establishing and consolidating new relations with Western Communism in order to create opposition to the strengthening of Soviet control in the communist movement. The dialogues between the two will be about the new concept that Carrillo himself had defined: Eurocommunism. Thus, the 1967 and 1968 meetings between the two would bring to the debate the idea of the single party and the Eurocommunist thesis (Stanciu, 2014c: 154).

Thus, the international communist movement was facing reforming ideas initiated by the main Western communist parties: The Italian Communist Party, the Spanish Communist Party or the French Communist Party. It is interesting to see that such reforming trends within the international communist movement and which would later on be integrated into the concept of Eurocommunism, became, as well, dialogue topics between RCP and the Belgian communists.

Until the emergence of Eurocommunism as a distinct trend, other attempts to fragment and progressively diminish Moscow's role had been manifested. By the meeting of communist parties in 1969, USSR tried, unsuccessfully, to reestablish, control over the international communist movement. The soviets' failure to rally the communist parties to Moscow led to a decrease of the pressure for uniformity, especially on the Western - European communist parties. On that background, the Western communist parties tried to identify their own ways and methods to assert themselves (Stanciu, 2014b: 300). But what was, more precisely, this Eurocommunism trend? How did Ceausescu relate to this new concept, specific to western communist parties, emerged at the middle of the 70's?

Eurocommunism represented a political trend (emerged, as we know, long before the emergence of the concept itself) which, actually, manifested within the same Marxist-Leninist ideological limitations, but which supported an adaptation of the communist ideological framework to the realities and requirements imposed by the singularity of the western states. As said before, one of the fundamental ideas of Eurocommunism was a peaceful transition to socialism through other means the insurrectional ones legitimized by

bolshevism (Stanciu, 2014b: 363). Another trait of Eurocommunism was to support the idea that socialism could be built within a political framework in the sense of Western democracy, meaning a pluralist, parliament-based framework, in which the rise to power was achieved by open elections. Also, complying with such pluralist and law-based framework specific to Western countries meant that in the building of socialism there would be no more need for the working class`s dictatorship. In the equation of his political struggle to free himself from the soviet control, Ceausescu was open to any kind of dissidence to Moscow within the international communist movement. This is how one can explain the fact that, despite the Romanian leader's partial disagreement with these Eurocommunism ideas, he would support them to a certain extent. This is understandable, since the Eurocommunism thesis contained the idea of the communism's surviving together with the political multiparty system. However, in the process of building socialism, Eurocommunism also meant to reconsider the historical, cultural, national traits of each state, which Ceausescu tried to achieve in his relation to Moscow. In other words, Ceausescu would encourage the Eurocommunism discourse, as long as it contributed to a strengthening of the communist parties' autonomy and to the weakening of the soviet domination over international communism.

In his strategy to weaken Moscow's control, Ceausescu would make use of the position of the main western communist parties (FCP, ICP or SCP), in the international communist movement, aiming to strengthen his own party's position in relation to the USSR. At the RCP's National Conference in 1977, Ceausescu stated: "the notion of Eurocommunism reflects the legitimate right of each communist party to use strategies and concepts specific to their cultural and national area". "Of course, every party appreciates it in their own manner", Ceaușescu continued, "however, we see this as the parties' concern to find, in line with the new context in their area, the way to unify the social forces involved in the battle for democratizing the society, in order to create the conditions of a passage to a new social order" (Ceaușescu, 1977: 88).

In the conversations of N. Ceausescu with the members of the Belgian communist and socialist parties, the ideas of the Eurocommunism thesis were highly debated and Ceausescu's position was moderate. As well as in the discussions with the other Western communist parties, the Romanian leader would invariably reply that the political multiparty system is just an intermediary step in the process of the unification of the progressive parties having as the final goal the single party, in this respect a natural stage of building socialism. Ceausescu's assent with the Eurocommunism ideas also ensues from the conversations with the vice-president of the Belgian Communist Party, Jean Terfve, in 1977, when Ceausescu declared that the political activities must take place in accordance with the specific realities of each country.

Thus, the most significant discussions regarding the Eurocommunism ideas can be found in Ceausescu's talks to the BCP's vice-president, Jean Terfve, in 1977. The Romanian communist leader could not overlook certain ideas that were proposing a type of communism applied in accordance with the actual conditions in each country while the political actions had to be based on "respecting each party's right to act as they see suitable" (ANIC, fund CC al PCR – secția Relații Externe, dossier no. 177/1977: 8). It is interesting to notice Ceausescu's position who states that, even though communism can be built in various forms in Western Europe, this is not necessarily bound to lead to arguments among the communist parties or among the socialist states, on the contrary, "we need to get to a cooperation, to solidarity". It was very clear that, for Ceausescu, the brotherly ties between socialist countries were of paramount importance, especially those between parties promoting a dissident policy towards the USSR.

In his talks with Jean Terfve, Ceausescu claimed that the Eurocommunism action is not quite clear to him, but the recorded copy of this dialogue prove the opposite. The essence of the Eurocommunism thesis is grasped quite well by the communist leader, who declared that: "We for instance find difficulty in understanding some notions such as Eurocommunism. Nevertheless, we understand that the parties want to pinpoint that they will act in line with the concrete conditions in their country as well independently. If they accept this notion, we see nothing wrong with it, although, when we discussed with some of these comrades, we failed to see it clearly" (ANIC, fund CC al PCR – secția Relații Externe, dossier no. 177/1977: 9).

Conclusions

In conclusion, this metamorphosis of the Western communists' perception on the ways of building socialism meant actually a reformulation of the ideological identity. The adaptation of Western communism to the political and cultural realities of each country has naturally imposed a weakening of the Soviet control. In Eastern Europe, Romania was also fighting for independence from Moscow, in a nationalist perspective. Despite his lack of sympathy for these Eurocommunism ideas, Ceausescu supports them to a certain extent. Moreover, the Romanian communist leader encourages the Eurocommunism discourse as long as it would contribute to a strengthening of autonomy of the communist parties in their relationship with the Soviet Union.

These different views between communists belonging to the USSR area of influence and the Western ones, in doctrine-related issues, cannot be simply reduced to their strategies to distance themselves from Moscow. For sure, the communists' perception on democracy, for instance, was in accordance with the political system they belonged to. One can therefore talk about liberal societies, capitalist ones and those where Leninist-like regimes were functioning. The latter were characterized by what Kenneth Jowitt called *an insulation* to the societies they governed and by the attempt to imprint into the, at the same time, the revolutionary ideal inspiring them (Copilaș, 2011: 1). Therefore, with the Leninist regimes, the ideology and policy were fundamentally linked. In the context of political pluralism, the Western communist parties, not being subjected to a totalitarian regime, had the liberty to assimilate on the doctrinary level, certain ideas of the liberal-type democrats, being themselves part of the democratic game based on an alternation of political power.

On the national as well as on the international level, the doctrine of the socialist democracies used the term "bourgeois" as a pattern. Therefore, concepts like democracy, human rights, international democracy were reinterpreted getting their own semantic content. In these circumstances, the possibility of authentic communication between a regime with a popular democracy and a "bourgeois" one was very low. Basically, what Marxism - Leninism did was to recover expressions used by the liberal doctrine only to integrate them later into their own speech. Thus, the socialist doctrine developed a counter-speech in order to make the bourgeois way of thinking legit no more (Copilaș, 2011: 1). The western capitalist regimes wee accused of miming democracy and that its principles were only used to favor the "dominant classes" versus the large working classes. Also, western democracy was accused of using false human rights which were in fact only ways to disguise the individual rights of those "exploiting" the masses. Actually, the communists' rhetoric, and we are referring to the ones in the socialist states, was built on accusations against the capitalist states. Ceausescu's dialogues with the Belgian communists and socialists stand proof for this. The attitude of the Romanian Communist Party secretary in ideological issues was relentless, and his reproach to the liberal regimes and to the principles on which they were based, was an

open one. But, as we already mentioned, the context of the 70's brings into the RCP's doctrinary speech certain shades. Ceausescu's dissident policy to USSR led to a nationalistic approach of communism and of the way it was applied in Romania. The Eurocommunism thesis contained ideas that overlapped those in Ceausescu's nationalist speech, like applying communism in traditional social-cultural conditions of society. In his talks with the Belgian communist delegates, the Romanian leader gets less radical when approaching the topic of the type of communism that was emerging as theory. On the other hand, Ceausescu was aware that a new face of communism in the west was leading to a weakening of the communist parties towards Moscow, which the RCP wanted.

The discussions between the Romanian and the Belgian communists, held mainly between 1966 and 1980, show also their perception on the communist doctrine. After World War II, during the romantic period of the western communists, they were much more connected, from the doctrinary point of view, to the Marxist-Leninist thesis. Coexisting in regimes with multiple parties, the western communist parties start developing "autonomous" trends of communist doctrine.

On the other hand, Ceausescu's meetings with Belgian communists show his relentless position related to the issue of democratic principles, to that of the idea of a single party and of the existence of more than one party, yet one can also discover a certain "tolerance" manifested by him in regard to the Eurocommunism thesis, as long as it meant a new method to weaken the soviet control over the international communist movement.

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Social Agenda and Civic Participation within the European Union Multilevel Governance: A Content Analysis of the EU Legal Documentation (2016)

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Abstract
The present study witnesses the social agenda and the civic participation within the European Union multilevel institutional establishment. The paper introduces and scrutinizes more than seven alternative items in the field of social action and civic engagement representing active displays of the European social praxis and referring to the innovative citizen-society empowerment links that define the theoretical structure of the European Union multilevel governance: development, innovation, inclusion, solidarity, entrepreneurship and legal settings. The aim of the study is to employ a seven-step content analysis of the main topics of the social agenda and civic participation using the following research model: 1) defining the main topics of the social agenda; b) targeting the conceptual understandings of each topic; 3) mapping an analytic framework based on the social action and social praxis of legal encounters. The paper develops a theoretical and practical approach to the emerging areas of the European social establishment.

Keywords: *social agenda, civic participation, European Union, governance, institutions, legal documentation*

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1. Introduction

Enabling the European integration and mapping the social action and the social praxis within the agenda of the Official Journal of the European Union in the year 2016 outlines the paths to civic participation and social movement shaping the regular implications of the policy-making processes. Further, there are few aspects that academics and professionals focus before mapping the social praxis within the agenda of the Official Journal of the European Union. The first element in this analysis is the operationalization of the European Union legislation as an assemblage of concepts considering the social conceptualization and the relationship between the Europeanization theories, the social facets of civic engagement and participation (Ariely, 2014: 573-595; Ciornei and Recchi, 2017: 468-485). These elements have the decisive role of scrutinizing the European Union (hereinafter EU) legislation and its related acts and documents displayed within the agenda of the Official Journal of the European Union in the year 2016 as a process designed to assess the variations of the social action and social praxis from the legal perspective with elements connecting the individual framework of the EU multilevel governance. The analysis is operationalized to endow a high grade of the usage measurement: (i) the month of the adoption of the documents; (ii) the type of documents; (iii) the major institutional actors issuing the documents and (iv) the leading types of procedures.

2. Literature overview and theme-directed research

Theorizing the social action and social praxis within the processes of the European integration, the recent literature has asserted the Europeanization theories, the democracy deficit and the social conception of participation and sustainability (Hobolt, 2012: 88-105; Georgescu, 2014: 135-146; Hooghe, 2012: 87-111; Saurugger, 2010: 471-495; Sharma and Ruud, 2003: 205-214). In this direction, we part the Sirgy and Mangleburg's endowment toward "a general theory of social system" (Sirgy and Mangleburg, 1988: 115-129) and the demand of Weiss-Gal and Welbourne for the "professionalisation of social work" (Weiss-Gal and Welbourne, 2008: 281-290).

Social action and social praxis research is amplifying and importing with it a mixed-up composite of topics and themes arising from various societal, cultural and political fields heading an index of six prevailing items: a) the "social development" and the complex thesis of the social system development and related fields; b) the "social innovation" and the relationship between the urban areas development and the gaps of the rural landscape; c) the "social inclusion" and the indicators of (un)employment, the conceptual nexus of "equality" and the institutional mechanisms focusing on European/ national and/ or regional variations; d) the "social security" and the proper functioning of the relationship between the social establishment and the economic growth; e) the "social solidarity" and the challenges of the "social cohesion"; f) the "social entrepreneurship", the interplay between "accumulative fragmentalism" (Nicolopoulou, 2014: 678-702) and the "innovative profiles" managing the patterns of organizations and the entrepreneurial establishments (Short, Moss and Lumpkin, 2009: 161-194; Nicolopoulou, 2014: 678-702); g) the "social legislation" mainly linking the "reform of job security legislation" (Davidsson and Emmenegger, 2013: 339-363), the "social inclusion" (Collins, 2003: 16-43) and the "social citizenship" (Greer and Sokol, 2014: 66-87).

2.1. Part 1: "social development"

Part 1 of the research is focusing on the "social development" often theorized between the "social system development" and management scrutinizing (Sharma and Ruud, 2003: 205-214; Sirgy and Mangleburg, 1988: 115-129). The concept received various definitions and interpretations grounding a three-dimension analysis: "developmental psychology, management and marketing" (Sirgy and Mangleburg, 1988: 115-129) granting the social system to engage the basic satisfaction of the biological needs (Saurugger, 2010: 471-495; Sharma and Ruud, 2003: 205-214; Sirgy and Mangleburg, 1988: 115-129). The literature also argued that there is a paired legitimation of the social needs engaging the social development, the development divide, the progressive encounters of the social dynamics both enabling the human and institutional development (Sirgy and Mangleburg, 1988: 115-129; Olimid and Olimid, 2016: 35-47).

2.2. Part 2: "social innovation"

Part 2 of the research, "social innovation" and particularly "innovation" enlists: economic growth, health care system (Dubé, Jha, Faber et al., 2014: 119-141), urban policies and experiences (Oliveira and Breda-Vásquez, 2012: 522-538) and labor market inputs and outputs (Higuchi, 2014: 110-124). At the individual level, it bridges the social factors and the institutional mechanisms requiring the capacity to face market competitiveness and social inclusion (Shortall and Warner, 2010: 575-597). Nonetheless, Oliveira and Breda-Vásquez (2012: 522-538) discuss the complementary alternatives of urban development founded on innovation and market economy. The authors explore the prospects and dissemination of "social innovation" depending on the education limits and the urban policy's requirements (Oliveira and Breda-Vásquez, 2012: 522-538).

2.3. Part 3: "social inclusion"

Social inclusion may be analyzed as a concept-base of social market and as the nexus among various outcomes of employment, educational system and training engagements (Shortall and Warner, 2010: 575-597; Martin and Cobigo, 2011: 276-282; Rose, Daiches and Potier, 2012: 256-268). Social inclusion also includes the individuals' "equality" (Collins 2003: 16-43) and "solidarity" (Crow, 2010: 52-60) assessing the conceptual model and the "source of European solidarity" (Rose, Daiches and Potier, 2012: 256-268; Ciornei and Recchi, 2017: 468-485). Martin and Cobigo enable the "social inclusion" and the definite purpose of the encounter between the legal aspects and the policies at regional level assessing the correlation between the objective aspects and the subjective understandings of the vulnerable population (Martin and Cobigo, 2011: 276-282).

2.4. Part 4: "social security"

The recently theorized concept of "social security" represents "a necessary condition" for societies and their economic growth (Matijascic and McKinnon, 2014: 3-15; McKinnon, Brimblecombe, McClanahan and Orton, 2014: 17-36). Social security enables the recent trends of social security policies in a context of increasing the administrative processes and developing "suitable responses" to the security systems (McKinnon, Brimblecombe, McClanahan and Orton, 2014: 17-36; Ariely, 2014: 573-595). Matijascic and McKinnon also address a set of questions regarding the dynamics of the social security system and the aims of sustainable development focusing on two

research results: "social security administration" and "social security coverage" (Matijascic and McKinnon, 2014: 3-15).

2.5. Part 5: "social solidarity"

The state-of-the-art of "social solidarity" generates a relational method of scrutinizing the concept in conjunction with other decentring legal and social instruments. The essence of "social solidarity" is the "social relationship" (Crow, 2010: 52-60) linked to the "social cohesion" (Matijascic and McKinnon, 2014: 3-15; Ariely, 2014: 573-595) and the dynamics of the European solidarity (Ciornei and Recchi, 2017: 468-485).

All these have a major impact on the resources and proficiency of "social cohesion" (Ariely, 2014: 573-595). Crow also examines the relationship between "social solidarity" and the social problems proposing a pattern of social outcomes based on "social solidarities" and "social relationship" (Crow, 2010: 52-60).

2.6. Part 6: "social entrepreneurship"

In this study, we also investigate the data highlighting the trends of "social entrepreneurship" fostering the links among the cognitive and theoretical cross-analyses in the field (Short, Moss and Lumpkin, 2009: 161-194; Nicolopoulou, 2014: 678-702; Grégoire, Corbett and McMullen, 2011: 1443-1477). The literature also points up the latent drawbacks in practically configuring the "social entrepreneurship" by exploring the phenomenon based upon "accumulative fragmentalism" (Nicolopoulou, 2014: 678-702) and "innovative profiles" joining individuals-organizations-entrepreneurial establishments (Short, Moss and Lumpkin, 2009: 161-194; Nicolopoulou, 2014: 678-702). The literature explores the "social entrepreneurship" as a complex-based analysis design focused on recognizing the following main steps: 1) the social and cognitive debate (Short, Moss and Lumpkin, 2009: 161-194); the recognition of the institutional opportunities (Nicolopoulou, 2014: 678-702); 3) the convergent processes of the entrepreneurial establishment. A key feature focuses on the social and economic development and catalysing the social and economic changes and objectives (Short, Moss and Lumpkin, 2009: 161-194; Nicolopoulou, 2014: 678-702).

2.7. Part 7: "social legislation"

The paper delves into the analysis of the related social legislation of the EU law directly connecting types of documents and major institutional actors of these acts. The recent literature postulates the social legislation also consulting the outcomes of the "reform of job security legislation" (Davidsson and Emmenegger, 2013: 339-363) "social inclusion" (Collins, 2003: 16-43) and "social citizenship" (Greer and Sokol, 2014: 66-87). The concept of "social legislation" operationalizes the legal spectrum of the EU norms by selecting and categorizing the field work of social conditionality.

3. Research questions

This study enables the main advancements of the European social action and social praxis fixing the context of a content analysis of more than 3000 documents adopted in the year 2016 (Table 1) hereby including regulations and decisions laying down the general provisions and also the common provisions depending on various types of procedure: ordinary legislative procedure, non-legislative procedure, other legal procedures etc. (Figure 02-04). The research questions of this study are investigating the legal comprehension of the social action and social praxis within the agenda of the Official

Journal of the European Union in the year 2016 empowering the following main research questions: Qi: How does the analysis of the social action and social praxis outcomes vary depending on the type of document and the institutional provider? Qii: What are the main documents issued in the field of social action and social praxis pointing out the European solidarity? Qiii: Which are the three-focus concepts defining the context of the social action and social praxis? Qiv: How does the usage of the focus concepts vary considering the type of document, the author of the document, the type of the procedure and the type of act? Qv: How does the scrutiny of the seven items "social development"; "social innovation"; "social inclusion"; "social security"; "social solidarity"; "social entrepreneurship" and "social legislation" explain and improve the performance of the main European Union institutional establishments?

4. Methods and methodology

4.1. Research design

The present paper aims at analyzing the main topics of the social action research and social practice within the agenda of the Official Journal of the European Union (hereinafter OJ) focusing on the following seven conceptual variables: a) "social development"; b) "social innovation"; c) "social inclusion"; d) "social security"; e) "social solidarity"; f) "social entrepreneurship" and g) "social legislation".

4.2. Research settings

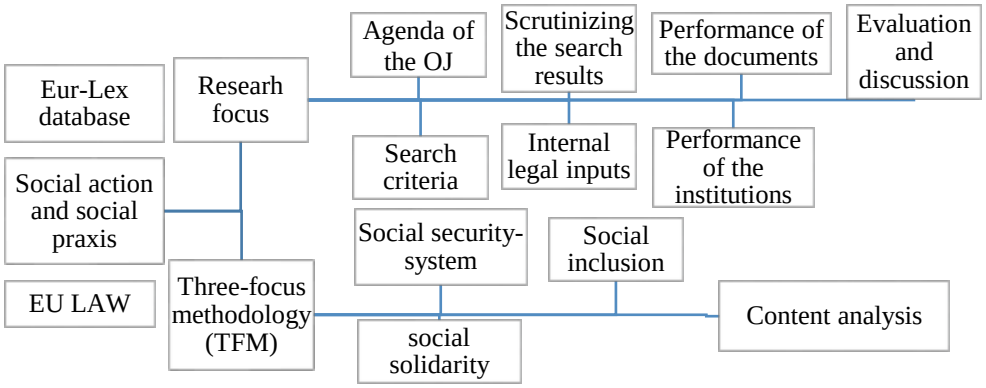
This content analysis is engaged to establish the framework for the institutional action in the fields of the legislative and administrative establishments. We have developed a *three-focus methodology* (hereinafter TFM) hosting: 1) social security systems; 2) social inclusion; 3) social solidarity and related items (above presented). The three-focus methodology enables other conceptual usages when the social and political context is licensed to feature other legal, cultural and linguistic differentials. The TFM facets seven main research steps (Figure 01): (1) identification of the body of documents published within the agenda of the OJ using the EUR-Lex: EU Law facilities (EUR-Lex, 2017); (2) targeting the search criteria using each conceptual variable above described; (3) refining the search results by: (3i) domain (Official Journal); (3ii) subdomain; (3iii) year of document (2016); (3iv) type of procedure; (3v) author of the document; (3vi) type of act; (4) scrutinizing the performance of various types of acts; (5) investigating the performance of the main institutional authors of the documents; (6) exploring the types of procedures; (7) evaluation and discussion of the results. Accordingly, we searched and identified the documents that specifically included the topics of the"social development"; "social innovation"; "social inclusion"; "social security"; "social solidarity"; "social entrepreneurship" and "social legislation".

4.3. Research sample

The main outcomes of the research empower: (i) a horizontal conceptual collaboration (Tables 1-4, Column 1, Rows 1-7) for all seven items and (ii) an induced analysis rather than an individual-driven content analysis (Figures 02-04). The TFM analysis is implemented using the Eur-Lex database with the pointing focus on the year 2016 (from January 2016 to December 2016). To analyse the social action and the social praxis we focused on more than 3000 documents facilitating the coordination of the research concepts (Table 1) as follows: 1) Step 1. Research focus; 2) Step 2. Establishment

of the search criteria; 3) Step 3. Scrutinizing search results and linking the internal legal inputs of social praxis and civic participation; 4) Step 4. Performance of the documents; 5) Step 5. Performance of the institutions; 6) Step 6. Evaluation and discussion (Figure 01).

Figure 01. Research mapping of the social action, social praxis and related items within the Agenda of the Official Journal of the European Union (2016)



Source: Authors' representation

5. Research findings

5.1. Findings on the month of the documents

The sampling research for Table 1 was developed considering the twelve months of the year 2016 (January 2016 noted (01) to December 2016 noted (12)) as particular sequences for each month of the year (Column 2-Column 13, Table 1). The analysis revealed a total of 3234 documents (Table 1.1. and Table 1.2.) as follows: 797 documents released for the "social development" search (24,64% of the total); 309 documents (9,55) for the "social innovation"; 247 results (7,63%) for "social inclusion"; 860 results (26,59%) for the "social security" search; 121 results for the "social solidarity" (3,74%); 48 documents (1,48%) for the "social entrepreneurship" search and 852 documents (26,34%) for the "social legislation" search.

The main findings are: 128 results for "social legislation" (month of June 2016); 118 results for the "social security" search (month of June 2016); 112 results for the "social development" search (month of July 2016); 105 results for the "social legislation" search (month of October 2016). Despite of the increasing projection of "social security" (row 5), "social legislation" (row 8) and "social development" (row 2), we also found few results revealing the decreasing use of the following concepts: "social entrepreneurship" (between 2-8 uses, January-November 2016); "social innovation" (8 uses, August 2016); "social inclusion" (6 uses, August 2016 and 4 uses, November 2016); "social solidarity" (2 uses, January 2016; 4 uses for October and November 2016; 7 uses, March 2016).

Table 1. Month of the documents

Topic/ month (01→12)	01	02	03	04	05	06	07	08	09	10	11	12
Social development	36	41	57	80	71	107	**112**	30	62	97	33	71
Social innovation	10	20	17	37	28	23	48	**8**	21	50	16	31
Social inclusion	9	22	21	33	25	23	31	**6**	16	34	**4**	23
Social security	40	48	55	95	90	**118**	92	42	74	87	42	77
Social solidarity	**2**	8	**7**	10	5	35	12	9	14	**4**	**4**	15
Social entrepreneurship	**2**	**3**	**3**	**3**	**7**	**2**	**8**	*	**2**	**4**	**2**	12
Social legislation	47	58	68	87	67	**128**	87	35	60	**105**	42	68

Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database). We noted 01 (month of January 2016); 02 (month of February 2016); 03 (month of March 2016); 04 (month of April 2016); 05 (month of May 2016); 06 (month of June 2016); 07 (month of July 2016); 08 (month of August 2016); 09 (month of September 2016); 10 (month of October 2016); 11 (month of November 2016); 12 (month of December 2016) (*: no data released)

In Table 1, the calculation shows that for the month of January 2016, we consider 47 results for "social legislation", 40 results were determined for the "social security" search, 36 results for "social development", 10 results for "social innovation", 9 results for "social inclusion", 2 results for "social solidarity" and 2 results for "social entrepreneurship". The Column 2 demonstrates a nexus model for the "social legislation", "social security" and "social development" in the first month of the year 2016 drawing from the law, security and development areas.

Table 1.1. Month of the documents in the year 2016 (total documents/ topic)

Topic/ month (01→12)	Total documents
Social development	797 documents (months 01→12)
Social innovation	309 documents (months 01→12)
Social inclusion	247 documents (months 01→12)
Social security	860 documents (months 01→12)
Social solidarity	121 documents (months 01→12)
Social entrepreneurship	48 documents (months 01→12)
Social legislation	852 documents (months 01→12)

Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database). We noted 01 (month of January 2016); 02 (month of February 2016); 03 (month of March 2016); 04 (month of April 2016); 05 (month of May 2016); 06 (month of June 2016); 07 (month of July 2016); 08 (month of August 2016); 09 (month of September 2016); 10 (month of October 2016); 11 (month of November 2016); 12 (month of December 2016).

Table 1.2. Month of the documents in the year 2016 (% from the total documents)

Topic/ month (01→12)	Total documents/ month/ topic %
Social development	24, 64 % from the total documents for the months ("social development" findings)
Social innovation	9,55 % from the total documents for the months ("social innovation" findings)
Social inclusion	7,63 % from the total documents for the months ("social inclusion" findings)
Social security	26,59 % from the total documents for the months ("social security" findings)
Social solidarity	3,74 % from the total documents for the months ("social solidarity" findings)
Social entrepreneurship	1,48 % from the total documents for the months ("social entrepreneurship findings")
Social legislation	26,34 % from the total documents for the months ("social legislation" findings)

Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database)

This cross-disciplinary analysis is determined by a medley of other variables such as "innovation", "inclusion", "solidarity" and "entrepreneurship". In contrast to the Column 2 results, Column 3 (February 2016) of Table 1 draws a total of 58 results as follows: 48 results for "social security", 41 results for "social development", 22 results for "social inclusion", 20 results for "social innovation", 8 results for "social solidarity" and 3 results for "social entrepreneurship". Column 4 (March 2016) and Column 5 (April 2016) show that the results for "social development" vary from 57 to 80 findings, from 55 to 95 results for the "social security" search, from 7 to 10 results for the "social solidarity" search and from 21 to 33 results for the "social inclusion" search. Column 6 (May 2016) and 7 (June 2016) estimate the following variations of the findings: from 90 (May 2016) to 118 results (June 2016) ("social security" search); from 71 (May 2016) to 107 results (June 2016) ("social development" search); from 28 (May 2016) to 23 results (June 2016) ("social innovation" search); from 25 (May 2016) to 23 results (June 2016) ("social inclusion" search); from 5 (May 2016) to 35 results (June 2016) ("social solidarity" search); from 7 (May 2016) to 2 results (June 2016) ("social entrepreneurship" search); from 67 (May 2016) to 128 results (2016) ("social legislation" search). Column 8 (July 2016), Column 9 (August 2016) and Column 10 (September 2016) show that the values registered mainly increased in July, decreased in August and increased in September 2016 as follow: the "social development" search increased in July 2016 (112 results), decreased in August 2016 (30 results) and then increased to 62 results (September 2016); the "social innovation" search increased in July 2016 (48 results), decreased in August 2016 (8 results) and then increased to 21 results (September 2016); the "social inclusion" search increased in July 2016 (31 results), decreased in August 2016 (6 results) and then increased to 16 results (September 2016); the "social security" search decreased in July 2016 (92 results), also decreased in August 2016 (42 results) and then increased to 74

results (September 2016); the "social solidarity" search decreased in July 2016 (12 results), also decreased in August 2016 (9 results) and then increased to 14 results (September 2016); the "social legislation" search decreased in July 2016 (87 results), decreased also in August 2016 (35 results) and then increased to 60 results (September 2016); the "social entrepreneurship" search increased in July 2016 (8 results) and then decreased to 2 results (September 2016).

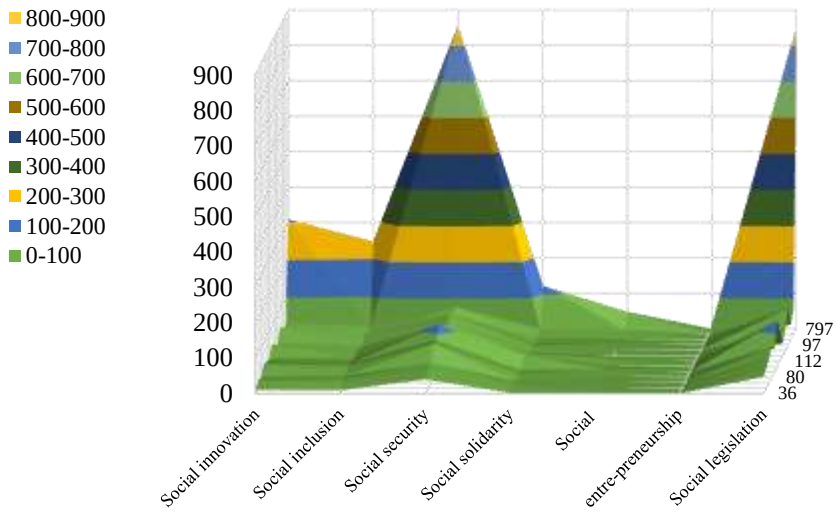


Figure 02. Month of the documents (year 2016)
Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database)

5.2. Findings on the main types of procedure

The search for the main types of procedures identifies a total of: 127 results for the "social development" considering the four types of procedures described in Columns 2-5; 39 results for the "social innovation" and also "social inclusion"; 110 results for "social security"; 14 results for the "social solidarity" search; 133 results for the "social legislation" (Table 2).

Table 2. Main types of procedure

Topic	Ordinary legislative procedure (COD)	Non-legislative procedure (NLE)	Special legislative procedure – EP consulted (CNS)	Special legislative procedure-EP Consent required (APP)
Social development	101	18	6	2
Social innovation	33	5	*	1
Social inclusion	31	6	2	*

Social security	81	23	5	1
Social solidarity	8	4	1	1
Social entrepreneurship	*	*	*	*
Social legislation	110	11	10	2

Note: Ordinary legislative procedure (COD); Non-legislative procedure (NLE); Special legislative procedure – EP consulted (CNS); Special legislative procedure-EP; Consent required (APP) (data displayed by the EUR-Lex Database). Source: Author's representation (Data displayed as results of the search research of the topics on the Eur-lex database) (*: no data released)

Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database)

5.3. Findings on the major authors of the documents

Table 3 and Figure 03 highlight the major five institutional sources of the documents (European Economic and Social Committee, Council of the European Union, European Commission, European Parliament and Committee of the Regions) generating the following data for each item categorized: a total of 684 results for "social development" (27,66% of the total), 277 results for "social innovation" (11,20% of the total), 223 results (9,02% of the total) for "social inclusion", 500 results (20,22%) for the "social security" search, 92 results for "social solidarity" (3,72%), 40 results for "social entrepreneurship" (1,61%) and 656 results for the "social legislation" search (26,52%). To examine the impact of the main authors of the documents, we examined the top performance of each institution for one selected category (Table 3 and Figure 03) considering the vertical variance approaches (per column) in the measurement process as follows: (i) first institution, European Economic and Social Committee (Column 2; 135 results for the "social development" search); (ii) second institution, Council of the European Union (Column 3; 165 results for the "social development" search and Column 3, 165 results for the "social legislation" search) and (iii) third institution, European Commission (Column 4; 259 results) for the "social legislation" search); (iv) fourth institution, European Parliament (Column 5, 104 results) for the "social development" search); (v) fifth institution, Committee of the Regions (Column 6, 44 results %) for the "social development" search).

Table 3. Major authors of the documents

Topic	EESC	CEU	EC	EP	CoR	Total (%)
Social development	**135**	**165**	236	**104**	**44**	684 (27,66%)
Social innovation	84	57	56	47	33	277 (11,20%)
Social inclusion	60	54	51	36	22	223 (9,02%)
Social security	99	159	131	85	26	500 (20,22%)
Social solidarity	32	18	14	15	13	92 (3,72%)

Social entrepreneurship	13	10	4	10	3	40 (1,61%)
Social legislation	106	**165**	**259**	94	32	656 (26,52%)

Note: European Economic and Social Committee (EESC); Council of the European Union (CEU); European Commission (EC); European Parliament (EP); Committee of the Regions (CoR). Source: Author's representation (Data displayed as results of the search research of the topics on the Eur-lex database).

Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database)

According to the results of the Table 3, the major findings for "social innovation" (Row 3, Table 3) are determined for EESC (Column 2) and CEU (Column 3), for "social inclusion" are enabled for EESC (Column 2) and CEU (Column 3) and for "social security" are included in Column 3 (CEU search area) and Column 4 (EC search area).

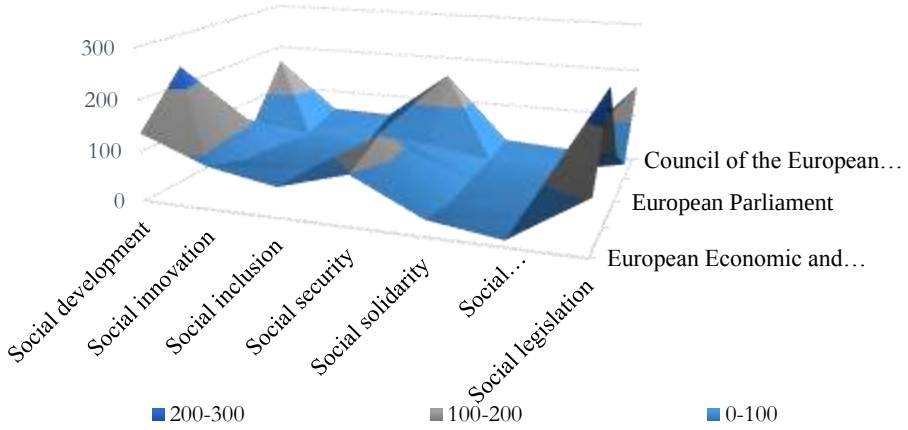


Figure 03. Major authors of the documents

Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database)

5.4. Findings on the main types of acts

The analysis of the data provided by Table 4 acknowledges more results for the "social security" (575 results), "social legislation" (492 results) and "social development" (455 results) rather than "social inclusion" (127 results) and "social solidarity" (71 results). Table 4 also indicates that the analysis enabled a total of 455 results for the "social development" search; 153 results for the "social innovation" search; 127 results for the "social inclusion" search; 575 results for the "social security"; 71 results for the "social solidarity"; 14 results for the "social entrepreneurship"; 492 results for the "social legislation" (Table 4 and Figure 04). The analysis reveals 24,11% for the "social development" and 26.07% for the "social legislation" search.

Table 4. Main ten types of acts

Topic	REG	OP	D	J	OW	A	T	REC	Total
Social development	84	71	68	59	51	46	39	37	455
Social innovation	10	38	22	8	39	11	5	20	153
Social inclusion	20	31	19	14	22	8	2	11	127
Social security	52	49	70	304	35	23	21	21	575
Social solidarity	3	13	8	4	15	1	22	5	71
Social entrepreneurship	2	2	2	*	5	*	*	3	14
Social legislation	95	59	48	178	36	14	36	26	492

Note: Regulation (REG); Opinion not proposing amendment (OP); Decision (D); J (Judicial Information); Own-initiative opinion (OW); Announcements (A); Treaty (T); Recommendation (REC). Source: Author's representation (Data displayed as results of the search research of the topics on the Eur-lex database) (*: no data released)

Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database)

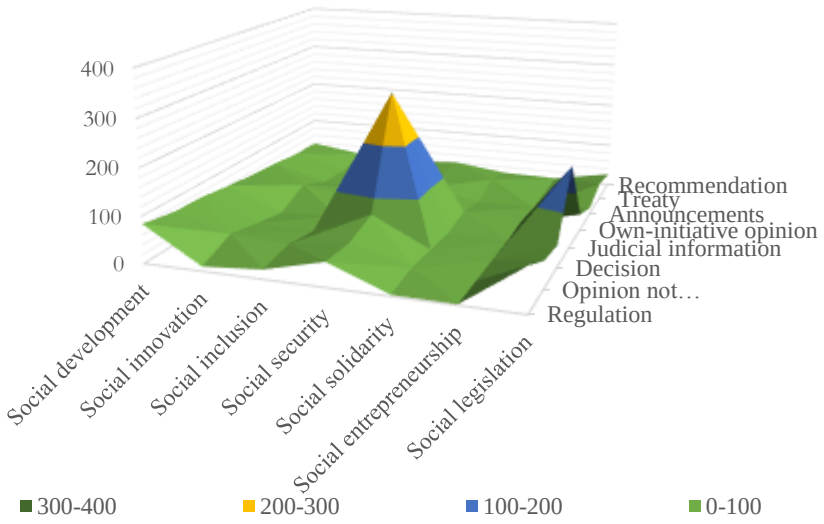


Figure 04. Main ten types of actes

Source: Authors' representation (Data displayed as results of the search research of the topics on the Eur-lex database)

6. Discussion

This expanded document search generated more than 3000 documents from which 1230 documents (38,03% of the total) for the concepts yielded by the TFM

configuration ("social inclusion", "social security" and "social solidarity" (Table 1, rows 4-6 and Figure 02) (Research step 5.1. Findings on the month of the documents).

The second main search of the types of procedures listed 163 results bringing the cross-sectorial collaboration of the three concepts reported by the the TFM configuration ("social inclusion", "social security" and "social solidarity" (Table 2, rows 4-6) (Research step 5.2. Findings on the main types of procedure). The third research category of results for the TFM configuration enable a total of 815 results designing the three-focus settings of "social inclusion" (27,36% of the TFM configuration), "social security" (61,34%) and "social solidarity" (11,28% of the TFM configuration) (Table 3, rows 4-6) (Research step 5.3. Findings on the major authors of the documents). The fourth pointing analysis of the TFM identifies 773 results for the three-focus conceptualization of "social inclusion" (16,42% of the TFM configuration), "social security" (74,38%) and "social solidarity" (9,18% of the TFM configuration) (Table 4, rows 4-6, Figure 04) (Research step 5.4. Findings on the main types of acts).

Conclusions

The study engages the recent legal paths of the social action and social praxis enabling the European integration and introducing important variables and self-categorizes the new directions that emerge from the recent agenda of the Official Journal of the European Union. The study indicates the variances of the research focused on a three-focus methodology that reveals the various usage of the items expanding the theoretical outcomes of the recent literature in the field (Hooghe, 2012: 87-11; Saurugger, 2010: 471-495; Sharma and Ruud, 2003: 205-214; Sirgy and Mangleburg, 1988: 115-129; Weiss-Gal and Welbourne, 2008; Dubé, Jha, Faber et al., 2014: 119-141; Rose, Daiches and Potier, 2012: 256-268; Ciornei and Recchi, 2017: 468-485).

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ORIGINAL PAPER

Single Nationwide Electoral District, Proportionality, and Territorial Representation: a Case Study of the Slovak Parliamentary Elections

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Abstract
The quantitative analysis focuses on effects of a single nationwide electoral district on proportionality of seats–votes shares (Least Squares Index) and proportionality of territorial representation (advantage ratio index at the individual level and an adaptation of distortion index at the aggregate level) in the Slovak parliamentary elections. The case study concludes that metropolitan area (the Bratislava Region) is strongly over-represented in the Slovak parliament while other regions are under-represented. At the same time, the analysis showed that seats-votes proportionality and proportionality of territorial representation are not necessarily opposing principles. For example, the mechanism of the electoral system to the German *Bundestag* makes clear that it is possible to maintain a high degree of both of them.

Keywords: *nationwide electoral district, proportionality, territorial representation, regions, Slovak Republic*

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Introduction

The quantitative analysis focuses on effects of a single nationwide electoral district on proportionality of seats–votes shares and proportionality of territorial representation. However, single nationwide districts are not very common practice for parliamentary elections at the national level, at least in the context of consolidated democracies. If nationwide districts do occur, such a district is usually either a part of mixed-member electoral system (e.g. in Hungary), or it appears within a higher (e.g. in the Czech Republic until 1998) or a compensation level of list proportional representation electoral system (e.g. in Denmark or Austria). In Germany and to some extent even in the Netherlands, where it is slightly more complicated, one cannot talk about a single nationwide district in the true sense of the word, because this is used to allocate the total number of seats to each party, but the party seats are then allocated to particular regions, or federal states in Germany, in which lists were submitted, in which voters voted and in which seats within a political party are actually allocated.

Thus, among the few cases, where seats are distributed in a single nationwide electoral district during the parliamentary elections, are the elections to the Israeli Parliament, the *Knesset*, and to the Slovak Parliament, the National Council of the Slovak Republic (*Národní rada Slovenské republiky*), since 1998. Just the Slovak parliamentary elections were chosen as a case study for this analysis, mainly for two reasons: 1) due to the Communist legacy of the Slovak Republic, as this contribution was originally prepared as a paper for the 7th International Conference after Communism: East and West Under scrutiny and organized by the Center of Post-Communist Political Studies (CEPOS, see cepos.eu), and 2) the Israeli parliamentary elections have already been subject to a similar kind of analysis earlier (see Latner and McGann, 2005), while the Slovak parliamentary elections have not yet been analyzed in this context.

District magnitude, seats-votes proportionality and territorial representation: a theoretical framework

There is a long-lasting normative dispute among theorists of electoral systems over what electoral rules are more democratic, or fairer. The overarching goal of the presented quantitative analysis is to contribute to this discussion. However, it intentionally avoids the normative way of thinking because such a perspective may distract attention from the intended objective of the study and moreover, there is no clear answer with regard to a fairer (or the fairest) democratic electoral system (see e.g. the already classic scholarly dispute between Lijphart and Sartori and their followers). Instead, the text focuses on the value-neutral concept of the (dis)proportionality of electoral results, both in terms of the allocation of parliamentary seats among political parties (seats-votes proportionality) and in terms of representation of various regions in relation to their electorate (proportionality of territorial representation).

But, it should be emphasized that the presented analysis approaches the issue of territorial (geographic) representation as a form of descriptive representation (Pitkin, 1967), and not in terms of behavior of MPs. Territorial representation, in the context of a electoral system of proportional representation with a single nationwide electoral district, is a strictly empirical issue (cf. Latner and McGann, 2005).

A key variable of electoral systems in terms of their (direct) effect on the degree of seats-votes proportionality is a *district magnitude,* i.e. the number of seats distributed in the given district (Rae, 1971; Taagepera and Shugart, 1989; Gallagher, 1991; Lijphart, 1994, 1999; Shugart, 2000; Colomer, 2004; Benoit, 2001; Charvát, 2010; etc.) Under conditions of electoral systems of proportional representation, which is also the case of the Slovak parliamentary

elections, it is generally true that the larger the district magnitude, the greater the degree of seats-votes proportionality [3].

While small electoral districts lead to the so-called manufactured majorities (Rae, 1971: 74-77), large districts make it possible to eliminate potential majority-forming elements of the electoral system and these effects may cancel each other out almost entirely in very large electoral districts (see e.g. Cabada, Charvát and Stulík, 2015: 182-183). Moreover, the relationship between the degree of seats-votes proportionality and the district magnitude is not linear but quadratic (Rae, 1971: 116-118), where the crucial boundary is about seven (Sartori, 1968: 279) or eight seats (Colomer, 2004: 54). Below this imaginary boundary, an increasing district magnitude is reflected in a significant decline in the seats-votes disproportionality. However, if this boundary is surpassed, the level of seats-votes disproportionality is reduced only less significantly. The proportion of received votes and the proportion of distributed seats become more similar in a district distributing about twenty seats (Shugart, 2000; cf. Sartori, 1968: 279).

Nevertheless, election results are not determined solely by the number of votes, but they are the result of "*interaction between people, places and votes*". Thus, they are also influenced by spatial distribution of votes and delimitation of the boundaries of electoral districts (Taylor, Gudgin and Johnson, 1986: 192). Although single nationwide districts provide a high degree of seats-votes proportionality, they tend to be criticized for not forming a (closer) link between the Members of Parliament (MPs) and voters, or rather geographically defined electoral districts. At the same time, the composition of parliamentary representation, which was created within a single nationwide district, does not reflect the territorial composition of the population, because it lacks significant (if any) institutional incentives for formation of territorial (here regional) representation. Instead, one can likely assume a certain degree of capital city bias, or overrepresentation of metropolitan areas in terms of origin of MPs.

Although Latner and McGann (2005), in their study analyzing the geographic representation of the Israeli Parliament, the *Knesset*, and the Dutch lower house, the Second Chamber (*Tweede Kamer*), discovered only slight overrepresentation of metropolitan areas as well as of most peripheral areas at the expense of regions adjacent to metropolitan areas, and they noted that the Parliaments in Israel and the Netherlands are surprisingly, although not perfectly, geographically representative, the Slovak post-electoral discussion highlighted the significant overrepresentation of MPs originating from the metropolitan area, i.e. in our case the Bratislava Region (*Bratislavský kraj*). Thus, we may hypothesize that *the distribution of seats in a single nationwide electoral district leads to overrepresentation of deputies originating from the metropolitan area, the Bratislava Region* (hypothesis H1).

Nevertheless, due to the borders of Slovak regions (see Figure 1) one cannot confirm the conclusions of Latner and McGann (2005) with regard to the overrepresentation of territorial areas and the underrepresentation of areas adjacent to metropolitan areas at this level of analysis. The only region directly adjacent to the Bratislava Region is the Trnava Region (*Trnavský kraj*) in the Slovak Republic. The starting point of further hypotheses will thus be the argument that *overrepresentation of the Bratislava Region was at the expense of all other regions, which are under-represented* (hypothesis H2). But, the significant success of Kotleba's People's Party Our Slovakia (ĽSNS) in the 2016 parliamentary elections, which is the party with a strong background of candidates in the Banská Bystrica Region (*Banskobystrický kraj*), means that we need to adjust previous assumptions with respect to this specific feature of the 2016 elections as follows: *The Banská Bystrica Region in the 2016 elections is an exception in this sense, as this*

[3] The district magnitude and seats-votes proportionality relationship is reversed in the case of majority electoral techniques; large constituencies lead to extreme disproportionality (see e.g. Taagepera and Shugart, 1989: 23; Lijphart, 1999: 50; Benoit, 2001: 204; Charvát, 2010).

region will not be under-represented due to the success of ĽSNS in these elections (hypothesis H2a).

Figure 1. Map of regions in the Slovak Republic

Source: http://extranet.kr-vysocina.cz/download/odbor_informatiky/lda_v4/_cz/04_uzemi.htm

At the same time, it would be possible to argue that, besides ĽSNS, the Freedom and Solidarity Party (SaS) based predominantly in Bratislava is represented in the National Council of the Slovak Republic in the long term. However, while its presence in the Parliament contributes to the overrepresentation of deputies originating from the Bratislava Region, this overrepresentation would nevertheless be significant even without the presence of SaS in the National Council of the Slovak Republic. Thus, this does not refute the formulation of the previous hypotheses.

Moreover, regarding the functioning of electoral systems it can be further expected that *the smaller is the region in terms of the number of valid votes cast, the lower the level of its under-representation in the National council of the Slovak Republic, except for the Bratislava region* (hypothesis H3).

Data and methods

The data from the Slovak parliamentary elections were taken from the data archive of the Statistical Office of the Slovak Republic, which is freely available on the website of the Statistical Office (http://volby.statistics.sk). Here it is possible to find all the necessary data, i.e. results of the parliamentary elections at all levels (national, regional, district, municipal); list of elected deputies including their party affiliation; register of candidates indicating the nominating political party and their place of residence.

The data was then analyzed with regard to both the degree of seats-votes proportionality and proportionality of territorial representation (distribution of parliamentary seats among individual regions), including a quantification of the level of parliamentary overrepresentation or under-representation of individual regions of the Slovak Republic with respect to the place of residence of individual MPs. In order to capture general trends and eliminate potential one-time specifics of the very last Slovak parliamentary elections held in 2016, the period of the three previous elections to the National Council of the Slovak Republic (held in 2010, 2012 and 2016) was selected for the purpose of this analysis.

Seats-votes proportionality measuring strategy

The concept of seats-votes proportionality shows (at the aggregate level) the extent, in which the seat shares allocated among political parties corresponds to the proportion of votes,

which these parties obtained in the elections. Perfect proportionality would be achieved, if the party won the same proportion of seats as its share in the total number of votes. However, achieving perfect proportionality is not feasible in practice, mainly due to the indivisible nature of a seat. The presence of disproportionate allocations of seats in all types of electoral systems is not accidental, because all types of electoral systems favor systematically large parties at the expense of small ones. Most of the instruments for measurement of proportionality are conceived in the form of disproportionality indices; their result therefore shows an (aggregated) deviation of the distribution of seats from the electoral support.

In order to measure the degree of seats-votes proportionality, the *Least Squares Index* of Michael Gallagher (1991) was chosen. The main reasons for the preference of the Gallagher's index include the conclusions of Rein Taagepera and Bernard Grofman (2003), according to which the Gallagher's Least Squares Index should be the preferred method for this type of analysis. Similarly, Galina Borisyuk, Colin Rallings and Michael Thrasher (2004) recommend using the Gallagher's index, if the objective of measurement is to determine, how electoral systems affect the distribution of parliamentary seats, because it is significantly more sensitive to specific characteristics of their allocation process and so it is more suitable than the index of distortion of John Loosemore and Victor J. Hanby (1971) (Borisyuk , Rallings and Thrasher, 2004: 58-61).

Least Squares Index (*LSq*) is calculated as follows:

$$LSq = \sqrt{\frac{1}{2}\sum_{i=1}^{n}(v_i - s_i)^2}$$

Or, first, differences between the percentage of votes (v_i) and seats (s_i) for each particular party are calculated, these differences are subsequently added together, the resulting sum is divided by two, and then the root is extracted from the obtained result. Values of the Least Squares Index are within the closed interval <0; 100>, where the value {0} would mean a perfectly proportional distribution of seats, while the maximum (theoretically) achievable value {100} would in turn imply a maximum disproportionality (all seats would be distributed among the parties, which did not receive any votes in the election, and *vice versa*).

Proportionality of territorial representation measuring strategy

For measuring the proportionality of territorial representation of individual regions in the national council of the Slovak Republic was chosen the following strategy. Regional affiliation of individual MPs was derived from their "origin", that is from their place of permanent residence (according to the data in the register of candidates). Based on these data, proportions of deputies attributed to the individual regions were calculated for each of the examined elections, and these were then compared with the proportions of valid votes in the individual regions of Slovakia. Disproportionality measurements were carried out on two levels, at the level of individual regions and at the aggregate level.

The rate of over/under-representation at the regional level was measured in relation to the proportion of valid votes in a given region using the so-called *advantage ratio* (*A*), which is normally calculated as the proportion between the obtained seats and the obtained votes of a particular political party. Nevertheless, since proportions of vote and seat gains of regions, and not of political parties, were taken into consideration for the needs of this analysis, the original index was adjusted, where the proportions of MPs with a permanent residence in a specific region (s_i) are divided by the proportion of valid votes in the given region (v_i).

$$A = \frac{s_i}{v_i}$$

Values of the advantage ratio indicate the degree of overrepresentation and under-representation of the respective region, while the value {1} implies that the proportion of MPs from a particular region occupying seats in the Parliament is the same as the proportion of valid votes cast in this region. Values lower than {1} indicate that the region is underrepresented, while the lower is the value, the higher is the under-representation of the respective region; e.g. the value {0.75} would mean that only 75% of MPs with a permanent residence in the given region occupy parliamentary seats in comparison with the proportions of valid votes cast in this region. Conversely, values greater than {1} indicate overrepresentation, i.e. the proportion of MPs from the given region is higher than the proportion of the electoral participation in the given region. The higher the value is, the greater the overrepresentation of the region; e.g. the value {2,5} would indicate that two and half times more MPs from the given region are occupying parliamentary seats than was the share of valid votes in the region.

At the aggregate level, an adaptation of the strategy for measuring of *malapportionment* designed by David Samuels and Richard Snyder (2001; cf. Charvát, 2015) was selected for measurement of proportionality of the territorial allocation of seats across Slovak regions. David Samuels and Richard Snyder recommended using a modified version of Loosemore and Hanby's *Index of Distortion* (1971). First, the absolute value of the difference between the proportion of deputies residing in the territory of each specific region (s_i) and the proportion of valid votes in the same region (v_i) is found out, both as a percentage. Then, the (absolute) values obtained in this manner are added up for all regions in these elections, and the result is divided by two.

$$MAL = \frac{1}{2}\sum_{i=1}^{n} | vi - si |$$

The resulting value indicates what the proportion of parliamentary seats occupied by deputies from a different region than the corresponding proportions of valid votes is; e.g. the value {25} means that 25% of the total number of deputies came from a different region in comparison with the proportion, which would correspond to a strictly proportional allocation of seats among regions according to proportions of valid votes.

Seats-votes proportionality and proportionality of territorial representation in the National Council of the Slovak Republic: main findings

While the values of the seats-votes proportionality index are among the lower one in the global comparison (cf. Gallagher, undat.) in the case of the Slovak electoral system (*LSq* = 7.46 in the 2010 elections, *LSq* = 9.58 in the 2012 elections, *LSq* = 6.10 in the 2016 elections), the rate of disproportionality of parliamentary representation of individual regions of the Slovak Republic with regard to the permanent residence of MPs is very high. More than 30.5% of deputies in the National Council of the Slovak Republic, who obtained seats in the 2016 elections, came from a different region than what would correspond to the territorial distribution of votes. Two previous elections were slightly more proportional, yet the values of nearly 27.5% (the 2010 elections) and over 25.5% (the 2012 elections) are still extremely high. And if we move to the individual level, we find a significant overrepresentation of the Bratislava region as the metropolitan area at the expense of other regions. In all three examined elections, the proportion of deputies from the Bratislava region was roughly three times higher than the proportion of voters from the Bratislava region in the total number of voters, who cast a valid vote (see Table 1).

Table 1. Territorial representation in the Slovak Parliament, 2010-2016 (according to the permanent residence of the MPs)

Region	Elections NCSR 2010		Elections NCSR 2012		Elections NCSR 2016	
	MPs	***A***	**MPs**	***A***	**MPs**	***A***
Banskobystrický kraj	17	0,9467	16	0,9361	18	**1,0586**
Bratislavský kraj	61	**3,0660**	58	**2,9420**	66	**3,1084**
Košický kraj	13	0,6739	12	0,6295	12	0,6384
Nitriansky kraj	11	0,5382	11	0,5642	11	0,5850
Prešovský kraj	13	0,6715	17	0,8389	9	0,4430
Trenčiansky kraj	10	0,5761	11	0,6201	9	0,5163
Trnavský kraj	14	0,8691	16	**1,0093**	13	0,8267
Žilinský kraj	11	0,5615	9	0,4392	12	0,5800
MAL	**27,4031**		**25,6295**		**30,5093**	

Source: author's own calculations

Interestingly, the overrepresentation of MPs originating from the Bratislava region can be seen in all political parties, including MOST-HÍD, from which eight MPs from the Bratislava region obtained parliament seats in 2010 (of the total of fourteen MPs), then four (out of thirteen) in 2012 and five (out of eleven) in 2016. The only exceptions were the Slovak National Party (SNS) in 2010, from which "only" two members originating from the Bratislava region obtained seats from the total of nine MPs while five MPs came from the Žilina region (*Žilinský kraj*), and the party ĽSNS in 2016 with just one MP from the Bratislava region out of fourteen MPs, however with seven MPs residing in the Banská Bystrica Region. The highest degree of overrepresentation of deputies originating from the Bratislava region can be observed in the party SaS, where twelve out of twenty-two MPs of the party were from the Bratislava Region in 2010, and then ten of eleven MPs in 2012 and fifteen out of twenty-one MPs in 2016. The majority of MPs (eight out of eleven) come from the Bratislava region also in the case of SME RODINA (We Are Family) – Boris Kollár after the 2016 elections.

The assumption of overrepresentation of the Bratislava region (*H1*) at the expense of other regions (*H2*) was thus confirmed. The only exception in this sense is the Banská Bystrica Region in the elections to the NCSR 2016, which – however – corresponds to one of the underlying assumptions (*H3a*), reflecting the success of Kotleba's ĽSNS in these elections, and also the Trnava Region in the elections for the NCSR 2012. In both these cases there was almost perfect (proportional) representation of these regions in the Parliament. At the same time, however, the representation of MPs originating from the Banská Bystrica Region in all three cases approached the ideal of proportionality (0.95 in the elections for the 2010 elections, 0.94 in the 2012 elections and 1.06 in the 2016 elections).

Another interesting fact is that the second least under-represented Slovak region (after the Banská Bystrica region) is the Trnava Region, which is directly adjacent to the Bratislava Region (A = 0.87 in the 2010 elections, A = 0.94 in the 2012 elections and A = 1.06 in the 2016 elections). This finding is in stark contrast with Latner's and McGann's

(2005) conclusions from case studies of Israel and the Netherlands, which on the contrary showed that the highest degree of under-representation in these countries existed in areas directly adjacent to metropolitan areas.

On the contrary, it was not possible to prove the existence of a relationship between the size of the region in terms of the number of valid votes cast by voters and the rate of under-representation (the hypothesis *H3*). The two smallest regions (Trnava and Banská Bystrica Regions) are the least under-represented regions, but already the third smallest region in terms of the number of valid votes (the Trenčín Region; *Trenčiansky kraj*) is one of the three most under-represented regions.

A secondary finding of the analysis is that if there was a shift of candidates on the lists of individual parties through the mechanism of preferential voting, it happened more frequently in case of candidates originating from the Bratislava region. Nevertheless, as such research was not the subject of the presented analysis, this phenomenon was not further analyzed and it will not be addressed here anymore.

However, it needs to be mentioned that the presented analysis is focused "only" on territorial representation at the regional level. A similar analysis, which would be focused on the county level, would likely bring very interesting results. Such an analysis would very probably highlight the overrepresentation of MPs with the permanent residence in the capital city of Bratislava at the expense of other counties, including the fact that three dozen Slovak counties currently do not have any representative in the National Council of the Slovak Republic.

Discussion

The results of this analysis should not, however, lead to the conclusion that we have to choose between the principles of seats-votes proportionality and proportionality of territorial representation, as this treatise may seem to indicate.[*] The proportionality of interparty allocation of seats and the proportionality of territorial representation are not necessarily opposing principles at all times. On the contrary, both can be maximized within a single electoral design.

Inspiring solution of this "dilemma" may be found for example in the electoral system to the *Bundestag* in Germany, namely in the first phase of the seats allocation process. Political parties submit candidate lists at the level of the German federal units (*Länder*), the so-called *Landesliste*, but seats are distributed among political parties proportionally on the basis of the total votes for all party lists, the so-called second votes (*Zweitstimme*), of each party in a single nationwide electoral district, i.e. at the level of the whole of the Federal Republic of Germany. This number of seats, which was allocated to a specific political party, is subsequently distributed proportionally among the individual regional candidate lists depending on the proportion of votes, by means of which these regional lists contributed to the total electoral gain of the given political party (e.g. Saalfeld, 2005; Cabada *et al.*, 2015: 187-188). This provides both a high degree of seats-votes proportionality (in this phase of the process of allocation of parliamentary seats) and a high degree of proportionality of territorial representation in relation to individual federal units, i.e. *Länder*.

However, it must be added that the above-mentioned election design is not an automatic guarantee of proportional parliamentary representation of individual regions

[*] At the same time, the aim of the present text is not to initiate or propose any electoral reform, nor to submit any recommendations for possible adjustment of the Slovak electoral legislation.

with regard to territorial distribution of voter populations, but it "only" provides a strong impetus for creating the corresponding territorial representation in the Parliament. The overall result will ultimately depend on electoral strategies of both political parties and voters. Political parties sometimes have a tendency to nominate candidates from different regions than in which they stand as candidates to the forefront of regional candidate lists (often from metropolitan areas). At the same time, it also depends on voters and to what extent they will vote for such candidates, or *vice versa*, and to what extent they will vote "against them" (if they will allocate preferential votes to local and regional candidates, who rank lower on the given list of candidates). Another influential factor may also be that although a candidate defending a parliamentary seat may originally come from the region, in which he/she stands in the elections, he/she may have changed his/her permanent residence during the performance of his/her seat and his/her residence is now in the city, which houses the parliament (mostly the metropolitan area).

Conclusion

Distribution of seats in a single nationwide multi-member electoral district, as well as allocation in several regional multi-member electoral districts, both have their own advantages and a number of disadvantages. None of these methods can be described as more democratic and fairer than the other one, because every advantage of one of these designs is immediately offset with some of its disadvantages. The present analysis of political consequences of the current Slovak parliamentary electoral system, for example, showed that the advantage of the electoral system of proportional representation with a single nationwide electoral district in terms of proportional distribution of seats among the political parties is counterbalanced with the absence or presence of very weak institutional incentives for the creation of territorial proportional representation.

At the same time, the analysis showed that these two methods are not necessarily opposing principles. For example, the mechanism of the electoral system to the German *Bundestag* makes clear that it is possible to maintain a high degree of proportionality of election results through allocation of seats at the national level, while simultaneously achieving a high degree of proportionality of representation of deputies from each region. Thus, the mechanism of the German electoral system could be an inspiration for how institutional incentives for these two principles can be maximized within one electoral design: proportionality of interparty allocation of seats due to their distribution within a single nationwide electoral district, and the proportionality of territorial representation due to intra-party distribution of seats among regional candidate lists of individual parties and the candidates included on them. However, such an electoral design is not an automatic guarantee, which would lead to elimination of the current significant (about three times higher) overrepresentation of MPs originating from the Bratislava region in the National Council of the Slovak Republic to the detriment of all other regions.

Finally, this analysis was focused on territorial representation at the level of regions. However, a similar analysis, which would be focused on the level of counties, would likely bring very interesting results as well. Such an analysis would very probably highlight the overrepresentation of MPs with the permanent residence in the capital city of Bratislava at the expense of other counties, including the fact that three dozen Slovak counties currently do not have any representative in the National Council of the Slovak Republic.

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ORIGINAL PAPER

Bosnia and Herzegovina: The Quest for Sovereignty

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Abstract
This paper will examine the process of state-building in Bosnia and Herzegovina (BiH) with particular focus on exploring the domestic and international constraints to sovereignty. The main purpose is to demonstrate the prevailing issues and obstacles to state-consolidation that continue to shape Bosnia's political reality. I argue that despite extensive executive powers of the High Representative and the intrusive nature of his mandate, main constraints to sovereignty in BiH are self-inflicted. Competing ethno-nationalist narratives and ambitions that dominate the political scene are examined in the context of the EU conditionality and reveal that the lack of reconciliation and consensus among citizens pose the greatest risk to the success of the whole state-building project in BiH.

Keywords: *Bosnia and Herzegovina, Dayton agreement, European Union, sovereignty, state-building, international administration, conflict resolution, reconciliation*

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Introduction

Formally Bosnia and Herzegovina (BiH) is not a protectorate of the international community, nonetheless the scope of power and authority exercised by external actors blurres the lines between effective sovereignty and international administration[1]. While robust interference was expected in the early stages of the post-Dayton state-building, two decades later there are serious concerns about the legitimacy, effectiveness and benefits of international presence in BiH.

This paper will examine the process of state-building in BiH, one of Europe's most divided post-conflict societies, where external actors assume the role of driving forces behind state formation and act as means of balancing the under-capacitated state structures. Particular focus will be placed on observing the domestic and international constraints to sovereignty in the light of the EU integration process.

The difficulty of studying the state-building process in BiH relates to capturing the degree and significance of the internal territorial and political divisions that create at least two separate and distinctive societies (Republika Srpska and the Federation of BiH). The confederal structure and the dual identity that are enshrined in this political setting cannot be separated from the study of state-building practices under the EU leadership.

I argue that there are two main constraints to sovereignty in BiH – executive powers of the High Representative and the incapacity of the state institutions to exercise sovereign powers. Furthermore, I argue that the technical and hands off approach adopted by the EU over the past decade has failed to address the underlying issues of reconciliation and coming to terms with the past, which, in turn, continue to undermine the state-building efforts.

The first part of this article will explore the concept of sovereignty in international relations and the way it reflects on contemporary debates on international state-building. The second part will shed some light on the institutional and political setting in BiH established by the Dayton agreement and the ways in which the external actors influence the state consolidation of BiH. Finally, sovereignty will be observed through the lens of the EU conditionality, as the single most important pre-condition to successful integration process.

States and sovereignty: Building weak states

The concept of sovereignty is, without a doubt, one of the most contested, analyzed and criticized concepts in international relations. Despite this, the international system based on formal equality of sovereign states, has endured for centuries and firmly kept its position of being the '*only game in town*'. Even with the emergence of powerful supra-national organizations as well as challenges posed by weak and failing states, no concrete alternative to this system came near to replacing it. Internationally, 'sovereignty has been and remains the cornerstone of an entire, evolving system of diplomatic practices, conferring international status and enabling states to interact and cooperate on the basis of agreed methods and common understandings' (Heller 2001: 30).

The twentieth century has seen the fall of several totalitarian regimes and the end of colonisalism and this move towrads independence produced a temporary proliferation and uniformity of states across the globe (Badie 2000: 1). For the past two centuries the political thought, institutions and practies have spread from the West towards other parts of the world and carried the claim of universality of the Western political construct. The concept of strong Westphalian state resting on principles of sovereingty, legal equality of states and non-intervention to state's affairs became widely accepted and established the

foundation for international cooperation. Generally accepted premise was that the international system rested upon cooperation and conflict between equal and rational states in an anarchic environment and that threats to international security came primarily from powerful aggressive states (Newman 2009: 422).

The increasing contrast between this model and the reality of international relations where states were no longer the sole or even the most important actors of international politics and where threats came primarily from non-state actors, opened up a wider debate on sovereignty and the future of states.

With the growing number of fragile and failed states and developing new approaches to conflict resolution through state-building, the concept of sovereignty started to acquire new meanings. Traditionally, sovereignty was understood in terms of „final and absolute authority in the political community", with the provison that 'no final and absolute authority exists elsewhere' (Hinsley 1981: 1) Sovereignty essentially meant having the right and the power to govern without any interference from outside.

The end of the Cold war and the new political conditions paved the way for the redefinition of concepts of sovereignty, security and non-interference. Series of dramatic crises, from Afghanistan to Somalia, reopened the debate on normative and practical implications of intervening in weak and failed states. It was clear the international system was moving away from being an assembly of distinct, territorial, sovereign, legally equal states toward different, more hierarchical, and in many ways more complicated structures. (Creveld 1999: vii) There was a growing number of states that no longer claimed absolute and final authority over their territory and their national identities and state borders became subjects to dispute. The concept of state security was challenged by concerns for human security and responsibility to protect. Sovereignty was no longer percieved as a state privilage but as an *obligation*. Kofi Annan (2012) famously stated that *state sovereignty could no longer be an absolute shield behind which governments may hide to do what they please.*

While the concept of sovereignty as *shared responsibility of states*, followed by more practical notions of humanitarian intervention and responsibility to protect, represented a powerful new approach, it was easy to portray them as a form of neo-imperialist or capitalist exploitation of vulnerable societies. Moreover, there was a risk that, along with promoting peace and good governance practices in crisis areas, international intervention would also create a culture of dependency and produce more negative externalites. The policy makers focused on technicalities related to capacity and institution building while the scholarly literature devoted more attention to redefining the concepts of sovereignty and state-building.

Stephen Krasner's work opened up the debate by unpacking the concept of sovereignty and demonstrating that there were many "varieties of sovereignty" and that in most cases they did not come hand in hand (Krasner 1999). He differentiated between international (juridicial independence and mutual recognition), "Westphalian" (exclusion of external actors from authority structures in a territory), domestic (organization of authority in a state and ability of authorities to exercise effective control) as well as interdependence sovereignty (ability to control cross-border flows). While most states in the contemporary international system enjoy international recognition, their domestic sovereignty is severely circumscribed as a result of which their "Westphalian" sovereignty is often limited, too. Furthermore, he emphasizes the discrepancies that occur in the system and labels sovereignty an *organized hypocrisy* that occurs when 'states say one

thing but do another; they rhetorically endorse the normative principles or rules associated with sovereignty but their policies and actions violate these rules' (Krasner 1999).

The vast majority of globalization studies claimed that the growing interdependence of states would inevitably lead to the erosion of sovereignty. However, the fact that states voluntarily delegate degrees of its sovereignty to supranational levels expresses more 'the value of sovereignty [rather] than a threat to its continuing importance' (Heller and Sofaer 2001: 31).

The changes in international order followed by failures of peace operations in Somalia, Srebrenica and Rwanda called for the revision of traditional peace-building principles[2]. New approach was multi-disciplinary and rested upon the use of state-building practices and democracy promotion as key instruments to building peace. Most scholars stressed the importance of building effective governmental institutions as a crucial part of the wider peace-building efforts (see e.g. Krasner, Chesterman and Paris). Krasner argued that, in order to achieve peace, effective institutions had to be built (Krasner 2004: 90) It was assumed that a functioning state, a stable democracy and the conflict as such were interlinked.

A significant number of concerns and dilemmas continue to surround the international state-building discourse. Can the external actors build a state without creating real or perceived neo-trusteeship arrangements? Is it possible to achieve local ownership in the presence of powerful external actors? Are there effective ways to avoid creating the culture of dependency in host societies? In the midst of these debates, BiH became the most crucial test case of international state-building efforts, a sort of a '*template for new experiments in international administration and external assistance in state reconstruction and post-conflict reconciliation'* (Chandler 2005: 308). Over the past two decades, the country has served as a ‚*laboratory for European policies, transatlantic solidarity and western values'* (Eichberg 2004: 1) and attracted unprecedented international engagement. It is estimated that more than $14 billion worth of international aid was invested in BiH, making it the most extensive and innovative democratization experiment in history (McMahon and Western 2009: 69). There are still lesson to be learned from this particular case of international state-building and a detailed study of BiH could advance our understanding of post-conflict transition and provide clues for implementing more efficient policies.

The next section will provide an overview of political setting established by the Dayton agreement with regards to international as well self-inflicted limitations to sovereignty. Looking at the country's history in the 20th century, we can identify persisting patterns of limited sovereignty, weak institutions, internal struggles and extensive foreign involvement. The same pattern is observed in the post-conflict period when, apart from the international recognition, the country continued to experience similar challanges.

Governing BiH after Dayton: Limitations to sovereignty

*'In BiH, outsiders actually set the agenda, impose it, and punish with sanctions those who refuse to implement it'*Knaus, G. and Martin, F. (2003: 62).

The roots of the current political setting in BiH can be traced back to the signing of the Dayton agreement in December 1995. At the time of the signing, the peace treaty was celebrated as a great diplomatic achievement and although there were some concerns about the complexity of the political system it had established in BiH, the primary focus was on ending the violence. Moreover, it was assumed that this system would be in place only temporarily, until the local parties would be ready to complete the transition and establish a fully consolidated democratic state. International officials commonly described the Dayton agreeemnt as treaty 'designed to end a war, not to build a state' (Denitch, 1996; Ashdown, 2004, Chandler 2006) and pointed out that the system it established was essentially 'the continuation of war by other means' (Ashdown 2004). Considering that the treaty was signed by the same political leaders that led the country to war in the first place, it is no surprise that it essentially provided political legitimacy to ethnic divisions resulting in territorial and political segregation.

More than two decades after the signing of the Dayton Peace Agreement, BiH is still in an ongoing process of reconstituting the main pillars of statehood. The peace agreement itself is perceived by many as the root of the problem as it established a complex and dysfunctional political system consisting of two entities (Republika Srpska (RS) and Federation of Bosnia and Herzegovina (FBiH)), ten cantons in FBiH and one condominium (Brcko District). Such political setting translates into country being governed by no less than 14 governments - one at state level, two at entity level, ten at cantonal level and one for Brčko District (Noutcheva, 2007: 6).

Ethnically divided entities were granted a great degree of autonomy and the authority to essentially act as ‚states within the state". This left the central government weak and ineffective and overshadowed by the internationally appointed High Representative. Initially, under the Annex 10 of the Dayton peace agreement, the High Representative was to guard the civilian implementation of the peace settlement and was envisaged as a sort of 'father figure' (Keane 2001: 74). His responsibilities and authority were significantly scaled up after the The Peace Implementation Council's (PIC)[3] meeting in Bonn in December 1997 where it was agreed that more intrusive approach was neccessary. The authority of the High Representative, under the so called Bonn powers, was advanced to the point that he could issue binding decisions when local parties seemed unable or unwilling to act; impose laws and remove democratically elected representatives from office in case they violated legal commitments or, in general, the DPA:

The Council welcomes the High Representative's intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of difficulties by making binding decisions, as he judges necessary…. such measures may include actions against persons holding public office or officials who are absent from meetings without good cause or who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation (PIC 1997: chapter 11 para 2).

This indisputedly dominant role of the High Representative and his intrusiveness in Bosnian political life were justified by the notion of conditional sovereignty. If the local actors were unable or unwilling to undertake their key responsibilities, international intervention was justified and legitiamate. (Etzioni 2006). It is important to realize that in

this process of state-building where traditional rights of sovereignty had been suspended and overtaken by international actors, there was no real need to politically engage the citizens. Local ownership of the process was replaced by unaccountable mechanisms of external regulation, imposed from above and without any gunuine involvment of the local parties. This approach turned the Bosnian state institutions into empty administrative shells and essentially stripped the local leaders of political responsibility.

Even though Bosnia was an internationally recognized state and therefore possessed formal external (Westphalian) sovereignty, its dependence on external actors clearly showed incapacity of the domestic political sphere. Its legal sovereignty gave the appearance that it was an independent entity voluntarily cooperating with external actors when the actual system enabled the ‚international actors, unaccountable to the people of BiH, to shape and reshape the agenda of post-war transition'. (Chandler 2005: 336).

In relation to this post-conflict context we can establish that limitations to sovereignty in Bosnia take two different forms - the presence of international caretakers with executive powers and the inability to exercise sovereign powers. (Koeth 2012) The first limitation clearly stems form the nature of the Dayton agreement that legitimized the international presence in BiH and subsequently entrusted the the High Representative with extensive executive powers.

Though much has been written about the dominant position of the High Representative in Bosnian politics and although he is still technically overseeing the peace process, it is important to stress that the OHR has gradually stepped back and adopted the hands-off approach to governance in BiH. Comparing to active and intrusive manner adopted by ealier High Representatives and their extenisive use of the Bonn powers, the past few years were marked by rather symbolic presence and cautious phasing-out of the OHR.[4] This was evident in the absence of any form of action against the organizers of the last year's unconstitutional referendum in Republika Srpska.[5] The response of the OHR to this serious internal crisis remained in the sphere of verbal objection to referendum and calls for diplomatic dialogue. The responsibility of dealing with violations of the state constitution was left to the domestic actors - state persecutors and the constitutional court. These, however, proved to be too weak to open the case and act as guarantors of the rule of law in BiH.

This brings us to the second, above mentioned, limitation to sovereignty - inability to exercise sovereign powers. If the external actors are taken out of the picture, what is stopping Bosnia from functioning as a sovereign state? With its external sovereignty being unquestionably recognized and international caretakers' diminishing involvement, it becomes evident that Bosnia's present limitations to to the full exercise of sovereignty are largely self-inflicted. (Koeth 2012) The central state institutions are extremely weak and essentially controlled by the entities and their conflicting interests. Ethno-nationalist divisions that dominate every aspect of life in BiH negatively reflect on the state-building process and go against all efforts to transfer competencies to the central authorities. With Serbs in Republika Srpska calling for independence and Croats in Federation calling for a thrid entity it is clear that weak sovereignty is not the result of international presence in BiH but the result of domestic tensions and unwillingness to make the state function.

Sovereingty as precondition to EU membership

The scope of the EU involvement in BiH culminated in 2002 when the EU formally took control over the state-building process.[6] It was acknowledged that the

country was finally shifting from the Dayton era and entering the ‚era of Brussels' (Chandler 2005; Bebler 2006). Contrary to its weak engagement in resolving the conflicts in the Western Balkans in the 1990's, the EU was able to take control over the most crucial aspects of the state-building in BiH and become the most powerful international actor in the region. The prospect of the EU membership had become the main force that set the agenda and put reforms in BiH into motion. Brussels is often referred to as the 'magnetic centre' that holds the weak state structure together and provides incentives for balancing the opposing views and interests.

Since the time the first promises of the EU future for the Western Balkans were made, it was clear that full external and internal sovereignty were a necessary precondition to seriously engaging in the accession process. In 2000, at the Council of Feira in Portugal, the EU made its first commitement to guarantee the 'fullest possible integration' of the Western Balkan countries (European Council 2000). The same commitment was stated again three years later in Thessaloniki by declaring that 'the future of the Balkans is within the EU' (European Council 2003).

It was believed that the safest path to stability and prosperity in the region could be achieved through cooperation and inclusion in the EU. To support this line of reasoning, comparisons were drawn between the Balkans and the post-WW II situation in Western Europe where history of conflict and animosity was replaced by regional cooperation and economic interedependence. However, the voluntary character of integration in the first case was in sharp contrast with the external control of the process in the Western Balkans. (Woelk 2013: 470).

With a relatively quick and smooth integration process in Central and Eastern Europe there was a sense of optimism in the EU about transforming post-communist societies and consequently "returning them to Europe". Nevertheless, the Western Balkans carried the additional heavy legacy of conflict that made the whole enlargement process qualitatively different and far more challenging. This time the EU was dealing with 'unfinished states' that were only beginning to recover from the structural socio-economic devastation and suffering from internal sovereignty struggles among competing ethno-religious elites. Bosnia and Herzegovina immediately stood out as a country that would require an innovative approach and long-term engagement.

The specific Road Map for BiH was adopted in 2000, identifying 18 initial steps that BiH had to undertake in order to officially launch the Stabilization and Association Agreement (SAA). From the very onset of negotiations, the EU pursued risk-avoidance mentality with a tendency to 'technify' the relationship with local elites. It was assumed that carrots provided by the EU would be attractive enough to produce positive and self-driven reforms and 'automatically put the country on the path to European integration and politico-institutional harmonization' (Venneri, 2007). Attaching deadlines, conditions and reforms to the prospect of the EU membership was conceived as the means to strengthening the state and overcoming the political instability.

The EU focused on implementing reforms aiming at increasinf the capacity of the central state institutions in hopes of achieving more coherence and compromise between the entities. This approach proved to be a double edged sword as it prompted opposite reactions - calls for more decentralization and autonomy in Republika Srpska (including frequent threats of holding a seccession referendum) and calls for creating a third entity for Bosnian Croats who were feeling increasingly marginalized. After several unsuccessful attempts to amend the constitution and delegate more power to central state institutions, the EU has started to acknowledge the limits of its transformative power.

Despite the initial optimism on both sides, the EU as well as the local political leaders started to suffer from (pre-)"accession fatigue" (Rupnik 2010) as the long-term status quo began to lose its appeal.

This once again points to the fact that attemps to build a sustainable state without actively engaging the citizens ineveitably carry the risk of overlooking significant dimensions of the process and eventually undermining it. In this particular case, the minimal involvement of the local parties, resulted in the general impression of the state being externally imposed on its citizens. The EU, as well as the earlier international caretakers in BiH, concentrated their attention on building institutions, setting rules and regulations and engaging in negotiations with political elites. However, what we are beginning to see now is that without genuine reconciliation among ethnic groups, all efforts to build a state would be in vain. There are no tools and instrsuments that can build a state that is unwanted and rejected by its own citizens. Ethno-religious tensions have a direct impact on the success of state-building and this was captured in the following statetement of the former High Representative: '*only once all citizens, and I stress citizens, not peoples, or ethnic groups, or collective bodies – only once all individuals can accept and respect the state of Bosnia and Herzegovina as a reality, then the project of state-building will have succeeded'* (Petritsch 2006: 6). Essentially, it is the reconciliation and building of trust among ethnic groups that decide the faith of state-building, its success and sustainability or its utter failure.

Achieving full internal sovereignty is far from being a merely technical issue - it requires profound cultural changes that can only happen through reconciliation and the building of a multi-ethnic society. The technical approach that was applied in the past two decades, aiming at preserving the status quo and not disrupting the inter-ethnic balance, tended to overlook the importance of reconciliation and "coming to terms with the past". Apart from the work of the ICTY and its efforts to bring war criminals to justice, the need for reconciliation has not been expressly acknowledged, addressed or encouraged by the EU. (Woelk 2013: 478) The lack of clarity and understanding of the recent past stand in the way of building a sustainable state, free of nationalistic myths and ideologies.

Conclusion

In the post-conflict period BiH's sovereignty and territorial integrity were granted by external actors that gained significant executive powers and a great degree of authority over the country's development. The establishment of the Office of the High representative that was originally meant to supervise the implementation of the Dayton agreement gradually grew into lasting international presence and, contrary to its purpose, became a limitiation to building a sovereign state. The Dayton agreement opened a pandora's box of perpetual deployments and unending dependency on foreign actors and resources.

In such conditions, insisting on building a strong Westphalian state, indicates poor understainding of the complexity of Bosnian social and political reality and ignoring the importance of relations in spaces beyond state's control. With the decreasing role of the OHR, limitations to sovereignty in BiH are largely self-inflicted, stemming from the lack of consensus among ethnic groups. The EU's emphasis on strengthening central government institutions as a precondition to membership only intensified ethnic tensions and achieved the opposite effect – desire for more decentralization.

BiH's example demonstrates that sovereignty is far more complex than mere control; rather, it represents a complicated structure simultaneously encompassing

authority, control, and legitimacy. Without gunuine changes in political culture, BiH will remain a quasi EU-protectorate – formally sovereign but de facto fully dependent on EU guidence and economic assistance.

[1] While BiH is often put in the same category of international administrations with Kosovo and East Timor, the later two cases were established with UNSC resolutions (1244 and 1272) and the UN formally supervised the administration of the countries. This was not the case with BiH that, at least formally, exercised external sovereignty and enjoyed international recognition.

[2] The principles of the so called 'Holy Trinity' of peace-building – consent, impartiality and the minimum use of force.

[3] The Peace Implementation Council (PIC), consisting of 55 members (states and organizations), is an international body in charge of overseeing and assisting the implementation of the Dayton agreement. The Steering Board of the PIC provides the High Representative with political guidance (members of the Steering Board are Canada, France, Germany, Italy, Japan, Russia, United Kingdom, United States, Presidency of the European Union, European Commission, and Organisation of the Islamic Conference, represented by Turkey).

[4]The PIC planned to close the OHR in 2008 and to end the High Representative's mandate, however, the growing concerns for safety and stability of the country led them to extend that mandate indefinitely until a „set of positive benchmarks have been fulfilled". (see Press conference by the High Representative Miroslav Lajčák following the Peace Implementation Council Steering Board session in Brussels on 26-27 February 2008. Retrieved from: http://www.ohr.int/?p=37718 [6-5-2017].

[5] A referendum on the National Day of Republika Srpska was held on 25 September 2016. It took place after the Constitutional Court ruled against the constitutionality of the holiday, deeming it discriminatory against non-Serbs in the entity.

[6] This process was gradual and it unfolded in three main phases. In January 2002, the EU took over from the UN led International Police Task Force (IPTF) and established its EU Police Mission (EUPM). In January 2004, the EU took over the peacekeeping tasks from NATO as a result of which NATO's SFOR was replaced with EUFOR/Althea. And finally, in May 2002 the EU established a Special Representative (EUSR) whose role in Bosnia, was merged with the function of High Representative, resulting in a 'double hatted' structure (officially separated in 2011).

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Data Protection Officer - a new profession in public administration?

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Abstract
The new European regulation of personal data protection domain is a real reorganization of the specific system, with profound effects on public administration staff or on labor market actors causing the emergence of new opportunities but of limitations too. The institution of the personal data protection officer, although not new, needs some clarification in the new setting.

Keywords: *data protection officer, Regulation 2016/679, public administration, European Union, personal data*

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The purpose of this paper is to clarify the institution and the attributions of the data protection officer, taking into account the aspect of relative novelty which the Compulsory European Law presents in this matter and the relationships of this institution with public authorities, too.

In January 2012 the European Commission initiated the reform of the private data protection. In December 2015 the European Parliament, Council and Commission established the new rules for the private data protection, which had a unitary legal frame in the European Union as a result. In April 2016 the Council and the Parliament adopted the regulation, about which we are to talk, this act being the normative expression of the reform in the domain of private data protection. On May 4th, 2016, the European Union Regulation Official Newspaper (EU) 2016/679 of the European Parliament and Council of April 27th, 2016 published an article on the protection of individuals with regard to the processing of personal data and on the free movement of these data and the repealing of Directive 95/46 / EC (General Data Protection Regulation).

In this introductory phase of our paper, it is useful to ask ourselves two questions: first, why was it necessary to change the legal framework of the processing of personal data, and the second question, why was it necessary to adopt a regulation, abandoning the old system based on the rule of law under the European directive?

The first question can be answered simply - lack of confidence. Apparently, the population of the European Union, irrespective of the state of which they were citizens, displayed a strong lack of trust in the old rules (for example Civile Code art.77, Low no.677/2001, art.2) that organized and sanctioned the way in which various entities processed personal data (for example Commission Decision of 30 June 2003 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data in Argentina). This lack of confidence had a powerful effect on the digital economy and on the business in this area (Answer given by Mrs Reding on behalf of the Commission, Written questions by Members of the European Parliament and their answers given by a European Union institution). The effect was noticed at both economic and financial level, as well as at the legal level (for example Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce). See in this last direction the judgment of the European Court in the case of Google Spain SL and Google Inc. against Agencia Española de Protección de Datos (AEPD) and Mario Costeja González (CJUE, Judgement of The Court -Grand Chamber, 13 May 2014). Another good, and extremely complex with the ongoing effects, source of information that fully justifies the distrust of the population, is the evolution of Edward Snowden's business.

The second question can be answered in a succinct way - the efficiency and effectiveness of applying the rules. As it is well known, the regulation is a compulsory European Union legislative act. This legislative act must be applied entirely by all the Member States of the European Union. Unlike a regulation, the directive is a legislative act setting an objective that all the Member States of the European Union must meet, but each of them has the right to decide on how to meet the established objective. The

distinctions between the mode of application and the effects of the two types of European legislative act also show us why the regulation option is more effective. If by using a directive there are 28 sets of national rules (for example Low no.677/2001, art.21) , one for each Member State of the European Union, each with the inherent bureaucracy –"The new legislative framework to be implemented from 2018 will impose, under certain conditions, the appointment of such independent officials who will take over some of the bureaucratic duties of the national authorities for the protection of personal data and which could thus concentrate their resources and efforts on fulfilling other important legal obligations, on effective intervention in respecting this right" (Șandru, 2016: 262). If we use the regulation we have to deal with a single set of rules, aggregated in that single regulation, universal and binding applicable in all Member States of the European Union. ”By choosing this type of legal instrument, the European Commission reaffirms the need for a uniform and fully harmonized legal regime for the protection of personal data in all Member States, given the direct applicability of a regulation under Art. 288 T. F. U. E” (Șandru, 2016: 171). Thus, through the General Data Protection Regulation, the European forums created a single framework for both the data processors and those whose data are processed. Such single regulation targets much more effectively - "... the regulation is considered to be the most appropriate legal instrument to reduce legal fragmentation." (Șandru, 2016:177) - providing a more urgent response to the issues in the field and removing the European public's mistrust of the way their personal data are processed.

As the consumers in all Member States seem to be increasingly interested in obtaining the most effective conditions for respecting the right to privacy, the European bodies considered this issue, using as a means the new rules introduced by the General Data Protection Regulation. In this way, on the path to this legal framework, new tools to protect the interests of those consumers are to be created. In addition to technical instruments, the regulation also introduces human-related instruments, respectively the European Data Protection Officer's European Law Institution.

The Data Protection Officer concept is not a new one in the European institutional landscape but has been somewhat ignored because Directive 95/46 / EC, which was repealed by the new European Regulation, did not contain mandatory provisions for persons involved in the processing of personal data to appoint a person for this, but it only mentioned it in article 18 as an alternative solution to the notification system. Within the framework provided by Directive 95/46 / EC, it was the responsibility of this person to ensure the compliance with the legislation on the protection of personal data within the entity for which he is active, an entity that was necessarily involved in data processing operations. This possibility to choose between alternative legal solutions (notification versus responsible) was also forwarded to the national legislation specific to the field of personal data protection, many of the Member States of the European Union choosing not to regulate such a profession and preferring to implement the already well-known notification system. Other countries, such as France, Germany, Sweden and the Netherlands, chose to introduce into their national legislation the institution of the Data Protection Officer probably because they considered that this system has several safeguards for respecting the right to privacy. In the well-known German spirit (before they were convicted by European Commission in the case C-518/07 European Commission v Federal Republic of Germany), the authorities of this state preferred to transpose into national law the possibility of voluntary appointment of the responsible person in an obligation, so that legal persons with more than 10 employees who process personal data systematically are obliged to appoint such a person. In the same spirit, it was

apparently found that individuals who are in charge of personal data protection have a good collaboration with state authorities, so the law is functional and the sanctions are rare. The diligence of those persons is also recognized by consumers, the signals transmitted about this function being positive. The data protection officer mechanism appears to have emerged as a result of the influences from the self-regulatory rules of public or corporative entities in the United States of America (for example Șandru, 2016:97), but ultimately it seems that the German model (for example Șandru, 2016: 267), is the basis for the new legislation that finalizes The European Union's Personal Data Protection Reform, the person in charge with such data becoming a national official with a voluntary status a European institution.

As we have previously shown, the voluntary nature of the appointment of the Data Protection Officer turns into a mandatory one by already mentioned European regulation. In these circumstances, certain distinctions in relation to persons and activities have to be made, in order to discern the burden of the entity's obligations. According to the provisions of article 37 paragraph 1of the Data Protection General Regulation, the appointment of the Officer is mandatory for public administration authorities. The rule of Article 37 paragraph 1 of this regulation does not expressly define what is meant by ' public authority or body', so that in the absence of a specific definition we must refer to the broadest legal framework provided by the national administration to understand the concept, the European legislator omitting to regulate this issue. On the other hand, the lack of distinction of the national legislature in relation to the various levels on which various public authorities, bodies and institutions are organized, we believe that it was intended to treat them equally, each of them having the obligation to appoint The Data Protection Officer. This regulation also lists two categories of entities that have the obligation to implement the responsible person in their own organization and functioning, but these are not relevant to this paper. However, from the perspective of these latter two categories, a question arises: do private law entities have an obligation to appoint a data protection officer when carrying out data processing operations in the exercise of a public power or public service. Our view is that a private entity that behaves similarly or identically to a public authority in relation to the processing of personal data must be subject to the same rules on the principle of the right *ubi eadem ratio, ibi idem jus*. In such a case, the data protection staff needs to extend their activity to all the personal data processing processes and not just to those that are directly related to the public authority of that private entity.

As a person who watches for the application of the Data Protection General Regulation, the person in charge should act as an intermediary between the people with an interest in this activity, and between the citizens (or consumers, if we want to keep some terminology distinctions) and the public authorities processing the personal data belonging to the first. As it follows from the provisions of article 37 paragraph (3) of this regulation, the European legislator has permissively legislated for public authorities, thereby enabling them to collectively appoint a single data protection officer. Such an option to simplify the organization of the administrative staff must nevertheless be passed through the rational filter of the two principles that we will set out below. Also, although it refers to public authorities, we believe that the possibility of conflicts of interest should be ruled out when two or more public authorities come into contact with a sole data protection officer.

Since it is for the purpose of this paper to clarify the duties of the Data Protection Officer, we believe that we must first remove some terminological blur. Indeed, the term "person in charge" may create the impression that an individual entity, either a civil

servant or a contract staff member, or an contractor external to the public authority, in charge of the position in question, has a responsibility in relation to the way in which the legal framework for Personal data protection is respected to the authority that hired him. We think that this is an erroneous idea, derived from a purely grammatical, prima facie interpretation, the term "person in charge" being improperly chosen by the Romanian translators of the Data Protection General Regulation. From a systematic interpretation of the normative act represented by that European regulation, in particular the provisions of paragraph 74 of its preamble and of article 24 par. 1 of its content, it results that the data protection operator represents one of the measures that must be taken by the public authority as a personal data processor and not by a vehicle that takes over the responsibility of the person for whom it works, such as a public authority. In other words, data protection is the responsibility of their operator and not of the controller. However, we believe that in some situations, we will come back to below, the Data Protection Officer may end up being penalized for the way he has done his business in his relationship with the employing entity.

A second issue that needs to be clarified in regards to the tasks of the Data Protection Officer is that of the effective framework in which he is operating. We believe that the entities processing personal data have a real obligation to provide the data protection officer with an adequate environment for the performance of the benefits that have been contracted or attributed to him. The Data Protection General Regulation introduces two determinant principles for the framework to be provided to the operator by the entity for which it operates. The first principle is that of the autonomy of the responsible person. The second principle, much easier to overlook, is to ensure that the entity for which the operator carries out his / her activity has the necessary means for the protection to become a permanent and effective exercise. We will return to the first principle where we will present the issue of the conflict of interest that may affect the objectivity of the Data Protection Officer. Regarding the second principle, we believe that the environment in which he/she will operate in favor of the authority that processes personal data is best outlined by the provisions of article 38 paragraph 1-6 of the Data Protection General Regulation.

The Data Protection Officer must receive a covering mandate to carry out its work from the public authority processing personal data. This mandate should also allow the operator to act in due time, especially if the data processed by the authority are some that can be disseminated to the public or may be approached by malicious third parties by electronic means. This mandate should not be limited to certain personal data chapters, which would imply a restriction of the powers of the officer. The Data Protection Officer must benefit from all the contest of the management of the public authority that processes the personal data, the alternative being that in which the mandate sent to the responsible person is an apparent one, being emptied of the content of power.

In order to carry out its activity, the Data Protection Officer must be provided with a material basis appropriate to his / her duties by reference to the complexity and the volume of tasks established with the management of the authority that processes personal data. It should be noted the wording the European legislator gave to the provisions of article 38 paragraph 2 of the Data Protection General Regulation - the officer should be given tasks which in a general form are set out in the mentioned regulation by the authority not in relation to the volume and complexity of the data to be protected, but in relation to the tasks drawn by the authority. Thus, the public authority will not be able to invoke its defense if it does not comply with, or breaches the provisions of the Data Protection

General Regulation as a justification for the poor endowment of the officer, that he/she does not carry out a large and complex processing of personal data.
It is obvious that the Data Protection Officer must access that data. A limitation to their access through the mandate received from the authority that processes them is a circumvention of the provisions of the Data Protection General Regulation. The same a hindrance by any means, including those of an organizational or technical-functional nature, to the access of the controller to the actual data processing operations should be seen.

Until we reach the ethical background specific to the person in charge with data protection, we need to clarify his / her skills necessary to carry out his / her work with the public authority. The provisions of article 37, paragraph 5 of the Data Protection General Regulation indicate as criteria for the selection of the person in charge of data protection: (i) the professional qualities and (ii) the ability to perform the tasks provided for in article 39 of the same Regulation. Indeed, it can be argued that these are too general to allow the human resource manager to identify the most suitable candidates for such a function, but we believe that precisely such general criteria are the most beneficial for choosing the best staff to occupy a function that is new. The express reference to the professional qualities of expert knowledge of the right of personal data protection and related practices seems to reveal that the intention of the European legislator was that the national public authorities called upon to implement the regulation in question should assign the posts of Data protection to persons with juridical studies. We believe it is a mistake to look strictly at the graduates of law faculties and even in the direction of the graduates of any faculty to find the most suitable candidates for the position of data protection officers because some of the tasks of art. 39 of the Data Protection General Regulation may prove to be practical in some cases requiring high technical training, such as that provided in article 39, paragraph 1, letter C, which is a reference to article 35 of the same article. Our view is that the European legislator has rather pursued the occupation of data protection officers with professionally trained people but in a varied and interdisciplinary manner, capable of technical and ethical reasoning alike. In support of a good selection of staff for this function may be criteria such as: knowing the specifics of the activity of the public authority, the organization of the apparatus of the public administration, the processes and operations in certain domains of the activity carried out by means of the electronic information and communication equipment, the technical protection of the data, etc. Another argument against the choice of lawyer for the person who will be in charge of data protection is also that of the loyalty they are expected to manifest to the public authority employing their services. The subject in charge of data protection has to turn its loyalty less to the public authority and more to the citizens (or consumers) whose personal data are processed by the public authority. If the European legislator had intended that the Data Protection Officer would be an obedient employee to the payer, then he would explicitly mention this condition of loyalty in the Data Protection General Regulation and would not have made the mention of the institution of the conflict of interest over to which we will come back below. Moreover, if we do not lose sight of the fact that the purpose of the person in charge can be translated into the form of the protection of personal data from the citizens of 28 nations, then we can see as obviously exaggerated the expectation that the person in charge of this post manifests first loyalty to a particular state and government.

Coming back to the ethical issue of the person in charge of data protection in relation to a public authority, we note that the Data Protection Officer is in direct

relationship with two relevant entities: (i) the public administration entity processing the data (and which is his / her employer) and (ii) the supervisory, control and sanctioning authorities specifically empowered by the national state for personal data protection. Of course, the Data Protection Officer has the primary responsibility towards the persons whose personal data are processed by the public administration entity that hired him, but does not establish a direct relationship with them.

In relation to the first subject with which the data subject is involved, the respective public authority processing the personal data, the Data Protection Officer must show maximum firmness to the staff and management of the data because its interests are secondary to the purpose of its function - the application of the European regulation on the processing of personal data within that authority, i.e. the very reason for the existence of its function and its object of activity. It is very likely that in some situations, the data processor's interests become insignificant compared to the data whose data they process, so that the person in charge of these data is required to lean through his views (and possible decisions) in favor of those whose data are processed and not to the public administration that is employing and rewarding him/her. This interpretation results from the provisions of article 38, paragraph 2 and 3, 39 paragraph 1 letter A and B of the Data Protection General Regulation.

In relation to the second subject with which it comes into relationship, it must firstly be observed with maximum acuity and full understanding of all the consequences of the provisions corroborated by article 38, paragraph 5 and 6 and article 39 paragraph 1 letters D and E. It is clear from these rules that it is imperative for the Data Protection Officer to fully cooperate with the supervisory authority. If the wording of the provisions of letter A - C from par. 1 of art. 39 of the Data Protection General Regulation with those of letter D of the same paragraph shows not only a difference in the firmness of the European legislator's tone, but also a difference in the nature of the regulatory tasks assigned by the same legislator to the Data Protection Officer and his employer in the national administration. The first three rules, namely those at letters A-C, establish for the Data Protection Officer non-decisional tasks, but to monitor the work of the national authority regarding the observance of the provisions of the General Regulation on Data Protection and counseling the same authority in the reference field of the same normative act. Contrary to these three tasks is that from letter D, the task of which is reduced to its binding nature by the drafting of the European legislator. The consequence of the imperative of this rule is that the Data Protection Officer must effectively cooperate with the supervisory authority and its interests in relation to those of the public authority that hired the Data Protection Officer. It becomes easy to understand such a hierarchy of relations between the subjects involved in this organizational scheme, if we give constant attention to the subject of regulation of the General Regulation on data protection, respectively the protection of personal data. This immutable objective determines the collaboration between the officer and the supervisor, even to the detriment of the public authority that hired the responsible person, through his/her status f personal data processor, the latter being subject to the constraint and sanction of the other two (the officer and the supervisor). Collaboration between the officer and the supervisory authority for the purpose of sanctioning the public authority processing the personal data is an accessory to the monitoring operation of the compliance with the Data Protection General Regulation of the Data Protection Officer on the public authority processing the personal data. The legal obligations to monitor and collaborate (including for the purpose of sanctioning their own employer) of the data protection officer are also preconditioning

the evidence against the public authority for processing personal data. This is clear from what the European legislator pointed out at point 82 of the preamble to the Data Protection General Regulation. In order to be able to prove that it complied with the provisions of the Data Protection General Regulation, namely that it properly implemented its obligations under this set of European rules, the national public authority processing personal data "should keep records of the processing activities under his/her responsibility". The immediate operation in the collaboration process between the Data Protection Officer and the Surveillance Authority is to communicate the evidence from the first subject to the second - "Each operator and each person empowered by the operator should have an obligation to cooperate with the authority and to make available on request these records in order to be used for the purpose of monitoring the processing operations concerned. "The purpose of the transmission of records is only temporary that of monitoring, because if the monitoring and research of the respective records generates the premises of a sanctioning of the public authority for the processing of personal data, then the mentioned purpose is transformed into the one of the formation of the proof to support the punishable act. The cooperation between the Data Protection Officer and the Surveillance Authority takes place as a matter of urgency, as is apparent from the wording of the reason from point 86 of the Preamble to the Data Protection General Regulation - "Communications to the competent persons should be made as soon as possible in a reasonable manner and in close cooperation with the supervisory authority, in compliance with the guidelines provided by it or by other competent authorities, such as law enforcement authorities. "As the interest to be protected is that of the person whose personal data are processed by the national public authority that is responsible for the protection of those data, it follows that the operations that form the object of the collaboration with the supervisory authority must be carried out within the time period completed with the communication to the targeted subject. Or that means a maximum urgency that the Data Protection Officer could not ensure if the interests of the data processing authority prevailed.

A last but important issue for defining the institution of the Data Protection Officer and the framework for acting in this role is the conflict of interest situation in which this subject of law can be placed. In order not to be in such a situation, i.e. to act in an independent and not autonomous or even dependent manner, the data protection officer employed within a national public authority has to prove a particular morality in the relations with the employer. It should also be his employer's understanding of the importance of personal data protection and the severity of the risks that can occur if this protection is not achieved but, as the purpose of our paper is not to clarify the obligations that the Data Protection General Regulation gives to these, we will not give any expectation to the subject that processes the personal data.

The first condition for ensuring his/her own independence and avoiding conflicts of interest is that the Data Protection Officer should not accept instructions about how to perform his data protection activity from the national public authority that has hired him. Achieving this obligation effectively turns that person into an objective guarantor of how the employing public authority understands to treat the protection of personal data he has in the processing. In other words, prior to the sanctioning intervention of the supervisory authority, the Data Protection Officer is the first filter (including the legality) of how the provisions of the Data Protection General Regulation within the public authority that hired him are respected. Such a condition may be difficult to put into practice if it is chosen that the duties of data protection officer to be entrusted to an employee who has other duties

from another job that he carries out within that employing authority. The best examples are represented by lawyers or by computer scientists. We anticipate that these people, at the intersection of their core and that of data protection functions, have the best chance of conflicting interests, and the distinctions between the two sets of tasks cannot be easily perceived either at the level employee or employer.

A second condition for maintaining the accountability of the person responsible for the duration of his / her duties is that the person in charge of this position not to be sanctioned, including dismissed, by the public authority employing for the way they perform their data protection activities. Of course, it can be questioned whether the sanction can be applied for failing to comply with the tasks deriving from the Data Protection General Regulation. We are inclined to argue that such a sanctioning hypothesis is viable, but we believe that the evidence must be substantial and conclusive. An interesting perspective on the facts is opened when the manager has known the conflict of interest or has been induced into this state by the leaders of the public authority of the staff to which he belongs.

A third and most important condition is to avoid conflicts of interest in relation to other attributions held by those who will be in charge of data protection positions. As some of these attributions may be somewhat significant to the way in which the personal data processing system is organized and operated within the national public authority of the officer, such as those of lawyers who design the principles and rules under which it is organized or that of the programmers and operators who conceive it or make it work, we anticipate as an optimal solution to avoid conflicts of interest those of new staff recruitment, avoiding the overlapping of tasks from different functions or contracting by outsourcing the duties and tasks of the responsible position.

Normally, the rules for making the works such as this one would force us at this point to draw a conclusion from the previous ones. Our view is that the subject of the paper only places us at the beginning of a long chain of such works, any conclusion being premature.

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National and confessional identity in the periodical „Biserica Ortodoxă Română". A monographic study

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Abstract
With an editorial tradition for almost a century and a half, edited monthly from 1874 till present days (with small interruptions), the periodical *Biserica Ortodoxă Română*, the official press organ of the Holy Synod (today, the official journal of the Romanian Patriarchy), represents in the publishing space an emblem of the identity of the Romanian Christian-Orthodox cult. Its diverse summary, the volume and the depth of the studies written by personalities of the cultural life, propels it to the rank of „high held theological Church magazine", as the historian Mircea Păcurariu stated, with a considerable contribution to the development of the Romanian theology. Beyond the confessional identity, the constant publishing of regulations on the organisation and functioning of the Church, the explanations of these documents in the context of the relationship between the State and the Church and with the other religious cults, the coverage of social and political realities, of different historical events in which the Orthodox Church was more or less involved, actually or symbolically, represent aspects in which the national identity is reflected. Built around the idea of the organic connection between the Romanian State and the Church, between the formation and evolution of the Romanian people, on the one hand, and the Christian-Orthodox faith, on the other hand, the religious identity is circumscribed to the notion of national identity.

Keywords: *confessional identity, national identity, religious press, the Romanian Orthodox Church*

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Objectives and research methods

The study is based on the idea of the importance of the press in general as a means of information, education and a factor of socialization, of transmitting the essential values, traditions, attitudes and opinions to the individuals as part of a society with a distinct identity. The goal of this research is to reveal how the periodical *Biserica Ortodoxă Română* has evolved since its first edition in 1874 towards the statute of official publication of the Holy Synod, a symbol of both confessional and national identity. The present research is a monographic study, a type of qualitative research analysing the profound mechanisms of media text production in a historical context that has permanently changed according to the Romanian confessional and political realities.

The research sample has consisted on various editions of *Biserica Ortodoxă Română (BOR* from now on), starting with its first issue in October 1874 till present days. The study also uses the discourse analysis and the bibliographic study.

A brief chronology

The first issue was edited in October 1874, with the title "Biserica Orthodoxă Română" ("The Romanian Orthodox Church") and subtitle ("Ecclesiastic periodical journal"), printed at Associated Workers Court Typography in Bucharest. The magazine was founded as an official publication of the Romanian Orthodoxy, on November, 17, 1873, based on article 16 in the Holy Synod's Regulation, at the initiative of the Metropolitan Primate of Romania, Niphon Rusailă. As a sign of the traditional collaboration between the State and the Church, the magazine's publication was approved by King Carol I by royal decree no. 1125 in May, 27, 1874.

The title of the magazine is an important identity mark of the Romanian Orthodox Church itself, as national autocephalous church, independent from the Ecumenical Patriarchy of Constantinople, with its own leadership, the Holy Synod in Bucharest. The magazine was covering both a practical need of the clergy to have a theological and ecclesiastic periodical, with a constant rhythm of editing, viable, financially supported by the entire Church, clergy and people; and a symbolical need for an official press organ of the Holy Synod of the Romanian Orthodox Church. This symbolical need is to be understood in the context of the efforts made for being acknowledged as an autocephalous Church, proclaimed like that through an act of cooperation between state and Church when Prince A. I. Cuza promulgated an organic decree, on December, 3, 1864, after the unitarian reorganization of the two united principalities. The decree stated that "The Romanian Orthodox Church is and remains independent from all foreign Church autority" (Drăguşin, 1957: 86-103).

The Romanian Orthodoxy Church was acknowledged as autocephalous only later, in 1885, under the ruling of metropolitan primate Calinic Miclescu, through a Tome of autocephaly signed by the ecumenical patriarch of Constantinople, Joachim IV.

In 1874, *BOR* has no editorial box. As signatories of articles we meet on Dr. Zotu, Archbishop Ghenadie (previously Argeşiu), Protosink. Ghenadie Enăcenu (the principal of the Theological Seminar), Prot. Silvestru Bălănescu, G. Ionescu, Priest Sp. Bădescu. In the first year of publication, three editions are printed, in October, November and December. The monthly periodicity is maintained in the coming years. Between 1878-1880 and 1916-1921, the periodical had short interruptions in its appearance.

The first presidents of the editorial board were the bishops Ghenadie Ţeposu,

former Bishop of Arges, followed by Silvestru Bălănescu, Ghenadie Enăceanu and Gherasim Timus. Intially, the summary of the magazine included numerous regulations regarding the operation and the organization of the Church, high level theological treatises, highly documented, superior to those published by other magazines, so that the periodical was criticized by the clergy of the time, insufficiently prepared for understanding such an elevated content. The articles were signed by members of the Synod, professors of the Faculty of Theology and even by members of the ordinary clergy in Bucharest, like Ghenadie Țeposu, Silvestru Bălănescu, Gherasim Timus, Gheorghe Zottu, Athanasie Mironescu, Dragomir Demetrescu, Ștefan Călinescu and later Ioan Mihălcescu. Under the title „Cronica bisericească" the editors included topical information, news and stories from the life of the Church, internal and external. The both cofessional and nationak identity aspect was obvious in the studies on the Romanian Othodox Chuch's history, original researches conducted by bishops Melchisedec Ștefănescu and Ghenadie Enăceanu, by proffessor Constantin Erbiceanu, by Nicolae Dobrescu and others. Translations form the Holy Fathers, preaches, the Holy Synod's debates were also part of the editorial content. traduceri din Sfinţii Părinţi, predici, dezbaterile Sfântului Sinod. Among its contributors there were also Romanian from Transylvania, a worth mentioning organisational aspect in the period before the Great Unification in 1918 (Păcurariu, 1997: 300). The interruption in 1878 occurred on the background of the financial difficulties caused by the Independence War (1877-1878). The publication is resumed from October 1, 1880, with the support of Metropolitan Primate Calinic Miclescu (1822-1886, who provided from 1882 the Typography of Church's Books, founded by him. The presidents of the editorial board in charge with this second series were Archbishop Ghenadie Enăceanu and protosinkel Silvestru Bălănescu. The editors were the future bishops Inochentie Moisiu and Gherasim Timuș. From 1884, the publication appeared with the subtitle „Church Periodical Magazine". The second temporary interruption took place when the Romanian Kingdom entered World War I, in 1916. The editing of the magazine, under the subtitle "A magazine of the Holy Synod" is resumed on Octomber, 1-st, 1921, at the initiative of Metropolitan Primate Miron Cristea (1868-1939). The presidency of the committee board was entrusted to Archibishop Vartolomeu Stănescu; the editor in chief was Ioan Mihălcescu, the future Metropolitan Irineu of Moldavia and the editorial secretary was archimandrite Iuliu Scriban. Patriarch Miron Cristea enhanced the periodicity of the magazine, bringing it to six editions a year, starting with 1934, when Metropolitan Tit Simedrea of Bucovina was invested as editorial secretary. Between the two world wars, the periodical had some valuable contributors, like the future patriarch Nicodim Munteanu, priest Grigorie Pişculescu (Gala Galaction) and the theology professors Teodor M. Popescu, Vasile Ispir, Nicolae Chiţescu, Niculae M. Popescu and others. From 1945, the editing process is an attribution of the Biblical and Missionary Institute of the Romanian Patriarchy, with priest Dumitru Fecioru as president.

After the investment of patriarch Justinian Marina (1948-1977), also president of the editorial board committee, the magazine was published under the subtitle "The Official Bulletin of the Holy Synod". The editor in chief was priest Gheorghe Vintilescu and the editorial secretary was priest professor Gheorghe I. Moisescu. During the leading of patriarchs Justinian Marina, Iustin Moisescu and Teoctist Arăpaşu, the magazine has enjoyed the collaboration of outstanding representatives of Romanian Orthodoxy, priests and professors Dumitru Stăniloae, Ioan G. Coman, Ene Branişte, Liviu Stan, Mircea Păcurariu, Ion Bria etc.

The editorial content

The summary – "Table of matters" of the first issues in 1874 consisted on: "I. To the Clergy and the Romanian people; II. Rules for editing the journal; III. The address of His Holiness Metropolitan of Ungro-Wallachia and president of the Holy Synod to the committee editor; IV. About the Church; V. The celebration of Sunday by the antique Christians; VI. Preaches: Sunday seventh at Luke, b) Sunday fifth at Luke, c) Sunday eighth at Luke, d) Sunday ninth at Luke, s) Sunday thirteenth at Luke, f) The entry into the Church; VII. Church's Chronicle" (*BOR*, October 1874, no.1).

The programme-article, entitled "To the Clergy and the Romanian people" (*BOR*, October 1874, no.1: 1) announced the monthly apparition of the magazine, its purposes and

some organizational issues concerning the editing process. According to the editorial board, the magazine had to cover an urgent need of the Romanian Orthodox Church and of the entire Romanian people, the need for an emblematic official ecclesiastic journal of the representative religious cult in the Romanian Kingdom. It was a different editorial project, because it was not a solitary private initiative of some member of the clergy or of a certain benefactor, it was a journal of the entire Church, clergy and congregation, financially and theologically sustained by the Romanian Holy Synod. Even the government had its financial contribution to the publication – a subvention of six thousands lei that, according to the authors of the article, could merely cover the expenses with the first issue. But the state contribution was appreciated by the Church, as it is stated in the mentioned article. Thus, with all these financial facilities, the editorial board was still relying on the common clergy to receive the magazine with enthusiasm and to make subscriptions. Two major purposes are underlined in this article: the editing of a prestigious official magazine of the Romanian Orthodox Church and the enlightenment of both clergy and people in order to protect the congregation by wrong heretic interpretations of the holy writings. Time would prove the success of this ambitious editorial project. If the first purpose was highly attained and the efforts of all the editorial committees would prove it along the apparition of the magazine until present days, in the second one there are comments about. It was intended to be a journal for the entire clergy and even for the congregation, but the clergy's cultural level was poor, with no faculty of theology in Romania at the end of the XIX-th century and a short tradition in seminary theological education. On the other hand, the contributors to the editorial content of the magazine were mostly members of the high clergy, professors with a high educational level and thus they were sometimes unable to properly adapt their writing to their targeted public. In these conditions, the common clergy, who had the obligation to pay the subscription, would frequently complain about the elitist content of the magazine. In time, the editorial committee would make efforts to adapt to the needs of the clergy, whose lack of superior theological knowledge was objective, and studies and articles about the life of the common clergy were introduced in the summary at the end of the XIX-th century and the beginning of the XX-th century. The editorial principles stated in the first edition are reaffirmed in 1934, when a reorganization of the magazine was intended "in form and content" (*BOR*, January-February 1934, no. 1: 1). The government support was also involved again. The new programme-article underlines the idea of a magazine worthy of the Romanian Orthodox Church as a Church who has contributed to the development of the national spirit, to the evolution of culture and education in the Romanian people. As we can notice in the history of the magazine, there was a permanent preoccupation of each

editorial board to keep a balance between the status of official journal of the Romanian Orthodox Church and a quality theological content on the one hand and the practical needs of the clergy with the periodical on the other hand. In January-February 1934, an introduction article, with no title, written with italic letters, over a page and a half, announces the reorganisation of the magazine. A new editorial committee was elected by the Holy Synod, in charge with the raising of the periodical to a standard required by its status of "official organ of the highest canonical authority of the Church", with the purpose "to keep and present the intellectual and practical life of our Church in its best ways, as well as our Holy Orthodox Church worldwide. That means from the strict study of theological science to the simple news story, the centre of gravity must be on Orthodoxy: studying, strengthen and defend it (*BOR*, October 1874, no.1: 1). The Synod saw in the magazine "a visit card" that had to be proper in shape and content to the status of "the best articulated and organised of all sister Orthodox Churches". The introduction article also contains an appeal for the subscribers to continue paying the price of the subscription, price that remained unchanged despite the increased financial efforts to improve the magazine (*BOR*, October 1874, no.1: 2). The authors stated that the members of the editorial staff were not paid; even if there were budgeted expenditures for the work performed by the secretary of the editorial, the amounts allocated went towards improving the periodical. The article also mentioned that the magazine had no editorial committee, only a „board", thus each contributor was to be treated equally in matters of publishing the articles, but nothing would be included in the summary without the approval of the editorial staff. This first edition of the reorganised magazine had 144 pages, which was considerably an improvement at least in quantity, compared to the previous ones that were below 100 pages.

An important evolution of the magazine would be registered between 1936 and 1949, under the editorial lead of Gheorghe I. Moisescu, dean, then priest and professor. He is included in the editorial staff from no. 11-12, November-December 1936, Year LIV. As an editor, Moisescu had multiple tasks: writing articles, covering some permanent columns of the periodical, the journalistic approach of the main Church events, revising texts, composing the summary, receiving theological articles from various contributors and others. The new job reflects on the editorial level first of all in a considerably higher amount of articles. Until this edition Moisescu had limited his activity to the bibliographic notes in the field of historical theology, but in the November-December 1936 issue, dean Moisescu signed a review and nine bibliographic notes covering various fields: "General works", "Systematic Theology", "Practical Theology" and "Historical Theology".

In no. 1-2, January-February 1937, Year LV, in the summary of the magazine the editors included "The report of the committee of *Biserica Ortodoxă Română* to the Holy Synod", that marked the 55-th year of publishing and the fourth year of the committee made up of H.H. Bishop Lucian of Roman - director, H.H. Bishop Titus of Hotin - editorial secretary, Archim. Iuliu Scriban - professor at the University of Iasi, Pr. Nicolae M. Popescu - Professor at the University of Bucharest and Pr. Grigore Pişculescu - professor at the University of Iassy. Few months ago, the young deacon Gheorghe Moisescu had permanently joined the editorial team, and his contribution was positively appreciated in the content of the report. We find out that he was paid monthly. He had taken over some of the duties of Bishop Titus Simedrea, to be, if necessary, even prepared to replace H.H. Tit. His studies abroad, in Greece and Poland, are mentioned as the trump cards for the post for which the editorial committee recommended him to the Patriarch on November 1, 1936, and Miron Cristea approved the appointment, the team thus completing a

collaborator who will prove to be a good choice for the magazine's progress: "In this way the magazine management committee is today completed with a young and competent collaborator and we have all the hope that the evidences of diligence that the Father Gheorghe I. Moisescu has given them so far will always be increased" (*BOR*, January-February 1937, no. 1-2: 93).

The objectives of the editorial committee on the Holy Synod's magazine – "a truly Orthodox Church magazine in terms of quality and source of information", in which "strictly scientific theological information come the first, presented through reviews and bibliographic notes. Second comes the chronicle, where the most important events in the Orthodox churches are presented and where can be found different news that deserve to be known by the whole Orthodoxy" (*BOR*, January-February 1937, no. 1-2: 93) – is reflected in its summary, in which there is a part of theological articles, a chronicle of internal events, a chronicle of external events and a part of reviews and bibliographic notes. As stated in the report, theological, scientific information prevails in the face of religious actuality, even if the summary order does not correspond to that structure. The old allegations of elitism and insufficient presentation of everyday church events still lie on the *BOR*, as we understand from the editorial board's report (*BOR*, January-February 1937, no. 1-2: 92). The editors have been criticized for a predominantly historical content of the magazine. The accusation is answered by a statistic on the themes of the articles, reviews and bibliographic notes published between 1934 and 1936: 40 articles and 551 pages in the field of practical theology, 6 articles and 228 pages - systematic theology, 1 article and 20 pages of exegetical science, 16 articles on 208 pages - church literature, 16 articles and 186 pages in the field of historical theology, representing a share of ¼ articles with historical content relative to the total, and 1/6 in relation to the total number of pages. Also, according to the editors' statistics, neither in the reviews and bibliographic notes chapter, the figures did not indicate the predominantly historical content: of the 38 reviews published in the three years, 11 were in the field of historical theology, quite significant if we look at the totality of theology fields, where each of them should be represented equally; of 788 bibliographic notes, 104 appear in "Systematic Theology", 230 in "Practical Theology", 30 in "Exegetical Theology", 187 in "Historical Theology", 14 in "History of Religions" and 168 in "Generic Works"; there were 187 bibliographic notes of historical character, which meant a proportion of ¼ of the total of this type of articles (*BOR*, January-February 1937, no. 1-2: 93).

Another accusation to the magazine was related to the small share of internal church news. Indeed, *BOR* published predominantly church-related events at the central, Patriarchal, or Archbishopric of Bucharest level, in a rather limited spatial proximity with the headquarters of the editorial office. This aspect is explained in the above mentioned report by a difficulty of organization within the Romanian Orthodox Church. The editorial board asked the Holy Synod to require cultural counsellors from the country's dioceses to send articles on major local events. The high Church forum has issued a ruling in this respect, but it was not respected by the Eparchial counsellors, according to the report published in the journal. The *BOR* editors even noted a bad will of these eparchial officials, who gathered at a conference in Buşteni, and stated their intention that the editorial staff of the magazine should be completely reorganized because at the time of reference, *BOR* paid more attention to the field of historical Theology. In other words, they resumed to criticizing and doing nothing to remediate the situation. Other difficulties noted in the report concern printing conditions, technological wear and tear: "This explains the delay with which the magazine sometimes appears, because we have to collect only one sheet

and then make even 6-7 corrections to replace the blunt or torn letters” (*BOR*, January-February 1937, no. 1-2: 93). The editorial team proposed to improve them by purchasing new equipment for printing a BOR magazine, a true visiting card of the Holy Synod, both in the country and abroad.

In the present days, *BOR* has the following columns: „Official telegrams”, „The Church’s life”, „Reports from the Motherland’s life”, „Pastoral guidance”, „From the past of our Church”, „Documents”, „Reviews” (Hangiu, I. 2004: 107). Although there were voices that considered it elitist and, from this point of view, not very useful, the Romanian Orthodox Church is considered “the best specialized journal at that time, fulfilling an important role in the promotion of Romanian theology” (Păcurariu, 1997: 301).

Reporting historical events

Significant moments both for the Romanian Orthodox Church and for the history of the entire people, have been reported in the issues of the magazine along its course of appearance. Most often, the events are reported in the column of internal news, which contain entire speeches of personalities from the church hierarchy or from the secular leadership of the state. In the XX-th century the Church's position on events in Romanian history is frequently expressed by pastorals addressed to clergy and believers. A strong state, completed by the Great Union of 1918, would be completed by a stronger national “dominant” Church with a strong voice in the public space, at least at the image level.

Before the interruption, in full war for the acquisition of state independence, the journal publishes a message of Bishop Ghenadie of Arges, where the author wonders rhetorically how the Church can stay away from the conflict that was raging the country's borders from the cannons of the Ottomans: “the country needs a general effort, each contributing according to possibilities, driven by the sacred duties of love for the Motherland; when the clergy, who in all times and in all the events of the country took part in all its disasters, gave its contest, by its means, how can we remain today less sentient in the voice of our dear Motherland?" (*BOR*, January 1878, No. 4: 213). The efforts of King Carol I and Emperor Alexander II of Russia to resolve the conflict are commended.

In the issue no. 3-4, March-April 1939, Gh. I. Moisescu reported the death of the Patriarch Miron Cristea, in a large collage of articles. It was a major event that created „a voice of sorrow and grief for the loss of the wise Church ruler of the country, and the first counselor of the King of Romania” (*BOR*, March-April 1939, no. 3-4: 131). Cristea’s personality and his political role were a source of controversy in the period between the two world wars, because the ambivalence of his position, both in the Church hierarchy and in the state’s government (Ionescu, 2003: 119). With all these controversies, in the three years of Regency, until the return of Carol II and the taking over of the throne by him, Patriarch Miron was considered a balance factor (Stan, 2009: 300). In 1938, he was named by King Carol II at the head of the government, a act considered by historians as a sign of the King’s desire to diminish somewhat the importance of this function in the state, allowing King Carol II to be the main "organizer of government activity" (Petcu, 2009: 234). The article signed by Gh. I. Moisescu recorded the circumstances of the Patriarch's death in Cannes, where French local and central officials together with Romanian diplomats came to pay tribute to him, in military honours. Miron Cristea had been decorated by the French government with “the great cordon of the Legion of Honor” (*BOR*, March-April 1939, no. 3-4: 133). It is an extensive and emotional reporting, that proves Moisescu’s journalistic talent, with accurate details, poetic expressions, topical

context and sensory particularities. The funeral corps reaches the country to Jimbolia, and then lands in the main stations, where it is received with mourning and proper honours. The close relationship between State and Church in Romania is highlighted in the officialities' speeches. Dr. Nicolae Zigre, the Ministry of Cults, spoke in behalf of the Government: „It is the loss of the whole nation because the Patriarch of the Romanian National Church among the boundaries of their land represents the Christian Church formed from the beginning with the Romanian nation. Our Orthodox Christian Church is national, because in it and through it the belief in God of the Romanian people appeared and the moral-ethical commands that formed the basis of his soul life were created" (*BOR*, March-April 1939, no. 3-4: 150).

On the 5-th of July 1939, His Holiness Patriarch Nicodim was invested and enthroned at the royal palace. In his speech, the second Romanian Patriarch connected the political and the religious life of the Romanians, explaining, on the byzantine principle of the relationship between the Church and the laic power, that The Romanian National Church and its Voivodship or State are inextricably linked, because the faithful sons of the Church are the citizens of the State, and the citizens of the State are at the same time faithful to the Church and, more than that: "The political governor of the State is the first son of the national Church and its greatest protector; and the Hierarch of the National Church is the first citizen of the State after its political governor, and the first counsellor of the latter" (*BOR*, September-October 1939, no. 9-10: 473). The newly invested hierarch discusses one of the controversial aspects in the relationship with the Romanian state, the situation of the confessional schools in the state administration, since the secularization of the Church's fortunes, by the prince Al. I. Cuza. In the eight decades of the time mentioned, according to Nicodim, theological education was deficient in the fruits, a situation disliked both by the Church and by the State itself (*BOR*, September-October 1939, no. 9-10: 477).

The royal discourse at the same occasion reminded to the auditory the contribution of the previous Patriarch in the development of both the Romanian Orthodox Church and the State. According to the king, who had installed a dictatorship with nationalist accents, Patriarch Miron Cristea, who had come from Transylvania, former bishop of Caransebeş, was a symbol of the union of all Romanians, "a clear sign that after the political unification, the union of the soul followed without delay", in a single Church, of all the Romanians (*BOR*, September-October 1939, no. 9-10: 478). Miron Cristea's efforts, for the rights of the Romanians in Transylvania, then for the Union of 1918, are seen as an obvious proof "that in us, the Romanians, the Church and the Nation is one" (*BOR*, September-October 1939, no. 9-10: 478). Armand Călinescu's assassination is dealt with in the *BOR* pages, September-October 1939, in Patriarch Nicodim's speech at the funeral of the Romanian Prime Minister, a speech by Bishop Emilian Târgovişteanul, and the reproduction of the patriarch Nicodim's dictation to the clergy. The reprehensible event will be followed by a series of investigations and persecutions over members of the Legionary Movement, over whom the Church will not pronounce, given the political conditions of the Carlist dictatorship. The Patriarch urges the political opponents to be united against the external dangers that threatened the security of the entire Europe. The tone of the speech is vehement against the Legion. The word, however, introduces a nuance, a reference to an old political conflict, when the hierarch announces a parable about two dogs struggling in a household, and when the household is trampled by the wolf, dogs are allied against it, which it did not happen on such a troubled political scene at that time, when the borders were redefining, and the nations were waiting for their destiny. It was a fact that Armand Călinescu was an old

enemy of the Legion (Veiga, 1995: 261).. This call to unity is pithy in the circular sent to the priests by Patriarch Nicodim, a much more moderate document addressed to all clergy in Romanian territories. We can understand this moderate tone in two respects: first of all the moment of the discourse, the circular being sent after the funeral, at a time when the tide of revenge of the authorities had an unprecedented hardness and the second is the sympathies of some of the priests to the legionary doctrine. Previously, in 1937, the Holy Synod was called to answer by various statesmen regarding the implication of some of the clergy in the activity of the Legion and the Chuch hierachy was unable to express a clear separation from the legionaires (Heinen, 1999: 304); their efforts on the political scene was regarded as a sign of a fight against the secular spirit, which the Church itself was fighting against.

A new political regime determined new writing conditions for the magazine of the Holy Synod. In 1941, under the dictatorship of Marshall Ion Antonescu, *BOR* stated its role as a ecclesiastic and theological publication, in an editorial called „Explanation" signed by the committee (*BOR*, January-February 1941, no. 01-02: 1-2). This status corresponded with a retreat of the Church from the political space, at least at a formal level. Its official position towards the political events, the legionary rebellion and its suppression, was limited to the approval of Antonescu's repressive measures: "You made the heroic step. I know you hesitated a lot, but it could not be otherwise. This is what the salvation of the Homeland demanded. (...) The Church is warmly praying for God to give you strength to lead the affairs to the full salvation of the Motherland, and the Romanian nation will be grateful to you from generation to generation." – Patriarch Nicodim, in a telegram to the general Ion Antonescu (*BOR*, January-February 1941, no. 01-02: 103). Along the interwar period, *BOR* constantly reported the situation of the Russian Orthodox Church confrunted with the Soviet opression and the events were a serious concern for the Romanian Orthodoxy (Enache, 2005: 21), as the articles in the "External Chronical" prove it.

After the installation of the communist regime, the state has constantly tried to turn the Romanian Orthodox Church into a vehicle of his ideology, whether by apparent concessions or by brutal interventions. On the other hand, by adopting an apparently supportive discourse, the Church has constantly sought to protect its rights, organization and functioning, and aspects of the cult essence. In regards of the public discourse, *BOR* had the fate of the other religious magazines that were infected by elements of the political discourse. In the first years of the communist regime, there were three main aspects of the political intrusion in the editorial content: new themes of the articles, new interpretations of the biblical precepts and new vocabulary (Safta, 2015: 229). Throughout the rest of the communist period, it was the elitist character of the magazine (Ghibu, 1910: 78) that saved it from suppression. *BOR* resumed its editorial activity to high quality theological articles and official messages from the Church hierarchy to the clergy – regulations and decisions of the Holy Synod.

Conclusions

With a tradition of more than a century of publishing and a high level of theological content, although it was often said that it had an elitist character, *Biserica Ortodoxă Română* is still considered to be the best specialized ecclesiastic periodical, that played a significant role in the development of the Romanian orthodox theology. The marks of the confessional and national identity consist on: the constant acknowledgement of the Church's hierarchy and the editorial board that the magazine should maintain its

high level, as an official bulletin of a national autocephalous Church; the permanent preoccupation for its summary, both in theological studies and in topical subjects; the explicit references about the Romanian history and the cooperation between the state and the Church; the emphasis of the significant role of the Church in the process of education and cultural development.

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The right to a healthy environment in international and EU states legislation

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Abstract
In Western society, the concepts of human rights and capitalism both emerged from the European Enlightenment. Little by little, those right arose and gain recognition; but as the society developed so did its needs and it became more and more complex and the rights gained a tendency to lose their substance as they started to protect more abstract values. To be enforceable, rights must be embedded in fundamental legal documents, but in some cases this it's not enough to secure its acceptance, respect and recognition. A right like the one to a healthy environment needs strict procedural aspects that includes the right to information, the right to participate and the right to effective remedies. Even then, this is not enough because it has to be enforced and respected not only at national legislation level, but even at European and international ones.

Keywords: *human right to a healthy environment, international treaties, the European Convention on Human Rights and Fundamental Freedoms, basic human rights, social, economic and political policies*

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Introduction

In the last decades the changes that the environment sustained due to our action is by far bigger than we have done since mankind has appeared to this Earth. Because the evidence is undeniable scientists, jurists and people alike has raised their concerns regarding our future. New ways to protect the environment had to be found. But concrete actions are not enough, there has to be also legal provisions, laws, international treaties that will help enforce those actions. But this has to be done starting from a common denominator, something to focus and crystalize all this actions and legal provisions. So, the idea of a human right to a healthy environment has been born. But there has been a long way for an idea to a legal provision that is respected and enforced. There have been challenges to overcome mainly regarding the way we think. First, we have to establish what the nature of this right is. It is a fundamental human right or not? "All this fundamental rights are a step forward in achieving what is known as a "state of law" (Ticu, 2016: 87) and if we fail to recognise it as so there can't be a true state of law without it.

The right to a healthy environment has known the same evolution as all rights "of solidarity", it had to surpass the misconception of being too diffuse both as applicability, as well as content. Problem with a right to a healthy environment and all this rights "has to do rather with the abstract elements of them, because it conditions us and limits certain rights and tangible present benefits (e.g.: the intensive exploitation of certain resources for material profit, which subsidiary produces pollution) in opposition with other benefits possibly higher in a faraway future and not necessarily easily visible (the same operation performed reasonably and within certain limits brings less tangible economic benefits in the short term, but provides a more balanced and unpolluted environment)."(Ilie, 2016: 15). Once we understand that the benefits in the longer run are better that ones on a short term, there's no more problems in enforcing it. Although the idea seems simple, as we will see from its history end evolution, there has been a long time until this has been reflected in legislation.

Establishment of the right to a healthy environment in international law

The international recognition of this right has been underpinned by the Stockholm Declaration on the Human Environment (1972, June). In the first article it states that "man has a fundamental right to freedom, equality and satisfactory living conditions, in an environment whose quality allows him to live in dignity and well-being. He has a solemn duty to protect and improve the environment for present and future generations". Although there is no explicit provision on the right to a healthy environment, the idea was launched and in the coming years it will be consecrated.

Neither the Rio Declaration on Environment and Development, adopted by the United Nations for Environment and Development Conference (Rio de Janeiro, 3-14 June 1992), explicitly states the right to a healthy environment, the closest formulation being that of Principle 1: people "have the right to a healthy and productive life in harmony with nature." It is noteworthy that the relationship between nature (environment) and man begins, in order for the last one to have a healthy life. A step forward on procedural rights related to environmental protection and the right to a healthy environment is made by the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998. From its very name results the recognition of rights-guarantees regarding the right to a healthy environment,

the idea being that recognizing adequate environmental protection is essential to the well-being and exercise of fundamental human rights, including the right to life itself. The Johannesburg Declaration on Sustainable Development (2002), which refers to the commitment of "the representatives of the peoples of the world" to build "a balanced global society, connoisseur of the needs for the human dignity of all" (point 2) and expresses the hope that future generations will inherit a world free of indecency generated by poverty, environmental degradation and sustainable development patterns. The World Nature Charter (1982) may also be used as an argument for forming a unitary image of this right.

The first obligatory wording in an international treaty appears in the African Charter on Human and Peoples' Rights (1981), which provides in Art. 24 that: "all peoples have the right to a satisfactory and global environment conducive to their development". Another document of African origin, the African Convention on the Conservation of Nature and Natural Resources (Maputo, 2003) provides, in Art. III.1: "the right of all peoples to a satisfactory environment that favours their development", and art. XVI shows the attributes of this right: "disseminating information and public access to environmental information, public participation in decision-making that can have a significant impact on the environment, access to justice for environmental and natural resource issues."

The Additional Protocol to the American Convention on Human Rights (San Salvador, 17 November 1998) speaks of "the right to a sanitary environment: 1. Everyone has the right to live in a dwelling environment and to benefit from the essential collective equipment; 2. States Parties shall encourage the protection, preservation and improvement of the environment ", thus specifying two important elements, namely: the right belongs to any person and the state has the duty to protect the environment. The U.N. Convention on the Rights of the Child (20 November 1989) states that "States Parties recognize the right of the child to enjoy the best possible state and to receive medical and re-education services" (Article 24 (1)). Par. 2 of the same article stipulates that: "State Parties shall endeavour to ensure the full realization of the abovementioned right and, in particular, shall take appropriate measures to [...] c) fight against sickness and malnutrition in primary measures of health protection, thanks to easy-to-use technology and the provision of nutritious food, drinking water, taking into account the dangers and risks of pollution of the natural environment; ... e) ensuring that all groups of society, particularly parents and children, are informed of ... the benefits of environmental clean-up and accident prevention [...]". We can also recall Convention no. 169 from 27 June 1989 of the International Labor Organization for Indigenous Peoples of Independent States, which obliges the Contracting States to take special measures to safeguard the environment of these peoples (Article 4, paragraph 1). With regard to the recognition of this right in European constitutions, many of the countries of the European Union guarantee the right to a healthy environment in their fundamental laws, which they have often revised for this purpose (including Romania).

The right to a healthy environment in European Constitutions

In France, the Constitution also contains, beginning with March 2005, the Environmental Charter, adopted in 2004, which states: Everyone has the right to live in a balanced and health-friendly environment (Article 1); Each person has the duty to participate in the preservation and improvement of the environment (Article 2); Every person must, under the law, prevent any adverse effects on the environment or, in the worst case, limit their consequences (Article 3); Every person has to contribute to the

repair of the damages he has brought to the environment, according to the law (art. 4). When possible damage can seriously and irreversibly affect the environment, public authorities will, in the spirit of the precautionary principle and in accordance with their duties, implement the risk assessment procedures and the adoption of the provisional and proportionate measures to prevent damage (Article 5); Public policies must promote sustainable development. To this end, they will harmonize the protection and enhancement of the environment with economic development and social progress (Article 6); Everyone has the right, under the conditions and limits of the law, to access environmental information held by public authorities and to participate in public decision-making that has an impact on the environment (Article 7); Education and training in the spirit of environmental protection must contribute to the exercise of the rights and the fulfillment of the duties regulated by this Charter (art.8); Research and innovation must make a contribution to preserving and enhancing the environment (Article 9); This Charter inspires the European and international actions of France (art.10).

It is obvious that there can be no comparison between two fundamental laws of different structure, such as the Constitution of Romania and France, because the Romanian one does not benefit from the incorporation of such a Charter into it, thus not being raised to constitutional norms. By making a strict comparison between the normative provisions, we can observe that these norms are almost all explicitly mentioned in the Romanian legislation on environmental protection (with the exception of Article 10, obviously), art. 35 paragraph 1 and par. 3 of the Romanian fundamental law having a direct equivalent in art. 1 and 2 of the Charter. Art. 35 para. 2 of our Constitution, establishing a general obligation of the state to provide the legal framework for the exercise of this right, is wider than Articles 3 to 9 of the Charter, provisions equivalent to those of the Charter of the Environment of France, but still found in other normative acts Such as GEO 195/2005 with subsequent modifications (environmental law), GEO 68/2007 on environmental liability and the National Strategy for Sustainable Development of Romania Horizons 2013-2020-2030. Undoubtedly, these provisions have a normative power lower than that of constitutional principles, but the advantage of the French Supreme Law derives from incorporating such a Charter into its content, a fact which is inexistent in Romania, which failed to coagulate the legal norms on environmental protection in a Environment Code and have such a Charter as part of the Fundamental Law. In Germany, the Constitution at art. 20a (1994) uses the notion of "natural foundations of life" and states that the state is obliged to protect them. This wording raises some questions about its content, being obvious that the protection of the social, cultural, built environment, etc., should be excluded, referring only to the natural environment or to the biosphere.

This is, by nature, more than just the sum of its components and this is where the problem resides, because the concept of a biosphere should be understood as an ensemble, and should not be reduced or reported only to its fundamental elements as if they did not interact, and would only produce effects individually, without affecting each other. If this article is systematically interpreted, in conjunction with Article 1 of the German Constitution (which establishes as the general direction of the Basic Law the protection of human dignity as the primordial foundation of political and constitutional order of the state), some doctrines have understood that formula strictly anthropocentric. References to "future generations" are likely to strengthen this interpretation (Steiger, 1998: 483), because only humans can consciously and directly ensure the protection of the biosphere. Nature, through our understanding and our senses, is devoid of consciousness, and cannot defend itself against external attacks, having a specific reaction to a "organism," rather,

that is, the degradation of the original functions in case of too incisive intervention, so that the people are the ones who have to judge which of the interests is preferable, its own, or that of the unaltered nature. Obviously, this leads us to resume the very sensitive discussion on short-term interests that may be contrary to long-term interests, economic profit premiums, and the latest balance and health of the environment. That is why this wording leaves the state authorities the task of reacting according to the needs of biosphere protection in concrete situations, thus choosing an anthropocentric orientation or, in some cases, adopting an "ecocentric" interpretation. Referring to "responsibility for future generations" only increases the complexity of the problem by adding them to the long list of items to be protected when referring to the biosphere.

Other interpretations of the notion of "natural foundations of life" refer to an original or primitive nature without human influences, but the reduction of the notion to the meaning of a primitive nature, without human intervention, does not correspond to the intent or function of this constitutional norm. Another possible interpretation of the notion would be the combination of all its elements: plants, insects, animals, water, air, climate, soil, rocks, atmosphere, but as we have already said, the biosphere is not solely the sum of these elements, it is an integrated whole. Incontestably, each element needs to be protected, but the goal is to keep the ensemble integrated, both at global, regional, national or local level.

Concluding, the notion of "natural foundations of life" must encompass all natural, biotic and abiotic conditions necessary for the preservation, evolution and reproduction of non-human life, in the diversity of flora, fauna and microorganisms, as well as vital functions and processes (Steiger, 1998: 486). And this protection must be done taking into account both short-term and long-term interests.

Article 23 of the Belgian Constitution includes the right to a healthy environment within the framework of the right to respect human dignity and provides: "Everyone has the right to live a life which is in accordance with human dignity, and in order to do so, any law, decree or regulation shall, in the light of the correlational obligations, guarantee the economic, social and cultural rights and determine the conditions for their exercise. Mainly: the right to work and the free choice of a professional activity (...); the right to social security, health protection and social, medical and legal assistance; the right to a decent home; the right to the protection of a healthy environment; the right to cultural and social advancement." The terms of the Belgian Constitution are therefore not very precise (Suetens, 1998: 494), laying down only a general duty of state diligence to ensure this right at the normative level, leaving this burden on the shoulders of the normative institutions, without having clear constitutional principles on which to rally and without being able to act concertedly. Also, unlike the Romanian Constitution where it is understood that environmental health must be complemented by an ecological balance, this expression and obligation is absent from the Belgian one.

Other European constitutions also refer to this right, more or less developed, for example, the Greek Constitution states: "The protection of the natural and cultural environment is an obligation for the state" (Article 24). The Constitution of the Netherlands also states that "Public authorities shall respect the living conditions of the country, as well as the protection and improvement of the environment" (Article 21). Lastly, the Spanish Constitution and the Portuguese Constitution provide, in Art. 45, respectively in Art. 66, that everyone has the right to enjoy an appropriate environment, but adds that every person has an obligation to protect the environment.

Ensuring the right to a healthy environment through the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Romania through Law no. 30/1994 (Off.G. no. 135, 31/05/1994) or the European Convention on Human Rights as it is known is the pivot around which all the fundamental rights of Europeans are built and defended. Given the date of adoption (Rome, 4 November 1950), environmental issues at that time were not an important concern in Europe and around the world, so there is no express reference to them. It was not until the early 1970s and before the first UN World Conference on Human Environment (Stockholm, 1972) that the idea of introducing provisions on the right to a healthy and undeveloped environment began to be put forward, with the Council of Europe proposing, in the Declaration adopted by the European Conference on Nature Conservation (1970), the drafting of an Additional Protocol to the Convention to guarantee this right. This proposal was resumed by Recommendation 720/1973 of the Parliamentary Assembly of the Council of Europe, still unsuccessful. The explanation for this failure comes from the novelty and massive implications that such an express provision, especially of economic and social nature, would have on the weight of its effective guarantee, so that many European states showed great reticence, reaching the situation in which, even today, this right is not expressly enshrined in the Convention or in its additional protocols. Although treaties and conventions from other parts of the world (the African Charter on Human and Peoples' Rights (1981) or the Additional Protocol to the American Convention on Human Rights (San Salvador, 17 November 1998)) provide for a human right to a healthy environment, Their context and their legal power in relation to the European Convention on Human Rights. In the latter, all rights defended are automatically guaranteed by the special mechanism contained in the document, and in African and South American terms this right is purely declarative.

The lack of an express provision in the Convention of this fundamental right has made it invoked through other rights, initially being the right to health and welfare deriving from the right of life, recognized by art. 2 of the Convention (Duțu, 2007: 288). The version adopted by the European Court of Human Rights (ECHR) is different, referring to art. 6.1 which ensures the right to a fair trial and art. 8.1 which recognizes the right of the individual to respect his / her private life, family and home. At present, ECHR jurisprudence has, in terms of guaranteeing the right to a healthy environment, three main elements: its inclusion in the guaranteed right under art. 8.1 of the Convention; the existence of a right to information on the quality and environmental problems and / or hazards; the right to a fair trial (Article 6.1 of the Convention).

The first case which was the basis for the protection of the right to a healthy environment through the extensive interpretation of art. 8.1 is the cause of Lopez-Ostra against Spain. The principle sentence of 9 December 1994 states: "It is self-evident that serious environmental damage may affect the welfare of a person and may deprive him of the right to enjoy a dwelling which secures him the exercise of the right to private and family life without endangering his health. " The Court therefore decided that, by polluting a sewage treatment plant near the applicants' homes, the national authorities had violated their right to a healthy environment, hence, implicit, the right to privacy, which was seen to imply a certain comfort and welfare without which the respect for the right to private life, family and home would be just fictitious, not effective. Other cases were also dealt with in terms of privacy interference and noise pollution caused by the operation of an

airport located in the vicinity of the plaintiffs, or other situations that might affect this right[1].

The same application of Article 8 of the Convention was invoked in Guerra and others against Italy (19 February 1998), in which it was pointed out that the harmful emissions of a chemical plant had a "direct incidence" on the right to private life, family and home. In its judgment in McGinley and Egan v. The United Kingdom of 9 June 1998 on the exposure of British soldiers to nuclear radiation, the Court included health protection in the scope of Art. 8, considering that the complaint is "a sufficiently close connection with their private and family life".

As regards the right to information on quality and environmental problems / hazards, the first important decision on this matter was in the case of Guerra and others against Italy. The Court considered that the State has a positive obligation to take measures to comply with the provisions of Art. 8.1 of the Convention, an obligation which it has not fulfilled by not informing the community of local authorities about the risks that may arise through the construction of a chemical plant. As in McGinely and Egan, the Court has held that when the State carries out dangerous activities that are likely to have "hidden hindsight" on people's health, such as nuclear experiences, as is the case in question, it has an obligation to carry out an "effective and accessible procedure" to make the necessary and useful information available to those concerned.

Some clarifications are necessary in connection with the exercise of the right to a fair trial, as provided by Art. 6 parag. 1 of the Convention. This article is applicable to any contestation which has a "patrimonial" character of the "civil rights and obligations (or a criminal prosecution)". Since the right to property is a "civil" right, it can involve the ECHR's intervention to affect the right to a fair trial for violating the right to a healthy environment, in order to obtain a "fair satisfaction" according to art. 50 of the Convention. In the case of Gorraiz Lizarraga and Others v. Spain (judgment of 27 April 2004), it was accepted that an environmental association acting on behalf of its members could be the victim of patrimonial damage and the applicants' complaint concerning the lifting of a dam considered to be grounded, bringing a precise and direct threat to personal property and their way of life, justifies the application of art. 6 of the Convention. Last but not least, it should be mentioned that the environmental liability, according to the Romanian legislation, is generally objective, independent of fault and exceptionally subjective. The problem is that all the cases concern the quantifiable damage to the patrimony of private individuals, which makes the environmental damage situation, as set out in OUG 68/2007, as it is limited defined in the text, to be more difficult to apply in front of the Court. There is an explicit specification in the text of the Emergency Ordinance stating that natural or legal persons under private law are not entitled to compensation as a consequence of the environmental damage or imminent threat of such damage, in these situations being applied the provisions of the common law.

The most famous case at the ECHR against the Romanian state was the case of Vasile Gheorghe Tătar and Paul Tătar v. Romania[2]. By application No.67021/02 against Romania, the two nationals filed a complaint with the Court on 17 June 2000, pursuant to Art. 34 of the Convention, claiming that at the time of the facts, they (father and son) lived in Baia Mare, in a residential area near the gold mining belonging to "Aurul" Baia Mare SA, 100 m from the extraction plant and the Sasar tailings pond, and the technological process used by the company is a danger to their lives. In their support, they believed that the authorities had a passive attitude towards this danger, ignoring the requests they had made. Moreover, the situation worsened after the ecological accident of January 30, 2000,

when, following the very abundant rainfall, the dam of the tailing pond yielded, overflowing 100,000 cubic meters of contaminated waters with sodium cyanide (about 100 tons of cyanide) that have spread over the fields and the local hydrographic system. Subsequently, a large quantity of polluted water was taken over by the Săsar River, Lăpuş then Someş and Tisa, crossed the border between Romania and Hungary, then in Yugoslavia, entering Romania again, to be later discharged into the Danube and then In the Black Sea through the Danube Delta.

As a result of this accident, Vasile Gheorghe Tătar notified several administrative authorities, each of the notified authorities responded that the activities of the company did not pose any danger to public health and that the technology is also widely used in other states. Also in 2000, the applicant filed criminal complaints against the members of the management of the plant, but the Prosecutor's Office attached to the Maramures Tribunal did not rule on the accident of 30 January 2000, on the ground that "the facts alleged by the first applicant did not constitute offenses under Romanian Criminal Code "and the Prosecutor's Office attached to the Cluj Court of Appeal detained "force majeure caused by the bad weather conditions "and issued a resolution not to initiate the criminal prosecution against the director of the company. Also, regarding the environmental permit, it was noted that on 18 December 2001 the National Agency for Mineral Resources issued an addendum to the initial license, modifying the name of the concession holder, which became SC "Transgold" SA, and the Ministry of Environment issued 3 environmental permits in favor of this last company.

The Court, by its judgment of 27 January 2009, held the following: "Regarding sodium cyanide and human health damage, the substance may be hazardous to health / environment. The Court has therefore found no reason to "question the reality of the second-applicant's suffering" - certified medically by certificates - and found that it is not disputed that sodium cyanide is a toxic substance, which may under certain circumstances endanger human health, nor the fact that there has been a high level of pollution in the vicinity of the applicants' homes as a result of the ecological accident in January 2000. Thus, the Court violated article 8 of the Convention, even if the applicants have failed to establish a sufficiently clear causal link between exposure to certain doses of sodium cyanide and the aggravation of asthma as long as there has been a serious and considerable risk to health and comfort of the applicants, which imposed on the State a positive obligation to take reasonable and appropriate measures to protect the rights of the persons concerned, respect for their private life and their sphere, and, in more general terms, the right to enjoy a healthy and protected environment". As regards environmental protection legislation in Romania, the Court found that the right to a healthy environment is present as a fundamental right in our Constitution, taken from the Law No. 137/1995 on Environmental Protection (environmental law in force at the time of the facts) and besides, it was also recognized in our legislation the precautionary principle that urges States to adopt as soon as possible effective and proportionate measures to prevent the risk of serious and irreversible damage to the environment in the absence of scientific or technical certainty (Ilie, 2017a: 36).

The Court concluded that the Romanian authorities had failed to fulfill their obligation to assess in advance and in a satisfactory manner the appropriate measures to protect the applicants' right to respect for their private life and their domicile and, by way of interpretation, the right to benefit and enjoy a healthy and protected environment.

Regarding the right to be informed about environmental issues, the Court found that public debates were held in November and December 1999, but without the

environmental impact studies being submitted to the participants and without answering them to the questions asked, even if the authorities had a positive obligation to inform stakeholders in the public debate about the environmental impact of industrial activity, especially since the national authorities did not make public the conclusions of the preliminary study of 1993, which was the basis for the company's environmental permit. In other words, this right to information must be based on a positive action of the state, which must explain the possible consequences and dangers of the activity in question. The simple presentation of data in the public debate, without being explained, especially since these data were incomplete, was considered by the Court to be unsatisfactory, so that there was no real public information in its view.

As a result, the Court found that Romania had failed to fulfil its obligation to guarantee the applicants' right to respect for their private and family life, within the meaning of Article 8 of the Convention, and, in summary, decided: Unanimously, that the provisions of Article 8 of the Convention have been violated; 2) Unanimously, a) that the respondent State must pay jointly to the claimants, within 3 months of the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, the sum of EUR 6,266 plus any sum which may be due by way of tax to them, for expenditure to be converted into the national currency of the respondent State at the exchange rate applicable on the date of payment; (B) that, from the expiry of that period and until payment is made, these amounts must be increased by simple interest at a rate equal to the marginal lending rate applied by the European Central Bank during that period and increased by 3 Percentage points. 3. Dismisses, by 5 votes to 2, the application for equitable reparation for the other heads of claim (Pulbere, 2011: 135).

The right to a healthy environment in Romanian law

In our legislation, before 1989 there was no such provision and it was recognized for the first time in Law no. 137/1995 on environmental protection. Several years later, it became a constitutional principle after Law revision of the Constitution of Romania (Official Gazette no. 669 / 22.09.2003). In the article 35 where is recognised this right, entitled *The right to a healthy environment,* there are provisions regarding the obligation that persons have to protect the natural environment and the obligations the state and state institutions have to provide laws and procedures in this matter and enforce them. The actual environmental law, Government Emergency Ordinance no. 195/2005, also protect this right, at article 5. The provisions of this article, beyond recognizing it, also gives certain guarantees for enforcing it, like: the access to environmental information, the right of persons to assembly in environmental organizations and to be consulted regarding environmental policies and developing plans, programs and infrastructure, the right to appeal competent judicial authorities and courts if their right to a healthy environment is violated and the right to be compensated for the damage caused by those who, through their actions, polluted the environment. As we can see, ”the provisions regarding the right to a healthy environment in the Romanian Constitution are on par with every European constitution and in most cases, even better except for Environmental Charter from French Constitution, that “are more complete and more clearly prove.” than those from Romanian one.” (Diaconu, 2006: 98, Thieffry, 1998: 28).

Conclusions

It’s clear that this wave of new “solidarity rights” has changed or mentality regarding the way we have to interpret and use our subjective rights. This kind of new

rights have an apparent abstract content making them harder to apply unless we change our mentality and understand that there are greater things to respect and protect than just concrete short term rights. Most states had understood this and started to enforce this law by providing general constitutional guarantees, as well as specific procedural guarantees (Deleanu, 2003: 101). Secondly, the population was given rights to participate in process decisions regarding environment. This kind of "consultation and participation in decision making is not specific just to environmental law, but in other law branches as well, for example in urbanism law" (Bischin, 2016: 125, Ilie, 2017b: 70-72). Last but not the least, environmental laws provide clear procedures (Ilie, 2010: 117-118) regarding certain economic activities (e.g. mining operations) that pose a potential impact to the environment that has to be respected in order to ensure a clean and healthy environment as a desiderate for a sustainable development.

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[2] For a more detailed analysis of the case see also Duşcă, A. I. (2014). *Dreptul mediului, (Environmental law, 2nd Edition, revised and supplemented),* Bucharest: Universul Juridic, 55-59.

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A Comparative Analysis of the Educational and Health Indicators in Rural Marginalized Areas from Dolj County

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Abstract
This study presents the results of sociological research carried out in two communes from Dolj County, in order to present, in a comparative manner, the statistical indicators referring to education and health. Human capital is made up of two elements: educational capital and biological capital. To analyze these two elements we started, first, by analyzing the population as a whole in order to correlate better information on education and health, because the number of inhabitants is the expression of the synthetic human potential, available in every community (a rural or an urban one). Respecting the existing pattern in rural communities in Romania, the two communities where we conducted the sociological research are exposed to a demographic decline, which influences, in a significant measure, the employment and, hence, the socio-economic development of the two communities and the possibilities for their development. Thus, our research has analyzed the needs of the two communities that are exposed to demographic decline, which, in the long term, can contribute to the increase of poverty, of social exclusion of certain population groups, such as, for example, women or elderly.

Keywords: *rural marginalized areas; human capital; education; health*

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Introduction

Currently, "in our country, "almost a third of the population (30%) suffers from severe material shortages and cannot afford the goods and services that they deem necessary to have an adequate lifestyle. Approximately 7% of Romanians live in households with very low work intensity. Overall, over 42% of the Romania population is at risk of poverty or social exclusion" (Teșliuc, Grigoraș Stănculescu, 2015: 6).

However, in Romania, the rural environment has been and still is the most affected by the phenomenon of disparities through all its components: schooling, demographic potential, agrarian economy, poverty, health. Nearly half of the population lives in rural areas, and much of it is disadvantaged both in terms of income and lack of infrastructure and basic services. Poverty has a deeply localized character, with the needs of affected communities and populations varying. Therefore, for a Romanian, living in rural areas means being exposed to a risk of extreme poverty three times higher than in urban areas.

Theoretical aproaches on social exclusion and marginalization

Social exclusion is a process whose roots are found in the sphere of economics, sociology or political science. The process of social exclusion produces effects at the level of individuals, communities, progressively removing those "excluded" from other social groups or from other communities (in the case of marginalized communities).

In most countries, "the accelerated pace of economic and technological development produced significant changes in the quality of life of individuals, social structures and family, but also in the demographic processes, such as the fact that increasingly more people live longer and reach old ages". (Gheorghiță, 2016: 72)

Being aanalyzed in some specialized papers also in relation to other concepts: the concept of "downgrading" (Bourdieu, 1984), "social disqualification" (Paugam, 2005), "unaffiliation" (Castel, 1994), social exclusion refers to a process and a state of things that prevent individuals and social groups from fully participating in social, economic and political life. At the same time, social exclusion refers to preventing certain categories of people from engaging in those processes that generate well-being.

In other papers, social exclusion is analyzed separately from poverty: thus, it is promoted the idea that social exclusion does not necessarily imply the idea of poverty: it is about breaking relations with the rest of society, even family relations. On the other hand, poverty can turn into social exclusion: the low level of income puts the individual in a position of inferiority to other individuals, depending on the indicators referring to the type of housing, until the holidays spent abroad. From here onwards, there will be a state of cultural impoverishment, which first manifests in education (Room, 1998).

There are three characteristics of social exclusion: the relativity, the trigger agent, and the dynamics: "*the relativity* – social exclusion is defined by the existent social rules and criteria, at a certain point in time, especially in the area of consumer goods; *the trigger agent* – individuals and can exclude themselves or be excluded from others; *the dynamics* - social exclusion is a process that involves an interaction of circumstances, facts and events from different areas of existence that extend over a certain length of time" (Atkinson, 1998).

Both in the specialized papers and in the reports and studies developed by international organizations (UN, 2010), there are several indicators measuring social exclusion, of which we have selected the ones below: economic indicators: income level, welfare uptake level, number of individual bankruptcies; indicators on education and

training: education level, school attendance rate, literacy rate, graduation rate, school dropout rate; employment indicators: employment rate, unemployment rate, employment in social enterprises, discrimination; indicators on housing: housing quality, housing costs, proximity to public services; health indicators: proximity to health service providers, health service costs, number of medical staff/capita, the number of treatments etc. (Damon, 2010; UN, 2010; Levitas, Pantazis et al., 2007).

Sociologists are aware of the fact that the exclusion is accompanied with professional difficulties (long term unemployment), but also with a loss of social relations. They are excluded those who have difficulty integrating into the professional sphere and who, at the same time, do not have or have a relational network enabling them to be inserted into the social network. "Social exclusion and inclusion are multidimensional concepts. The economic dimension - income and employment - is undoubtedly decisive. Also, urban, social, cultural and political dimensions must also be taken into account. For example, someone can be economically acceptable, but can be excluded from the urban point of view, if he lives in an area considered to be very poor. However, there is more to it: social inclusion is not only linked to the financial aspects as a basic condition (for example, living conditions and income) but also, more than that, by the subjective aspect: self-esteem and the feeling of belonging to a community" (Duminică, Cace, Arpinte, Ionescu, Iova and Sali, 2004: 22). With regard to sociological approaches to social exclusion, we can say that there are three categories of theory that analyze this issue:

1) **the theories of classical sociology** – which regroup Emile Durkheim, Georg Simmel and Max Weber.

Emile Durkheim analyzes the concept of social exclusion, by reference to two other concepts: social integration and social solidarity (Durkheim, 2008). In his view, social exclusion must be seen in correlation with poverty.

In fact, the approach of exclusion/poverty is also found in other sociology papers. We take into account the perspective expressed by Georg Simmel at the beginning of the 20th century in a work re-published in 2005, in which the author gives the following definition to the poor: "the poor is the person whom society considers to be poor" (Simmel, 2005).

It is a relational perspective on poverty (which we also find in the theory of labeling, at William Thomas and Howard Becker), a perspective that highlights the fact that the poor are not defined in terms of deficiencies and deprivations but especially according to "the collective attitude that society adopts as far as they are concerned" (Simmel, 2005).

2) **the theories of deviance** (School of Chicago) **and labeling** (Becker, 1985 [1963]); they promote the idea that the "excluded" are recomposing for themselves a new social order, that is an alternative one and invisible from the outside.

Thus, in W. Thomas and F. Zananiecki's work we find the idea that is "the environment, especially the urban one, which is the first factor of the delinquency and social exclusion" (Thomas, Zanieniecki, 2015).

Basically, in the view of the Chicago School sociologists "social exclusion is a lack of belonging, failure to accept and recognition. People who are socially excluded are more economically and socially vulnerable, and therefore tend to have lessened experiences in life" (Freiler, 2002).

3) **Theories of contemporary sociology** - such as, for example, Mary Douglas's view that the process of exclusion acts as "a reinforcement in the nascent constitution of

a latent group and (it is) the result of the institution of a new social order" (Douglas, 2003). Thus, "exclusion, poverty, disintegration, disaffiliation, marginality ... all share a lack, a lack of integration. We speak of exclusion (or precariousness) if there is a partial or total lack of access to employment or if there is a weakening of social or relational links" (Hélardot, 2000: 12-14.)

Another theoretical approach is that one that starts from a definition that tells us that "social exclusion represents a multidimensional process in both the professional and the relational spheres, and it can also affect other aspects of living conditions such as housing or access to care" (Doumont, Aujoulat, Deccache, 2000:4). In fact, this approach distinguishes two types of exclusion that exist jointly in our "modern" world: exclusion ***from*** the social system and exclusion ***in*** **(*within*)** the social system (Doumont et al., 2000:5), which correspond also to the two types of exclusion presented by Durkheim: excluded ***by*** society and excluded ***from*** society (Durkheim, 2008). The first concerns those who are rejected from the system because they no longer fit into the criteria for being part of society; the second refers to those who have never been integrated and those for whom exclusion from the world of work is perpetuated. They form a separate subgroup whose size increases with time.

In other papers we encounter social exclusion defined by reference to a particular social system: "a limitation of social roles (professional, social, family), which can lead to health problems and specific morbidity" (Siegrist, 2000: 1283-1293). In some specialty studies from France (Castel, 1994, Paugam, 2005), social exclusion is analyzed in relation to the phenomenon of poverty, which is three types: integrated poverty (*pauvreté integrée)*, marginal poverty (pauvreté marginale), and disqualifying poverty (*pauvreté discalificante*). The first of these types is ***integrated poverty***: the number of what we call "poor" is very high, and these differ very little from other strata of the population. Their situation is so well-known that the discourse around the issue is not about solutions for a particular social group (the poor) but about solutions for social, economic and cultural development, in the general sense. In collective representations, the poverty of the population is linked to the poverty of a particular region. Because the number of the poor is very high, they do not face social exclusion because they are very well integrated (and inserted) into social networks that are created around the family, neighborhood, or village. This perspective on poverty (which does not necessarily imply social exclusion) is also encountered in other papers defining the excludes as being "collections (and not the collectives) of individuals who have nothing in common except to share the same lack" (Castel, 1995). Another author examining the exclusion from the Durkheimian perspective in the twentieth century is Claude Dubar, according to which "one can not understand anything to the exclusion if it is not analyzed how it is produced by institutions like economic enterprises, school, city" (Dubar, 2002: 48). In fact, Castel and Dubar are part of that category of sociologists who see the social exclusion as being "a pathology that would suffice to treat. The sociologist would take charge of the diagnosis and suggest therapeutics to regain the previous situation: order and social harmony, which is integration" (Dubar, 2002: 51).

The marginal poverty is that type of poverty that refers to a lower number of people living in economically and socially developed societies where the unemployment rate is very low; so the poor appear to be a "social case" and they are often stigmatized. According to this type of poverty, in the collective consciousness "excluded" are those people who could not adapt to the modern civilization, who could not keep up with the

rythm of development and comply with the norms imposed by the industrial society (Paugam, 1998:48).

Moreover, starting from the idea that marginalization is a removal/exclusion, one of the concepts that are analyzed in correlation with social exclusion is marginalization, which is regarded as "a peripheral position, isolation of individuals or groups with drastically limited access to the economic, political, educational and communicative resources of the community" (Rădulescu, 2003: 338)

Disqualifying poverty is a type of poverty that makes more reference to social exclusion. In this third type, the number of the poor is growing, and they are in a state of ependence on the social action institutions. Faced with situations of social precariousness, those in this category experience at least one of the following: low income levels, poor housing and health conditions, fragility of family ties, poor participation in any form of institutionalized social life. These situations generate the feeling of social futility and social devaluation (Paugam, 1998:53). According to Paugman, individuals are the subject of a true labeling by the work entreprise, sometimes accompanied by stigmatization, the unemployed or excluded being presented as lazy people living "in the hooks of the working society". In this way, with the rising of the unemployment, especially youth unemployment, with the increasing precariousness of jobs, the development of visible poverty and violent demonstrations, the theme of the "new poverty" and exclusion has become central to scientific research (Paugam, 1996).

In the Romanian sociological literature there are mentioned two main types of poverty: relative poverty and absolute poverty. The relative poverty is defined as "the absence of the minimum level of resources that ensures a decent functioning of the person/family in a given social-cultural context" (Zamfir, 1995: 14). The absolute poverty represents "the lack of minimum living conditions necessary for survival in the society". This means marginalization and social exclusion and comes at this stage from the main cause of our times, "that of the impossibility of individuals or groups of people to be autonomous and useful to their entourage" (Zamfir, 1995: 15).

Methodology

For the secondary data analysis, we have taken into account the statistical data that we have collected in order to create and justify the profile of the two marginalized communities from Dolj County, starting from the two dimensions of the human capital: the educational capital and the biological capital. We have choosen the thow communities taking into consideration the following sociological arguments: they are characterized by a significant share of the population at risk of poverty, limited access to all social and medical services, an underdeveloped infrastructure; they are at the bottom of index of Romanian villages in terms of economic potential - infrastructure, social, medical educational services, access to employment and level of development of human capital etc. (Giurgița - rank 2272/2861, Goicea – rank 2851/2861); theY have a high poverty rate and inclusion in the category of marginalized areas; they have a high school dropout rate with poverty as the main cause; outdated school infrastructure; limited access to medical and social services; they have a high level of unemployment - one of the highest in the Dolj County. We present bellow a briefly a socio-economic profile of the two analyzed communities, which complements the justification of their attribute of "marginalized rural communities":

Table 1: A briefly socio-economic profile of the two communities

GOICEA	GIURGIȚA
• Population: **2670** inhabitants	• Population: **2883** inhabitants
• Percentage of people with disabilities, chronic illnesses or other conditions that limit their daily activities**: 41,10%**	• Percentage of people with disabilities, chronic illnesses or other conditions that limit their daily activities: **35,41%**
• Percentage of 15 -64 years persons who have completed a maximum of 8 classes (gymnasium)**: 66,47%**	• Percentage of 15 -64 years persons who have completed a maximum of 8 classes (gymnasium): **58,07%**
• School dropout rate**: 3,1%**	• School dropout**: 4,2%**
• Unemployment rate**: 7,5%**	• Unemployment rate: **9,47%**

In our analysis, statistical data from Romanian Census of Population and Housing (National Institute of Statistics), 2011; Regional Department of Statistics– Dolj; Regional Agency for Employment Services –Dolj; Conty School Inspectorate – Dolj; Public Health Department- Dolj; County Council – Dolj; Halls of Goicea and Giurgita, Dolj County.

Discussion and Results

Human capital is made up of two elements: educational capital and biological capital (Becker, 1997). To analyze these two elements we started, first, by analyzing the population as a whole in order to better correlate information on education and health, because the number of inhabitants is the expression of the synthetic human potential, available in every community (a rural or an urban one). On the **education dimension** we have analyzed the followintg indicators: the population structure (by sex and age); population dynamics, during 2002-2011; the percentage of persons (10 years and over 10) who graduated maximum lower secondary school- gymnasiun; number of pupils and teaching staff. Respecting the existing pattern in rural communities in Romania, the two communities where we conducted the sociological research are exposed to a demographic decline, which influences, in a significant measure, the employment and, hence, the socio-economic development of the two communities and the possibilities for their development.

Table 2: Structure of the population (by sex)

GOICEA	Total populatie	2760	GIURGIȚA		2883
	Masculin	1328		Masculin	1418
	Feminin	1432		Feminin	1465

Source: Romanian Census of Population and Housing (National Institute of Statistics), 2011

As we may observe from other sociology reports and papers, marginalized communities where the population is at risk of poverty are often those communities that are confronted with the problem of demographic decline. Therefore, to illustrate this point, for the two communes, we have analyzed the population dynamics, from 2011, compared to 2002 (when the penultimate Census of Population and Housing was carried out in Romania). If we compare the data presented in the tables below, we will observe that, as compared to 2002, for example, the population of Goicea registered a decrease of 11.93%, which, in the long run, can have important consequences for the evolution of the population, also with an impact on education and the labor market

Table 3: Population dynamics, during 2002-2011

	Volume of population 2002 Census	Volume of population 2011 Census	Difference 2011, by 2002 (%)
GOICEA	3134	2760	**11,93**
GIURGIȚA	3219	**2883**	**10,44**

Source: National Institute of Statistics, *Tempo-online database*, 2017

Thus, our research has analyzed the needs of two communities that are exposed to demographic decline, which, in the long term, can contribute to the increase of poverty, of social exclusion of certain population groups, such as, for example, women or elderly. In terms of percentage of population who graduated maximum gymnasyum, both of the communities are marginalized, if we consider that for this indicator, the minimum limit for validation as a marginalized area is **22%**

Table 4: The percentage of persons (10 years and over 10) who graduated maximum gymnasium (2015)

	Minimum limit	Percentage	Validates the area as marginalized
GOICEA	**22%**	**66,47%**	Yes
GIURGIȚA		**58,07%**	Yes

Source: National Institute of Statistics, *Tempo-online database*

In both of the communities, in primary and secondary education in rural areas we recorded a low ratio pupils/teacher: 10,6-11,6 pupils for 1 teacher, which is below the standard ratio, nationally reported for rural areas - 12.7 (according to the Eurostat). This demonstrates that personnel policies and measures to rationalize the network in rural schools still do not have the expected effectiveness.

Table 5: Teaching staff by level of education (primary and secondary)- 2015

Cathegories	Number	Ratio pupils / teacher	
Total number of pupils	174	**11,6**	**GOICEA**
Teaching staff by level of education (primary and secondary)	15		
- **Among which in primary**	7		
Total number of pupils	244	**10,61**	**GIURGIȚA**
Teaching staff by level of education (primary and secondary)	23		
- **Among which in primary**	5		

Source: National Institute of Statistics, *Tempo-online database*

Regarding the education dimension, from the indicators that we have analyzed in the two communes, we found that this is a low school attendance, early school leaving and high school dropout rate. This may contribute to their perpectuation in the

”marginal” poverty, if we take into consideration the fact that “education and implicitly continuous professional training have a major contribution to maintaining a socio-economic equilibrium in a dynamic contemporary society” (Niță, 2016:83)

At the same time, as everywhere in the countryside, most of the time is allocated to household and agricultural work in the plots of land near the house or in the outlying area, being an activity that plays a very important role in securing the goods and /or resources necesseray for the daily living. Therefore, in those families where children aged between 6 and 16 are attending school, the activity of homework supervision is often neglected. On the **health dimension**, we have analyzed the following indicators: percentage of people with disabilities, chronic illnesses or other conditions that limit their daily activities; categories of health units; categories of medical staff; the number of physicians for 1,000 inhabitants. These are also indicatiors that we find also in European official doccuments, because “health represents perhaps the most sensitive issue of social policy. Currently, European countries cooperate to support national health systems by developing health services available at reasonable prices and expanding the coverage of health insurance” (Goga, 2014: 202). Regarding the population health indicators, as indicators specific to the size of human capital, the first of these that we will present is related to the share of people with disabilities/chronic diseases or other diseases that limit the daytime activity, being an indicator to be completed (starting from a minimum threshold) for the inclusion of the community in the sphere of marginalized areas. In the context of socio-economic development, this indicator is not viewed only in terms of living standards, but also in terms of the implications that it has on the quality of the workforce, because a healthy population means a healthy workforce that can contribute actively to development of these two communities

Table 6: Percentage of people with disabilities/chronic diseases or other diseases that limit the daytime activity

	Minimum limit	Absolute data	Percentage	Validates the area as marginalized
GOICEA	8%	1300	**41,10%**	Yes
GIURGIȚA		1021	**35,41%**	Yes

Source: City Halls of Goicea and Giugița, Dolj, august 2016

Regarding the infrastructure of sanitary units from two communes, we can say that this is deficient, if we take into account the data provided by the National Institute of Statistics for the year 2015 when we have the following situation:

Table 7: Infrastructure of medical units (2015)

Categories of medical staff	GOICEA	GIURGITA
Physicians	2	3
of total physicians: family physicians	2	3
Medical staff (medium level of qualification)	2	3

Source: National Institute of Statistics, *Tempo-online database*

By reporting the units and health personnel from the two communes to the demographic body, we obtain the following situation: 1380 inhabitants for a medical unit

in Goicea, 961 inhabitants for a medical unit in Giurgita. These are relevant indicators expressing the accessibility of the population from the two communities to qualified healthcare, because the access of people to health services has direct implications firstly on the general health of the population from the two communities.

Table 8: Number of inhabitants for a medical unit (2015)

	Residents/medical unit
Goicea	1380
Giurgița	961

Source: National Institute of Statistics, *Tempo-online database*

One of the most important indicators is that of *the number of medical staff per 1000 inhabitants*, their distribution in the territory and their number, an indicator that is relevant for the quantitative assessment of the medical infrastructure and expresses the accessibility of the population from the two communes to qualified medical assistance. The results are presented in the table bellow, from which we may conclude that the indicators are below the national average – 2,5 or the EU average – 3,4 (according to Eurostat)

Table 9: The number of medical staff per 1000 inhabitants (2015)

	Number	**EU average**
Goicea	0,72	**3,4**
Giurgița	0,96	

Source: National Institute of Statistics, *Tempo-online database*

The health infrastructure of the two communities is deficient both in terms of quality and quantity. There is no well-equipped polyclinic, there is no permanent medical assistance, but only once or twice a week. Thus, the health status of the population in the two communities is an indicator of their development; There are also here "diseases of poverty" (which, unfortunately, are healed through traditional medicine), whose expansion demonstrates the precariousness of a social organization or the interest in the development of these two communities. The two rural communities that we have analyzed are characterized by a state of "vertical poverty" (Bădescu, Cucu Oancea, Şişeştean, 2009), which is a "community poverty" (of the entire community), and in the global context it is a structural poverty, that "it stems from the structural disparities of the population, not from specific, non-ethnic, demographic or other factors" (Mărginean, 2010: 163).

Conclusions

In rural margilanized areas, poverty is a factor that affects the quality of education, obstructing acquiring of the necessary skills for child (pupil) learning. These skills can be severely affected if the child (pupil) is malnourished or if the household standard of living is very low. We can talk about a vicious circle: increasing poverty has a strong impact on the quality of education; poor quality of education leaves its mark on the perception on the usefulness of education, which in turn has a direct impact on the decision of parents to maintain their children in school and on the decision of young people to attend a superior educational level. These decisions have an impact on long-term

economic growth, which entails maintaining a state of poverty of the population of a community.

If we analyze the relation between poverty and health, we may observe the same vicious circle: poverty causes malnutrition, limited access to healthcare, increases vulnerability to risk factors. Poor health reduces work capacity, individual productivity and family income, it affects quality of life, causing or perpetuating, finally, poverty. The consequences of the lack of food and money are translated also by poor health and lack of habit of attending medical offices or clinics from the village. Material deprivation are reflected in the mental state of individuals: most of them postpone the doctor visits and are treating themselves or go to the family physician and emergency room when their health conditions worsen.

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ORIGINAL PAPER

The Powers and Limits of Powers of Autonomous Administrative Authorities

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Abstract
The foundation of autonomous administrative authorities is the legislator's will that in some sensitive areas of activity of the state to have public authorities to which it can confer autonomy of operation and powers enabling them to limit political interference or interference of any structure that can jeopardize the interests of State and citizen rights and freedoms.
Thinking these autonomous mechanisms within the limit of classic administrative authorities, legislature has granted a number of levers for action, but also by its will and concern, it set the limits of the actions of the powers conferred to autonomous administrative authorities, knowing that any limitless power of action given creates monsters generators of abuse of power.

Key words: *powers, a autonomous administrative authorities, exercise of powers, limits of powers, field of activity*

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Introduction

Autonomous administrative authorities are illustrated as a mechanism for defending fundamental rights and freedoms at the state level, in various "sensitive" areas, where impartiality and transparency are obviously required. The appearance of autonomous administrative authorities is a proof that best things are not necessarily the oldest, since they did not appear before bad things, but due to the necessity of meeting actual everyday requirements. The image of administrative authorities is very accurately reflected by the French State Council: "autonomous administrative authorities act on the state's behalf, holding genuine power, without being subject to the government's authority" (Conseil d'État, 2001), with these authorities being seen as a modern government method, promoting transparency, consultation and negotiation (Sénat, 2006).

The original creation of such authorities is seen as they are placed on the border of classical administrative authorities, due to their attributions: they are not hierarchically subordinated to the ministries or the Government and there is no administrative hierarchical control. In these conditions, the paradox of autonomous administrative authorities is clear: they act on behalf of the state, they are not a part of the state's administrative mechanism, but they are not subordinated to any administrative authority from a hierarchical point of view. The various fields under the scope of autonomous administrative authorities - human rights protection, endorsement of draft laws, the economic and financial field, the organisation and coordination of activities related to state and national security defence, justice, audiovisual, competition and the enhancement of the competitive environment, fighting institutionalised corruption, the media, the private pensions system, fighting discrimination, the national defence system - have resulted in the lawmaker granting them certain powers, depending on the nature of each of them, so that they may properly fulfil their purpose.

Autonomous administrative authorities have the mission to manage potential conflicts; within this mission, they have competences and means of action, including some which are similar to legal courts. On the one hand, most autonomous administrative authorities have investigative power: they may provide documents, perform revisions, accelerate document revisions and on-site inspections (Lexinter.net, 2017).

Autonomous administrative authorities may recommend conducts and ways of action, as well as notify public bodies whenever they find infringements from legal provisions, as well as apply sanctions aimed at correcting antisocial behaviours. Even though autonomous administrative authority are legal entities and are in charge with their own management, they do not represent a system where everyone acts at his/her discretion and anything is allowed and justified; this is seen in the fact that they exercise their powers to the extent of the law.

The framework for the exercise of powers by autonomous administrative authorities

The mechanisms by which a lawmaker allows autonomous administrative authorities to fulfil their role are given by the powers they have been invested with: "the power of regulation, the power of investigation, of endorsement, of notifying state bodies, of consultation, recommendation, issuing points of view, sanctioning power" (Gîrlesteanu, 2011: 53). Each autonomous administrative authority exercises powers within its scope of activity.

Professor Gérard Timsit (1988: 316) argues that autonomous administrative authorities "have the same contribution to drawing up law as classical administrative

authorities, through means that are not conventional (constrictive and imperative), but, most often, are not less effective: information, investigation, proposal and recommendation". The powers granted to autonomous administrative authorities show a different register, and obligations are not seen in their classical meaning, as powers are granted with a view to "convincing, not constraining" (Guedon, 1991), inducing the idea that autonomous administrative authorities are an original and modern method of managing public affairs and the actions of natural persons.

1. The regulatory power, i.e. to adopt general and impersonal guidelines that create rights and obligations for natural persons, is quite seldom provided to autonomous administrative authorities (Gentot, 1994: 73-74). This power actually refers to the possibility that some categories of autonomous authorities may issue guidelines in their activity sector, so as to ensure law enforcement. This power of autonomous authorities must never be seen as an infringement of the principle of separation of powers; such authorities only ensure law enforcement, they do not act as a lawmaker, since they are not in charge with creating law, but with facilitating the proper development of society, not only at a declarative level, but through an effective involvement in their own environment.

The constitutional council of France has reiterated, in its own case law, that the regulatory power, which may be assigned to an autonomous administrative authority, is limited to its own field of activity so that it may fulfil its mission and in no way may compete with the regulatory power granted to the Prime minister (Conseil constitutionnel, 2006). As for the Romanian autonomous administrative authorities that are granted this power, they are: the Supreme National Defence Board, the National Board of Audiovisual, the Competition Board, the Permanent Electoral Authority, the Supervisory Board for the Private Pensions System, the National Anti-Discrimination Board. This power was granted by the lawmaker through the master guidelines regulating their scope and field of activity.

In these conditions: the Supreme National Defence Board, with a view to exercising its attributions, issues decisions in the field of national security, which are compulsory for public administration authorities and the public institutions they relate to (Law no. 415/2002); the National Board of Audiovisual is the single regulating authority in the field of audiovisual media services, according to its governing law (Law no. 504/2002); in order to ensure and maintain a normal competitive environment, the regulatory power of the Competition Board was recognized in art. 3 of the governing law (Law no. 21/1996); the Permanent Electoral Authority may issue decisions and guidelines for the organisation of the electoral process (Law no. 208/2015); the Supervisory Board for the Private Pensions System may, according to the Government Emergency Ordinance no. 50/2005, art. 23 f), issue guidelines regarding the private pensions system; the National Anti-Discrimination Board is in charge with enforcing and controlling the observance of the provisions of Government Emergency Ordinance no. 137/2000 as well as the elaboration and enforcement on public non-discrimination policies.

The autonomous administrative authorities and their regulatory powers as imposed by the lawmaker are not presented randomly, but with the precise purpose of clarifying the conditions of exercise of the regulatory powers of these autonomous institutions.

When they are awarded this power, the autonomous administrative authorities do not become a state within a state under any circumstance, as one cannot speak of any division of legislative power; their power is given by the lawmaker and, hence,

subordinated to the latter's will and specialised, as it is only applicable to the authority's scope of competence. On the other hand, we consider that the regulatory power of autonomous administrative authorities should not be interpreted as a delegation of power from the lawmaker to this type of authorities either, since the lawmaker does not place the responsibility of legislating certain fields upon autonomous administrative authorities endowed with this type of power; it is only the lawmaker's will to make possible the proper organisation of activities in certain more sensitive fields, for authorities aware of any incongruities likely to arise in the proper evolution of society.

2. Investigative power implies the capacity of autonomous administrative authorities of studying, knowing and checking the dynamics of the realities of their environment. By exerting control on a precise field of activity, autonomous administrative authorities must be properly and timely informed on the actions taking place within the sector; however, they may also investigate, check, analyse the activity and actions of natural persons or legal entities, including the public authorities subject to their activity, if they deem it required (Gentot, 1994: 66) for the proper functioning of the field. The legislative framework entitles autonomous administrative authorities to be permanently informed on their field of activity, as public authorities have the obligation to communicate or provide autonomous administrative authorities with all the information at their disposal, sometimes even when such information is classified as confidential. We refer to the case of the People's Advocate, who, according to the provisions of the governing law (Law no. 35/1997), provided under art. 4, is entitled to be provided with "the information, documents or acts regarding the petitions to the People's Advocate, as well as those regarding notifications ex officio and announced or spontaneous visits s/he may perform with a view to fulfilling the specific attributions of the national mechanism for preventing torture in detention places, so that s/he may exert his/her attributions". On the other hand, the People's Advocate may dispose his/her own investigations, may require public institutions to provide any kind of information or documents ensuring the proper development of an investigation, as well as take statements from any public official or manager of a public administrative authority with a view to solving the investigation according to art. 22 (1) of the governing law.

On the contrary, the Legislative Board is entitled to require and receive from the competent administrative authorities, according to art. 6 (2) of Law no. 73/1993, all the information and documents required with a view to fulfilling its designed attributions. A similar content is seen in the investigative power granted to the National Board of Audiovisual, referred to under art. 17 (4) of Law no. 504/2002, as subsequently amended and supplemented.

The Superior Council of Magistracy "may request, in the exercise of its attributions, to the Ministry of Justice, legal courts and prosecution offices, to the National Magistracy Institute, to other public authorities and institutions, as well as natural persons or legal entities, the information or acts it deems required" (art. 31 (1) of Law no. 317/2004). Another autonomous administrative authority that has been awarded an investigative power by the lawmaker in order to ensure a fair and transparent competitive environment is the Competition Board (art. 25 (1) of Law no. 21/1996).

The National Authority for Integrity, based on Law no. 176/2010 as subsequently amended and supplemented, is entitled "to assess the wealth statements, the data, information and asset changes that may have occurred, the interests and incompatibilities for persons provided by legal regulations" [art. 1 (3)]. By means of art. 15 (2), the lawmaker has established the obligation of natural persons and legal entities, of the

managers of authorities, institutions or public or private entities and autonomous public bodies to communicate the documents and information required for the development and solving of wealth assessment activities.

As for the National Supervisory Authority for Personal Data Processing, the supervisory power entitles it to obtain from the public authorities those information, acts or documents related to its scope of activity (art. 3 (7) of Law 102/2005 as subsequently amended and supplemented), and, on the other hand, to perform prior investigations and checks, to request from public administration authorities any information or documents required for the investigation, to hear and collect statements from the managers of public administration authorities and from any public official or contractual staff" [art. 13 (1)] with a view to solving actions of its competence.

The investigative power of the Supervisory Commission for the Private Pensions System refers to its right of obtaining information regarding the management of private pension funds from controlled entities, to access any documents, registers or files regarding private pension funds, and even obtain photocopies thereof, as well as access and perform checks at the headquarters of the bodies involved in the management of private pension funds (art. 25 of Law 50/2005, as subsequently amended and supplemented). The National Council for the Study of Intelligence Archives is entitled to request from public or private entities or from natural persons any information or documents related to its field of activity [Emergency Ordinance no. 24/2008, as subsequently amended and supplemented, art. 15 (1)].

According to Ordinance no. 137/2000, the National Anti-Discrimination Board is entitled to investigate notices from persons who think they have been discriminated, in order to solve any received notices, having the right to obtain information and acts, as well as copies of such acts from public authorities and private entities.

The investigative power of the Romanian Intelligence Service is stipulated under art. 2 ("organizing and performing activities to collect, check and use the required information in order to know, prevent and fight any action that may represent, according to the law, a threat to the national security of Romania") and art. 9 ("with a view to establishing the existence of threats against national security, intelligence services may perform, according to the law, checks by: requesting and obtaining objects, documents or official information from public entities or natural persons, consulting specialists or experts, receiving notices or information, establishing operative moments by photographs, shootings or other technical means, obtaining data generated or processed by providers of public electronic communication networks or electronic communication services") of Law no. 14/1992, as subsequently amended and supplemented.

The endorsing power refers to the fact that certain categories of autonomous administrative authorities have a power of influence as "consulting entities". This implies that certain autonomous administrative authorities issue compulsory or optional endorsements for public authorities or private persons in certain fields or situations regulated by the law.

Autonomous administrative authorities having an endorsing power mediate in social life, between those who actually have power (the Parliament, the Government) and those the power is reflected upon, with no dominated role, since their endorsement, be it compulsory or optional, does not generate an actual change in the effects of endorsed documents. The lawmaker has granted state authorities the possibility to ask for a consultative endorsement from autonomous administrative authorities in their field of competence, but with no need to observe the content of the endorsement. In certain cases,

public authorities can only legally provide whether the required endorsement has been previously issued, but they are not bound by its content; sometimes, they even have the obligation to request such a consultative endorsement, that must accompany the adopted decision (Girlesteanu, 2011: 56-57).

In some cases, the law provides for a compulsory endorsement procedure, i.e. decision making authorities must consult the relevant autonomous administrative authority in the field of activity their actions refer to. Decisions that are made without having obtained the compulsory endorsement may be classified as technically flawed and cancelled for abuse of power. We provide the example of the Supreme National Defence Board, the Superior Council of Magistracy, the Economic and Social Council or the Competition Board, whose scope is seen in strategic fields or in fields with an impact, whereby compulsory endorsement is justified and explicitly provided for in the governing legal documents. Requesting one of the two endorsements from an autonomous administrative authority does not exclude the possibility of requesting the other type of endorsement as well, as happens, for instance, in the case of the Supreme National Defence Board or the Superior Council of Magistracy, which may issue both optional and compulsory endorsements, as the case may be. A third type of endorsement, the compliance endorsement, has been established for French administrative authorities. Such an endorsing power transfers the responsibility of a decision to the consulted autonomous authority, since the consulting authority cannot act contrarily to the endorsement (Gentot, 1994: 70-71). The endorsing power of autonomous administrative authorities shall by no means be mistaken by the control of law constitutionality; it should be understood as a method to improve and enrich the vision of public authorities, who resort to the knowledge and experience of actually involved authorities in order to regulate a field of activity and who are free from the intervention of politics or various interest groups.

3. The power of recommending and issuing points of view, recognized by the lawmaker to certain independent administrative authorities, is very close to the endorsing power, in its essence. A recommendation actually is a "pressing invitation" addressed by these independent administrative authorities to the bodies of the public administration system and envisaged the adoption of a certain behaviour, the development of a certain reform, the amendment of a regulation or the possible proposal of a legislative amendment (Gentot, 1994: 71, apud Girlesteanu, 2011: 59). It should be mentioned that, unlike the endorsing power, the power of recommending and issuing points of view results in a spontaneous and autonomous manner from autonomous authorities, as they are not requested by public institutions. If no legal regulations provide otherwise, the recommendation shall create neither legal rights, nor obligations (Gentot, 1994: 72).

The justification of this power is also quite similar to what has been said for the endorsing power, i.e. this power is pertinently and objectively recognized for autonomous administrative authorities, since, as they act within the limits of a specialized field, they clearly know best how it operates; in this context, it is unequivocal that they are aware of its flaws and weaknesses, as well as the recommendations on how to solve them.

The power of recommending and issuing points of view is recognized by the lawmaker for the People's Advocate, the Economic and Social Council, the Superior Council of Magistracy, the Competition Board, the National Council of Audiovisual, the Permanent Electoral Authority, the National Authority for the Supervision of Personal Data Processing, the National Council for the Study of Intelligence Archives, the National Anti-Discrimination Board.

4. The power to notify public bodies implies that certain autonomous administrative authorities (the People's Advocate, the Legislative Council, the Competition Board, the National Council of Audiovisual, the National Integrity Agency, the Romanian Intelligence Service) have the possibility to notify competent public bodies - the Government, criminal prosecution bodies, courts - whenever deviations and illegal actions are seen within their environment.

Due to this power, the People's Advocate may notify the Constitutional Court on the non-constitutional character of laws prior to their promulgation, but it may also notify the Constitutional Court directly regarding the exception of non-constitutionality of laws and regarding, as well as notify the administrative court (art. 13 (1) e), f), j) of the governing law). If it is found that legal bodies are competent for solving the petitions that have been notified to him/her, s/he may address the Minister of Justice, the Superior Council of Magistracy, the Public Ministry or the president of the court (art. 18 of the governing law). According to art. 25 of the same law, the People's Advocate may notify the Government on any illegal act or administrative action of the central public administration and prefects.

The Legislative Council shall notify the Parliament or the Government, as the case may be, on any delays in the republication of legislative documents that may be subject to such an action (art. 5 (5) of Law no. 73/1993). Due to its power to notify public bodies, the Competition Board may notify the Government on the existence of a situation of monopoly or on cases in business sectors or markets where competition is excluded or obviously restrained by effect of law or due to monopoly, as well as situations of crisis, imbalance between demand and offer, as well as propose it to take the required measures in order to remedy any dysfunctions, based on art. 25 (1) h) of the governing law. The National Council of Audiovisual may also notify the competent authorities regarding the appearance or existence of restrictive competition practices, the abuse of a dominant position, economic concentrations, as well as any other infringement of the law, even when it does not fall under its competence (art. 10 (6) of Law no. 504/2002, as subsequently amended and supplemented).

After the procedure of assessment of the wealth of individuals provided by the law is completed, and when it finds irregularities and infringements of the legislation in force, the National Integrity Agency notifies tax bodies, criminal prosecution bodies, disciplinary bodies, as well as the wealth investigation committee (art. 17 (1) of Law no. 504/2002, as subsequently amended and supplemented). In case it finds that conflicts of interest and incompatibilities exist, after the required legal actions have been performed, this autonomous authority shall notify criminal prosecution bodies and disciplinary bodies (art. 21 (1) of the law on organisation and operation), as the case may be.

In case the checks developed according to the legal provisions applicable to its activity result in data and information regarding the preparation or perpetration of an action provided by criminal law, the Romanian Intelligence Service takes the required action to send them to criminal prosecution bodies as provided by the law (art. 10 of Law 14/1992, as subsequently amended and supplemented).

5. The sanctioning power

In order to fulfil their mission, autonomous administrative authorities are invested with sanctioning power. This may be much more effective, even more "painful" than the repression exercised by a criminal judge. The consequences of a professional prohibition may be much more serious than a fine or a sentence to spending time in prison with suspension. As for the immediate publicity of a professional sanction on the website of an

autonomous administrative authority, visited by all the specialists in the activity sector, along with press releases or newspaper interviews, it is bad for the perpetrator and has stronger effects than any fine the criminal judge may apply during a long trial (Piwnica, 2010). Sanctioning power is awarded to a limited number of authorities (the Competition Board, the Supervisory Committee of the Private Pensions System, the National Anti-Discrimination Board, the Romanian Intelligence Service). The main actions applied by autonomous authorities usually are of a financial nature. The sanctions given by these authorities are always subsequent to law, have an administrative nature and may be censored by the legal courts (Girlesteanu, 2011: 64).

In case it finds deviations from the framework of a competitive environment, the Competition Board may apply sanctions - fines - according to its governing law to the public or private entities that take actions which may destabilize a competitive environment. The Supervisory Committee of the Private Pensions System, as per art. 23 j) of Emergency Ordinance no. 50/2005, may take administrative or financial action against all those who affect the interests of participants and beneficiaries of private pension funds. When solving discrimination cases, the members of the Steering Committee of the National Anti-discrimination Board apply sanctions - fines and, as the case may be, oblige the discriminating party to publish, in the media, a summary of the decision for the infringements established in the ordinance that regulates its activity. The Romanian Intelligence Service may apply freedom depriving sanctions by detaining a person with a view to submit him/her to the competent legal bodies, as shown by art. 12 of Law 14/1992 as subsequently amended and supplemented, "in case of a flagrant infringement of national security as established by the law, of a terrorist act or attempt or a preparation of such infringements, if punished by law".

Limits of the exercise of powers by autonomous administrative authorities

Seen as non-identified legal objects (Sénat, 2006) pursuant to the legal view on their establishment and operation, though independent and not subject to the Government's hierarchical control, autonomous administrative authorities act in the specific environment of the purpose they were created for, according to the legal provisions in force. Even though it may seem paradoxical, the independence of autonomous administrative authorities is only apparent, since their activity is not exempted from control.

The exercise of powers by autonomous administrative authorities within certain limits is not meant to frustrate their actions, but to align them to the democratic principles of the rule of law and protection of general interest, since any legal creation, irrespective of its underlying ideals, cannot be left to act freely, without the existence of specific rules, since, from the point of view of people who coordinate its actions, discretionary rules may be establishes, which are nothing but a first step to the field of power abuse and instauration of chaos. As shown in the previous presentation, administrative authorities have a range of powers recognized by the lawmaker within the regulatory documents for their activity. By granting certain powers, the lawmaker by no means intended to absolutize the actions of autonomous authorities, but only to exclude the interference of politics or various groups of interest in certain strategic fields, which is why autonomous administrative authorities were only granted certain powers within their scope of action, explicitly detailed in each relevant law and properly delimited, as they are only levers which allow for a proper management of the corresponding sector. The absence of hierarchical control does not take the activity of autonomous administrative authorities

out of the control area; they are subject to Parliament control, as they have to submit an annual activity report to the latter.

Seem from a different perspective, the lawmaker wanted to avoid the abuse of power that may appear in the exercise of powers by this category of authorities, which is why the acts of autonomous administrative authorities can be subject to jurisdictional control. In these conditions, the lawmaker established the possibility that "any person who considers s/he has been affected in a right or a legitimate interest by a public authority, through an administrative act or by not solving an application within the legal deadline, may address the competent administrative court in order to cancel the act, to recognize the claimed right or the legitimate interest and to repair any caused damage. Legitimate interest may be both private and public." (art. 1 of Law on administrative law no. 554/2004, as subsequently amended and supplemented).

Conclusions

Autonomous administrative authorities represent a modernisation of the way to govern a state and a reinforcement of the administrative system by limiting the action of the political sphere and groups of various interests, in sensitive fields that require protection from impartial and disinterested bodies. The mission of autonomous administrative authorities includes the regulation and fight against conflicts arising in sectors such as: national defence, protection of citizens' fundamental rights, fighting discrimination, economic activity, trade, audiovisual, the private pensions system, etc. Depending on their field of activity, autonomous administrative authorities have a range of powers that make their actions effective; otherwise, their role would be merely decorative. The assignment of powers to autonomous administrative authorities should not give the impression that they are a state within a state; however, they need some freedom of decision and action in order to effectively achieve their goals.

However, as it happens with any entity having its own power, autonomous administrative authorities may end by abusing the power they were granted, establishing discretionary rules, forgetting about the principles of rule of law and even create parallel realities. In order to avoid such abnormalities, their creator has limited their powers and has provided for the possibility that, when a person considers that an interest has been affected through the acts of these institutions, s/he may appeal it in an administrative court, so as to maintain a balance between law and a proper functioning of society.

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ORIGINAL PAPER

The European Court of Human Rights requirements concerning the excessive length of proceedings in Romanian national law system

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Abstract
Romanian legislation should provide the possibility of compensation for procedures that take excessive time. Given that there are many similar cases based on requests made against Romania are currently pending before the Court concerning the excessive length of the criminal or civil procedure, the Court concluded that there is a systemic problem that requires the adoption of legislative reforms in Romania to ensure the right to a fair trial within a reasonable time. This was the conclusion in the case Vlad and others against Romania from November 23rd 2013 and now we face the same problem. The aspects which will be analyzed concern in particular the reasonableness of the length of proceedings that must be assessed taking into account the circumstances of the case and the following criteria: the complexity of the case, the conduct of the applicants and of the relevant authorities.

Keywords: *the reasonableness of the length of proceedings, European Court of Human Rights, circumstances of the case, the complexity of the case, the conduct of the plaintiff and of the competent authorities*

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The reasonableness of the length of the proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the plaintiff and of the competent authorities, and the plaintiff's litigation stake (*European Court of Human Rights*, Case of McFarlane v. Ireland from 10/09/2010). As a preliminary point, it should be noted that, irrespective of the scope, the point of departure of the term is considered to be, if a State signatory to the Convention has not recognized the right to an individual appeal under Art. 34 (formerly art. 25) of the Convention, when the State against which the applicant is directed acknowledges this right. For example, in the business *Pretto et al., Italy*, the plaintiff notified the Tribunal of Vicenza on September, 24th 1971, the proceedings ending on February, 5th 1977. But as Italy acknowledged the right to an individual appeal only on August, 1st 1973, the Court included the duration of the term analysed only for the period from August 1st 1973 to February, 5th 1977. However, in order to rule on the reasonableness of the duration of the procedure from the moment when the Convention has produced full effects for the Contracting State concerned, the Court takes into account the status of the internal procedure at that time.

The absence of an effective remedy through which justifiers can complain of the excessive length of proceedings violates Article 13 of the Convention. In several parallel lawsuits, the plaintiff attempted to obtain damages for breaching his inventor's rights. One of the trials lasted 5 years and a half and another 7 years and one month. After finding that Article 6 of the Convention has been breached due to the unreasonable duration of the two proceedings, the Court examined compliance with the provisions of Article 13, meaning the existence in the Roman system of an effective means by which the plaintiff could have complained of the excessive duration of Procedures (Abramiuc vs. Romania, 37411/02, February 24th 2009). The judgment of the European Court of Human Rights in this case is also significant *Vlad and Others v. Romania,* of November 26th , 2013, in which the Court found a general deficiency of the Romanian legislative system that does not provide for effective remedies in the event of an unreasonably large duration of a civil or criminal proceeding.

In the judgment, the Court ruled on the complaints made by 3 petitioners, all about the length of judicial proceedings. Mr Vlad, one of the petitioners, complained that the criminal trial in which he had been indicted took more than 12 years. Another petitioner, Mr Plaţa, has filed a complaint with the ECHR on judicial proceedings in civil matters lasting over 16 years and has not yet been finalized, and Mrs Bratu complained that the court proceedings in which he had been a party lasted for 9 years. Also, two of the complainants - Plaţa and Bratu - complained that they had no internal access to an effective remedy over the excessive length of judicial proceedings.

According to the ECHR, there is a systemic problem in Romania regarding the length of judicial proceedings. The Court indicated that it ruled on about 200 cases related to the length of judicial proceedings and there are almost 500 other cases on the same issue, all against Romania. In "Civil matter", the starting point is basically the moment when the court has been notified by a request for a summons to court, according to the customary uses of the internal law. Usually, the competent court is the court of first instance, but there are situations where the point of departure of the term relates to the moment of notifying a higher court judging in the first and last instance.

However, the initial moment is appreciated in other cases as well by reference to procedural acts or procedural forms of a contentious nature, which may indicate the

beginning of the term in civil matters: issuance of a payment order; confiscation of seized goods; declaration of constitution as civil party; the application for interim measures; the opposition to enforcement made by the plaintiff in the domestic proceedings; making an application for action in an ongoing proceeding. By way of exception, if the court notification has to be preceded by an administrative appeal, the term runs from the date of the administrative appeal.

Thus, in the case König v. Germany, the plaintiff was withdrawn the right to practice in his own medical clinic. Before appealing to the Administrative Court in Frankfurt, the plaintiff had to go through a preliminary administrative procedure (*Vorverfahren*) before the authority which issued the contested administrative act. The Court appreciated, referring to the earlier judgment in the case of *Golder vs. UK,* that since the plaintiff could have recourse to the competent authority only after the completion of the administrative procedure, the initial moment taken into account for the determination of the term should be "*the moment the plaintiff filed an objection against the withdrawal of the authorisation to practice*". Instead, in "Criminal matter" the term begins to run from the date on which a "charge" was formulated, otherwise it would be impossible to determine the existence of a "criminal charge". It is appropriate to recall in this respect that "accusation in criminal matters" is defined as "the official notification, emanating from the competent authority, of the incrimination of having committed a criminal offence" and induce the idea of "significant repercussion for the situation of the person concerned".

As regards the end point of the term to be examined, there are no differences between civil matters and criminal matters. In general, in both matters, the period over which bears control of the Court is concluded, in principle, from the date on which the last judicial internal decision, that has become final, was executed. However, there are situations in which the national procedure is still *pending* at the time of the pronouncement of the European Court, in which case the end point of the time limit is the date of the judgment of the European Court. In criminal matters, in the case of non-prosecution solutions, it will be considered that the final moment of the term is the order by which the prosecutor solves the case in a negative sense.

It is worth recalling that the Strasbourg court has consistently established in its case-law that, according to Art. 6 paragraph 1 of the Convention, it is necessary that the decisions of the administrative authorities which do not meet the requirements of this conventional text be subjected to a subsequent control exercised by a judicial authority with full jurisdiction.

Moreover, the period during which the settlement of the appeal is suspended is taken into account in determining the reasonableness of the conduct of the procedure, namely, if the imputed facts do not prove to meet the typical features of the offense, the resumption of the appeal by the administrative authority is mandatory, and the eventual challenge to this substantive decision before the competent court will bring an excessive length of judicial proceedings to the fore, since in their calculation also enter the administrative phase - a compulsory phase in order for the interested person to access the judicial phase of the case - of solving the contestation. Thus, in the Romanian legal system there can be noticed a constant problem regarding the provisions of art. 214 par. (1) lett. a) of the Government Ordinance no. 92/2003 regarding the Code of fiscal procedure, also found in the new regulation of Law no. 207/2015: Art. 277 Suspension of the administrative settlement procedure of the contestation. (1) The competent resolution body may, by reasoned decision, suspend the settlement of the case when: a) the body that

carried out the control activity notified the bodies in charge of the existence of indications of committing a crime in connection with the evidence on the establishment of the tax base and whose finding would have a decisive influence on the solution to be given in administrative procedure; b) the settlement of the case depends, in whole or in part, on the existence or non-existence of a right which is the subject of another judgment. "

The legal provisions violate the constitutional provisions because they provide for the possibility of suspending the appeal in the administrative procedure by the competent resolution body without establishing clear criteria and objectives in which it may be ordered to suspend the settlement of the appeal, which impedes the principle of predictability of the law, a principle which is at the basis of the rule of law. The possibility of suspension does not intervene at a time clearly defined by law, such as the commencement of criminal prosecution or the initiation of criminal proceedings, which are clearly defined by the Code of Criminal Procedure and which do not depend on the attitude of one of the parties to the proceedings, but by the criminal investigating body, third party in relation to the tax dispute, as is the case under the hypothesis regulated by art. 413 paragraph (1) point 2 of the new Civil Procedure Code, but it intervenes whenever the body that carried out the control (from the same administrative structure with the resolution body) notified the rightful bodies about the existence of indications of committing an offense whose finding would have a decisive influence on the solution to be adopted in the administrative procedure.

The notions used by this text of the law, which define the cumulative conditions in which the possibility of suspending the settlement of the appeal occurs, namely that there are "indications of committing a crime" that would have a "decisive influence" on the solution to be given in the administrative procedure are vague, are not defined by legislation. Therefore, they allow subjective and arbitrary interpretations, at the discretion of the competent resolution body, without being predictable. Also, when the process is affected by the disadvantage of one of the parties involved in relation to the other party, both the principle of equality and the right to a fair trial are violated. The fair trial can only be achieved in the conditions in which it complies with the unanimously accepted fundamental principles that ensure the balance between the general interest of society and the legitimate interests of each individual. Moreover, the right of access to a court must be achieved within a reasonable and predictable timeframe. The State also has the obligation to take all the necessary measures, including legislative measures, so that a lawsuit does not take too long and ensures the right to an effective appeal before a national court. Or, once the suspension under the critiqued provision of unconstitutionality intervenes, the Fiscal Procedure Code does not provide for the possibility for the competent resolution body to revoke the measure of suspension or to resume the settlement within a certain time to the extent that the investigations of the criminal investigation bodies exceed a certain amount of time deemed reasonable (similar to the provisions of Art. 413 par. (3) of the New Code of Civil Procedure].

When deciding to suspend the appeal, the administrative authority checks two conditions *sine qua non*, as follows: (1) the body that carried out the control activity has notified the bodies of law of the existence of indications of committing a crime and (2) the respective crime has a decisive influence on the solution to be given in the administrative procedure. The first condition has an objective character (whether or not there is a referral of the control body), and the second condition is an essentially subjective one (the decisive nature of the crime over the administrative solution). It is noted that the decision of the competent administrative authority regarding the fulfilment / non-

fulfilment of these conditions is final, and any mistakes of appreciation cannot be challenged before the court. Similarly, the law grants an optional character in the exercise of this power of the administrative authority, in that, although the two conditions are met, the authority concerned may not suspend the procedure (by using the word "may"). Moreover, considering the reverse situation, it can be found that the order of the suspension measure can be made even if the body which carried out the control clearly notified the criminal prosecution authorities in a wrong manner. In this case, the administrative authority that resolves the appeal may also suspend the administrative procedure. Therefore, these aspects demonstrate that the law creates the premise of an arbitrary conduct of the administrative body, conduct not subject to judicial control.

Thus, any excess of power on the part of the administrative authority cannot be sanctioned in any way. Although, in order to avoid the obligation, the person challenging the tax administrative act may apply to the administrative court to suspend the execution of the administrative act under the terms of a bail, however, the suspension of the act during the period of suspension of the administrative procedure has nothing to do with the merits / legality of the decision to suspend the procedure. In other words, although it has an interest, the person affected by the suspension decision will not be able to challenge it, this one enjoying an absolute presumption of legality.

Of course, the right of access to justice is not absolute; it may allow implied limitations, because by its very nature, it is regulated by the State. By drafting such a regulation, the States enjoy a certain margin of appreciation. However, the restrictions applied cannot limit the person's access in such a way or so that the right is reached in the substance itself. In addition, these restrictions are not in line with art. 6 paragraph 1 of the Convention unless they are pursuing a legitimate aim and if there is a reasonable ratio of proportionality between the means used and the targeted purpose (Judgment of 26 January 2006 in Case *Lungoci against Romania*, paragraph 36). However, in the present case, nor can one achieve the proportionality test previously shown since the impossibility of attacking the decision of suspension of the proceedings does not constitute a restriction of the free access to justice, but also a denial of it, even a violation brought to the substance of the law.

In conclusion, a measure taken by an administrative authority, even if it does not resolve the claim fund, but affects the rights/interests of the person, may not remain in itself final by the impossibility to challenge it in the administrative court. It is obvious that the person concerned cannot be left to the discretion of the administration, a matter which is found in the present case, in the absence of judicial control.

Another problem should also be mentioned, namely whether in a tax trial, settling a litigious matter into the criminal file - namely that the inventory shortage at the level of the applicant company was wrongly established, and it does not exist - creates a legal presumption of *res judicata* in the meaning of Art. 431 paragraph (2) NCCP, with the consequence of the impossibility of determining the tax liability of the company for the same state of affairs. In the most simple manner, this legal problem can be summed up as follows: since in the criminal proceedings it was established that there was a inventory shortage, it may be considered later in the tax process, that this inventory shortage exists, with the consequence of conferring the corresponding tax consequences? (Costas, 2016).

From this perspective there are objectionable some Romanian court rulings that summarizes everything in the following manner: there is no identity of parties, object and cause between criminal litigation (in which the criminal complaint endorsed the company's administrator) and tax litigation (where tax liabilities relate to the company).

In fact, as stated in the doctrine, instead of the "object" and "cause" elements there should be used, especially in the environment of the new Code of Civil Procedure, another element: the identity of a litigious matter (*eadem quaestio*). In matters of res judicata, there is much interest for what was the subject of controversial debates before the court and what the court eventually decided. Therefore, since objectively it has been established in the criminal file that there are no assets missing from the company's inventory, no tax obligations can be established considering that those assets would be missing from the company's inventory.

In such a case it was considered that criminal decision, made in connection with the verification of the legality of the solution of not initiating the criminal prosecution, could be mentioned, since they are: (i) the judgment of the courts of Romania; (ii) the judgments in the contentious matter ; (iii) decisions which solve the fund of the cause (Leş, 2014: 562). Admitting the exception of the authority of res judicata would thus avoid a legally incomprehensible situation in which the Arad Court and the Arad Tribunal, as in the present case, together with the Prosecutor's Office attached to the Arad Tribunal, would conclude that there is no shortage from the company's inventory (2010) and five years later the Arad Tribunal would however rule that this inventory shortage exists and that it may be attributed tax consequences in the sense to oblige the company to pay additional tax liabilities.

It is also violated art. 4 of Protocol no. 7 which must be understood as prohibiting the prosecution or judgement of the second 'offense' in so far as it results from identical facts or facts which are substantially the same. The European Court of Human Rights (Grand Chamber) pronounced in this respect by judgment of February 10th 2009 in the Case *Sergey Zolotukhin v. Russia* (paragraph 82. Art. 4 of the Additional Protocol no. 7 does not prohibit the parallel conduct of the fiscal procedure and of the criminal procedure.) However, there is a violation of the principle *ne bis in idem* when, following a final judgment in one of the proceedings, the other procedure continues. In any case, even if it was not formally invoked the violation of art. 4 of the Additional Protocol no. 7, the existence of a second (criminal court) ruling on a first final judgment (the tax court, for example) constitutes a violation of the principle of legal security (according to the position of the European Court of Human Rights, pronounced in the judgment of October 21st 2014 in the case *Lungu and others vs. Romania*). The interpretation, of course, also works symmetrically in reverse.

All these issues are likely to draw attention to the rationality of the cases in domestic law, but obviously without affecting the quality of the act of justice. Our legal literature and jurisprudence have recognized the major relevance of fundamental rights and are commonly referred to these. In order to avoid condemnation of the Romanian State, the procedures must become effective and the national judge is the essential link. This issue needs to be remedied in order to avoid pronouncing a pilot decision against Romania on this matter. The pilot procedure starts with the choice by the European Court of one or more representative cases of a repetitive nature, which it is to deal as a priority, and the solution under the pilot procedure will also address the other similar pending cases (Ignat, 2015: 68, 50).

There is a rich practice of the European Court of Human Rights on pilot decisions on many States. Among the causes that lead to repetitive complaints, there are analyzed: dysfunctions of the legislation; faulty application of laws; internal practices contrary to the laws and provisions of the Convention; non-enforcement of the judgments of the national courts; but also the excessive duration of the judicial proceedings.

As stated in another article (*Recent Developments in the European Court of Human Rights Pilot-Judgment Procedure*), that with respect to Romania an important issue is that of inhuman or degrading treatment (violation of art. 3 of the Convention), and that the European Court of Human Rights could very well have recourse to a pilot solution to remedy the serious problems in prison systems (European Court of Human Rights) which happened in the judgment of April 25th 2017 in the case *Rezmiveș and others against Romania*, as well as the excessive duration of procedures, it is very likely that the same thing happens. It should be remembered that a pilot decision was also issued against Romania, *Maria Atanasiu and others against Romania*, in the field of restitution of nationalized properties. In order to avoid the above mentioned, a first step must be taken to reorganize the regularization procedure in order to eliminate the excessive rigidity of some judges who ask the applicants to file documents that they do not have in order to cancel their application.

The European Court emphasizes that the settlement of the Case Maria Atanasiu takes place after having already pronounced itself in various Romanian Cases, where it acknowledged the breach of art. 6 § 1 of the Convention and of art.1 from the First additional Protocol as a consequence of the deficiencies in the Romanian system regarding the return of the properties lost during the Communist period and granting compensations in this respect. The Court found that the inefficiency of this system persists and it is manifested on a large scale as the number of cases in which the same type of violation is increasing. Not only does this state of affairs represent an aggravation of the State's liability but it is also a threat to the efficiency of the control device created by the Convention, reason for which it was necessary to apply the pilot judgement procedure.

The situation existing in the internal legal order with regard to compensations, both on a legislative level and from the perspective of the administrative practice, was incompatible with the provisions of the Convention. By trying to identify the reasons for which such an incompatible situation aims at such a great number of individuals, the Court ascertained the gradual extension of the range of application of the laws stipulating remedies, as well as the absence of a threshold for these remedies.

According to the Court, the complexity of the legislative provisions and their quick change determined an incoherent judicial practice which led to the creation of a general judicial uncertainty concerning the rights of the former owners, of the State and of the third acquiring parties. Also, a start would be to set a clear deadline in which the files may be distributed randomly and forwarded to the appropriate panel of judges to carry out, from that recommended date, the procedures preceding the first hearing. Against the silence of the text of the New Civil Procedure Code, this recommended date still has the nature of a purely administrative, indicative ("referral date") term and not a legal, judicial or conventional procedural term.

In practice, this "immediately" may in some cases amount to more than one year, given that the recommended date set by the ECRIS program may vary, depending on the score (complexity) of the dossiers recorded on each panel, from a few days to one year (these variations being also found in large courts in the immediate period following the entry into force of the NCCP). The existence of this unacceptably large temporal fluctuation between panels continues to create differentiations between terms of recommendation appropriate to the causes of the individuals. If for some, regularization begins only a few days after registration, in others' case, regularization starts after more than a year. There is kept, therefore, a wording that is often incorrect. So, related to these aspects it is also the phenomenon of massive human rights violations. „This phenomenon

has created a preoccupation among states and within the international community with how these acts should be remedied in a human rights context. It asserts that while the Court, for various reasons, has taken a rather conservative approach, it has nonetheless succeeded in developing a doctrine of procedural obligations under Articles 2, 3 and 5 of the European Convention on Human Rights and in removing juridical obstacles to domestic prosecutions, such as amnesty laws or non-retroactivity penal norms" (Rădulețu, 2015).

The most radical changes should take place in the political system and in the economic structure. These changes were contemporary politicians' answers to the above experience of the recent past. Above all, capitalism should be replaced with a mixed economic system, which had, however, from the beginning to play a dominant role nationalized, therefore, the public sector and private enterprise should be relegated to the role of mere adjunct in the consumer products industry and services (Bures, 2017).

The notion of "rule of law" represents one of the main characteristics of the European constitutionalism. Through this concept, the state itself restricts the field of its action, in view of its own values system. The limitation of a fundamental freedom must be imposed by a particular situation and should always follow a specific purpose, namely to protect freedom of others or of a public interest, and that purpose can be achieved only by taking the respective limitation measure. If for fulfilling the objective pursued another measure less restrictive could be taken in terms of limiting a fundamental freedom, then that measure should be taken even if the measure less restrictive and most drastic would achieve the legitimate pursued objective. The norms by which the State must act must be effectively applied by the courts, thus, according to the principles of a democratic State (State type mentioned in the preamble of the Convention, in which may be protected the fundamental rights and freedoms), the State powers must be controlled each one by the other. The European Convention of Human Rights represents the natural connection between individuals fundamental freedoms and democratic society requirements, as the jurisdictional case-law of the Court of Strasbourg emphasized it many times *"the important place that the right to a fair lawsuit hods in a democratic society".* In the same time, the case-law regarding the application of the Convention underlined many times: *"The Convention's objective is not the protection of non-theoretical or illusory rights, but of those rights which are real and effective".* Recognition of applicability of the principle of equality of arms to any proceedings, litigation or amnesty, including proceedings before some administrative and jurisdictional authorities, leads to the idea that there is the obligation of examination of the other defining elements of the right to a fair trial.

The notion of democracy as a form of political organization and management of society involves the notions of sovereignty, *demos*, state of law. The individual complaints mechanism of the ECtHR is the world's most advanced international system for protecting civil and political liberties. Generally, the judgments of the Court by which it is acknowledged the violation of a fundamental right defended by the Convention immediately create in the responsibility of the States only individual obligations concerning the respective Plaintiff. Thus, the direct and immediate effects of these judgements, based on their res judicata, are produced only between the parties in the process.

Nevertheless, the judgements of the Court have an indirect effect. As such, the State concerned, after having been sentenced for the violation of a fundamental right in a case, is obliged to eliminate the malfunctions ascertained so as to avoid subsequent convictions in cases of the same type. These actions of the State are not imposed by the

Court through the judgment pronounced, which as effect only *inter partes*, but they are identified and set by the body in charge with the enforcement of the decisions of the Court, namely the Committee of Ministers of the Council of Europe (Răduleţu and Şandru, 2011: 24).

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Politics of Multiculturalism in Post-communist Montenegro: Political Participation and Representation of National Minority Communities

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Abstract
In the Constitution of Montenegro, the political identity of Montenegro is defined as a civic identity, and Montenegro is grounded as a civic country. In a demographic sense, according to the results of the latest population census, Montenegro can be described as a multicultural country with significant ethno-cultural pluralism. In the normative-political sense, Montenegro adopted institutional and legal provisions with the intention to introduce equality between ethno-national communities, both in their political participation and at the level of preserving their ethno-cultural specificities. Accordingly, one of the most important fields that requires improving normative solutions and practical implementations is the field of political participation of national minorities. The current legal provisions, within the electoral legislation and within the field of protection of the minority collective's rights, provide a solid foundation for political representation, but are equally bound by limitations that must be solved.

Keywords: *Montenegro, post-communism, multiculturalism, political representation, political participation, authentic representation, proportional representation*

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Introduction

We have been witnessing *hyper-utilisation* of the term "multiculturalism" in the previous few decades. It has been profusely used by analytics in different disciplines, the media, as well as members of the political elite in developed, Western European countries, as well as developing countries. Apart from it being *ever-present* and *ever-utilised,* another important characteristic of the public discourse on the objectives, the nature, and the consequences of multiculturalism is *generalisation* (Kimlika, 2004: 21). Every form of generalisation indisputably leads to an unacceptable dose of simplification, as it obscures the complexity of the effects of a given concept, its reliance upon the specificities of the state-national context, as well as its weaknesses, strengths, and effects. Generalisation results in simplified evaluations of the present and future effects of the model of multiculturalism in the process of managing ethno-cultural pluralism. At the same time, representatives and advocates of the model of multiculturalism frequently ignore the weaknesses of the model's modus operandi, as well as its ultimate effects. In the context of weaknesses, we are primarily referring to the fact that minority communities and their members predominantly focus on the interests of the community and their state-given rights, while their "obligations are reserved for the community" and the preservation of the community's identity. The fall of authoritarian socialism, followed by the introduction of a multi-party system and the collapse of the former Socialist Federal Republic of Yugoslavia marked the beginning of a new era in the socio-economic and political development of the society of the Western Balkans[1].

Post-communist Montenegro and Multiculturalism

In the Socialist Federal Republic of Yugoslavia and its constituent multi-ethnic republics, the process of managing ethno-cultural pluralism was mainly based on the promotion of ideology as the predominant, unifying, homogenising factor. Identity based on ideology, carrying a component of Pan-Slavism, and manifested by the slogan "brotherhood and unity", was expected to gain momentum, thus mitigating ethno-national segregation, and suppressing the forms of ethnic affiliation which were perceived as rival. Identification with the federal, Yugoslav identity was intended to overpower identification with individual, ethno-national identities, in line with the growth of socialism.[2] It is precisely because of the specificity of the aforementioned way of formation of national identities in the Balkans, where religion always intervened as a significant factor, that the communist regime was perceived as rather intolerant of religious communities.[3] Therefore, it is important to bear in mind the following circumstance: "Popular politics was still walking on thin ice: on the one hand, it gave room to national, religious and cultural activities, and on the other, it aimed at strictly banishing all forms of intolerance and chauvinism (according to the views of the ruling political authorities at the time - *author's comment*). Therefore, cultural organisations, associations, publishing houses and religious associations with exclusively ethnic approaches were disbanded" (Čalić, 2013: 226).

Following the collapse of the Socialist Federal Republic of Yugoslavia, a multi-party system was introduced in Montenegro, which marked the initiation of the transition toward a liberal-democratic system. Additionally, in the context of Montenegro, the transition was executed in two phases (1989-1997 and 1997-2000) (Vukićević, Vujović,

2012: 55). The first phase of the so-called *arrested transition* or *competitive half-democracy* is characterised by the rule of a semi-authoritarian regime and, correspondingly, by semi-competitive elections. The change emerged from within the system, rather than anti-system lines of resistance, and the critical requests did not refer to the change of the communist regime and to the introduction of democratic processes, but to the withdrawal of the then-existing political structures (Darmanović, 2007:84). It is possible to assert that this period was also typical for its lack of a legal-political ambient which would meet the requirements of the development of the politics of multiculturalism toward national and ethnic minorities.[4] A significant milestone in recent Montenegrin history is the referendum on its state-legal status, held in 2006, which resulted in the country regaining its independence. The majority of minority ethnic groups perceived the path of pro-independence and pro-Westernisation as a means of improving their own status. The voter turnout at the referendum was 86.5 percent; 55,5 percent of the voters were in favour of independence.

Following the renewal of independence, a new Constitution was adopted in 2007. It is the act of adoption of the Constitution that set the foundations for introducing and applying the mechanisms of the politics of multiculturalism. It also placed greater emphasis on the multi-cultural orientation of Montenegro, in comparison with the 1992 Constitution.[5] The preamble of the 2007 Constitution describes multiculturalism as one of the most fundamental values that ought to be promoted and protected. The multi-cultural character of Montenegro is seen, acknowledged and presented as a significant value of the Montenegrin national-state and social context. At the time of the adoption of the new Constitution, one of the most important organic laws – the Law on Minority Rights and Freedoms – was enforced, which regulates matters related to minorities. The law introduced significant changes to the area of protection of minority rights, and their freedoms. First and foremost, the changes refer to the very meaning of the term 'minority'. Instead of *national and ethnic minorities* (used ever since the introduction of a multi-party system in 1997) and *minority peoples* (used from 1997 to 2006), the Law on Minority Rights and Freedoms simply uses the term *minority.*

The results of the 2011 population census demonstrated that Montenegro can be classified as a country with marked ethno-cultural pluralism, or a country with a high level of heterogeneity among the population.[6] According to the data from the said census, there are 278,865 or 44.98 percent of Montenegrins in the country, 175,110 or 22.73 percent of Serbs, 6,021 or 0.97 percent of Croats, 30,439 or 4.91 percent of Albanians, 20,537 or 3.31 percent of Muslims, 53,605 or 8.65 percent of Bosniaks, and 6,251 or 1.01 percent of Romani people. A total of 30,170 or 4.87 percent of the population remained undeclared.[7] It is clear that the situation in Montenegro is "multi-cultural" in demographic-descriptive terms, which further indicates that the mechanisms of the politics of multiculturalism are imperative for the Montenegrin society to remain functional. The matter of effective participation of minority groups in the process of political decision-making at different levels of political governance is one of the most crucial topics in the context of EU integration of Montenegro, as a multi-national and multi-cultural country. It is multi-national or multi-ethnic in terms of the noticeable ethno-cultural pluralism and heterogeneity.

The Constitutional and Legal Framework of Political Participation of National Minority Communities in Montenegro

The rights to political participation cover a wide scope, but they mainly refer to obligatory representation of minorities in the organs of self-government at the local and the state level. Additionally, they may refer to granting special statuses to particular locations and their representatives.[8] This paper will analyse the legal and institutional frameworks for the protection of minority rights in Montenegro, and their effective participation. It will aim at presenting the current situation with regards to the extent to which the rights to participation in public life are being exercised by minority groups, focusing on two areas of these rights: participation in decision-making processes, and self-governance, as formulated in the OSCE Recommendations of the High Commissioner on National Minorities, better known as the Lund Recommendations. In terms of participation in decision-making processes, countries are advised to secure representation of minority communities in the legislative bodies, organs of state administration, the government, and the ministries. They ought to partake in the alterations of electoral legislation in the context of introducing various forms of preferential voting (Jelić, 2012:58). The aforementioned recommendations are particularly important in the context of political representation of minority communities in the legislative bodies at the state level. Having the possibility to form various types of national minority consultative bodies that facilitate the dialogue between minority communities and the state institutions is an additional form of support to the process of political participation of national minorities.

The legal framework for the protection of minority rights in Montenegro has been developed through the Constitution and through legislation. Article 79 of the Constitution of Montenegro is particularly significant in the context of minority rights, and the aspect of effective participation of minority communities.[9] Although the 2007 Constitution defines Montenegro as a civic country, and its political identity as primarily civic, as a result of pressure by minority national communities and their political parties, the Constitution currently contains regulations addressing the matter of protection of minority rights. Article 79 (Point 9) of the Constitution refers to national minorities, and guarantees the right to authentic representation in the Parliament of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action. Additionally, Point 10 of the same Article guarantees the right to proportionate representation in public services, state authorities and local self-government bodies.[10] The phrase "authentic representation according to the principle of affirmative action" is one of the most disputable points in terms of interpretation. Mijat Šuković provided significant contribution to clarifying the meaning of the phrase by explaining that: "The principle of affirmative action dictates that the *provisions that aim at securing authentic representation of the members of national minorities, or a single national minority, do not exceed, in time or scope, what is necessary for accomplishing the goal of affirmative action: ensuring that the members of minority groups have the same rights as the representatives of majority groups in the Parliament of Montenegro, and in the local self-governing parliaments – the right to represent and express their genuine / authentic interests, and to provide arguments that support those interests*" (Šuković, 2010:280). The matter of interpretation of "authentic representation" and "proportional representation" caused some turmoil among the political actors and the expert public in Montenegro. Certain national political parties advocated the view that the

phrase "authentic representation" ought to be interpreted as proportional representation in the Parliament of Montenegro. This view was mostly voiced by the parties representing the national communities that comprise a significant share in the structure of the total population. Following this line of thought, the Law on Minority Rights and Freedoms, adopted in 2006, Articles 23 and 24, provide an interpretation of authentic representation as proportional, and state that minority communities ought to be represented in the parliament, at the local and state level, with a number of mandates that correspond to the percentage of the members of minorities in the total population of the country, based on the results of the population census in 2003.[11] However, the Constitutional Court of Montenegro provided an assessment of the constitutionality of these Articles, concluded that the said regulations introduce demographic, rather than political representation, and determined that the said Articles were unconstitutional. Exercising this right depends on the assessment of particular circumstances, and the evaluation of all potential consequences. If the circumstances are such that particular measures of affirmative action result in effects that are opposite from the intended effect, they ought to be suspended, and an alternative solution must be provided. Further escalation of ethnic and national tensions, increase of ethnic distance, and the tendency to "shut off" minority communities through isolationism are some of the negative consequences that must be taken into consideration. The fact that ethno-national communities are not homogenous entities is frequently disregarded. "Finally, we need to keep in mind that the ethnic minority in any country is itself highly heterogeneous. There may be an over-representation of some groups and an under-representation of others, making broad, cross-national comparison of ethnic minority representation less meaningful" (Bird, 2003: 9).

Montenegrin Electoral Legislation and Political Participation of Minorities

We will first deal with the area of electoral legislation and the pivotal changes that secured a higher degree of political participation of minority groups. In terms of political representation of minority groups in Montenegro, it is advisable to draw a distinction between two periods of time: the first period stretches from the point when a multi-party system was introduced in Montenegro, to 1998, and the second period started in 1998. It is important to note that the first period was marked by a lack of adequate conditions, both political and social, for matters regarding participation of minority communities and for regulating the status of minority communities in general. Therefore, this period, the so-called negative (first) transition (Vukićević, Vujović, 2012:55) is marked by an oligarchic type of rule, a semi-authoritarian regime, and a radical relationship with the opposition. Since the introduction of a multi-party system in 1998, parliamentary elections were held four times. Accordingly, the number of electoral units, the type of the electoral system, the number of the members of the parliament, and the election threshold, have also been subject to changes four times.

The electoral system in Montenegro is based on proportional representation with closed lists. Montenegro is treated as a single electoral unit, and the award of mandates follows D'Hondt's method (Pavićević, 2012:150). Stimulation of greater political representation entails making exceptions from equal constituencies with the aim of facilitating the process of awarding mandates to members of the parliament and councillors who represent minority ethno-national communities. Improving the status of political representation of minorities in conditions of inadequate representation and promotion of their interests is prerequisite for the establishment of political equality. One of the arguments against the regulations prescribed by the Law on Election of Councillors

and Members of Parliament from 1998 refers to the fact that the affirmative action measures applied only to the Albanian minority national community. The said measures were a product of negotiations and attempts by a portion of the ruling party to secure the support of the members of this particular national community, following an internal split that occurred in the party in 1997. Consequently, these measures were criticised by representatives of other minority communities, as well as the international community. Amendments of the Law on Election of Councillors and Members of Parliament from 2011 define measures of affirmative action that apply to all other minority national communities. The amendments of the said Law define the exceptions from the general electoral election threshold for the parties whose name and agenda are directly and explicitly tied to national minorities. The threshold for the allocation of seats in the Parliament of Montenegro is 3 percent of the total number of valid votes for those political parties that participate in the elections. If the parties and electoral lists of minority communities can prove, either with their name or their agenda, to the Electoral Board that they exclusively represent the interests of a particular minority national community, they automatically qualify for the allocation of seats in line with the defined measures of affirmative action in the area of electoral legislation. In that case, the said political parties and electoral lists of national minority communities have a special threshold, which amounts to 0.7 percent of the total number of valid votes. Special measures of affirmative action are defined for the Croatian minority community. The Croatian Civil Initiative has one secured seat in the parliament if it crosses the threshold of 0.35 percent of the total number of valid votes. The special measures of affirmative action that apply to the Croatian minority group are supported by the fact that the Croatian national community is one of the smallest minority groups in the country, and by the need to involve the community in the political decision making processes at the state level.

Affirmative Action and the Problem of Political Representation of the Romani Ethnic Community

Bearing in mind the small percentage of the Romani population in the total population in Montenegro, alongside their notably unfavourable position in economic, social and political terms, the question of why there are no measures of affirmative action defined for the Romani ethnic community logically emerges. The Romani ethnic community is not mentioned in the Constitution of Montenegro, nor is the Romani language one of the officially used languages. The 2007 Constitution relied upon the data gathered during the 2003 population census, which registered a total of 0.42 percent of Romani population in the total population of the country. [12] However, the 2011 census registered 1.01 percent, or 1.34 percent if we take into account the percentage of the Egyptian ethnic community – 0.33 percent – which is a significant increase.

The currently existing provisions in the area of electoral legislation that aim at securing political representation and participation of minority ethno-national communities are deficient, particularly in reference to the Romani ethnic community, i.e. in terms of the consequences that such provisions cause to the aforementioned community. It is safe to say that it is precisely the Romani minority community that faces the greatest challenges in securing and exercising the right to political representation and participation. A lack of measures of affirmative action that would secure political representation and participation of the Romani population further complicates their social position, characterised by marginalisation, extreme poverty, visible discrimination, and a low degree of integration in the socio-economic and legal-political sense. The (non)existence of adequate authentic

representation of the Romani ethnic community in Montenegro is a source of a great deal of frustration, which fuels criticism by the representatives of the community – activists from the NGO sector, and the members of the Romani National Council. They describe the current situation as a "missing link", asserting that democratic processes in Montenegro cannot be fully established until the link is made. (Uković, 2015:16).

The current provisions, which distinguish between members of national minority ethnic communities in the sense of defining measures of affirmative actions for some communities, and denies such measures for others, renders the meaning of the principle of affirmative aspect questionable, particularly from the aspect of the effect that the application of the principle has or may have on the quality of inter-ethnic relations. The right to authentic representation of minority peoples and other minority national communities at the local self-government level is guaranteed by the Constitution. However, no significant results are visible thus far. This issue is among the most critical weaknesses in the way the multi-cultural model functions, or the way in which political participation of national minority communities functions. The second major issue is related to the lack of implementation of the right to proportional representation.

Proportional Representation of Minority Communities in the Public Administration, Organs of State Administration, and Local Self-government Units

The Constitution of Montenegro, adopted in 2007 guaranteed the right to proportional representation in public services, organs of state authority, and the public administration to members of minority communities. Although the matter of authentic representation in the Parliament of Montenegro was met with conflicting views regarding its meaning, the Constitution was far more specific in its definition of the right to proportional representation. Additionally, the Law on Minority Rights and Freedoms, Article 25, states that minorities have the right to proportional representation in the public services and local self-government bodies, and that the relevant bodies in charge of human resources, in cooperation with the councils for national minorities and other minority communities, are in charge of looking after the implementation of this law.[13] Article 45 of the Law on Civil Servants and State Employees states that, the head of the state authority shall take into consideration the right to proportional representation of members of minority nations or other minority ethnic communities in making the decision on the selection of candidates.[14]

There are no precise data on the national and ethnic structure of employees in the public services, the state administration, and the local self-government bodies in Montenegro. Certain recent reports, such as the Report of the Ministry for Human and Minority Rights on work and the situation in the administrative areas for 2015 present data on proportional representation of national minorities in the state bodies, state administration bodies, local self-governing units, the courts, and the state prosecution. Out of the 13,900 employees in the sample, there were (in terms of nationality): 8,650 Montenegrins (74.76 percent), 1,301 Serbs (11.24 percent), 291 Albanians (2.51 percent), 650 Bosniaks (5.62 percent), 285 Muslims (2.46 percent), 2 Romani people (0.02 percent), 88 Croatians (0.76 percent), and 49 people who declared as belonging to "other" national minority communities (0.49 percent). The data presented here clearly indicate that proportional representation of minority peoples and other national minority communities is still not established. Although certain communities do mark an increase in proportional representation of their members, they remain insufficiently represented in the organs of the state administration. An equal approach to the right to employment, and proportional

representation of all ethno-national communities in state administration bodies, the public administration, and local self-government bodies is prerequisite for democratic processes, and serve as a clear indicator of the degree of democratisation of the society. Any form of exclusion of the members of minority ethnonational communities from the decision making processes at various levels directly challenges the legitimacy of democratic processes.

Concluding Remarks

The implementation of effective political participation and representation of minority peoples and other national minority communities is one of the most significant issues in the context of securing equality, and the rule of law in Montenegro. From the normative perspective on having rights to authentic representation in the Parliament of Montenegro, the current legal provisions in the area of electoral legislation enable the application of measures of affirmative action in a manner that facilitates the process of allocation of seats to national minority communities. These provisions represent visible progress from the starting point – the Law on the Election of Councillors and Members of Parliament from 1998, which secured authentic representation in the state parliament solely to members of the Albanian community, which caused discontent among other national minority communities that were excluded from any such measures. Additionally, such a provision, selective as it was, called into question the objectives of the principle of affirmative action, and those objectives must always be prioritised in any given circumstance. Primarily, we are referring to the objective of solidifying international trust, and preventing inter-ethnic and international antagonism, and inhibiting the increase of inter-ethnic distance. Therefore, it is necessary to commit to a removal of all normative hindrances on the path to fully exercising the right to authentic representation in line with the principle of affirmative action for all ethnonational minority communities, whose share in the total population of the country does not exceed 15 percent, as evidenced by the results of the most recent population census.

In the particular case of the Romani population, the same measures of affirmative action that the electoral legislation defines for the Croatian national minority ought to apply to the ethnic community that is in the most vulnerable position, in the socio-economic and political sense. The position of the Romani ethnic community in Montenegro is marked by extreme poverty, a high degree of unemployment, poor knowledge of the official language, bad living conditions, extremely bad education, lack of health and social insurance, and a complete lack of political participation. Montenegro is the only country from the former Yugoslav block that does not have a single national party representing the Romani ethnic community. Changes in the electoral legislation would enable political representation of this community in the electoral body (which is the first activity proposed by the Strategy on Improving the Position of Romani People and Egyptians 2012-2016 in the area of participation in the political and public life), intensify political activism, and increase the level of overall engagement within the community.

Integration of the members of this community into the Montenegrin society cannot be complete until the rights to authentic representation at the state, and the self-government level in those self-government units where minorities comprise a significant part of the population are being exercised. Since the process of exercising this right is still not normatively structured at the level of local self-government units, this task is due to be completed in the foreseeable future. With regards to the constitutionally given right to

proportional representation in public services, the organs of the state, the judicial system and in self-government units, certain progress has already been made. However, given the visible disproportion between the percentage of minority communities in the total population of Montenegro, and the proportional representation of national minority communities, it is possible to infer that real progress is yet to be made.

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[1] The term "Western Balkans" is in itself quite controversial, as it has been used to convey different meanings, which was met with different reactions. It is frequently used by EU subjects when referring to Bosnia and Herzegovina, Serbia, Montenegro, Albania, Macedonia, and Croatia (since 1 July 2013, when the country joined the EU). Therefore, it is a regional denomination used to refer to countries that are still not EU members (with the exception of Croatia), situated in the Balkan peninsula. See: http://ec.europa.eu/trade/policy/countries-and-regions/regions/western-balkans/ (28.11.2016). In line with the current global tendencies to establish cooperation networks at the regional level, this term is frequently used to indicate the need for intensive cooperation between the aforementioned countries linked by the strategic, political, and socio-economic objective of joining the EU.

[2] The term "Yugoslav" was first used as a national identity designation during the 1961 population census. The population of the People Federal Republic of Yugoslavia was 18,549,291. A total of 317,124 people declared as Yugoslav – 1.7 percent of the total population of the country. According to the results of the census, the population of Montenegro was 471,894, with 1,559 people declaring as Yugoslav, i.e. 0.3 percent of the population (Grabeljšek, Damnjanović, Jovanović, Kosić-Kovačević, 1994: 11,12).

[3] Apart from the fact that national identity based on religion inhibited the consolidation of supra-state and supra-national Yugoslav identity, Mari-Žanin Čalić provides two additional arguments for such a relationship with religious communities. First and foremost, religion was seen as retrograde, detrimental, and unnecessary, while the members of the clergy were perceived, primarily, as opposed to the communist order (Čalić, 2013: 232).

[4] The first multi-party elections in Montenegro, held in 1990, resulted in an absolute victory by the League of Communists. This scenario was unique in former communist countries. The League of Communists later on transformed in the currently ruling Democratic Party of Socialists.

[5] The 1992 Constitution guaranteed certain special rights to members of national and ethnic minority groups: protection of national, ethnic, cultural, linguistic and religious identity; the right to use their mother tongue, the right to education and the right to access information in their mother tongue; the right to use and present national symbols; the right to use their mother tongue in procedures conducted by the organs of the state; the right to proportional representation in public services, the organs of state authority and local self-governing units; the right to establish and cultivate communication with non-Montenegrin people with whom they share national and ethnic origin, cultural and historical heritage, as well as religious persuasions; the right to be active in regional and international NGOs; and the right to seek help from international institutions for the sake of protecting their freedoms and rights guaranteed by the Constitution of Montenegro, adopted in 1992, available at: http://www.uniset.ca/microstates/montenegro_1055251939.pdf (15.12.2017.).

[6] There are numerous classifications of countries based on pluralism in the ethno-cultural sense of the word. Normally, a country in which one ethnic community comprises 90 percent of the total population is seen as monolithic; if that community comprises 80-89 percent, it is seen as homogenous; if it comprises 70-79 percent, it is characterized by low homogeneity, and if it comprises 60-69 percent, it is characterized by high heterogeneity. Very high heterogeneity is typical of societies where one ethnic community comprises 50-59 percent of the population (Raduški, 2003: 427).

[7] 2011 Population census in Montenegro, Statistical Office of Montenegro, Release no. 83, Podgorica, 12/07/2011, pages 6-9. Retrieved from: http://www.monstat.org/userfiles/file/popis2011/saopstenje/saopstenje%281%29.pdf (20.05.2016).

[8] Commenting on the model of the European standard of minority participation, Ivana Jelić states that effective participation in this context takes more than one form: „Participation in the legislative process (through political parties, the benefits that the electoral system provides at the national, regional and local level; the places reserved for minorities in the legislation bodies; the administrative arrangements; and veto rights), participation in specialised government bodies, participation in consultancy mechanisms, availability of financial means for activities aimed at minority groups, media as a means of strengthening effective participation in public affairs, and participation of the members of national minorities in the

application and monitoring of the Framework Convention for the Protection of National Minorities" (Jelić, 2012:57).

[9] The Constitution provides a list of the most significant minority rights, primarily referring to the protection of the identity of national communities: "Persons belonging to minority nations and other minority national communities shall be guaranteed the rights and liberties, which they can exercise individually or collectively with others, as follows: 1) the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities; 2) the right to choose, use and publicly post national symbols and to celebrate national holidays; 3) the right to use their own language and alphabet in private, public and official use; 4) the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities; 5) the right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings also in the language of minority nations and other minority national communities; 6) the right to establish educational, cultural and religious associations, with the material support of the state; 18 7) the right to write and use their own name and surname in their own language and alphabet in the official documents; 8) the right, in the areas with significant share in total population, to have traditional local terms, names of streets and settlements, as well as topographic signs written also in the language of minority nations and other minority national communities; 9) the right to authentic representation in the Parliament of the Republic of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action; 10) the right to proportionate representation in public services, state authorities and local self-government bodies; 11) the right to information in their own language; 12) the right to establish and maintain contacts with the citizens and associations outside of Montenegro, with whom they have common national and ethnic background, cultural and historic heritage, as well as religious beliefs; 13) the right to establish councils for the protection and improvement of special rights." (The Constitution of Montenegro, 2007, page 14. Retrieved from: http://sudovi.me/podaci/vrhs/dokumenta/614.pdf (10.10.2015))

[10] The Constitution of Montenegro, 2007, page 17. Retrieved from: http://sudovi.me/podaci/vrhs/dokumenta/614.pdf (10.10.2014).

[11] According to the 2003 population census, there were 267,669 Montenegrins living in Montenegro (43.16 percent), 198,414 Serbs (31.99 percent), 31,163 Albanians (5.03 percent), 48,184 Bosniaks (7.77 percent), 2,601 Muslims (3.97 percent), 2,601 Romanis (0.42 percent) 6,811 Croatians (1.10 percent), and 6,346 people who declared as "others" (1.02 percent). The 2003 Population Census, Statistical Office of Montenegro, Release No. 44, Podgorica, 21/09/2004. Available at: http://monstat.org/userfiles/file/popis03/saopstenje44.pdf (26.05.2016).

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Berislav Majhut*, The Construction of Children's Literature during the Yugoslav First Five-Year Plan, *Revista de Științe Politice. Revue des Sciences Politiques*, 54, 118-128. Retrieved from: http://cis01.central.ucv.ro/revistadestiintepolitice/files/numarul54_2017/10.pdf.

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CEPOS NEW CALL FOR PAPERS 2018
8TH INTERNATIONAL CONFERENCE
AFTER COMMUNISM. EAST AND WEST UNDER SCRUTINY

Craiova (Romania), House of the University,
23-24 March 2018

Dear Colleagues,

We are delighted to invite you to participate in the 8th International Conference AFTER COMMUNISM. EAST AND WEST UNDER SCRUTINY in Craiova, Romania, 23-24 March 2018. More than two decades after, an event is both history and present. The annual conference organized by CEPOS involves both the perspectives of the researches in the field of Communism and Post-Communism: research experiences and scientific knowledge. Like a "pointing puzzle", 29 years after the fall of communism, the conference panels explore emotional detachments, but also a peculiar involvement creating and exploiting the inter-disciplinary developments of the East-West relations before and after the crucial year 1989 in the fields such as: political sciences, history, economics and law. The conference will be hosted by the University House and during two intense and exciting days, participants all over the world (professors, professionals, doctoral and post-doctoral researchers) are invited to raise the issue of the study of recent history of the former communist space in connection with the Western world. We are confident that all of us will focus during these two days on what is important to move the research in the field forward. We dear to state that we even bear the moral obligation to do that.

Best regards,

The Board of Directors of CEPOS 2018 Conferences and Events Series

PROPOSED PANELS for CEPOS CONFERENCE 2018

Center of Post-Communist Political Studies (CEPOS) proposes the following panels:
-Communism, transition, democracy;
-Post-communism and colective memory;
-Politics, ideologies and social action in transition;
-Revolution and political history;
-Political culture and citizen participation
-Law, legal studies and justice reform;
-Constitution(s), legality & political reforms;
-Political parties, electoral systems and electoral campaigns;

-Security and diplomacy in national and Euro-Atlantic environment;
-Rights, identities policies & participation;
-Education, media & social communication;
-Administrative history and governance within South-Eastern Europe during transition;
-Political leadership, democratization and regional security;
-Comparative policies, sustainable growth and urban planning;
-Knowledge transfer and competitiveness in regional economies;
-Global environment and cultural heritage;
-Integration, identity, and human rights in European systems;
-Religion, cultural history and education;
-Media, communication and politics;
-Discourse, language and social encounters;
-Bioethics and transition challenges;

ABSTRACT SUBMITTING (SEE CEPOS CONFERENCE 2018 REGISTRATION FORM-on http://cepos.eu/)

The proposals must be sent in English and must contain the title of the paper, the abstract (no more than 300 words) and a short presentation of the author(s) (statute, institutional affiliation, short list of relevant scientific contributions).

DEAD-LINE FOR SUBMITTING A PROPOSAL: 19 FEBRUARY 2018

Proposals must be submitted until 19 February 2018 at the following address: cepos2013@gmail.com

CONFERENCE VENUE

Casa Universitarilor/University House (57 Unirii Street, Craiova, Romania). You can view the Conference location and a map at the following address: http://www.casa-universitarilor.ro/

- More information about the Conference venue can be found at the following address: http://www.ucv.ro/campus/puncte_de_atractie/casa_universitarilor/prezentare.php'
- More photos of the conference room can be viewed at http://www.ucv.ro/campus/puncte_de_atractie/casa_universitarilor/galerie_foto.php

CEPOS CONFERENCE PAST EDITIONS

More information, photos and other details about the previous editions of the Conference and CEPOS Workshops, Internships, and other official events organized in 2012-2017 are available on:

- CEPOS official website sections **CEPOS Previous Events Photo gallery CEPOS Events**
- CEPOS FACEBOOK ACCOUNT: https://www.facebook.com/pages/Center-of-Post-Communist-Political-Studies-CEPOS/485957361454074

TRANSPORT

The 8th International Conference "After communism. East and West under Scrutiny" (2018) will be held in Craiova, a city located in the South-Western part of Romania, at about 250 km from Bucharest, the national capital.
The airport of Craiova (http://en.aeroportcraiova.ro/) has flights to Timisoara, Dusseldorf,

Munchen, Ancone, Rome, Venezia, London, Bergamo etc. Other airports, such as Bucharest (Romania) (http://www.aeroportul-otopeni.info/) is located at distances less than 240 km from Craiova and accommodate international flights. Train schedule to Craiova can be consulted at InterRegio CFR (http://www.infofer.ro/) and SOFTRANS (http://softrans.ro/mersul-trenurilor.html).

CEPOS CONFERENCE 2018 FEES AND REGISTRATION REGISTRATION DESK

The Conference Registration Desk will be opened from Friday, 23rd of March 2018 (from 08.00 a.m. to 18.00 p.m.) until Saturday 24th of March 2018 (from 08.00 a.m. until 14.00 p.m.), for registration and delivery of conference bag with documents to participants. The Conference Registration Desk is located in the lobby of the University House Club, 1st Floor.

REGISTRATION FEES

90 euros/paper can be paid directly via bank transfer on CEPOS Bank account as follows:
Details for online payment
Banca Romana pentru Dezvoltare (BRD)
Owner: ASOCIATIA CENTRUL DE STUDII POLITICE POSTCOMUNISTE
Reference to be mentioned: CV taxa participare si publicare CEPOS
Account Number: RO64BRDE170SV96030911700 (RON)

MEALS AND OTHER ORGANIZING DETAILS

The registration fee covers:
* Conference attendance to all common sessions, individual and special panels
* Conference materials (including a printed version of the Book of Abstracts of the Conference)
* Conference special bag - 1 for every single fee paid, no matter the number of authors/paper
* Coffee Breaks-March 23, 2018 – March 24, 2018. During the two days conference, 3 coffee breaks are offered.
* Welcome reception (March 23, 2018)
* Lunch (March 23, 2018) offered in the University House Mihai Eminescu Gala Room
* A Festive Gala Dinner and Cocktail (March 24, 2018) offered in the University House Mihai Eminescu Gala Room
* A Free Cocktail Buffet will be served from 19:00 p.m. to 21.00 p.m.
* A Free Entrance Voucher is provided inside of each Conference Bag.
* Lunch (March 24, 2018)
* Certificate of attendance (offered at the end of the conference March 24, 2018)
* Publication of the Conference Papers in the International Indexed Journal Revista de Stiinte Politice. Revue des Sciences Politiques (previous publication of the 2012-2017 Conference papers is available at
http://cis01.central.ucv.ro/revistadestiintepolitice/acces.php
* One original volume of the International Indexed Journal Revista de Stiinte Politice. Revue des Sciences Politiques (where the personal conference paper was published) will be delivered to the authors (an additional fee of 10 euros is required for the mailing facilities)
* Computer & Internet Facilities. There is available videoproiector and connection to

Internet services.
* Language. The official language of the Conference will be English. The Organizing Committee does not provide simultaneous translation.

NEW! FREE SOCIAL AND CULTURAL PROGRAMME OF THE CEPOS CONFERENCE 2018

* Participants in CEPOS CONFERENCE 2018 have free acces to the Social and Cultural Program of the Seventh Edition of the International Conference After Communism. East and West under Scrutiny, Craiova, 23-24 March 2018: including free guided tours of the:
Craiova Old City Tour and CEPOS Headquarters
Museum of Arts Craiova http://www.muzeuldeartacraiova.ro/
Oltenia Museum (all sections included): http://www.muzeulolteniei.ro/index.php?view=content&c=26
Casa Baniei http://www.muzeulolteniei.ro/index.php?view=content&c=26

CERTIFICATES OF ATTENDANCE

Certificates of attendance will be offered at the end of the conference on Saturday, March 24, 2018

INTERNATIONAL INDEXING OF REVISTA DE STIINTE POLITICE/REVUE DES SCIENCES POLITIQUES

Revista de Stiinte Politice/Revue des Sciences Politiques is an International Indexed Journal by:
ProQuest
ERIH PLUS
ProQuest Political Sciences
EBSCO
KVK
Gale Cengage Learning
Index Copernicus
Georgetown University Library
Elektronische Zeitschriftenbibliothek EZB
Journal Seek
Intute Social Sciences.

Revista de Stiinte Politice. Revue des Sciences Politiques. Indexing and abstracting in other relevant international databases, services and library catalogues (Statistics 2015-2017)

Google Scholar
https://scholar.google.com/citations?user=geaF_FgAAAAJ&hl=ro

ProQuest 5000 International
http://tls.proquest.com/tls/servlet/ProductSearch?platformID=1&externalID=770&vdID=6 14505/ PM ID 99 909

Birmingham Public Library, United Kingdom
http://www.bplonline.org/virtual/databases/journals.as/px?q=R&p=36

Harold B. Lee Library, Brigham Young University
http://sfx.lib.byu.edu/sfxlcl3?url_ver=Z39.88-2004&url_ctx_fmt=info:ofi/fmt:kev:mtx:ctx&ctx_enc=info:ofi/enc:UTF-8&ctx_ver=Z39.88-2004&rfr_id=info:sid/sfxit.com:azlist&sfx.ignore_date_threshold=1&rft.object_id=1000000000726583&rft.object_portfolio_id=&svc.holdings=yes&svc.fulltext=yes

Miami University Oxford, Ohio, USA
http://www.lib.miamioh.edu/multifacet/record/az-9ce56f97d1be33af92690283c0903908

German National Library of Science and Technology
https://getinfo.de/app/Revista-de-%C5%9Ftiin%C5%A3e-politice-Revue-des-sciences/id/TIBKAT%3A590280090

Bibliotek Hamburg
http://www.sub.uni-hamburg.de/recherche/elektronische-angebote/elektronische-zeitschriften/detail/titel/144583.html

Sabre Libraries of University of Sussex, University of Brighton and Brighton and Sussex NHS
http://sabre.sussex.ac.uk/vufindsmu/Record/1584224X/Details

University of Southern Denmark
http://findresearcher.sdu.dk:8080/portal/en/journals/revista-de-stinte-politice%28ca92579a-2621-46ec-946f-21e26f37364d%29.html

Edith Cowan Australia
http://library.ecu.edu.au:2082/search~S7?/.b2071921/.b2071921/1%2C1%2C1%2CB/marc~b2071921

University College Cork, Ireland
http://cufts2.lib.sfu.ca/CJDB4/CCUC/journal/375867
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http://forskning.regionh.dk/en/journals/revista-de-stinte-politice%2811468a3a-a8be-4502-b8d6-718255c47677%29.html

WorldCat
https://www.library.yorku.ca/find/Record/muler82857

York University Library, Toronto, Ontario, Canada
https://www.library.yorku.ca/find/Record/muler82857

The University of Chicago, USA
https://catalog.lib.uchicago.edu/vufind/Record/sfx_1000000000726583

Wellcome Library, London, United Kingdom
http://search.wellcomelibrary.org/iii/encore/search/C__Scivil%20law__Orightresult__X0;jsessionid=86D8DE0DF1C54E503BEF1CB1168B6143?lang=eng&suite=cobalt

The University of Kansas KUMC Libraries Catalogue
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University of Saskatchewan, SK
http://library.usask.ca/find/ejournals/view.php?i

Academic Journals Database
http://discover.library.georgetown.edu/iii/encore/record/C%7CRb3747335%7CSREVISTA+DE+STIINTE%7COrightresult?lang=eng&suite=def

Journal Seek
http://journalseek.net/cgi-bin/journalseek/journalsearch.cgi?field=issn&query=1584-224X

Sherpa
http://www.sherpa.ac.uk/romeo/search.php?issn=1584-224X&showfunder=none&fIDnum=%7C&la=en

University of New Brunswick, Canada
https://www.lib.unb.ca/eresources/index.php?letter=R&sub=all&start=2401

State Library New South Wales, Sidney, Australia,
http://library.sl.nsw.gov.au/search~S1?/i1583-9583/i15839583/-3,-1,0,B/browse

Electronic Journal Library
https://opac.giga-hamburg.de/ezb/detail.phtml?bibid=GIGA&colors=7&lang=en&flavour=classic&jour_id=111736

Jourlib
http://www.jourlib.org/journal/8530/#.VSU7CPmsVSk

Cheng Library Catalog
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Open University Malaysia
http://library.oum.edu.my/oumlib/content/catalog/778733

Wayne State University Libraries
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http://muse.lib.ksu.edu.tw:8080/1cate/?rft_val_fmt=publisher&pubid=ucvpress

Western Theological Seminar
http://cook.westernsem.edu/CJDB4/EXS/browse/tags?q=public+law

NYU Health Sciences Library
http://hsl.med.nyu.edu/resource/details/175011

Swansea University Prifysgol Abertawe
https://ifind.swan.ac.uk/discover/Record/579714#.VSU9SPmsVSk

Vanderbilt Library
http://umlaut.library.vanderbilt.edu/journal_list/R/139

Wissenschftszentrum Berlin fur Sozial
http://www.wzb.eu/de/node/7353?page=detail.phtml&bibid=AAAAA&colors=3&lang=de&jour_id=111736

Keystone Library Network
https://vf-clarion.klnpa.org/vufind/Record/clarion.474063/Details

Quality Open Access Market
https://zaandam.hosting.ru.nl/oamarket-acc/score?page=4&Language=21&Sort=Ascending&SortBy=BaseScore

Elektronische Zeitschriftenbibliothek EZB (Electronic Journals Library)
http://rzblx1.uni-regensburg.de/ezeit/searchres.phtml?bibid=AAAAA&colors=7&lang=de&jq_type1=KT&jq_term1=REVISTA+DE+STIINTE+POLITICE

Harley E. French Librayr of the Health sciences
http://undmedlibrary.org/Resources/list/record/129818

Open Access Articles
http://www.openaccessarticles.com/journal/1584-224X_Revista_de_Stiinte_Politice+---

Vrije Universiteit Brussel
http://biblio.vub.ac.be/vlink/VlinkMenu.CSP?genre=journal&eissn=&issn=1584-224X&title=Revista%20de%20Stiinte%20Politice

The Hong Kong University
http://onesearch.lib.polyu.edu.hk:1701/primo_library/libweb/action/dlDisplay.do?vid=HKPU&docId=HKPU_MILLENNIUM22899443&fromSitemap=1&afterPDS=true

Biblioteca Universitaria di Lugano
https://en.bul.sbu.usi.ch/search/periodicals/systematic?category=10&page=34&per_page=10&search=

Olomuc Research Library, Czech Republic
http://aleph.vkol.cz/F?func=find-

&ccl_term=sys=000070018&con_lng=eng&local_base=svk07

California State University Monterey Bay University
http://sfx.calstate.edu:9003/csumb?sid=sfx:e_collection&issn=1584-224X&serviceType=getFullTxt

University of the West
http://library.uwest.edu/booksub.asp?OCLCNo=9999110967

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http://mobil.ub.uni-koeln.de/IPS?SERVICE=TEMPLATE&SUBSERVICE=EZB_BROWSE&SID=PETERSPFENNIG:1460334557&LOCATION=USB&VIEW=USB:Kataloge&BIBID=USBK&COLORS=7&LANGUAGE=de&PAGE=detail&QUERY_URL=jour_id%3D111736&REDIRECT=1

Biblioteca Electronica de Ciencia y Technologia
http://www.biblioteca.mincyt.gob.ar/revistas/index?subarea=148&area=34&gran_area=5&browseType=discipline&Journals_page=17

University of Huddersfield UK
http://library.hud.ac.uk/summon/360list.html

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http://www.sulb.uni-saarland.de/index.php?id=141&libconnect%5Bjourid%5D=111736

OHSU Library
http://www.ohsu.edu/library/ejournals/staticpages/ejnlr.shtml

Valley City State University
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Centro de Investigaciones Sociologicas, Spain
http://www.cis.es/cis/export/sites/default/-

Archivos/Revistas_de_libre_acceso_xseptiembre_2010x.pdf
Drexel Libraries
http://innoserv.library.drexel.edu:2082/search~S9?/aUniversitatea+%22Babe%7Bu0219%7D-Bolyai.%22/auniversitatea+babes+bolyai/-3%2C-1%2C0%2CB/marc&FF=auniversitatea+din+craiova+catedra+de+stiinte+politice&1%2C1%2C

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Universite Laval
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For more details about the past issues and international abstracting and indexing, please visit the journal website at the following address:

http://cis01.central.ucv.ro/revistadestiintepolitice/acces.php.

CONFERENCE INTERNATIONAL INDEXING OF THE PAST EDITIONS (2014-2017)

CEPOS Conference 2017

The Seventh International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 24-25March 2017) was evaluated and accepted for indexing in 10 international databases, catalogues and NGO's databases:
Ethic & International Affairs (Carnegie Council), Cambridge University Press-https://www.ethicsandinternationalaffairs.org/2016/upcoming-conferences-interest-2016-2017/
ELSEVIER GLOBAL EVENTS
LIST http://www.globaleventslist.elsevier.com/events/2017/03/7th-international-conference-after-communism-east-and-west-under-scrutiny
CONFERENCE ALERTS-http://www.conferencealerts.com/show-event?id=171792
10TIMES.COM-http://10times.com/after-communism-east-and-west-under-scrutiny
Hiway Conference Discovery System-http://www.hicds.cn/meeting/detail/45826124
Geopolitika (Hungary)-http://www.geopolitika.hu/event/7th-international-conference-after-communism-east-and-west-under-scrutiny/
Academic.net-http://www.academic.net/show-24-4103-1.html
World University Directory-http://www.worlduniversitydirectory.com/conferencedetail.php?AgentID=2001769
Science Research Association-http://www.scirea.org/conferenceinfo?conferenceId=35290
Science Social Community-https://www.science-community.org/ru/node/174892

CEPOS Conference 2016

The Sixth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 8-9 April 2016) was evaluated and accepted for indexing in the following international databases, catalogues and NGO's databases:
ELSEVIER GLOBAL EVENTS-
http://www.globaleventslist.elsevier.com/events/2016/04/6th-international-conference-after-communism-east-and-west-under-scrutiny/
Oxford Journals – Oxford Journal of Church & State-
http://jcs.oxfordjournals.org/content/early/2016/02/06/jcs.csv121.extract
Conference Alerts-http://www.conferencealerts.com/country-listing?country=Romania
Conferences-In - http://conferences-in.com/conference/romania/2016/economics/6th-international-conference-after-communism-east-and-west-under-scrutiny/
Socmag.net - http://www.socmag.net/?p=1562
African Journal of Political Sciences-
http://www.maspolitiques.com/mas/index.php?option=com_content&view=article&id=450:-securiteee-&catid=2:2010-12-09-22-47-00&Itemid=4#.VjUI5PnhCUk
Researchgate-
https://www.researchgate.net/publication/283151988_Call_for_Papers_6TH_International_Conference_After_Communism._East_and_West_under_Scrutiny_8-9_April_2016_Craiova_Romania
World Conference Alerts-
http://www.worldconferencealerts.com/ConferenceDetail.php?EVENT=WLD1442
Edu events-http://eduevents.eu/listings/6th-international-conference-after-communism-east-and-west-under-scrutiny/
Esocsci.org-http://www.esocsci.org.nz/events/list/
Sciencedz.net-http://www.sciencedz.net/index.php?topic=events&page=53
Science-community.org-http://www.science-community.org/ru/node/164404/?did=070216

CEPOS Conference 2015

The Fifth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 24-25 April 2015) was evaluated and accepted for indexing in 15 international databases, catalogues and NGO's databases:
THE ATLANTIC COUNCIL OF CANADA, CANADA-
http://natocouncil.ca/events/international-conferences/
ELSEVIER GLOBAL EVENTS LIST-
http://www.globaleventslist.elsevier.com/events/2015/04/fifth-international-conf
GCONFERENCE.NET-
http://www.gconference.net/eng/conference_view.html?no=47485&catalog=1&cata=018&co_kind=&co_type=&pageno=1&conf_cata=01
CONFERENCE BIOXBIO-http://conference.bioxbio.com/location/romania
10 TIMES-http://10times.com/romania
CONFERENCE ALERTS-http://www.conferencealerts.com/country-listing?country=Romania
http://www.iem.ro/orizont2020/wp-content/uploads/2014/12/lista-3-conferinte-internationale.pdf
http://sdil.ac.ir/index.aspx?pid=99&articleid=62893

NATIONAL SYMPOSIUM-http://www.nationalsymposium.com/communism.php
SCIENCE DZ-http://www.sciencedz.net/conference/6443-fifth-international-conference-after-communism-east-and-west-under-scrutiny
ARCHIVE COM-http://archive-com.com/com/c/conferencealerts.com/2014-12-01_5014609_70/Rome_15th_International_Academic_Conference_The_IISES/
CONFERENCE WORLD-http://conferencesworld.com/higher-education/
KNOW A CONFERENCE KNOW A CONFERENCE-http://knowaconference.com/social-work/
International Journal on New Trends in Education and Their Implications (IJONTE) Turkey http://www.ijonte.org/?pnum=15&
Journal of Research in Education and Teaching Turkey-http://www.jret.org/?pnum=13&pt=Kongre+ve+Sempozyum
CEPOS CONFERENCE 2015 is part of a "consolidated list of all international and Canadian conferences taking place pertaining to international relations, politics, trade, energy and sustainable development". For more details see http://natocouncil.ca/events/international-conferences/

CEPOS Conference 2014

The Fourth International Conference After Communism. East and West under Scrutiny, Craiova, 4-5 April 2014 was very well received by the national media and successfully indexed in more than 9 international databases, catalogues and NGO's databases such as: American Political Science Association, USA-http://www.apsanet.org/conferences.cfm; Journal of Church and State, Oxford-http://jcs.oxfordjournals.org/content/early/2014/01/23/jcs.cst141.full.pdf+html; NATO Council of Canada (section events/ international conferences), Canada, http://atlantic-council.ca/events/international-conferences/
International Society of Political Psychology, Columbus, USA-http://www.ispp.org/uploads/attachments/April_2014.pdf
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For books

Olimid, A. P., (2009a). *Viaţa politică şi spirituală în România modernă. Un model românesc al relaţiilor dintre Stat şi Biserică*, Craiova: Aius Publishing.
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Goodin, R. E. (2011). The State of the Discipline, the Discipline of the State. In Goodin, R. E. (editor), *The Oxford Handbook of Political Science*, Oxford: Oxford University Press, pp. 19-39.

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Georgescu, C. M. (2013a). Qualitative Analysis on the Institutionalisation of the Ethics and Integrity Standard within the Romanian Public Administration. *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, 37, 320-326.

Georgescu, C. M. (2013b). Patterns of Local Self-Government and Governance: A Comparative Analysis Regarding the Democratic Organization of Thirteen Central and Eastern European Administrations (I). *Revista de Ştiinţe Politice. Revue des Ştiinţe Politice*, 39, 49-58.

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