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FACULTY OF SOCIAL SCIENCES
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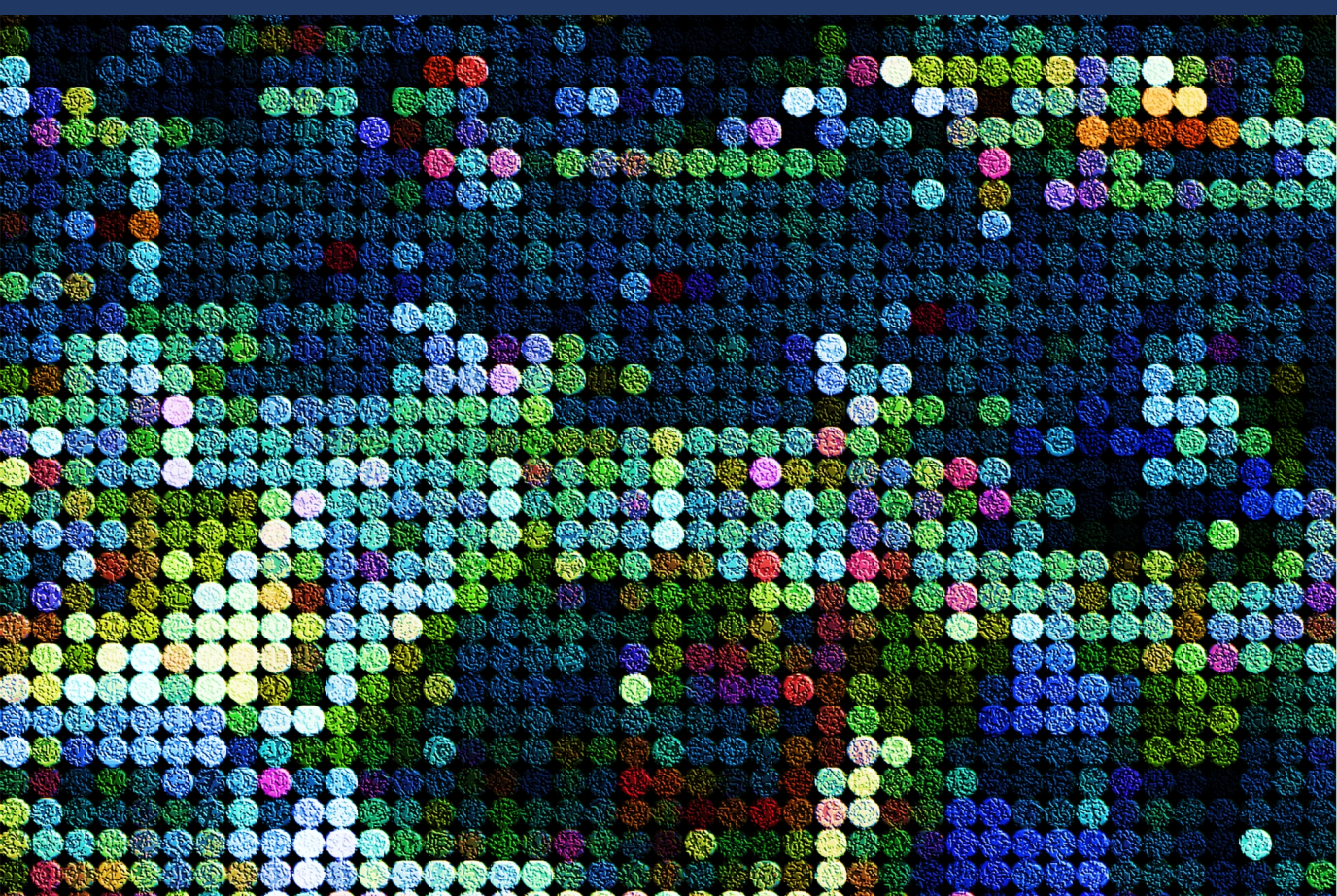
REVISTA DE ŞTIINŢE POLITICE.
REVUE DES SCIENCES POLITIQUES

No. 48 • 2015



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Editura Universitaria Craiova

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Website:http://cis01.central.ucv.ro/revistadestiintepolitice/

The Journal is published quarterly.
(Online) - ISSN 2344 – 4452
ISSN–L 1584 – 224X

No. 48 • 2015

Revista de Ştiinţe Politice.
Revue des Sciences Politiques

NOTE of the EDITORIAL BOARD
Revista de Ştiinţe Politice. Revue des Sciences Politiques
is abstracted by / indexed in:

EBSCO
Political Sciences Complete ● Situation January-February 2015
http://www.ebscohost.com/titleLists/poh-coverage.pdf (page 45/ 54)

ProQuest Central
Proquest Title List, Accurate as of 1 April 2015 (position 179734) and also ProQuest Political Sciences, ● Professional Proquest Central ● Proquest Research Library ● ProQuest 5000 International ● Proquest Central K12

INDEX COPERNICUS
http://jml2012.indexcopernicus.com/REVISTA+DE+STIINTE+POLITICE+REVUE+DES+SCIENCES+POLITIQUES,p1331,3.html
ICV 2014: 65,01
Standardized Value: 6.55

DOAJ Directory of Open Access Journals
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Gale Cengage Learning
Report Generated 21 April 2014 (position 13456)

ERIH PLUS
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Revista de Ştiinţe Politice. Revue des Sciences Politiques

RSP • No. 48 • 2015

Post-Communist Memories and Local Patterns In-Between East and West

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EDITORS' NOTE

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

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

Welcome to the fourth issue in 2015 of the *Revista de Ştiinte Politice. Revue des Sciences Politiques* (hereinafter **RSP**). The content and the thematic of the journal provided since issue 41/2014 are dedicated to encounter the East and West political challenges recently debated by the academic community and scientists. The content of issue 48/2015 gathers the academia accross post-communist memories and local patterns in-between East and West cultural legacies and current political and international security challenges. The intercultural, multicultural and transcultural approaches to the study of politics, policies and polity render the specificity of an ultimately transitionaly challenged geopolitical space. The articles gathered under the latest issue of **RSP** (48/2015) offer a critical understanding of post-communist change under the most debated aspects of memories and perceptions, sense of sovereignty and constructed image of the „other".

Thus, Radu-Cristian Petcu introduces the interested reader into the issue of „legacy of memory past in sense-making" aiming at promoting the transition process as „paths of dependency" featuring the collective memory logic. The approach is institutionalist, the critical argument being that „collective memory can be institutionalised" or rather tapped and distributed within an established imagology of the past, present and future. All in all, a study on meaning, narrative structures and political culture that offers the key to uncover the recent history...

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Within this company, Drita Mamuti Fazlia brings forth the challenges for transitional justice to proceed to the implementation of international law within strait-laced constitutional frameworks backed by the principle of sovereignty. Zemri Elezi and Zinepe Elezi also place their study within the politically challenged geographic space of the former Yugoslavia. The article bends over the review of constitutional aspects drafted as a rezult of internationally-imposed peace settlement proposing an alternative under the form of a "joint effort with the international community". Remaining in the same geopolitical space, Fadil Zendeli proposes the „decentralization of power as problem-solving in the inter-ethnic relations", while, within the same area, Elmi Aziri draws an image of the Macedonian effects of income and public expenditures on their participation in GDP. As the reader shall see, within the democratization logic, intercultural education was drafted as a means to acquire complex professional competences in postmodernity (Florentina Mogonea).

Taking a leap into history, the article signed by Elena Steluța Dinu discusses the international political and diplomatic context surrounding the Crimean War which led to the internationalization of the Romanian cause and the change in the supranational protectorate of the Great Powers. Within a historiographical endeavour, Florin Nacu examines the modern social and political structures in Romania with a special focus on the "artificially" introduced socialist ideological changes. Moving forward, Mihai Ghițulescu analyses the historiography about cabinet formation practices of the interwar Romanian state aiming at de-constructing the "democratic traditions of the Romanian people" constitutional logic.

The Romanian legal and constitutional establishment is further discovered as Roxana Radu and Loredana Belu analyse the legal system of rights attached to the social policies designed to „provide professional rehabilitation and vocational integration of people with disabilities". Public policies as electoral matters are the trigger for the study signed by Georgeta Ghionea on the presidential elections, the vector of the voting pattern and the analyses at local/county level. Within a comparative project, Fisal Al-Temimi brings forward the cross-national research on children's rights protection and institutional capacities, while Răducu Răzvan Dobre further particularises the discussion with a special focus on adoption procedures. Encounters of legal regulations and challenges under the Romanian Civil Code and economic aspects are a key for the article signed by Cristina Stanciu while the article signed by Veronica Gheorghiță and Alexandrina Bădescu (Pădurețu) covers the demographic policies of Romanian post-communist governments with a particular emphasis on their socio-economic effects. Within the post-communist constitutional framework Petr Just places his study on the constructive motion of no confidence arguing for the increase in the stability of governments. Jakub Charvát discovers the dimensions of overrepresentation and underrepresentation in relation to the European Parliament mandates allocation according to the principle of degressive proportionality.

We consider that the main task of the latest ***RSP*** issue to assess *Post-Communist Memories and Local Patterns In-Between East and West* leads to a deeper understanding of the transition phenomenon and an orientation of the academia.

We would like to salute the presentation of innovative solutions and to present our sincere thanks to all the authors of our journal in all its 48 issues!

Wishing you all the best,

RSP Editors

RSP • No. 48 • 2015: 11-21

ORIGINAL PAPER

Post-Communist Change via Politics and Legacy of Memory Past in Sense-Making, Coming to Terms with Uncertainty

Radu-Cristian Petcu*

Abstract
Post-communism is a matter of purposeful regime transition and aftermath in historical context, factuality review and overview. Studying post-communism recency implies ongoing (re)interpretation inasmuch as it references communist regime practices and their legacy as well as the definition of political change, institutional discontinuation and latent cultural and ideological effects. The present paper outlines the role collective memory plays alongside paths of dependency as well as in breaking away from them, in redesigned projects for collective identity; the stake of restored order while it is also being reshaped is considered through the comparative and coterminous institutionalisation of two vying forces: memory and oblivion or intentional forgetting. The case made herein is that collective memory can be institutionalized and „governed" outside of uncertainty into normative sensibility and logic of change. Responsible policies can be devised in such a way that truth and memory, although in an arena of narrative and discursive contestation and competition, lead in ethical principles, positions and stances and follow through into justice. The need for balanced approaches in ensuring a coherent and legitimate continuum between past, present and future, by means of collective memory, is emphasized: previous regime understanding, past reconstruction in present interpretations, defining future change and assigning meaning to it in relation to the past, in such a way that the memory of change takes precedence over the memory of uncertainty.

Keywords: *post-communist transition; politics of memory; memory institutionalization*

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The Past in Memory and Identity – making sense of recent history

Considerations on recent history are an inevitable reference to the defining change therein, the change that marks the beginning of recent history, and its correspondences in individual and collective memories. The context addressed in this paper is an interplay between fact, representations and inquiry. The fall of the communist/totalitarian regime, political system and political culture changes, resurfacing (previously suppressed) dialogue concerning political community identity in the transition period. Controversy. What is the reason why uncertainty persists regarding the foundational moment of regime change? What are the certitudes regarding the process of change? How can memory promote conciliation and reflect truth? What is to become of the past? The ongoing (re-)interpretation of communist regime practices and their legacy, political change, institutional discontinuation, latent ideological effects, collective memory and identity in restored societal order, coterminous institutionalisation of memory and intentional forgetting are as much part of the answer as they are of the question.

One way to approach memory as the ordering principle of regime transition is to legitimize a continuum between past, present and future, in understanding the past, reconstructing it in defining change, assigning meaning to it so as to govern society out of transition period uncertainty and into normative sensibility and change logic. The gist of this enterprise would be to enable the memory of change to take precedence over a persistent memory of uncertainty and rule out the option of intentional forgetting in committing a new identity to memory. In the introduction of "Meaning and Representation in History", Jörn Rüsen (2006) weighs discourses on the end of history against the contemporary interest in collective identity building via memory, cultural, social political narrative representations of the past and the functions of remembrance and forgetting, descriptive of their nature as converging in history. Constructing reality needs sense-making and interplay, inter-subjectivity; critical approaches to history and memory should bridge the distance (uncertainty or multiple certitudes conflicting) between contexts, meanings and their mutually-informing co-evolution (Halbwachs, 2007; Assmann, 2008). Worldviews and experiences of the past meet their expression in memory institutionalization, practices of historical consciousness and temporal orientation (Rüsen, 1993); these are patterns in representing the continuum and boundary lines between past, present and future, while co-terminous for some culturally specific scope of identity (Rüsen, 2004).

The memory of political regime change, as it connects past, present and future of the political community, requires historical thinking in terms of how collective identity was perpetuated, what evolution paths were suspended or severed by previous regime change (the installation of the communist regime), remaining latent, what patterns of social purpose and identity orientation were discontinued on end and reconstructed after recent regime change and transition (post-communism/totalitarianism), what "other" identity is represented as result of competing orientations, how past experience and present institutions regarding the past coalesce into by dealing with contingency and transformation (Pennebaker, Paez, Rime, 1997; Stan, 2009; Tileagă, 2012). In fact, as Rüsen suggests, collective identity cannot be treated without relation to historical change, modern forms of political identity are defined by capacity to transform and, as such, identity is to be regarded "not as a function of difference, but as a concrete cultural and ongoing *practice* of difference" (Rüsen, 2006: xii). The simultaneous construction and representation of time, its divisions via change and considerations on identity, ends and

morality, call for historical consciousness orientated by narrative structures rendering past experiences and trans-generational forms of remembrance in intra-cultural sense-formation practices context (Rüsen, 1993, 2004). Koselleck refers to the past as a mapped "space of experience" and to the future as a "horizon of expectation", thus relating experience (and its memory) to expectations in knowing, understanding and working with historical consciousness (Koselleck, 2004). Or, in Kattago's words, latencies or "effects of history are legacies of the past that are meaningful in the present. One can never totally free oneself from the past and be a purely rational being, neither is one condemned to reproduce blindly the prejudices of one's tradition. The individual has the potential to criticize and evaluate his or her own traditions [...] Each person has a finite but changing horizon of understanding" (Kattago, 2009: 375).

Political community identity is defined by orientation which, in turn, relies on self-understanding as a reflection of past connected with present and future. Only as such, events of the past acquire historical quality of topic as pillars and premises for truth, while historical truth acts as a framework for such contents concerning the meaning of the past. Historical arguments tend to be, in this respect, "abductive" (in Charles Peirce's terminology, in *Collected Papers*, ed. Arthur W. Burks, Cambridge, Mass., 1985), rather than inductive or deductive, since in relation to factuality, they articulate views (about events of the past) that *may possibly be* true. Rüsen's approach to historical consciousness follows the same line, by maintaining cultural context-sensitive topic relevance. Making sense of past events is thus treated through its preconditions defined by direct cultural experience of change and its effects impacting the identity pattern, at the intersection with present interpretation (culturally mediated representation) of meaning and identity orientation, defined in continuity and change. Critical authority is paramount in setting the course for the process of memory guided transition, addressing the polarity between "space of experience", totality of past inheritance, and "horizon of expectation", potential (to use Koselleck's terms, in *Futures Past*), irreducible to one another, ensuring the dynamic nature of historical consciousness. Belonging and remembrance practice provide a referential structure for group identity or, in Olick's terms, "frameworks of memory" that individuals cannot escape (Olick, 2007: 28). It is rather the continuation of past, through long term structures, into present which gives group identity cohesive strength as well as trans-historical group behaviour coherence. This is indicative of Olick's interpretation of memory as a process, not as a thing, a temporal, context-sensitive relation between being-doing, rather than doing-having; its very nature makes this process open to contestation and negotiation in order to link past, present and future (Olick, 2007).

Individual or group identity is then also defined by a trans-context carry-forward of meaning regarding change and not just the "sense of sameness over time and space [that is] sustained by remembering" (Gillis, 1994: 3). It is also the case of remembering adjustment and re-orientation, indicative of the internalized, coherent and consistent relationship between change and continuity since they are mutually referential and enforcing in the ways individuals and communities interpret the past in relation to present justification and options and generate a memory bond with a founding event in the (revisited) past. If that which is remembered "is defined by the assumed identity" and "identity and memories are highly selective, inscriptive rather than descriptive, serving particular interests and ideological positions" (Gillis, 1994: 4), then the conceptualization and expression of forgetting is, just as relevant as remembrance and identity, in the choice of affiliation, retro-projection or imagination of the past (Ribeiro, 2013: 159-160).

Collective memory is, in this sense, a process of internal and external negotiations with regard to competing meanings in order to produce legitimate memory narratives.

Legacies of the past and meanings of change – an institutional setting

The past is not merely "usable", it is integral to both continuity and change. Returning to the past for meaning may or may not be about reinstatement or strengthening of national myths and symbols; it could also be about resistance to reproduce legacies, and/or expression of change relating to contexts of continuity and discontinuation, without resorting to intentional forgetting. The function performed therein, as counter-balance to memories developing in opposition to each other, is the gradual transformation of relations between collectivities who thus converge on non-mutually exclusive meanings in a shared, co-terminous memory of their identity formation. Addressing the past constructs memory roles to either consolidate a path of dependence on initial meanings or open it up to multifarious inter-subjectivity and between-memories bridging. In this perspective, remembrance practices are descriptive of emerging reconciliation approaches between previously conflicting memories and identities (Szurek, 2002). Coming to terms with a past that separates rather than unites makes transitional narratives and histories come together in spite of not also meeting respective mutual expectations of justice; what is gained instead is a referential regulatory framework for the course of memories institutionalization (Ribeiro, 2013).

Collective memory is of institutional interest in the aftermath of the Communist Bloc collapse, when Eastern European societies experience the need for truth, memory recovery, justice for the victims, resulting in a process which leads to the emergence of alternative models for interpreting the past, to the de-falsification of history and which opens up possibilities for reconciliation (Elster, 1998; Szurek, 2002). Understanding the past, its continuity and change into the present, is a set prerequisite for any exploration of recent history as well as for the way in which it is recounted during the transition period.

Memory is one of the building blocks of identity construction, and its production and reproduction by various memory agents is represented in either national ("official") or mass dimensions. The former refers to a traditionally state-centric perspective focusing on national character and historic identity of the political community of the state, whereas the latter refers to individual, pluralistic perceptions converging into a more internally competing and diverse collective consciousness. The latter aims for recognition and vies for the public character of the former; social, cultural memory, bearing the markings of individual and group experiences of historical events, reach for political significance in order to be part of the core-identity of the state, building the norms which guide or regulate state behaviour, domestically as well as internationally (Ribeiro, 2013). Whether officially integrated or not, there are processes of further seeking acknowledgement in the development of more complex networks of trans-nationally shared memories (such as memories constitutive of European identity), cosmopolitan or emerging universal memory (Malksoo, 2009). Memory regimes can be designed and enforced by governments, promoted by politically active individuals assuming the role of memory entrepreneurs. The power struggle in memory politics between distinct strategies to shape collective consciousness, and to make it historical, presents a risk of memory-instrumentation by way of exploitation, manipulation, abuse or occultation which describes memory misuse. However, this is arguably not what Maurice Halbwachs meant when he considered that "the past is not preserved but is reconstructed on the basis of the present" (Halbwachs, 1992: 40). Distortion of memory is a possibility with collective remembering as it is

defined by group belonging and practice, which can also imply intentional forgetting. Memory can also involve *ambiguity* and *uncertainty* as past is brought into the present for meaning (Zehfuss, 2007).

While it is rather difficult to resist the intellectual reflex to found a new social order model by denying the previous, to uncritically both reject former ideologies and support a new one in a single grand narrative, it does not suffice to provide interpretations which are instrumental to the goal of separation from the past (Onken, 2010). The past is still present in a variety of forms, perceptions, practices and meanings, and there is no relevance to simply criminalizing/condemning the past when understanding it is due in terms of providing contents of rationale for the course of transformation. Memories come into inter-subjective play upon the logic of institutional design, dismantling the old logic, safeguarding a legitimate course for continuity, introducing change, by redefined scope of political community identity. Public recognition of memories is thus the defining competition of transition in the process of understanding the past. Repressiveness and traumatic experiences as well as acceptable practices are to be integrated in remembrance of old regime political community identity (Tileagă, 2012).

The challenge in establishing historical evidence regarding political community identity and its prospects, by virtue of cultural meaning and collective practice, is then the formation of a complex relation between political community perceptions of regime change over time, internalized change and purposeful, intentional direction of change, as resulting from competing memories and narratives (Onken, 2010). Norms resulting from change reflect both conditional chains in the enactment of practices and prevailing meaning of symbols, and the reconstruction of the path including change in institutional design which takes account of the variation in memory-processed past as well as of intentional transfer of its context-experience to significant present expectations (Offe, 1996). The role of evaluation and ensuing norms in the process of generating historical consciousness is essential. Or, as Rüsen puts it, "interpretation of the past serves as a means for understanding the present and expecting the future" (Rüsen, 2006: 3). Norms, informed by the cultural practice of narrative discourses supported by direct experience and memory, express willingness to mark (and adapt to) change and embody memory as well as forgetfulness, in varying proportion and with different functions, for distinct purposes: governing the change (and re-ordering the political community), mediating memory conflicts, introducing reconciliation, applying sanctions or imparting transitional justice.

A multiplicity of memory narratives, including contradictory ones, may coexist in the institutional remembrance space; part may be active while others express latency, and nevertheless there is considerable potential for mutual balancing through dialogue between distinct layers of meaning (Djelic, Quack, 2007). Existing institutional structures and arrangements are bestowed new purposes (Kattago, 2009). Different narratives of the past react differently to change, from pressure to resistance or to support, from a perspective of stability to a perception of uncertainty; memory relations are sensitive to context and to increasing competition for institutionalization, yet they can also evolve into complementarities and interdependence for historical consciousness. The choice to forget is rather telling of power relations between memory entrepreneurs; if forgetting is institutionalized, historical consciousness is deprived of its pillars of experience-memory-meaning processes. Emergence of a memory about forgetting may ease tensions, despite its force of de-legitimation when in conflict with official narratives, inviting the question

of unintended effects of remembrance-forgetting ratios and rapports in memory entrepreneurs behaviour and memory politics (Assmann, 2008).

The political community is imagined both toward past and future, in a dual function of receptacle and beacon for past, present and future identity fitting within the frameworks of collective memory. Legacies of the past inform the social practices of remembrance and also feed counter-memories. Contemporary historical thought is laden with ambivalence toward legacies of the past as either symbolic foundation-setting, trans-context stability, continuity, cohesion, or as questions of trauma, of past meaning dis-integration, memory(-ies) separation, and need of democratic justice. Regime transition studies tend to pit these perspectives against one another, by emphasizing the latter and problematizing the former: what remains usable and what becomes obstructive-disruptive in the legacy of the past, in terms of "meaningful inheritance" versus "traumatic burden" (Kattago, 2009: 380). Nevertheless, approaching legacies of the past is a matter of perspective complementarity. Jeffrey Olick theorized rapports with the past in a manner which may also apply to perceptions of past legacies: a "presentist" understanding of the past regards "what *we* do *with* the past", with interpretations of the past being instrumental to present options; a "functional" understanding of the past concerns the fact-to-utility meaning for the continuity of identity, "what the *past* does *for* us"; and, the "psychoanalytical" understanding of the past as a moral and political source of complexity challenge and predicament for individual and collective identities, "what the past does *to* us" (Olick, 2007).

While it is hardly surprising that historical memory has become a political resource, the institutionalization of memory, its political dimension in containing and safeguarding identity is also virtual control of the meaning, of the reach and grasp of the past and its events over the present and its decisions. Historical course is constitutive of present-day conditions, but it is present-day institutions which give meaning to conditions, and collective/community memories and their representations which shape institutional ends. The politics of memory should reflect rather a process of managing the memory-identity relationship and governing transitions in its scope against forgetting than a process of memory appropriation, its collapse into a purely political instrumentation of former meaning-detached logic. Responsible policies can be devised in such a way that truth and memory, although in an arena of narrative and discursive contestation and competition, lead in ethical principles, positions and stances and follow through into justice. Politics of memory address the convenient as well as the uncomfortable evidences of experiences shared in the past and should open up viable paths into reconciliation and memory re-integration and re-connection of memory "lieux" (Nora, 1997), combining recognition, dignity and historical truth into consistent expressions of the "right to memory" and re-accommodating the narratives of the past (Lebow, 2008: 25-27). Legacies are memory-articulated, therefore future mythification is also possible, as Lebow notes: "we have no memories of the future, but we do have imagined memories of the future [...] Future 'memories' of this kind are just as important for building and sustaining identities as memories of the past – and many of the latter are, of course, also imaginary" (Lebow, 2008: 39).

When addressing recent history matters, the temptation to design norms to incorporate larger allowance toward forgetting than for memory is quite irresistible for transitional elites if the process is neither oriented by memories' dialogue, nor purpose guided by the meaning of change. When dealing with foundational events marking change, it is nevertheless provocative to arbitrarily use such an algorithm if also raising

questions of legitimization. Therefore we may understand memory-governed regime transition as either *thick* or *thin*, based on the complexity or scarcity of meaning assigned to change as disputed between narratives emerging from collective memories. *Thickness* lies with sense-making and understanding-driven processes, whereas *thinness* lies with moving away from the past, less internal contradiction and competition, but also less meaning-charged direction of change. The latter is what Ricoeur would describe as "shortage of memory and excess of forgetting" (2001, introduction). Criticism toward either exhibits prevailing correspondences to remembering-forgetting and degree of resistance to change or depth of institutionalization/norm-internalization in the community of reference. Memory and forgetting are two vying institutions in any political regime striving to reach the end of transition, and they are as basic as power and opposition. And also resilience. But for transitional justice purposes, intentional forgetting cannot be an institutionalized *memory of change – past is no longer represented*.

Paths for identity-memory – identity via *memory of change*

Critically addressing the past (its constitution and reconstitution) is the ongoing practice of memory communities, interacting on possible integration of memory patterns at times of new or changing political orders. The past offers models or anti-models to inform action and to open up questions of updated or outdated identity. The present is a purposeful reversed lens for the past through which historical events are represented to have meaning. Past and present are mutually constructed in memory, and memory practices do not reflect past or present exclusively, but rather the exchanges in between them (Olick, 2007). The ways of their construction describe a path of temporal linkages in the institutionalization of memory and identity, a relationship which we may call *memory-identity continuum*, or rather, given the nature and functions of memory in the articulation of identity and internalized change, *continua*. The logic of identity is memory-binding in terms of change acceptance, while memories are identity-binding in terms of contexts of experience and their evidence. In regime transition contexts, the *continua*, work against uncertainty regarding environmental contingency, institutional conditions and change, and into publicly dignified multiple certainties. A *memory of change* is then a reworking of past-dependence into a path of emergence, maintaining links with the past and co-integrating it with the present, transforming course by way of *continua* meanings. Memory of change marks path transformation by critically addressing recency between dependence, contingency and emergence.

Path dependence is indicative of legacies of the past, or effects of events occurring at an earlier point in time on later occurring events (Djelic, Quack, 2007). In this sense, path dependence refers to mechanisms of memory which secure stable links with the past and are not necessarily concerned with change. Processes of change refer to dynamic contexts of distinct, but intersecting memory institutionalization paths (official history and social-cultural construction of past and recency); the evolution of memory practices (continued or discontinued) bears the mark of structural constraint of past actions aggregated in a course logic and meaning (Djelic, Quack, 2007: 166). *Contingent* variance occurring across the sequence of time-frames, is experienced, negotiated and translated differently by memory entrepreneurs, carrying into meaning which may challenge dominant norms on memory practice and remembrance interaction behaviours and prompt change rather than lock-in. Instead of course logic reinforcement, contingent beginnings are marked by critical moments of juncture; post-socialist and post-communist transformations regard "exceptional politics" (Johnson, 2001), especially if these imply

dealing with existing institutionalization legacies and breaking away from their structural constraints which describe past dependency (Stark and Bruszt, 1998). The structured accumulation of past representations generates durable path-dependence and past meanings dependency for memory institutionalization which could inhibit reorientation in historical consciousness in the context of transition: "conditions of uncertainty typically reinforce old networks and patterns as people turn towards the familiar and the safe" (Johnson, 2001: 254). However, policies of collective memory practice conformity with official historical narrative, commonly met in totalitarian regimes, may also prompt counter-memory feedback, in an attempt to recover against institutionalized forgetting, and in a shift from reproduction of existing institutionalization frameworks to different ones which grant access to other foundationally resourceful memory space and experience time references for remembrance practice. The possibility for change can open up from within the existing system (Djelic, Quack, 2007). In post-communist societies, *transformation* is a less controversial term when compared to *revolution* and *evolution*; institutions can either be replaced or re-arranged, reformed, reconfigured, in such a way that "choice and chance" are reconciled to accommodate consideration of both path dependence and path contingency (Johnson, 2001). Transformation processes are guided by ideas and their normative framework interpretations, by entrepreneurial initiatives, by institutions which support diffusion and adaptation to make room for a memory regime informed by an identity perspective (Djelic, Quack, 2007).

To describe the complexity of critical juncture for further institutional course, we could turn to Olick's observations regarding political socialization, norms and culture operating as "historical system of meaning – that is, as ordered but changing system of claim-making – in which collective memory obliges the present (as prescription) and restricts it (as proscription) both mythically and rationally. […] social pasts interact with social presents to shape political action (Olick, 2007: 54-55). *Emergent paths* would require a "logic of appropriateness" (March and Olsen, 1998), based on normative legitimacy of memory institutionalization.

Path transformation is aided by a memory of change in the process of transition, of cumulative, competing or concurring meanings of past, recency, present and future. Path transformation is a logic-course switch, while *path creation* is an all-comprising mosaic: the institutionalization of memory of official narratives, counter narratives, trauma, institutionalization of forgetting - it is a memory of how change itself is institutionalized in transition regimes. It is also a memory of future, in which the past is recovered to internalize the progression of change and the meanings about it. *Identity-memory path creation* cannot be set up from a *tabula rasa*; instead, this may be a process of dynamic correlation and review of legacies, logics, diffusion, with cumulative effects over time, gradually institutionalizing memory as change is defined, experienced, and redefined. Path generation must be seen as a social, cultural and political process involving different actors with different interests, normative orientations and identities aiming to shape institutional rules to govern regime transition by means of existing and emerging narratives of past memory institutionalization on the acceptability and scope of courses of action; factoring in "reflexive agency and cumulative processes of gradual change" with regard to the complex shaping of path dependencies, yields "difficult to predict aggregate or cumulative results", in "crooked" rather than linear paths of change, since they reflect a summation of "struggles, negotiations, and recombinations" over critical junctures (Djelic, Quack, 2007: 167).

Memory of change as well as memory of the future allow for path transformation, in the institutionalization, de-institutionalization and re-institutionalization of past narratives in a socially open system of correspondences and co-evolutionary interaction between memory (in path-dependent course) and historical consciousness (in path-contingent course). *Memory-identity continua* institutionalization engage and commit even those meanings about past and change we choose to forget in order to forge a legacy of memory (past in co-existing interpretations), relating to recency orientation, instead of uncritically bearing a legacy of the past.

Concluding remarks

Studying post-communism recency implies ongoing (re-)interpretation inasmuch as it references communist regime practices and their legacy as well as the definition of political change, institutional discontinuation and latent cultural and ideological effects. Making sense of the past regime implies to understand its value practice persistence and decline in a dialectical approach to stability and change, in the legacies of path-dependence, conditions of path contingency and options of path transformation or perspectives of path creation, distinguishing between change by design and the determinism of constraints on change (Johnson, 2001). Institutions emerging in the transition period need to reflect change so that they may enable, at the same time, de-institutionalization from past value practice, identity reconstruction and the re-institutionalization of collective memory as pluralistic narratives of the experience of recent past and change. Latencies are dealt with in the antagonisms of memories and counter-memories while mitigating the effects of past regime experience and its memory marginalization, isolation, concealment, denial and even abolition under the former ideology. Change should be present as focal point in memory formation, its articulation in competition, its consolidation or its reconstruction. A two-fold institutionalisation is to take place during transition: that of the *memory of past regime experience* as well as that of the *memory of change* itself, defining the project of identity for the political community.

Memory actors, norms, institutions and policies, by means of negotiation, develop political socialization about the change in community identity. Understanding the past also implies *memory entrepreneurship*, and thus a path to alleviate the tensions between memory and history, history and truth, justice and value continuity and change. Public memory and historical consciousness become inclusive by supporting societal transformation and institutionalization of a change pluralistic narrative based on principles governing the meanings of change, the logic governing its practice and direction, and its significance for identity prospects: known past, understood and managed present, purposeful future. Transformative, integrative and projective functions become joint by building change, certainties and ideals into collective memory.

The need for balanced approaches in ensuring a coherent and legitimate linkages between past, present and future, by means of collective memory, is emphasized: previous regime understanding, recovering the intentionally forgotten past and its reconstruction in present interpretations, defining future change and assigning meaning to it in relation to the past, in such a way that the memory of change takes precedence over the memory of uncertainty.

Openness toward the past along with a consciousness of present process and commitment toward future are key as interdependent coordinates in constructing, organizing and learning about social memory. The interest in the past is not necessarily guided by the aim of temporal “re-anchoring”; it is rather that past continuation resides in

resourceful mnemonic media for meaning to be attached, the sense of "having been" from the past onward that we bring into the present so as to define and manage change and to mitigate uncertainty.

Knowing and understanding the past, interpreting its significance sheds light on the contingency of the present time-frame in terms of both conditions and opportunities; it is consistence in the path and security for its traveller, at the same time of memory. A memory away from uncertainty does not mean forgetting the past. A *memory of change* is indicative of *sustainable identity*.

References:

Assmann, A. (2008). Transformations Between History and Memory, *Social Research*, 75:1, 49-72.

Djelic, M.-L., Quack, S. (2007). Overcoming path dependency: path generation in open systems, *Theory and Society*, (36), 161-186.

Elster, J. (1998). Coming to Terms with the Past. A Framework for the Study of Justice in the Transition to Democracy, *Archives Européennes de Sociologie*, (39), 13-14.

Gillis, J. (1994), *Memory and identity: the history of a relationship. Commemorations. The Politics of National Identity*. New Jersey: Princeton University Press.

Halbwachs, M. (2007). *Memoria colectivă*, Iaşi: Institutul European.

Johnson, J. (2001). Path contingency in postcommunist transformations, *Comparative Politics*, 33 (3), 253-274.

Kattago, S. (2009). Agreeing to disagree on the legacies of recent history. Memory, pluralism and Europe after 1989, *European Journal of Social Theory*, 12 (3), 375-395.

Koselleck, R. (2004). *Futures Past. On the Semantics of Historical Time*. New York: Columbia University Press.

Lebow, R. N. (2008). The future of memory, *The Annals of the American Academy of Political and Social Science*, 617 (1), 25-41.

Malksoo, M. (2009), The Memory Politics of Becoming European: The East European Subalterns and the Collective Memory of Europe", *European Journal of International Relations*, 15, (4): 653-680.

March, J. G., Olsen, J. P. (1998), The institutional dynamics of international political orders, *International Organization*, 52(4), 943-969.

Nora, P. (1997). *Les Lieux de Mémoire*, Paris: Gallimard.

Offe, C. (1996). Designing Institutions in East European Transitions. In Goodin, R. (ed.), *The Theory of Institutional Design*, Cambridge: Cambridge University Press.

Olick, J. K. (2007). *The Politics of Regret: On Collective Memory and Historical Responsibility*, New York: Routledge.

Onken, E. - C. (2010). Memory and Democratic Pluralism - Rethinking the Relationship, *Journal of Baltic Studies*, 41: 3, 277-294.

Pennebaker, J., D. Paez, Rime B. (1997). *Collective Memory of Political Events: Social Psychological Perspectives*, Mahwah: Lawrence Erlbaum.

Ribeiro, R. (2013). Narratives of Redemption: Memory and Identity in Europe. In Cabecinhas, R., Abadia, L.(eds.), *Narratives and social memory: theoretical and methodological approaches*, Braga: University of Minho, pp. 221-231.

Ricoeur, P. (2001). *Memoria, istoria, uitarea*, Timişoara: Amarcord.

Rüsen, J. (1993). Experience, interpretation, orientation: three dimensions of historical learning. In Pieter Duvenage (ed.), *Studies in Metahistory*, Pretoria: Human Sciences Research Council.

Rüsen, J. (2004). Historical Consciousness: Narrative Structure, Moral Function, and Ontogenetic Development. In Seixas, P. (ed.), *Theorizing Historical Consciousness*, Toronto: University of Toronto Press, pp. 63-85.

Rüsen, J. (2006). *Meaning and Representation in History*, New York: Berghahn Books.

Stan, L. (2009). *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the communist past*, New York: Routledge.

Stark, D., Bruszt, L. (1998). *Postsocialist pathways*, Cambridge: Cambridge University Press.

Szurek, J.-C. (2002). Pentru o memorie democratică a trecuturilor traumatizante". In *Istoria recentă în Europa. Obiecte de Studiu, Surse, Metode*, Bucureşti: Colegiul Noua Europă, pp. 52-74.

Tileagă, C. (2012). Communism and the meaning of social memory: towards a critical-interpretive approach", Integrative Psysiological Behavioral Science, 46(4), 475-92.

Zehfuss, M. (2007), *Wounds of Memory: The Politics of War in Germany*, Cambridge: Cambridge University Press.

Article Info

Received: August 3 2015
Accepted: November 20 2015

RSP • No. 48 • 2015: 22-31

ORIGINAL PAPER

Debating Sovereignty: Self-Encounters of the Limitation in the Implementation of International Law

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Abstract
The aim of the paper is at elaborating the status of domestic law within international relations of legal subjects and, at the same time, at elaborating the status of international law in domestic legal acts. The deficit of direct measures for sanctioning non-application of international law was justified by the protection of national states with their highest instrument – their sovereignty. National sovereignty remains a state protector in domestic frames also from eventually influences of foreign states. But, what happens if states search international assistance for solving their contests and then, cannot implement the law because of the lack of instruments for application of decisions of the International Law Court? The contest of solving from the International Court of Law is one of the main points, that guarantees international protection for states as subjects of international law, but, at the other side, there are specific cases of non-application of its decisions. This emphasizes is needed for a re-definition of the relations between domestic and international law. The topic that is citied here is the lawsuit of the Republic of Macedonia against the Republic of Greece submitted to the International Court of justice. What happened in that period, how that agreement is implemented nowadays, what are the relations between Macedonians and Greek people and also the role of impact of sovereignty relations (how it is formed, what are its functions, relations with other laws in general) are all subsequently explained.

Keywords: *sovereignty, state – international relations, domestic law, international law*

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The role and impact of sovereignty in international relations

To start with the history of the notion of sovereignty in international law, it's almost identical to full-scale history of international law itself (Helmut, 2000:501). Sovereignty as a concept has been treated since the establishment of the state, even it in various disciplines as: philosophy, constitutional law, public international law, law history, political system, etc. On the basis of the theory of sovereignty of the people of Jean Jacques Rousseau, people are the bearer of sovereign power; the sovereignty cannot be inherited and is inseparable from the people. This sovereignty was realized through various forms of direct democracy. From this theory, we can conclude that the sovereignty and democracy are two inseparable forms of relationships between subjects of law.

But understanding the concept of sovereignty in national level is easier than international level. Interior hierarchy and international anarchy are two sides of the same coin and they cannot exist without each other. Sovereignty represents the attribute of units, including the hierarchy and anarchy (Lake, 2003: 305). This is not something new, it is clear, but in practice often overlooked. According to the international law, sovereignty was defined as the basis of international status of the country (World Encyclopedia, 2008). "He is also defined as the final authority of a person or institution against which no appeal. In other words sovereignty represents the highest power", authority and jurisdiction over population and its territory and which excludes the possibility of external influence based on restrictions that sets international law. The overlap of the act of state doctrine and the doctrine of sovereign immunity has always created problems of mixed activities of status (Baukas, 2005: 243). Sovereignty ranks among the most confounding concepts in international relations and if often suggests dual meaning. Sovereignty may be used as a synonym for being independent, especially to signify that the government officials in one state are free from the control of government officials in other states. But, sovereignty also suggests the notion that within a specified area the prescription and enforcement of legal rules were vested exclusively in the government officials of the states that claim that territory (Joyner, 2005: 35).

Territorial sovereignty presents us with a paradox. On the one hand, it forms the key constitutive rule in international relations. In strict terms it denotes that the people within recognized territorial borders are masters of their own fate. No higher juridical authority exists above that of the national government. And all states are equal in international law. Sovereignty is this highly desired (Cooley, Spruyt, 2009: 1).Some observers claim that the territorial state is obsolete and in the process of being supplanted by other institutional forms. Others see territorial sovereignty solely as a juridical fiction. Although states are equal from an international legal perspective, they fail to capture the continued relevance of power, domination, and hegemony. One of the major problems of international law is to determine when and how to incorporate new standards of behavior and new realities of life into the already existing framework, so that, on the one hand, the law remains relevant and on the other, the system itself is not too vigorously disrupted (Shaw, 2008: 43).

What do we understand from the definition?

As we can see from the definitions of the term "sovereignty" in the national and international levels, we can see that the sovereignty presents the protecting of the international subject, from possible international impacts and certain international subjects. But from the other side, also we can notice that states cannot survive without having relations of various natures with other international subjects. Respectively, the

world order itself was regulated as a system of independent and equal entities. But, in practice we have numerous clashes between the sovereignty of states, in order to indirectly imposing of decision-making power in international law and politics (Dixon, McCorquodale, Williams, 2010: 110). While the international legal order works in the organization of the international community in accordance with general international interests, national sovereignty can be used to protect the state from the interventions of international law in the national legal system.

For what we should wonder?

Today, we must wonder about the (Fassbender, 1998: 19): "fact if the UN Charter should be qualified as something different, something more than an international agreement, in order to find its place in the legal order". It is true that the judgment without the right is unthinkable, but more accurate is that the right was not often accompanied with the implementation of the courts for international relations. For relations in the international scene, where also the "compulsory" competences depend of the willingness of states, the right often exists only by the institutional non-support of commitment. Of course that the most pronounced characteristic of judicial resolution of disputes, is their slide. Respectively, the lack of direct measures for the implementation of international legislation means that, international law many times was applied by national courts and according to this; the national law often can determine the effectiveness of the decisions from the international law and the legitimacy of international activities (Dixon, McCorquodale, Williams, 2010: 110).

Mechanisms that limit the Implementation of International Law

The efforts to address is pressing such as revising climate change and coordinating monetary policy often fall short also approach to international enforcement and demonstrates the advantages also and disadvantages. The issue was associated with the superiority of the two systems, the national and international one, is irrelevant, because there is a lack of certain higher rates or of any order which carries superiority. But, while supporters of globalization (Lozina, 2006: 38), with the process of globalization, as condition of development, "traditionalist" representatives in parallel and convincingly with the first ones, talk about the fact that the state still remains the reference point and a guarantee for the process of regulating the diverse society in the future. In international law dominate two conventional meanings associated with national sovereignty: national sovereignty is a legal principle very important and international law takes into account the requirements of states, including them in the international agreements. The effect of the legal principle of sovereignty has changed since World War II. During the 90s and first half of the century, the national power within a territory was supposed to be "executive and absolute (Goldsmith, 2000: 959).

The system of United Nations has a central position in the international community and international law. While in the international law an efficient is centralized system for the enforcement of international law is missing, the UN provides opportunities for certain centralized activities. Despite the fact of the institutionalized structure, there are limits to the competences of these institutions, which mean that they cannot be considered equivalent effective of national institutions (Dixon, McCorquodale, Williams, 2010: 6). According to Article 92 of the UN Charter, the International Court of Justice was defined as the main organ of the United Nations. But there are also other definitions which define the ICJ as Defender of the legality of the international community as a whole,

within the United Nations and outside it all UN members were obliged to execute the decision of the International Court of Justice meanwhile just to mention that the Court begin working in 1946 but it was established in 1945 and its judicial branch of the United Nations and its stated in the Peace Palace in The Hague Netherlands.

"Namely, even all states who are signatories to its statute or those who have accepted the jurisdiction of the court, are obliged to preliminarily accept the obligation to execute the decisions that impose the court in it" (Article 94 of the UN Charter).When we talk about the mandatory obligation of the parties, for the execution of the decision imposed by the International Court of Justice, we should have into account that, mandatory obligation arises from the expression of the will of the parties at the time of membership to the UN or the acceptance of the competence of the Court, but the Court as a Court has not its direct mechanism for punishing the parties who do not execute its decision. The International Court of Justice has not the direct measures which national courts have. But, yet again, if either party fails to execute the decision of the Court, the other party has the right to send a complaint to the Security Council.

There exist common positions about international law, but there are also important differences, particularly between developed countries and those in transition. Despite not inequitable distribution of power, international laws generally respect the norms (Dixon, McCorquodale, Williams, 2010: 11). Furthermore, "each rule has inherent effect of the power that is independent of the conditions in which the rules were applied or changed from one rule into other" (Franck, 1988: 711). The national law is not and cannot be competitive of the international law at the international level, or otherwise would end up being national and converter in international, which hypothesis is not. Although adhesion to International Organization has considerable "benefits", it also presupposed certain "disadvantages", especially regarding the erosion of the traditional notion of state sovereignty. Although that states transfer to an International Organization is not, strictly speaking a part of their sovereignty but only the exercise of some of their sovereign powers, by accepting the obligations derived from membership States are compelled to render an account of the exercise of their sovereign competences within the limits fixed on the constituent instrument of every International Organization (Martin Martinez, 1996: 8).

The Function of National Low

The national law, by definition, cannot regulate the activity and relations with other countries. It can regulate the activities of its state in a way, which later cannot fulfill its international obligations, but again only on the basis of the definition of national level and without legal effect or further functionality. In general, in the second half of the twentieth century, national systems gradually were opened the door to international values and states are more prepared to adapt international law. Although each state is free to choose its own mechanism for implementation of international rules, even in the surface investigation of national legal systems shows that dominate two basic modes (Cases, 2001: 168-170).

The automatic incorporation of international rules is always done when the constitution or national laws stipulate that all public administrators, also the citizens and others who live in the territory, were obliged to apply certain existing and future rules of international law. This was the first and the second mechanism is an ad hoc incorporating of legislation of international rules. According to this system, the international rules become applicable in the state legal system, only if the relevant parliamentary services

adopt specific rules for implementation. Is the Court, whose competence is to bring the decisions of disputes that were submitted to her, in accordance with international law? International agreements, general or specific, which create rules that, are expressly accepted by the contracting parties; International custom, as evidence of a general practice and accepted as righteous, general law principles were recognized by civilized nations. The decisions of the courts and the doctrine of eminent authors of international law, as an additional source, which shows the rules of international law (Article 38(1) and 2 of the ICJ Statute).

Article 34 of the ICJ Statute provides that only the states may be contesting parties in disputes submitted to the ICJ. Respectively, the ICJ competence is optional, which stems from the possibility that the states may appear as parties before the ICJ, if they give advance consent for this. Voluntary base of judicial competence of this Court derives from the protection of the principle of sovereignty in the international community.

The states can give their consent openly or secretly (Andeevska, Azizi 2008: 268). The openly consent may come in those cases. Introduction of special rate in the agreement, according to which, all disputes that will arise from that agreement shall be resolved by the ICJ. Through the signing of a special agreement between two or more states, according to which, all disputes of any nature, the parties shall submit them at the ICJ, by signing the compromise for any particular dispute. Article 36 (2) provides that states have the right to declare that they accept ipso facto the obligation, the competence of the Court for all legal disputes, which as subject matter have: the interpretation of an agreements; all issues of international law; the existence of any fact, which if it would be proven, would show breach of any international obligation; the nature or amount of indemnity for breach of any international obligation.

The declaration is a unilateral act, which was submitted to the General Secretary of UN, who with a notice will inform all the members of Statute and the secretary of ICJ. The declaration must define the limits to accept the compulsory competence of the Court. Article 36 of the Statute provides that the optional clause was based on the principle of reciprocity, i.e. competence extends only to the states, who have accepted the clause and only to the extent to which correspond the two statements of recognition of competence. Since was previously noted that clause defines the limits of competence, we can conclude that optional clause may be unconditional or conditional. For example, The Declaration for mandatory recognition of the competence of the United States from August 14, 1946, where was noted that the declaration does not refer to: disputes, which solution is parties believed it to other courts according to existing agreements or agreements signed in the future, disputes which refer to issues that in essence are under the national jurisdiction of USA, or disputes which stem from multilateral agreement, unless the contracting parties are parties to the dispute submitted at the Court or if USA expressly agrees to jurisdiction of the Court (Hambro, 1948: 133-157). There exist the possibility that the competence can be given secretly and this can be achieved with the behavior and the acts of the contesting parties, from whom the Court can conclude for the good intention of the parties (ICJ Reports, 1947: 27). Each party in the beginning of the proceedings has the right to set certain conditions to the Court; each party was entitled by written request to seek the imposition of interim measures. The court has the right to impose interim measures even under its competence, but may impose measures, which the parties have not required. If the request of the party was denied, the party has the right to repeat the request based on other facts. Each decision on interim measures was submitted to the Security Council through the General Secretary of the UN. Each party has the right to submit preliminary

appeals to the Court, with who was rejected or refused the competence or the reason of the lawsuit. In international judiciary, this action is very important, especially in terms of care of not including any state in the session according to the principle forum prorogate, while earlier has not accepted the competence of the Court for the particular issue. By submitting preliminary complaints, was suspended the procedure for "meritum" review of dispute. After the appeal was accepted, the Court sets the deadline for the opposite party to set her observations in writing form and in the end there will be set the oral (verbal) examination only for those complaints.

The Statute of the International Court of Justice provides the possibility of intervention of third countries in the procedure, even it was based on two criteria (Degan, 1984: 17-37). If a State considers that there is interest of the legal nature of dispute, has the right to submit an application for intervention to the Court.In the request, the state should emphasize that what is the interest of the legal nature, which is in question, the exact intention of the intervention and any basis of competence of the Court which exists between the applicant and the parties in dispute. In case of interpretation of the agreement, which agreement except the contesting parties was also signed by other states, thus each one of them has the right to intervene. Rules of Court this application recognizes as "statement" which should contain its specifics, under which the state was considered as a contracting party, the rules of the agreement, which considers that should be interpreted and the clarifying of the interpretation that state gives importance to those norms. If the declaration was accepted for intervention in the proceedings, the party submitted all the documents of the procedure in the writing stage and will specify a deadline within which it will have to submit its gaze for the dispute. The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which was based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter (Article 95 of the UN Charter). All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment. Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future (Article 95 of the UN Charter)."The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities".

Concrete case – the lawsuit of Republic of Macedonia against the Republic of Greece

The Republic of Macedonia in 2011, after a series of insults that were made in Euro-Atlantic integration, was submitted a lawsuit against the Republic of Greece to the

Court in The Hague. The subject of the lawsuit was a violation of the Interim Agreement of 1995, with which to Macedonia was set obstacle is receiving the invitation to join NATO at the Bucharest Summit, and also an obstacle to EU membership. Aim for NATO membership, to the Republic of Macedonia was confirmed on 23.12.1993, when the Parliament of Macedonia took the decision to join the North-Atlantic – NATO. With the lawsuit, Macedonia was required from International Court of Justice to order Greece to respect the obligations arising from the Interim Agreement, which has binding legal force, which in other words means a real appreciation of the Euro-Atlantic processes, not on political grounds. Here I emphasize that Macedonia submitted lawsuit only for breach of Interim Agreement, which both parties have signed it on September 12th, 1993 and which was created the legal basis for the normalization of relations between the two countries, but not also for the solution of international disputes through ICJ.

Minister of Foreign Affairs of the Republic of Macedonia, Antonio Milososki, on March 21st, 2011 in his presentation before the ICJ has stated reasons of the lawsuit and among other he emphasized: "we have initiated this dispute in order to ensure that the opponent part should fulfill one among the key obligations under the Interim Agreement of 1995 – nothing more and nothing less." For instance, from the declaration of the minister we can see that the lawsuit was referred only to the breach of the Integration Agreements. Does the Republic of Macedonia have the right to submit the dispute to ICJ for solution of the international dispute? From the above we can conclude that as a party to the ICJ may be states, who were signed the Statute of the Court. With the Greece statement was accepted the compulsory jurisdiction of the Court to resolve the disputed legal - international issues in accordance with Article 36 (2) of the Statute of the Court. In a statement we can see that there are two reserves, one ration personae, and the other rations materiel: the first condition excludes from the competence of the Court disputes which eventually will be created with the states, who have not given the statement that will substantially resemble with the one of Greece (principle of reciprocity) and the second condition excludes from the real competence of the Court "disputes that were related to military actions. Due to the reason of national defense" (Petrusevska, 2003: 15).

From the stocks mentioned can be seen that Greece has not put reserves in relation to dispute resolution Greek – Macedonian, since none of the two stocks does not include her. But here it should be noted that Macedonia has not expressed her consent to accept the competence of the court, the lack of which is a legal relevant fact and barrier to the initiation of proceedings to the International Court of Justice, i.e. it violates the principle of reciprocity which was set as reserved by Greece in the statement.

International Court of Justice now has initiated the procedure for non-compliance of the Integration Agreement by Greece. Macedonia and Greece are legally bound to respect the agreement as it is, to fulfill the agreement in good faith (Petrusevska, 2003: 17). The obligation to respect the agreement has not been completed, since there the conditions that provide it, are not completed. In accordance with Article 23 (2) completion of a liability to the Agreement can be applied only with the fulfillment of the following conditions: the agreement remains in effect until it won't be changed by definitive agreement. Contracting parties after seven years can be withdrawn from the Integration Agreement by written notice, while it gets its effect 12 months after the acceptance of the other party.

According to this, the Agreement did not lose its legal action; respectively the legal obligation to respect both parties, because the dispute was not resolved at all, still there wasn't any agreement which will find the solution. About the lawsuit now is more

clearly that it is referred only to violations of the Integration, but it is important to note that the international Greek – Macedonian dispute cannot be submitted to the ICJ. Now although we have a decision of the International Court of Justice who is in favor of Macedonia, but do we have fulfillment of that decision in reality or not, remain very questionable. The questioning issue lies in the fact that the right of veto was not used directly, but practically we have indirect threat of using that one. According to the current logic and practice, the legal disputes were solved through international judicial institutions, while the politic disputes are solved through diplomatic or politic means. Now we already have concluded that the international judicial institutions are the International Court of Justice and Arbitration. In general, all the advantages of the institution of arbitration and arbitrarily resolution of disputes were also applied to the arbitrary resolution of the bilateral dispute between Macedonia and Greece. First we should note that the bilateral dispute can be solved through arbitration, i.e. The dispute is arbitrary, if the parties voluntarily agree to submit the dispute to arbitration. I.e. from a legal aspect there is no obstacle to solve the dispute through arbitration, but the necessary condition to initiate arbitration proceedings, is the arbitration agreement between Greece and Macedonia. In view of the deadlines for dispute resolution, here the mediation and also offer a large number of sessions and training, meetings and both methods are flexible as they were appointed by agreement of the parties and eventually to disagreements regarding the duration and deadlines, the decisions can be made by arbitrators.

The principle of confidentiality also was based on the procedure of arbitration, so that the parties should also at the mediation enjoy the confidence in the work of this institution and composition of arbitrators. The principle of privacy is fully guaranteed in the arbitration process, and it was guaranteed even in cases of expertise, which is one of the main advantages of arbitration. And completely at the end, the economic aspect of the two methods is acceptable to the parties, where for the arbitrary resolution of the dispute, the parties agree on their spending on their arbitration agreement.

From this perspective for bilateral dispute there is no obstacle to resolve the dispute through arbitration, and also the advantages that offer this method are in no case less relevant to the legal dispute. Although according to the logic of separation of judicial and political disputes, and according to the practice now in place, although exceptions are far more numerous, legal disputes should be submitted to the international judicial institutions, and in the Greek – Macedonian, the situation is completely the opposite. Above we have defined the dispute as legal – political, Macedonia since 2003 until today has chosen political approach to resolve the dispute – the mediation. In other words, even though the application of the results of both types of techniques based on the will of the parties, nevertheless the result of judicial instruments is yet again seen as more influential in the national system, with the fact that the decisions of the ICJ or arbitration have legal basis of the inseparable interaction of national and international law regardless the highest protection through the institute.

Conclusions

The International Law related to the domestic the Former Yugoslav Republic of Macedonia continues to sufficiently fulfill the political criteria. Following substantial reforms in 2009 further progress has been made although at an uneven pace. Overall, the governing coalition is stable and there is cooperation between political forces. Some progress has been achieved as regards the reform of the parliament, the police, the judiciary, public administration and respect for and protection of minorities. The Ohrid

Framework Agreement remains an essential element for democracy and rule of law in the country. There has been some progress on implementing the law on languages, on decentralization and equitable representation. Continuous efforts, through dialogue, were needed to fulfill the objectives of the agreement and ensure its full implementation. There has been further progress in the reform of the parliament. Amendments to the rules of procedure were adopted which safeguard the rights of the opposition. However, dialogue on inter-ethnic relations was hampered by the failure of the relevant parliamentary committee to meet regularly. The partners in the government coalition are maintaining constructive cooperation. They were committed to reforms to prepare the country for accession to the European Union, but more dialogue is required on issues concerning inter-ethnic relations. Additional efforts are necessary to take forward the decentralization process in line with the Ohrid Framework Agreement. The government's cooperation with the National Council for European Integration needs to be developed further.

There was some progress as regards the functioning of public administration. The Law on public servants was adopted. The Law on internal affairs regarding reform of the police entered into force and most implementing legislation has been adopted but what is more significant further efforts were needed to ensure the transparency, professionalism and independence of the civil service. There has been undue political interference in recruitments and promotions at all levels in the public administration. There was limited progress on judicial reform. The efficiency of courts was strengthened through improved budgetary management. Meanwhile there are still concerns about the independence and impartiality of the judiciary: no further progress was made in ensuring that existing legal provisions were implemented in practice. The aim of domestic and international system of law is the same – guarantying the national and international law and the most important is: states sovereignty restricts the application of international law. This is evident in situations of implementation of foreign court's decisions; normative competence of the state reflects the state's capacity for defining national legal frames and the mandatory jurisdiction reflects the capacity of international subject to form direct obligations and dependence from the normative jurisdiction; further survey of the relations among the concept of sovereignty, world political power and world public order.

References:

Andeevska, E., Azizi, A. (2008). *Osnovi na megunarodno javno pravo*, Tetovo: IEJL.

Baukas, K. E. (2005). *The State Immunity Controversy in International Law*, Berlin: Springer.

Cessese, A. (2005). *International Law*, second edition, New York: Oxford University Press.

Communication from the Commission to the European Parliament and the Council Brussels (2010). Extract from the Communication from the Commission to the Council and the European Parliament "Enlargement Strategy and Main Challenges 2010-2011. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/strategy_paper_2010_en.pdf.

Cooley, A., Spruyt, H. (2009). *Conctracting States: Sovereign Transfers in International Relationes*, Princeton: Princeton University Press.

Degan, V. D. (1984). *Intervencija u postupku pred Megunarodnom sodum*, Zbornik Pravnog fakulteta u Rijeci, (5), 17-37.

Franck, T. M. (1988). Legitimicy of International System, *The American Journal of International Law*, 82, (4), 705-759.

Goldsmith, J. L. (2000). Book review: sovereignty, international relations theory, and international law, *Stanford Law Review*, (52), 959-986.

Hambro, E. (1948), Some Observations on the Compulsory Jurisdiction of the International Court of Justice, *25 British Yearbook of International Law*, 133-137.

ICJ Reports (1947). Corfu Channel, Preliminary Objection Judgment. Retrieved from: http://www.icj-cij.org/docket/files/1/1569.pdf.

ICJ Reports (1992). Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie, Provisional Measures, Order of 14th of April 1992.

Joyner, C. C. (2005). *International Law in the 21st Century, Rules for Global Governance*, Oxford: Rowman & Littlefield Publishers.

Lake, A. D. (2003). The New Sovereignty in International Relations, *International Studies Review*, 5, (3), 303-323.

Lauterpacht, H. (1995). Oppenheim's International Law, 8 First Edition, New York: Oxford University Press.

Lozina, D. (2006). *Globalizacija i suverenitet nacionalne drzave*, Zbornik radova Pravnog fakulteta u Splitu, 43, (1), 38.

Martin Martinez, M. M. (1996). *National Sovereignty and International Organizations*, Hague, Boston, London: Kluwer Law International.

Dixon, M., McCorquodale, R., Williams, S. (2003). *Case and Materials on International Law*, Oxford: Oxford University Press.

Petrusevska, T. (2002). Nekolku fakti vo vrska so vidovite postapki za cije sproveduvanje e nadlezen megunaroden sud na Pravda, *Zbornik na Praven Fakultet "Justinian I"*, Skopje: Faculty of Law in Skopje.

Shaw, M. N. (2008). *International Law*, sixth edition, Cambridge: Cambridge University Press.

Article Info

Received: April 29 2015
Accepted: November 20 2015

RSP • No. 48 • 2015: 32-41

ORIGINAL PAPER

Mapping the Constitutional Agreement: In Search of a Basis to Functioning of Multiethnic States

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Abstract
With the end of bloody conflicts and wars in the Balkans, which caused hundreds of thousands of victims, genocide and large-scale destruction, the international community used various methods and tactics for achieving peace in Ballkan. The solutions that were proposed, were imposed, temporary political solutions, achieved through compromise, which did not meet the requirements of any community (leaving pending and unresolved key issues). These solutions that were proposed by the international community in most cases were balanced, and in some cases were contrary to the interests of the peoples that were victims of war in former Yugoslavia. The agreements reached between the parties in conflict, internationally mediated to end the war - especially in Bosnia, Kosovo and Macedonia – created the so called multiethnic states that every day more and more are seen as flawed and unworkable projects in practice. One of the criticisms addressed to traditional approaches to drafting the constitution is that they have a static, unchanging and contractually access to the process of drafting of the constitution. The new approach is characterized by greater transparency and broader participation of the public. The process is also characterized by increasing the involvement of the international community in the process, to otherwise known as "joint effort with the international community".

Keywords: *multi-ethnic states, constitutional convention, the constitution, the international fact*

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Introduction

By the end of bloody conflicts and wars in the Balkans in the late twentieth, which caused hundreds of thousands of victims, genocide and large-scale destruction, the international community used various methods and tactics for achieving peace in the Ballkans. The solutions that were proposed were imposed temporary as political solutions, achieved through compromise, which did not meet the requirements of any community (leaving the key issues pending and unresolved). These resolution that were proposed by the international community in most cases were balanced, and in some cases were contrary to the interests of the peoples, victims of war in former Yugoslavia (Bauer, 2000: 184). The agreements reached between the parties in conflict, internationally mediated to end the war - especially in Bosnia, Kosovo and the 2001 interethnic conflict in Macedonia - created the so-called multiethnic states that every day more and more are seeing as projects failed and unworkable in practice because they were based on agreements of political compromises. The functionality of these states must be based on constitutional agreements because legal rules are the healthiest basis for regulating social relations transformed into state institutional relations. One of the criticisms addressed to traditional approaches to drafting the constitution is that they have static, unchanging and contractually approach to the process of drafting of the constitution. The new approach is characterized by greater transparency and broader participation of the public. The process is also characterized by increasing the involvement of the international community in the process, to otherwise known as "joint effort with the international community".

Multiethnic states do not function according to political agreements

Currently we are in a historical paradox stage: the degeneration of multiethnic societies and building on those relics of multiethnic states. We all know that Bosnia-Herzegovina before the war was the image of a multiethnic society (Constitution of ex JFRJ, 1974). After the war, this multiethnicity in the society was gone, the people living together are divided into three state enclaves, in three ethnic cages without natural interaction. This form of forced cohabitation is a consequence of the imposition of a new doctrine called multiethnicity. A similar situation to that of Bosnia is also in Kosovo. Kosovo's disappeared multiethnic society was replaced by the creation of a multi-ethnic state, where Serbs are locked in a cage and live according to the laws, their worldviews. In Macedonia, the situation is even more paradoxical, there is no multi-ethnic society, nor a multiethnic state but an intermediate stage, where all are waiting to see what will happen. With these findings, of course I do not give my positive or negative assessments for the value of coexistence. However, the idea of multiethnic societies and states is more humane and civilized, but of course where function as such, where social relations turn into legal relations. These organizations may be equally inhumane if placed colonial relations between ethnic groups that coexist. Albanians in Macedonia make great efforts to be treated as equal. Instead of analyzing the causes of inequality, all are stood up to criticize the consequences. The issue of ethnic state or self-determination is the result of malfunctioning of society and multiethnic state. It seems clear that multiethnic states in the Ballkans function with big problems. In some cases, these countries are dysfunctional and work with states within the state. Here especially excel Bosnia, Kosovo and Macedonia. The dominant political idea in the Balkans is the creation of national states and the strengthening and consolidation of national identities. Consequently, state and national policies in the Balkans are directed towards the creation of such states that means negative and contrary to the multi-ethnic state.

Defects in the functioning of multiethnic states

The Dayton agreement to end the war in Bosnia and Herzegovina, produced a multiethnic state composed of three communities: Croatian, Serbian and Muslim, organized into two separate entities: the Bosnian - Croatian Federation and Republika Srpska of Bosnia (Elezi, 2005: 4). Although it has been nearly two decades since the end of the war, the state of Bosnia and Herzegovina remains fragile, with many ethnic problems and major problems of operation - as a result of the inability of the full implementation of the Dayton agreement. Vienna Agreement on Kosovo that came as a result of talks between Kosovo and Serbia party, brought the Ahtisaari Package which resulted supervised independence for Kosovo (Ahtisary, 2008a), as a multiethnic state (inhabited by 95 percent Albanian population) by ensuring great rights for minority communities in Kosovo (especially the Serb community). The Ahtisaari Package, which wrongfully was imposed to Kosovo **(**Ahtisary, 2008b), had many flaws in itself because the choices proposes made it almost impossible the normal functioning of the state of Kosovo.The implementation of this package even today has not been fully implemented and has major implementation problems especially in the north Kosovo. Also, the (Ohrid Framework Agreement, 2001) for Macedonia produced a multi-ethnic state consisting of Macedonian and Albanian community, but its implementation has not yet been fully implemented and as a result the Macedonian state faces huge problems between ethnic majority communities. The solutions offered by the international community for these three countries created after wars as a result of the achievement of agreements that were aimed at the realization of projects of creating multiethnic states in the Balkans, have failed because even after nearly two decades of the first agreement, these agreements have remained on paper and not being fully implemented in practice as tensions between communities are constantly growing**.** This also occurs due to negligence and lack of pressure from the international community to compel the parties to fully implement the agreements as are achieved and even update on real constitutional convention. If this situation will continue so, these multiethnic states created under the concept of the international community will continue to face further ethnic problems, with no functionality and lack of exercise of full sovereignty on the whole territory of them and for a long time and as such will remain a source of rising nationalism and instability for the entire region and an obstacle to the process of European integration.

Review of Peace Agreements, not new conflicts

In order not to come to this, it is time that all political actors to engage seriously in order to eventually silent the monoethnicity trends of multiethnic state. It's time that to peaceful political agreements be done a serious revision, to see which parts do not work out and replaced with the other and turn into a constitutional convention. In this process should necessarily be included the international factor that ensured the agreements - the US, EU, NATO and OSCE. When we talk about the international factor, it should not be forgotten nor left aside and ignored the role and contribution given in resolving ethnic conflicts in the above mentioned countries, of the achieved political agreements as a result of which stopped the bloody conflicts between ethnic groups in these countries (Dayton Agreement), has obviously crucial role the EU, US, NATO and the OSCE, but this is not enough if ethnicities in these countries even further continue to play on the principle of national superiority and inferiority. Multiethnic states and in particular the aforementioned states, their essential aspiration should be building a modern democratic state in its natural

course of development and maturation, must continually ensure that its Constitution fully meets the needs of all citizens and ethnic societies, in accordance to the highest international standards and as well their continous development (Ohrid Framework Agreement, 2001), trying that in their multiethnic, multicultural and multiconfessional states achieve a cultural relativizim without hatred and divisions among themselves by sharing the best place together. The best example of this cultural relativism can be found in different community of states, as is in the United States, European Union, and some countries that will be mentioned as an illustration, such as Belgium, Switzerland, Finland, Canada, Ireland, which have similar or nearly similar demographic composition, the conclusion is that there is big difference on the issue of the respect for the rights of other not majority peoples, and about proper functioning of an equal division of state and government. These countries not only have a multicultural society, but the same is reflected in the manifestation of the state as multiethnic state. This means that fair representation (Kymlicka, 1995: 132), use of languages and symbols, budget allocation is made to right and equal. These states this functionality to their multiethnic states have reached by converting their interethnic agreements into constitutional convention, ie installed in their constitutions. People sometimes as they forget the messages of religious teachings of the greatest religions and their holy books which consistently is preached tolerance to others independently from their convictions. Every man is born free, he creates and acts and as such should live. With the agreements and cooperation are set up societes, states and communities of states. The idea of multiculturalism or society with many cultures and ethnicities has not turned out today, but it exists since ancient times, Alexander the Great tried to spread the idea for "brotherhood among all nations", where everyone would live calm and happy without probles and conflicts. According to him all men were brothers among themselves, regardless of race, religion or culture, so they must live together. This idea is followed years and centuries trying so in multiethnic, multi-racial and multi-cultural states to achieve a cultural relativism free of hatred and divisios among themselves sharing the same place together. The best example of cultural relativism can be found in various Community countries, such as USA, European Union etc.

How to achieve the functionality of a multi-ethic disfunctional state? In this community of states it must be developing a diversity of cultures, religions and nationalities. In these societies each individual and social group should act, create anything within the boundaries of culture, religion and his nationality without prejudice to any other individual or social group but to have a balanced love and sincerity towards its country.

Even us as a part of a multi-ethnic state where live several different nationalities with different religions and cultures, as common challenge we have to build a stable society (Aziri, 2004: 25). If we are aiming for the developed countries and EU integration that can bestbe achieved through the creation of a multicultural and multiethnic climate installed in the constitution. In our society everyone as an individual should abstain from any kind of prejudice, subjectivity and ethnocentrism. To draw on the surface a new mindset, according to which there will be no valid and invalid culture,savage or civilized culture.But we should understand that all cultures are equally important and valuable for its members and we must respect without prejudice. Modern living requires one to understand that, no culture can live without society, but also no society can exist without culture. Human's life begins and ends with the culture, so it must be understood and perceived the multiethnic state.

The change of the constitutional system – the need of multiethnic policy in Macedonia

Therefore, when now is raised the issue of constitutional changes, it is necessary the unification of the multi-ethnic factor for change of the political system through which would be achieved the balance and control (check and ballance), as well as the equal sharing of powers among the Macedonian and Albanian political elite. The political life in Macedonia in the last twenty years shows the (none) operation and it is impossible to achieve the functionality of a modern multi-ethnic state, being hampered by the Macedonian elite itself. As an illustration, in the beginning of the transition, this country was built backward, where despite the repeated requests by the Albanian political parties, there were not able to build a multi-ethnic state. Although various literature in political science recommend that if in addition to the majority in a State, lives a considerable number of non-majority population, the state should be built on the principles of multi-ethnicity, otherwise will always be conflicts, and it may even be come to the dissolution of the state**.** However, this political system was rejected by the Macedonian political elite. The greatest calamity is that most of those who drafted the constitution were professors exactly of political science faculties, today some of them are even more outspoken, saying that since then they have made a mistake and that it should be heard the Albanians voice (Statement of the Assembly of the Republic of Macedonia, 1991: 5) (as was the case of the former speaker Stojan Andov, then former Prime Minister Georgievski) or the need for greater advancement of Albanians. Professors and former officials of this kind there are many, and we continue to have a system where the Macedonian political elites puts in a more advantageous position in power compared with the Albanian, it may happen that even after ten years in any of the current Macedonian elite say that since then (I mean the present time) to meet requirements of the Albanians. When we speak about literature, just what the political literature refers and occurred in Macedonia, the 2001 conflict, especially the Macedonian political elite were given a chance to be used the Ohrid Agreement for the development of a multiethnic society and state. However, today, 13 years after its signing, the Agreement was intended to end discrimination especially to the Albanians; the implementation of some of its points from the Macedonian elite is slowing, even ignored. Although the year 2005, as the date fixed for the finalization of the agreement was not observed (Ohrid Framework Agreement, 2001: 21), even today 13 years later, the use of the Albanian language in state institutions continues not to find use in practice, the fair and equal representation is transformed into an impossible mission. And, because of the power within the government that the Macedonian political elite has (because according to the election model winner and mandator are always Macedonians, the key positions are always led by Macedonian) still exists institutional discrimination, especially against Albanian municipalities by finding as reasons instruments and various legal gaps. One of the basic principles of the Ohrid Agreement opens the way to overcoming the overall inter-ethnic conflict in Macedonia as follows: "a modern democratic state in its natural streams of development and maturation must continually ensure that its Constitution fully meets the needs of all its citizens, in accordance with the highest international standards and is continuously developing its". The Macedonian Constitution does not meet the needs of expression and affirmation of total ethnic, economic, cultural, religious, linguistic diversity. Rather, favoring exclusivity of Macedonians this constitution is transformed into constant conflict generator. Redefining the state as a bi-

national state, official use of the Albanian language at all levels of state institutions (Elezi, 2005:7) (with equal status rather than as a second language) and finding the most appropriate forms of expression of sovereignty from the top down (provinces, autonomous regions, cantons, etc.) are the only way for Macedonia to meet the needs of Albanians in accordance with the highest international standards. On the contrary, the logic of domination and ethnic exclusivity will inevitably bring versatile boycott and will pose new generator crisis in the region.

Commitments on the constituent status of Albanians in constitutional plane in Macedonia

In Macedonia lacks scientific efforts to elucidate the right of Albanians for a constituent status in the constitutional level, supporting him in the historical background and taking into account the real demographic interethnic structure in this republic. Indeed, the Krusevo Republic (1903) presents the direct source for Albanians statebuilding since they were introduced in the state subject and constituent element. The effort made for the progress of the position of Albanians in the republic with the constitutional solutions of 1974 did not appear in practice and was not even close in accordance with the principles proclaimed neither constitutional nor standards of international law. Even Macedonia's declaration of independence happened without a clarified position of the Albanian ethnicity and his participation in the constitutional system of this country, without being defined within the premises and reports within the new social formation.Consequently, the Macedonian regime did not built a right attitude towards ethnic Albanians and not recognize their fundamental rights by consensus not to establish a mechanism that would prohibit the possibility of majority of Albanians and their rights, formally, was previously known, despite their inability to accomplish inpractice. In the first multi-party elections in 1990, Albanians in Macedonia, as it is known, were represented by the Party for Democratic Prosperity (PDP ongoing) and the Peoples Democratic Party (PDP). These two parties (PDP include the majority of the Albanian electorate), the total had 23 MPs (17 PDP, 5 the PDP-PDP coalition and 1 PDP). We should note that the creation of a legal political party in these ethnic Albanian spaces, as was the case of the PDP, was met with an unprecedented enthusiasm from the general public around the Albanians. This was seen in the campaign and on election day when in the Albanian settlements the percentage of voters was over 90%. Not much later, the enthusiasm began to fade due to the fact that in Macedonia continued political ,national, and cultural education discrimination of Albanians. Then the leadership of the PDP, despite several attempts, failed to create suitable climate to the then Macedonian political factor. This was evident in the case of adoption of a new Constitution (December 1991), which did not accept any amendment of the Albanian deputies, which declared Albanians as a national minority. Among the activities with historic weight of Albanian deputies in that time, however, it is "The Statement for equal status of Albanians in Macedonia", submitted for approval to the Parliament of the Republic of Macedonia, on 29 July 1991.

In this way, the Macedonian Constitution of 1991 became the basic generator of the crisis on the Macedonian-Albanian relations, due to denigrating constitutional and legal position of Albanians in it, in particular because of their treatment as a national minority. Given the need to advance the constitutional and legal position of the Albanians in Macedonia and the recognition of their right to be equal with Macedonians subject in this republic, the international community committed itself to a "historic agreement"

between Macedonians and Albanians , however, whether the principles and solutions, and in particular, their application in practice, not justified the given qualification.

The Ohrid Agreement did not promote Albanians as autochthonous , with significant demographic features of their number and high concentration and broad-ethnic and common life in the republic and, on this basis, brought to them denigrating status of "national minority", even "without mentioning anything", except within "communities" that are "multi-ethnic state", even though Albanians, in fact, constitute the most prominent ethnic group to which increased awareness that he is a political subject as entirely equal to the Macedonian people, has the right to be the bearer of sovereignty and state-building, so that the Ohrid Agreement did not eliminate the underlying cause of the crisis in Macedonia - the treatment of Albanians as a minority. The agreement in principle, "justified the" limited acceptance of the Albanian language as "second official language", although "without mentioning anything" except under "any other language spoken by at least 20 percent population ", despite the fact that the Albanian language and its alphabet, language and writing constitute about thirty percent of the total population living in the republic and that, on this basis, the language and script" meet the standards "that be completely equal to the Macedonian language and script. The agreement foresaw "undertaking concrete measures to expand the representation of members of communities which do not represent the majority in Macedonia, as in the civil service, army and public enterprises, and the improvement of their access to financing development and working activities" without mentioned, even in this case the Albanians, in particular, who, what is the truth, are not represented at all or are represented in very insignificant percentage, although, in fact, the total number of them constitute a significant force of nation in the republic , from which can be recruited, equally with Macedonians, officials and leading cadres in the civil service, army and public enterprises, althoughthey are an important factor and are fully equal politically, economic, social , demographic, and even military recruiters,with the Macedonians, who appeared as "a majority" in this republic. Although the Ohrid Agreement resulted "with a breathing moment" of Albanians, it, in fact, just opened a process of seeking their legitimate and legal national rights. Over ten years after its signing, it was found that it did not secure the Albanians the status of a constituent. Why? Because the Ohrid Agreement: there was not implemented within the prescribed period; was not fully implemented until the end; was interpreted one-sided; was corrupted its contents; was misinterpreted; in practice, it was not strictly enforced; there was not implemented within the prescribed period; experienced and suffered compromises; the agreement itself, at the time of signature, was a compromise. In further stages, she suffered other compromises, so they become in a compromise of compromises; the Macedonian side, although a signatory, has never recognized him. In such circumstances, the Albanians in Macedonia no way left, but reorganized to realize their legitimate rights.

Redefinition of the new constitutional order of the Republic of Macedonia

Macedonia's future can be built only by redefining it as a state of peoples which implies recognition of constituent legal and constitutional subjectivity equal to the Albanians in Macedonia, as a starting point for the issuance of a new constitution (Elezi, 2014: 9). In Macedonia there should be established a new concept of state "that prevents systemic domination of one ethnic group over another" and that qualifies Albanians as indigenous people, as an integral part of the Albanian people in the Balkans (Ghai, 2001), in the geographic area where he lives continually in ethnic majority, well that does not qualifies as "national minority", but as people with perpetuala and continous right to

national self-determination. The right solution of the Albanian issue in Macedonia, dominant factors in completing the democratic transition, democratic stability and accelerate Macedonia's integration into Euro-Atlantic structures, NATO and EU. The final resolution of the Albanian issue in Macedonia is the test of its democracy and proof of its democratization. Pluralistic, multi-party and parliamentary democracy Macedonia, should be distinguished from monism, undemocratic and self-socialist period Macedonia. The right choice of the Albanian issue would be the value that would distinguish her from the monism and undemocratic. So because the right choice of the Albanian question: is of interest,for Albanians as well as the Macedonian; is a function of the stability of Macedonia and the region, and the development of democratic processes and integration in the country and in the region; is in line with historical trends; will consolidate, will strengthen and stabilize Macedonia within. As such, it would be worthy to be a respected member of the EU and NATO. The fair resolution of the Albanian issue in Macedonia facilitate the development of democratic trends and climate and democratic integration in the region. With the right solution of the Albanian issue in Macedonia will also be respected the principles of democracy and the values of Western civilization.

The right solution of the Albanian issue in Macedonia, the dominant factors in the completion of democratic transition, democratic stability and acceleration of Macedonia's integration into Euro-Atlantic structures, NATO and EU

Today all the conditions are ripe for a just resolution of the Albanian issue in Macedonia, because: the Albanian factor in Macedonia, despite the restrictive and discriminatory policy, thanks to the unprecedented vitality in the last two decades marked a dynamic development in many areas: in the political, socio-economic and cultural; the Albanians in Macedonia, in the past two decades, experienced a high degree of national awareness; the Albanians in Macedonia, in the past two decades, reached a high degree of political culture; Albanians in Macedonia, just like the whole Albanian nation in the Balkans, during the crisis in the region, following a political philosophy and constructive peacekeeping, demonstrated a high degree of political maturity. All this, in order to maintain peace and stability in the region and its democratization; Albanian issue in Macedonia experienced emancipation stage, the affirmation, the actualization and internationalization; the time factor, i.e. passage of a period of twenty years in the political and ideological pluralism necessitate political and non-police treatment of the Albanian issue in Macedonia. In other words, the Albanians have already exceeded the waiting phase. How much long should Albanians expect their cause to end with a stable political and legal epilogue rather than a judicial treatment and fictional political epilogue? Albanians and Macedonians, within two decades of parliamentary democracy and political pluralism, have already exceeded adaptation stage, namely adaptation to each other; Requirements of Albanians, as they are raised in state institutions and in higher instances of it, ie legislative body, they themselves possess their legitimacy and justification; requirements of Albanians, as are paved democratically organized political and institutional way, enjoy the support of the international community; requirements of Albanians, except historically justifiable, for them, they have also vital and existential importance; requirements Albanians are not extreme and radical, but realistic and rational. Recongition of the status of constituent people for Albanians in Macedonia and the creation of a Macedonian two entities does not impugn its international borders.

Macedonia claims itself as a democratic state. But its democratic character it must be proved in the practice. The final solution for the Albanian issue in Macedonia is the

test of its democracy and democratization of her testimony. Pluralistic, multiparty and parliamentary democracy Macedonia should be distinguished from undemocratic , monist Macedonia and self-socialist period. Macedonia today claims to be called democratic. The right choice of the Albanian question would be the value that would distinguish it from the monistic and undemocratic. And this because the right solution of the Albanian question: is of interest, for Albanians as well as Macedonian; is a function of the stability of Macedonia and the region, and the development of democratic processes and integration in the country and the region; is consistent with historical trends; will consolidate, will strengthen and stabilize Macedonia within. As such, it would be worthy of being a respected member of the EU and NATO. The right solution to the Albanian issue in Macedonia facilitate also the democratic developments and trends as well as the climate and democratic integration in the region. With the right solution of the Albanian issue, in Macedonia will be respected the principles of democracy and the values of Western civilization. In this direction, right solution of the Albanian issue in Macedonia is imperative. Unresolved right solution of the Albanian question, postpone the development of democratic processes in Macedonia, inter-ethnic tension, de-consolidates and destabilizes it, prevents economic development, delaying democratic transformation and its integration into the family of civilized world. Given that the Albanian issue in Macedonia is a dimension of the Albanian national question, its solution has nationwide importance. The right solution of the Albanian issue in Macedonia, in addition to the independent and democratic Kosovo and consolidated Albania and NATO members are conditio sine qua non for factoring of Albanians in the Balkans and the creation of a new political balance in the region.

Conclusion

Over the past twenty years, after the wave of the constitution drafting process in countries emerging from conflicts and based on the achieved compromises as a result of peaceful political agreements, has been introduced the need of an approach of "new constitutionalism" that focuses as in the democratic process and in the results of the democratic process and the compromises and interethnic agreements multi-ethnic states.One of the criticisms addressed to traditional approaches to drafting the constitution is that they have static, unchanging and contractual access against the constitution drafting process. While traditional approaches considered the constitution as a "done act", the new approach focuses constitution drafting "in the participatory process of drafting the constitution" or "conversational constitutionalism". The new approach is characterized by greater transparency and with a wider participation of the public ethnic groups. The process is also characterized by increasing the involvement of the international community in the process, to otherwise known as "joint effort with the international community". As a result, the legitimacy of the constitutional process and the constitution itself and its functionality, is measured by the degree of participation in the process, as is an open and democratic process, as it involved the company or how transparent the process, as well as whether are people who are involved in the drafting process, people democratically elected and accountable. The Constitution is not only a law, it is more important than the law, combines the principles that would govern the state and creates mechanisms for political compromise and effective Self-determinaton. The constitution should be used to define the relations between the different communities, and to establish mechanisms applicable to customize developmental interethnic relations in multiethnic states. Only due to a

constitutional convention from which will come to a Constitution based on the premise outlined above, will be a guarantee of operation of multi-ethnic states.

References:

Aziri, E. (2004). Political organization of the albanians in Macedonia, Skopje: Logos A.

Dayton Accords peace agreement reached on November 21, 1995, by the presidents of Bosnia, Croatia, and Serbia, ending the war in Bosnia and Herzegovina (1995). Retrieved from http://www.britannica.com/event/Dayton-Accords.

Elezi, Z. (2005). The status of national minorities under current constitutions in several Balkan countries, (Bulgaria, Greece, Kosovo, Macedonia, Serbia and Montenegro and Albania), Association for Democratic Institutions. Gostivar: *TRINGA Press, 56*

Elezi, Z. (2014). The independence of Maceonia happened without explaninig well the position of Albanian ethnnicity**,** *International Multidisciplinary Scientific Conference on Social Sciences and Arts SGEM2014*, SGEM2014 Conference Proceedings, Book 2, vol. 1, 413-420.

Ghai, Y. (2000). Multicultural ciral Pluralism: Universalism and Relativism: Human Rights as a framework for negotiating interethnic cliams', *21 Cardozo Law review*, 21(1), 1095-1140.

Kymlicka, W. (1995). *Multicultural citizenship: A liberal theory of the minority rights*, Oxford: Clarendon Press.

Statement for equal status of Albanians in Macedonia (1991), Assembly of the Republic of Macedonia. Retrived from: http://sobranie.mk/.

The Ahtisari package (2007). Retrieved from: http://www.kuvendikosoves.org/.

The Constitution of the Bosnia and Herzegovina. Retrived from: https://advokat-prnjavorac.com/legislation/constitution_fbih.pdf

The Constitution of Yugoslavian Federation (1974). Retrieved from: http://mojustav.rs/wp-content/uploads/2013/04/Ustav-SFRJ-iz-1974.pdf.

The Ohrid Framework Agreement (2001). Retrived from: http://sobranie.mk/.

Article Info

Received: June 7 2015
Accepted: November 22 2015

RSP • No. 48 • 2015: 42-51

ORIGINAL PAPER

Decentralizaton of Power in the Republic of Macedonia as Problem-Solving in the Inter-Ethnic Relations

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Abstract

Republic of Macedonia has started the process of transition two decades earlier with changes in economic and political system. The removal from the former Yugoslav system prompted more the process of centralization than that of decentralization, public funds and municipal properties were centralized, reduced municipal competences were not supported by financial means and in reality were formed weak municipalities that in practice were nonfunctional. It was therefore necessary radical reorganization of local government system, for which were created certain conditions after the signing of the Ohrid Agreement and constitutional changes. The Republic of Macedonia continued to build a society with deep ethnical division among both communities Albanian and Macedonian. Reform system of local government was in function of building municipalities based on democratic principles and decentralization, such as enable them to manage the local affairs responsibly and in interests of the citizens. The idea of decetralization and democracy in Republic of Macedonia as legal and political instrument is closely realted with interethnic relations as pillars of security and institutional balance within the construction of a society of mult ethnic and multi cultural state. Local governance encompasses a range of different issues and we will focus on areas more relevant to the process of decentralization and democratization, such as: education, municipal finance and local economic development, culture, municipal commissions for inter-ethnic relations, etc.). The methodology used in this study is designed to provide information on internal evaluations of the situation by relevant institutions addressing and reflect the facts and elements in the decentralization process comparable to the perception of decentralization by citizens.

Keywords: *decentralization, inter-ethnic relations, municipalities, competencies, power*

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Introduction

Decentralization, or decentralizing governance, refers to the restructuring or reorganization of authority so that there is a system of coresponsibility between institutions of governance at the central, regional and local levels according to the principle of subsidiarity, thus increasing the overall quality and effectiveness of the system of governance, while increasing the authority and capacities of subnational levels (Zendeli, 2015: 334-344). Decentralization is a complex phenomenon involving many geographic entities, societal actors and social sectors. The geographic entities include the international, national, sub national, and local (Maleska, Hristova, Ananiev, 2006). The societal actors include government, the private sector and civil society. Decentralization is a mixture of administrative, fiscal and political functions and relationships. In the design of decentralization systems all three must be included. After the dissolution of former Yugoslavia and the changes in the economic and political system in the Republic of Macedonia,a new democratic system should be established based on enthnical and cultural rights, where the human rights and their freedom,as well as the rights of other ethicums will be respected. The rights and freedom of citizens should not be seen as a present or a gift from another community which has power over them or as said the famous author Locke:"Humans by nature are free, equal and independent. In political theory, there are several explanations for ethno-political conflicts, which are sometimes called "internal conflicts". Some authors focus on security issues, in which fear and mistrust between ethnic groups can develop into armed conflict (Posen, 1983). Others emphasize the role of "domestic factors", such as the economy, the capacity of the state, nationalism, or the immaturity of the democratic process (Brown 1993). Yet others locate the basic reason for the outbreak of conflicts in the exclusion of minorities from accessing the instruments of power (Lijphart, 1984). After the referendum for idependence in September 1991 and the approval of Constitution in November of the same year, Macedonia was formally established as a national state, but with significant domestic, interethnic and neighbor relations. After the collapse of communism in 1989, interethnic relations were not the only chalanges faced by the new state, the transformation fromone party-system to multi-party often criminal privatization of state enterprises, ethnic struggles in the neighbourhood, etc. The development of Macedonians society as a unitary society, according to some even ethnocentric, specifically Macedonian people's aspirations to build a nation-state (the model of European countries and Balkan experience cyclical strikes in inernal and external plan. Involvement of Albanian political parties in parlament and government has failed to balance the interests of both communities.After independence and democratic pluralist system installation; Albanians remain outside decision flows and their involvementin government institutions, public administration, judiciary, etc, the state acted mainly as a national state of Macedonians.

Inclusion of Albanians in the governement was not sufficient, because it had Albanian political party in the in the government but had not a multiethnic government, the whole governance had to do with involvement of Albanian elite political party in the government. Building a national state, setting the Macedonian national symbols in the state have been the key answers to the multiple challenges, lack of political will of the Macedonian political parties as well as the Macedonian inetectual elite, listed Macedonia in a groupof states that infringed the rights of citizens in particular those belonging to non-majority communities.

Republic of Macedonia continued to build as a society with deep ethnical division among both communities Albanian and Macedonian. Differences by language, religion,

national identity, position within society and state, highlighted two wills from differnt positions that characterized the political life of macedonia in the ninties. Demografic structure od population according to the Census 2002 (data from State statistical institution, 2002) Macedonian – 64.18%, Albanian 25.17%, Turkish 3.85%, Roma 2.85%, Serbian 1.78, Bosnian 0.84%, and other 1.04%. There is a general correlation between ethnicity and religious affiliation – the majority of Orthodox believers are ethnic Macedonian, and the majority of Muslim believers are ethnic Albanians and Turks. Approximately 65% of the population is Macedonian Orthodox, and 33% is Muslim. Other groups include Roman Catholics, members of various Protestant denominations, and Jews. In the Macedonia of the ninties it was not possible to create a critical measure for a greater and better involvement of Albanians and also the others in public institutions. Macedonian political parties were not available for Albanian demands,but it should be noted that the same dispositions were dominant in the Macedonian intellectual elite. Republic of Macedonia taking into account the internal ethnic composition and the relations concerning its neighbors, according to some authors tried to build a multi ethnic democratic society which will use its multi ethnic composition as an instrument and priority to build a balanced and stable state. But ther are thinkers who believe that multi ethnid states have priority that they are a source of conflict and instability of the region and beyond.

Before and after the so-called interethnic conflict that took place in Macedonia during 2001, crises continued with continuous violation o the human rights and freedom of the Albanians, which further increased tensions between the ethnicities and which latter were used for political marketing and winning the elections on patriotic and nationalistic basis. The most visible discrimination in the economical and infrastructural level is portrayed in the capital of Macedonia (Skopje), divided by the main river Vardar in Albanian and Macedonian side of the city (Abdullai, 2013: 143). All the views and developements of the state so far, the prospect of the state and the multi ethnic society put them on a test for finding better and more functional alternatives. Macedonian society can be described as simultaneously a multiethnic, multinational, plural and multicultural young democracy. In such societies the risk of ethnic conflicts is especially high if the government neglects or discriminates against minority groups. In 2001 the country experienced an armed conflict between the central government and ethnic Albanian guerrilla fighters. The conflict ended in August 2001 with the signing of the Ohrid Framework Agreement (OFA). However, the internal relations between the ethnic Macedonians, ethnic Albanians and other ethnic minorities have remained the most sensitive issue that affects the stability and security of the country, as well as its perspective for integration into the European Union.

Ohrid Framework Agreement and decentralization

Republic of Macedonia is divided between a largely Albanese speaking Western/South-Western part, bordering Kosovo to the North-West and Albania to the West. The larger part of the country is mainly Macedonian-speaking, with the South bordering Greece, the East, Bulgaria and the North, Serbia. Disturbances between the two main ethnic communities ended with the signing of the Ohrid Framework Agreement (August 2001), with decentralisation as one pillar of the transformation process , Providing more autonomy at local and/or regional levels might contribute to reducing frictions, but also to creating separate identities. The Ohrid Framework Agreement has transformed Macedonia from a national state to a state rooling among national state, civic

and state bi-national state. Framework Agreement, signed on August 13, 2001 in Ohrid, Macedonian and Albanian side, under the auspices of international mediators from the EU and U.S., it has defined constitutional obligations, legislative and political measures of security.

Constitutional changes to languages spoken by more than 20% of the population are recognized by a status of official language (this right by demographic composition can only use the Albanian community), applied the double majority system (which consists of a majority of votes Assembly and most of the votes of communities that are not majority) for significant segments of social life (education, culture, heritage, peronale documents, etc.), equal representation of public administration at national and local levels, establish decentralization and reforms of local government, etc. There are authors who think that OFA is no adequate response to the 2001 conflict and that this agreement increases tensions, rather than diminish them. Similarly, others think that the cause of deterioration of interethnic relations is not the OFA, but its implementation. These thoughts always prevail more and more to the majority community, since the majority created the perception of loss of position within the system and ultimately the loss of state. In formal terms, the reforms aimed to strengthen the civic nature of the state and have refrained from explicit connection with certain ethnic groups. At the same time, set the key elements of the division of power, which the Albanians stand as a community with rights comparable to the Macedonian community. Being a treaty that convinced Macedonian and Albanian parties to stop fighting.

Constitutional and legal changes in accordance with OFA would mean a “power-sharing" within the common state. However, there should be no illusion that its implementation would create a "permanent peace". The roots of nationalism are profound; of course therapy should be deep and longlasting. The model of "power sharing" is defined as practices and institutions that result in broad coalitions of government, which said in general is open to all in society and reconciling self-determination and democracy in relevant ethnic groups in the multiethnic states, principles which are often taught to be in conflict (Timoty, 1996). Power – Sharing defined as practices and institutions that result in broad-based governing coalitions generaliy inclusive of all major ethnic groups in society, can reconcile principles of self-determination and democracy in multiethnic states, principles thar are often perceived to be at odds (Malevska, 2010). Equitable representation is an important instrument of political and social inclusion of etnic comunities in the society. Coexistence between communities would mean a democratic society, equal for all, guaranteeing individual and collective rights of communities.

The main issue of concern handeled by the Framework Agreement is the low representation of Albanians in public administration. As seen from the records before 2001, the participation of Albanians in the government is not reflected in greater involvement of Albanians in public administration, especially in sensitive areas of public administration, such as police departament, where the number of Albanians has always been low since the early nineties. For this reason, public administration reform has been essential, in order the Albanian community to strengthen the sense of joint ownership over the state. In the period before OFA, Albanians are simbolically represented in the public sector, the situationn was similar with most othe communities especially Turks and Roma.Given the low starting point of Albanians in state and public institutions on national and municipal levels, from yaer to year has increased the representation of non-majority communities particularly Albanians.

Discrimination has been most visible in the field of education, secondary and university. However, the recognition of Albanian-Language University in Tetovo in 2003 (functioned self-funded by the Albanians and students, outside the legal system since 1994), Albanian-language education has seen progress and it contributes to social and state cohesion of the country. The Secretariat for the Implementati on of the Ohrid Framework Agreement first was formed in April 2004 as Sector for implementation of the OFA, with decision by the Government. With the changes of the Law on Governmentin 2008 the Sector was transformed into the Secretariat for Implementation of OFA. Their main responsibility is to coordinate implementation of OFA. The Secretariat for Implementation of OFA should also promote positive public attitude toward accepting OFA and should promote tolerance and good inter-ethnic relations. OFA is foreseen as a Committee on Interethnic Relations, which has a crucial role in determining the laws that affect inter-ethnic relations and to be voted with double voting. This Committee consists of the same number of Albanian and Macedonian representatives, who have 7 representatives and a representative from the Turkish community, Vlach, Roma, Bosnian and Serbian. Decision making in this Committee is to double majority, which means that there is no right of veto on the Committee. Committee considers matters related to relations between communities in the country and examines the opinions and recommendations to resolve suchissues. Assembly is obliged to review the opinions and recommendations submitted and decide for them.This Committee has an important additional competence - in case of dispute for appying of the principle of double majority voting in the Assembly, decision for voting procedure is taken by a majority vote of the Committee. Inter-ethnic Relations Committee had to play a key role in mediating between communities, but by functioning so far it has not had the given significant role considering the obstructions and barriers that have created political parties especially Macedonians. According to the Law on Local Self-Government municipalities where more than 20% of the populations belong to a certain ethnic community are obliged to establish a municipal commission. The Law on Local Self-Governments does not introduce obligation for municipalities where the number of population belongs to less than 20% to establish such commission, but they can do that, if they decide that it will be useful for the inter-ethnic relations in their territory. Having in mind that the commissions for inter-community relations should not be only bodies for overcoming tensionsand conflicts, but also the preventive mechanism and instrument for inter-community dialogue on one side, and the fact that all municipalities have mixed ethnic-structure,on other side, it would have been more appropriate solution if the Law on Local Self-Government introduced obligation for all municipalities to establish such commissions, not only for those where there are ethnic community over 20% of the total number of population.With such change of the Law of the Local Self Government, the commissions for inter-community relations will be made more sustainable and their formation will not depend on the will of the municipal council.

OFA and constitutional and institutional reforms are supported by the Albanian community, which considered that the agreement addresses some of the major disputes that have been with the Macedonian state during the nineties. On the other hand, support to the Macedonian population was significantly lower, given the armed conflict, loss of priviliged position in the system and because of the compromises made to the Albanian community with this arrangement. It is questionable how it is possible that a peace deal, such as the OFA, the same is not accepted by all parties involved, the agreement has created preconditions for stability and security to build a multiethnic society and state. Concerning the Macedonian side treats as final discharge of Albanians, while Albanians

consider as initial democratic basis to realize full equality within the legal and political system of the country. OFA and constitutional amendments do not create the possibility that non-majority community could decide independently on matters that affect their ethnic interests. Specifically, there are no elements of territorial autonomy, political or cultural communities. Decentralization of power can reduce tensions. Local autonomy especially in municipalities where communities are in a significant number will increase capacity of community in decision making and create a democratic environment for sustainable development. On local level the OFA foresee the process of decentralisation as crucial for inter-ethnic stability, as well as for improvement of public service delivery. The experiences of multi-ethnic societies show that decentralized local self-government can be very important for accommodation of multiculturalism in the country. Decentralization should potentially contribute to sustainable solutions for ethnic problems in multicultural municipalities and avoid cantonization or other manifestations of ethnic homogeneity. From various surveys can be found that politicians at national level are considered to be responsible for worsening inter-ethnic relations by a large proportion of people, as are politicians at the local level and the media by slightly lower proportions. From this we can conclude that citizenz believe the most in local politicians, whom they feel the closest

After independence in 1992 the new government reduced the role of municipalities, Major changes were reduction in local government competencies, greater financial dependence of municipalities upon central authorities, and a reduction in the size of municipalities. Local offices of central government ministries undertook many functions; for instance, the Ministry of Finance collected locally taxes and fees on behalf of the local government units (except for the municipal construction land fee).

The Local Government Act of 1995 marked a departure from the centralized approach, reducing the number of municipalities from 123 to 84. Considering the total population size of Republic of Macedinia of 2.1 million people on a territory of 25,713 sq.km, this was a sizeable number, compared with the 34 before1995. Ten municipalities fall under the City of Skopje, the rest divided between 33 urban centres and 41 rural settlements. Decentralisation also raises question of local government capacity, whether it can take responsibility for improving the living conditions of its citizens. The break-up of the former Yugoslavia left behind a poor republic with more than 30% unemployment, and more than 15% of households receiving welfare, and the transition process has increased poverty rates for many households. Central government hesitates to give full autonomy to the local level, yet without central government support smaller rural communities may become further disadvantaged, leading to the possibility of a depopulated countryside (as has happened in parts of Bulgaria). The government, therefore, tries to balance between full local autonomy and support for smaller municipalities. The 2002 Law on Local Self-Government transferred power to the municipalities in public services, culture, education, social welfare, health care, environment, urban and rural planning, economic development and local finance.

The general conditions, following the implementation of the decentralization process in the Republic of Macedonia, indicate that the municipalities although they got wider and higher jurisdictions, however, remain dependent on the central government in relation to the financial support of the areas that they manage. Specifically, certain municipalities owe funds for payment of travel expenses for the pupils, for heating of schools, municipalities with blocked accounts, which hinders their regular functioning, while some municipalities are facing technical and personnel problems. All of this

contributes to the dissatisfaction of the citizens with the quality of public services they get from the local government. Moreover, the citizens are reacting to the lack of involvement of minority communities on local level, both from non-managing and managing job positions, and the disregard for the criteria of professionalism and competence. Thus, in certain local self-governments there is total disregard for the principle of appropriate and fair representation of minority communities, which is guaranteed with the Constitution and the laws (Ombudsman, 2014). The Ombudsman has right and duty to follow the situation regarding the respect and protection of the constitutional and legal rights of citizens and respect of the principles of non-discrimination and adequate and equitable representation of community members and by means of visits and insights into these public bodies.

The implementation of the Framework Agreement in the Constitution of Republic of Macedonia and in its whole legal and political system, is the main term for Macedonians integration in the European Union, as this document is fulfilling all the criteria's and standards based on the essential principles of the parliamentary democracy. I strongly believe that with the Framework Agreement the state formation of the Macedonia is based on two nations, on the Macedonian and Albanian one, because the Albanian nation after what happened in Macedonia proves that its not a national minority, but a state forming nation together with Macedonians, while other ethnicities enjoy all the rights guaranteed with the international conventions (universal political, cultural, religious and other rights).

Even after nearly a decade by signing it, the Ohrid Agreement is still the one of the most controversial topics in political and academic circles in Republic of Macedonia. There are asked many questions and dilemma. Is this agreement fulfilled as it was predicted, does the implementation of this agreement represents a guarantee for stability and democratization of the country, are the 2001 conflict wounds healed or not, Is this agreement exceeded and that it should be replaced with something else and so on. As usually in Macedonia opinion on this issue is divided. For the Macedonian political elite, the issue of implementation of the Framework Agreement is a process who is coming to the end and the Albanians should finally be satisfied with their legal-political status. Albanian political elite still makes a tough battle within the species. When it comes to the agreement and its implementation, there is the lack of a critical mass and the final say has the Albanian political elite who change attitudes depending on how they are currently positioned, if they are participants in government or in opposition .When they are in a coalition government the Albanian parties are expressing great optimism about the value of the Ohrid Agreement and its implementation, but when they are opposition they disparage it.

Implementation of Ohrid Framework Agreement as an Obligation for EU Membership

Conclusions of this year's report of the European Commission for the Republic of Macedonia (2014) until now are the most critical, since the beginning of publications of such reports in the Stabilization and Association Agreement (2003). If the focus last year was the issue of the name, this year the focus is on domestic policy and in the foreground is backwardness in political criteria. In conclusions, the Commission focuses on four critical points: the politicization of state institutions, control of the government over the media, inter-ethnic relations and the unresolved name dispute. Commission recommends the Government to work on "a more integrated, coordinated and transparent way of national issues, issues of community relations and EU-related issues". The report

indicates the possible room for improvement of implementation of the Ohrid Framework Agreement – Non - discrimination, equal representation, use of language and education. It criticizes the employment of non-majority communities without defined work places and often "without respecting the principle of merit". From the critical cases, the report mentions the protests on the subject "Monster" and on occasion of the murder in Gorce Petrov. Although joint efforts of coalition partners are positively assessed to quell protests, requiring more effort to proactively promote relations between the communities.

Inter-ethnic relations are one of the key areas outlined in the conclusions of the Republic of Macedonia. It is concluded that “dominates the lack of trust between the communities, "and that" the events and incidents easily cause tension. They recommend to the Government to have more proactive and collaborative approach to building an inclusive multi-ethnic society. It points to the need for analysis of the Ohrid Framework Agreement to complete and to make recommendations. As well as all other states, has obligations in accordance with the International Law regarding the protection of the rights of the members of the ethnic and of the linguistic minorities. The most important, and perhaps one of the most developed agreements for protection of the ethnic and linguistic diversities, comes form the Council of Europe in which Republic of Macedonia is a member since 1995. *The Framework Convention for Protection of National Minorities* is the ”first legal biding multilateral instrument dedicated to the protection of the national minorities in general. Its main goal is to define the principles that the states are obliged and bind to respect in order to provide protection of the national minorities”1 Republic of Macedonia has signed this convention on July 25th 1996 and it came in power in February 1998.

The complete implementation of the Ohrid Framework Agreement remains as an obligation for Republic of Macedonia in the acquiring of an EU membership processes. The European Committee admits that, although in Republic of Macedonia the legal frame in the area of protection of minority and cultural rights allows high level of protection, the practical implementation of this legislative is not yet on adequate level. The remarks of the Committee are mostly related to the integration of the ethnic communities, especially in the areas of the education and employment. As it was proven in the previous part, the representation of the Albanian ethnic community in the Public Administration still does not reflect their percentage in the society. In 2007 the Government of Republic of Macedonia prepared a”Strategy for Adequate and Just Representation of the Members of the Communities that are not Majority in Republic of Macedonia.” Still, though it is clear that this strategy should be supported, its obvious that its full implementation is yet to be completed.

To strengthen democratic governance and to foster closer and more constructive inter-ethnic relations, the Mission works with local and central government institutions on initiatives that support democratic governance principles and the values of the Ohrid Framework Agreement. It assists key government bodies and state authorities to respond more effectively to challenges such as implementing the principles of equitable representation, transparency and accountability in the public administration, the use of languages or the transferring of competences and resources to local level.

To strengthen inter-ethnic relations in the country, the Mission works with the government and civil society on initiatives to reform the education system, enhance equitable representation, strengthen the use of minority languages, curb discrimination and build confidence among communities. It also fosters regional networks to build

sustainable institutions for the respective communities and to protect their rights (OSCE Mission to Skopje)

Conclusions

These recent events showed the importance of inter-ethnic for the stability of the country and the policies of institutions do not function in a multyethnic way that can enhance citizens' mistrust and to take chances with democracy and the state functioning. There are thinkers who think that OFA can be viewed as a failure, because it has not fundamentally transformed ethnic relations in Macedonia, and because the ethnic issue is still subject to debate and remains the main hub of the existence of the state. Coalition governments between the Albanian and Macedonian political parties for the period after independence have not realized their mission to relax interethnic relations and stabilize the joint state and society. It is not enough to create a multiethnic coalition if it does not mean the corporate government in all segments of society, treating common issues but also faced with common challenges.

To address the causes of ethnic conflicts, policy-makers, as well as activists from civil society, should affirm the stabilizing effects of implementing the OFA to create a more tolerant multiethnic society. Political parties and leaders are responsible for the atmosphere of tolerance in the society, but the most responsible for the functioning of a multiethnic society is the coalition government and the ruling party of the majority. Governmental policies, as well as the NGOs should focus on the improvement of the quality of public and private education, because education is seen by most people as a factor of ethnic cohesion more than any other social institution apart from the family. Better overall knowledge of both the Albanian and Macedonian languages in the public administration is needed. The development and sustainability of civil society, includes NGOs, trade unions and professional organizations, organised on the basis of the cooperation of ethnically mixed organizations, should be supported.

References:

Abdullai, J. (2013). The Political Crisis in Macedonia and the Future Challenges, *Revista de Ştiinţe Politice Revue des Sciences Politiques*, (37-38), 141-146.

Annual Report on the level of respect, promotion and protection of human rights and freedoms (Republic of Macedonia – Ombudsman) (2013). Retrieved from: http://ombudsman.mk/

Brown, M. (1996). International Dimension of Internal Conflicts, (10), Cambridge: MIT Press. Retrieved from: http://web.mit.edu/afarrell/Public/1742papers/BROWN-1-31.PDF

Constitution of the Republic of Macedonia (1991). Retrieved from: webpage http://www.sobranie.mk/

Law of Government, *Official Gazette of the Republic of Macedonia.* (59)/2000, (12)/2003, (55)/2005, (37)/2006, (115)/2007, (19)/2008.

Law of Local Self-Government (2002), *Official Gazette of the Republic of Macedonia*, (5).

Law of Ombudsman (2003), *Official Gazette of the Republic of Macedonia*, (60).

Law on improvement and protection of the rights of the members of the communities who are less than 20% of the population in the Republic of Macedonia (2008), *Official Gazette of the Republic of Macedonia*, (92).

Law on territorial organization of the Republic of Macedonia (2004). *Official Gazette of the Republic of Macedonia*, (55).

Lijphart, A. (1984). Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries, New Haven: Yale University Press.

Maleska, M., Hristova L., Ananiev J. (2006). Power-Sharing: New Concept of Decision-Making Process in Multicultural Municipalities, Association for Democratic Initiatives, Skopje: Dexel. Retrieved from: https://eprints.ugd.edu.mk/970/1/english.pdf.

Ohrid Framework Agreement (2001). Retrieved from: webpage http://www.sobranie.mk/

Posen, B. (1993). The security dilemma and ethnic conflict. In Brown M. E., (ed.) Ethnic Conflict and International Security, Princeton: Princeton University Press, pp.103-124.

Progress Report made by Commission of the European Communities, 2014. Retrieved from: http://www.sep.gov.mk/.

Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part (2004), *Official Journal* L 84 of 20.3.2004. Retrieved from: http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=158.

State Statistical Institution of the Republic of Macedonia, 2002. Retrieved from: http://www.stat.gov.mk/

Zendeli, F. M. (2015). Municipal Management under Challenge in Macedonia: Bringing Empirical Data on the Public Service Approach to Local Orientation and Instruments, *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, (46), 334-344.

Article Info

Received: June 6 2015
Accepted: November 22 2015

RSP • No. 48 • 2015: 52-62

ORIGINAL PAPER

Designing Political and Diplomatic Relations during the Crimean War. Evidence from the Romanian-Russian Encounters (1853-1856)

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Abstract
This article analyses the Romanian-Russian political and diplomatic relations between1853-1856, the period of the Crimean War. History has proved on previous various occasions that any war that Russia has led against the Ottoman Empire started with the military takeover of the Principalities. These have become, in most cases, the main scene of the military operations and trade or compensation object. Wallachia represented the mandatory passage for the Russian troops on their way to confronting the Ottoman Empire. During this period Russia justified the military takeover of the Principalities by the protection it intended to give to the Orthodox Christians of the Romanian Principalities. At the Peace Congress of Paris in 1856, which ended this war, the Romanian matter became international and the collective protectorate of the Great European powers was introduced instead of the Tsarist one.

Keywords*: The Romanian Principalities, Russia, the Ottoman Empire, Crimean war, international relations*

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At the end of the 17th century and the beginning of the 18th century Europe enlarged greatly. Wide territories, considered peripheral, entered the European system of international relations, joining a common system in this way. The most important of these was undoubtedly Russia. By the end of the 17th century the diplomatic contacts between this immense country and the Eastern European countries only had a sporadic character. These relations were generally characterised as short-term. From many points of view Russia was still farther from Europe. Having a single sea exit, at the White Sea (less navigable because of the almost permanent glaciers, Russia couldn't claim to be a great European power. The Baltic Sea was dominated by the Swedish, whereas the Black Sea by the Turkish. It was clear for all the European countries that Russia could not become "European" unless it solved the issues regarding the access to the main two points that allowed its "communication" with Europe (Brie, Horga, 2009: 26-27). The Romanian Principalities have always attracted the political interest of the surrounding empires, because of their geographic location. Situated between the Black Sea and the Carpathian Mountains, they formed the only mandatory passage by land of the Russian army towards the Danube, the Balkans and Constantinople. The three great absolutist empires- the Russian, the Habsburg and the Ottoman one-,which ruled The Central, Eastern and South-Eastern Europe, had a decisive role regarding the continental area they were actually controlling, although the other powers sometimes prevented them from accomplishing their objectives. As far as Russia was concerned, its evolution had been spectacular. By the 1711 campaign (Ciachir, Bercan, 1984: 5), Peter the Great had marked the expansion direction towards the Balkan region, which was continued, strengthened and subsequently established by the provisions of the *Treaty of* Kuciuk-Kainargi (1774), - which established Russia's prevailing role over the Romanian Principalities -, the Treaty of Iasi (1792), the Treaty of Bucharest (1812), the Treaty of Adrianople (1829), the Treaty of Balta-Limani (1849) (Berindei, 1991: 13). After the Revolution of 1848 had been defeated, *the Eastern Question* was the first matter in the international political life. The conflict between the great powers in general, and between Tsarist Russia and the Ottoman Empire in particular, was generated by the desire to dominate and enclose new territories by the monarchies from centre and Eastern Europe (Ciachir, 1987: 72). Taking into consideration the weakness of the continental European powers, warned out by the revolutionary conflicts, Russia, "the gendarme of Europe", led by its tsar Nicholas I reopened the "Eastern question" decided to wipe out the Ottoman Empire and conquer Istanbul. Those who reopened the Eastern Question were the Russians. They claimed gratitude for the help given to the Ottoman Empire and the Habsburg one in repressing the revolutions of 1848 from Wallachia (Berindei, 1995, 58). The war broke out between Russia and the Ottoman Empire as a consequence of the latter's refuse to accept the request of the Tsarist Empire referring to the so-called "protectorate over the Orthodox Christians" (Zorin, Semionov, Skazkin, Hvostov, 1962: 566). Threatening for the entire Europe, Russia's expansion had to be stopped by the Prut (Cliveti, 1988: 34). In this way, what had begun as a Russian-Turkish war changed into a conflict that involved all the European powers. By June 1854 the territory of the Principalities had been occupied by the Russian army (Bezviconi, 2004: 168). This conflict remained in history under the name *The Crimean War* and involved in its whirl England (Chirică, 1999: 132), France and Sardinia- who fought on the Ottoman Empire's side. At the beginning Austria and Prussia kept neutral (Cliveti, 1997: 279-305). As the American historian Riker wrote „the Crimean war made the cause of the Moldo - Vlachs a European matter" (Riker, 1940: 41).

The tsar considered that it was the right moment to solve in a trenchant manner the division of the Ottoman territory. In this way he intended to regain the leading position in the international political life. By the statute of "rescuer" of the "monarchic establishment" against "the unceasing increasing waves of democratic tendencies" (Xenopol, 1997: 242), the Tsar wanted to restore his image as an emperor- protector of the Christians from the Ottoman Empire. Politically, this meant keeping "under his protectorate" Moldavia and Wallachia, Serbia and Bulgaria. Because he sought events that would require or explain his actions and he didn't find any, he caused a diplomatic scandal regarding some religious matters, using Prince Alexander Sergheevici Mensicov. The minister of the navy sent to Constantinople by Tsar Nicholas had to impose to the Ottoman Empire "one way or another, the Russian protectorate" over all the Christians from the Ottoman Empire (Chirtoacă, 2005: 57). "The main idea was that, no matter what war would have broken out, in alliance with Turkey or against it, the Ottoman Empire had to be crushed and divided, the part of the Romanian tribute being assigned to Russia" (Tarle, 1952: 10). In this respect, Tsar Nicholas published a manifesto in June 1853 in which he declared that "he and his ancestors had to protect the Orthodox Church in Turkey" (Osiac, 1999: 125). After the Sublime Porte refused Mensicov's conspicuous proposals and the relations between Russia and the Ottoman Empire broke off in May 1853, on 20th June 1853 the tsar and the Russian government decided to occupy the Romanian Principalities (Ciachir, 1961: 81-86), in this way trying to force the Sublime Porte to accept the proposals submitted to the sultan through Mensicov.

Russian's intrusion in Moldavia on 4th July 1853 and taking over the Bucharest on 25th July 1853 was the moment that forced the Romanian leaders to take attitude for or against Russia, and for the Sublime Porte, Great Britain and France a "casus belli". Russia was violating the Treaty of 1841 by which it pledged not to violate the territory of the Principalities (Berindei, 1995: 88). Unlike 1848, when Russia justified very well its intervention, in the summer of 1853 the only principle that represented the basis of the intrusion and the occupancy of the Romanian Principalities was "that in order to assure the Turkish execution of the older treaties signed with Russia, which were at present violated by the sultan, the tsar had to occupy the Danube Principalities - Moldavia and Wallachia" (Ciobotea, Osiac, 2008: 131). In this way Russia became the only dominating state over the Danube area, which had become a geopolitical border between Christian Europe and the Muslim Ottoman Empire since 1395 (Berindei, 1997: 14).

Actually, the Turkish intrusion in the Principalities was clearly established through bilateral treaties between Russia and Turkey as well as through collective treaties between European powers. The Treaty of Adrianople in 1829 stipulated a single opportunity for the Russians to intrude on the territory of the Romanian Principalities, in case their rights were violated by the Turkish. The Balta-Limani Treaty, concluded after the revolutionary year 1848, gave the Ottoman Empire and Russia the possibility to intervene in order to re-establish order (Constantiniu, 1989: 71-77), in case that certain social tension would appear in the following seven years. Since in the Principalities no special social event that would have motivated the legitimacy of their territories intrusion by the protecting and the suzerain powers has been signalled, their occupation was Russia's declaration of war against the Ottoman Empire.

By invading the Principalities, Russia did not only want to force Turkey to accept the requests arrogantly addressed to it through general Mensicov in June 1853 (Boicu, 1972: 80). Although the Russian foreign affairs minister, count Karl Robert von Nesselrode, wrote to Halcinski, the general consul in Bucharest, that the occupation of the

Romanian Principalities wasn't supposed to cause any administrative change, in fact Russia wanted to annex the two Romanian states. In this way it wanted to repeat the situation between 1828-1834 under the pretext of their reformation and modernization. The measures taken by them were obvious, contrary to any official declarations. The two rulers, Barbu Stirbei of Wallachia and Grigorie Ghica of Moldavia, who represented by their titles and prerogatives the statute of individualized political entities for the two countries, were forced to cease their relations with the Sublime Porte. They were also asked to suspend their tribute to the sultan. In exchange it had to be given to the protecting power. The two rulers reacted in different ways: Barbu Stirbei agreed to submit to the tsar, while Grigorie Ghica remained faithful to the Sublime Porte (Boicu, 1973: 129). The ruler of Moldavia notified the Turkish about the Russian's intentions ever since army groupings were being made on the Bessarabia border as well as about the summons received through consul Halcinski referring to their submission to the Russians (Stan, 1999: 266-267). He also informed Gardner, the British consul in Iasi, about Russians' aggressive intentions and facilitated his connections with his country's ambassador in Constantinople.

After he learned, through Resid-Pasha about the requests and the obligations imposed by the Russians, the Ottoman Empire asked the Romanian rulers to abandon their thrones because, under Russian occupation their rule could no longer be legitimate. This orientation of the suzerain power, expressed by its foreign affair minister, was also shared by the ambassadors of the Great Britain and France in Constantinople. Moreover, the two great Atlantic states agreed even to withdraw their consuls from the Principalities.

At the Romanian rulers' request to remain at the lead of their countries, the High Porte conditioned it by asking them to pay the tribute, in this way understanding that the Principalities were part of the empire. Three months after the Russian intrusion on the Romanian territory and after the alliance between the Westerners and the High Porte against Russia was diplomatically outlined, Barbu Stirbei and Grigorie Ghica abandoned their thrones on 11th/23rd October 1853, respectively on 14th/ 26th October 1853, withdrawing in Vienna (Berindei, 2003: 423). Their gesture was peaceful, because they were temporarily withdrawing in the capital of the state that was promoting a diplomatic, neutral solution of the Russian-Turkish conflict and at the same time the dissociation from the Russian occupants. On the 8th November, Tsar Nicholas decided that the Romanian Principalities had to submit directly to the Russian administration: general Budberg was appointed president of the two countries Divans and extraordinary and plenipotentiary commissioner at the lead of the Principalities.

Each Principality was ruled by an Extraordinary Administrative Council that had a vice-president at its lead: general Uzurov and later Osten- Sacken in Iasi and the general consul Halcinski in Bucharest.The Russian leaders of the administration of the Principalities began to appoint and move to higher ranks the pro-Russian boyars, of which the most faithful were Ion Slatineanu, Ioan Alexandru Filipescu, Emanoil Baleanu and Constantin Cantacuzino (Stan, 1994: 388). That is why in Moldavia and Wallachia the society was divided between pro-Russians, which occupied the best seats in the administration, and the pro-Westerners and pro-Turkish, who wanted their states to enter a new international legal period by abolishing the Russian protectorate. The latter, among which the boyars Costache Creteanu and Costache Racovita, the exiled Fourty-Eighters as well as a big part of the participants or the partisans of the 1848 revolution (Stan, 1994, 388), tried to attract the Suzerain Porte on their side and to reopen a new revolution in Oltenia region during the double Russo-Turkish occupation between 1853-1854. The exiled revolutionaries amplified the activities for propaganda and for discovering the

political-diplomatic circles-as well as the public opinion regarding the Romanian problem-, hoping that soon a united and independent Romania would become a reality. "By creating an independent state by the south Danube- as Dumitru Brătianu wrote to sir Robert Peel on 14th/26th April 1855 -, whose initiative you daringly took, you are bringing back to life 5-6 million people" (Berindei, 1995: 116). The exiled Fourty-Eighters have particularly tried to impose a revolutionary tinge to the war against Russia and this couldn't be allowed at that time by the western powers, especially by Austria and Prussia, whose memories of the events between 1848 and 1849 were very vivid (Bălăceanu, 2002: 14).

The occupation of Question but also as an overturn of the European political forces relations. The diplomatic way for Russian's withdrawal from the Romanian countries, promoted by Austria, wasn't adequate (Pâslaru, 1997: 214-225). That is why the only remaining solution was the war which spread all over the European continent. The Romanian Principalities entered this wide conflagration as integrated part and as an essential factor in its disposal, maintaining the integrity of the Ottoman Empire depending on them (Barbu, 1992: 39-52). The Russian protectorate over the Principalities, which under the new circumstances was reducing the Ottoman suzerainty to a nominal state, and the protection of the Orthodox Christians in Turkey were weighing heavily in the balance of powers in the south-eastern Europe between Russia and the Western world. After the Russian army crossed the Prut the events precipitated. The great European powers, through their political representatives, as well as the Romanians, considered the Russian invasion a peril for the European political destiny, as well as for the existence of the Romanian state. Therefore they united their efforts and adhered to the idea of establishing stability, tranquillity and a peaceful rhythm in Europe. Reactivating the problem of "the sick empire" or that of "the empire with clay legs", by someone who desired political and territorial heritage, like Russia against a European concordat, established at the beginning of the fifth decade of the 19th century, couldn't remain without consequences.

Facing the Russian peril, the representatives of Great Britain, France, Austria and Prussia in Constantinople signed a collaboration protocol between16th-25th July 1853. They agreed, together with Resid-Pasha, that through collective demarches at Vienna Russia would be convinced to evacuate the Romanian countries and Ottoman suzerainty should be re-established over them. The European action against Russia had already been accomplished by the end of 1853. On 20th December 1853, France announced its diplomatic agents through the foreign affairs minister that in Vienna an agreement between Austria, France, Great Britain and Prussia had been concluded, by which the litigation provoked by Russia's intrusion in the Romanian countries had a "European character" (Stan, 1999: 290).

The first measure taken by the Atlantic powers was blocking the Russian shores of the Black Sea by the French and the English, by which the Russian ships were forbidden to sail, this being considered "as a guarantee equivalent with the parts of the Turkish territory occupied by the Russians, which- according to Napoleon III- would ease the process of peace, because it could become an exchange object" (Tarle, 1952: 357). In this respect, Kiselef corresponded and had a very dynamic activity with emperor Napoleon III and Brunnov with the British foreign affairs minister, lord Aerdeen. But the attempts to determine Russia's withdrawal from the Principalities in exchange of another treatment of the Russian fleet in the Black Sea didn't prove efficient. Therefore, the war area widened, involving England and France. At the beginning of 1854, at the same time with the passage of the Russian troops over the Danube and Paschevici's appointment as

commander of all the troops at Russia's west border, including those from the Romanian countries, Austria began to rebel against Russia. In the meantime, England advised the King of Prussia, Friedrich Wilhelm IV, to join the war against Russia. Because Friedrich Wilhelm IV and Franz Iosef hesitated, England and France decided „not to wait and rushed the war declaration" (Tarle, 1952: 383). In parallel with the actions of the British and French diplomacies, meant to determine all the western powers to become united against Russia, the latter tried to prevent it from happening. On the 15th January 1854, Russia proposed Austria and Prussia a kind of alliance, a neutralization agreement by which they would detach from France and Great Britain. In this way it justified any counterattack in case the two Atlantic countries would have attacked Austria and Prussia. At the same time Russia proposed a peace plan according to which: the previous Russo-Turkish treaties regarding Moldavia, Wallachia and Serbia should be recognised; the Sublime Porte should present a special authentication regarding the application of religious liberties and orthodox immunities; the Romanian Principalities should be evacuated and their administration according to the Treaty of Adrianople should be re-established; the Treaty of 1841 referring to the integrity of the Ottoman empire should be valid (Cernovodeanu, 1992: 81-96). All these proposals showed very clear Russia's expanding tendency, masked by its request to internationally recognise its protectorate over Moldavia, Wallachia and Serbia.

On 8th/20th April 1854, in Berlin an offensive and defensive military alliance between Austria and Prussia was concluded, by which Austria sent troops at the north-east and south-east borders of its empire. By the half of June the Russia's Danube campaign was almost liquidated. Austria concluded two conventions with the Ottoman Empire according to which the Habsburgs got the right to occupy temporarily the two extra-Carpathians Romanian countries (Boicu, 1972: 99-100). At the beginning of July, after raising the siege on Silistra and the Russian army withdrew on the north of Danube, France elaborated the peace terms for Russia, very quickly accepted by Austria. Among the four terms, the first one stipulated the Russians' complete evacuation from Moldavia and Wallachia and the replacement of the Russian protectorate over the Principalities with a common protectorate of the great powers. Shortly after it announced all the powers about its intentions, Austria started to occupy the Romanian countries, the Russian army having withdrawn from them since June.

All these diplomatic and political conflicts, along with those in progress on the Danube front, prove how integrated in the European political sphere were the Romanian countries between1853-1854, the end of war and the establishment of peace depending on them. In the diplomatic formulations of peace made by the French and British, at the same time with the military pressures for withdrawing Russians from the Principalities, clear provisions for proposing a new, international, political and juridical statute to Wallachia and Moldavia were included. In this way more objectives were solved: the stability of the European south-east, peace in this area of Europe, stopping Russia's annexation policy, maintaining the *status quo* in the *Eastern Question*, correcting Russia's statute of great power in the Black Sea area, the regulation of navigation and European commerce on the Danube, reconsidering the exclusive possession of the Danube's egress by the same power. With regard to the attitude of the great powers, that was nuanced and sometimes pendulous. The European powers didn't adopt a constant attitude towards the Romanians' requests. It varied upon their own interests, although, because of the Romanians they couldn't ignore the problems from the Romanian Principalities. Some of the powers, such as France, Russia, Prussia and Sardinia, were in general in favour of accomplishing the

Romanian wishes. England has shifted from an attitude to another. The Ottoman and Habsburg Empires were on constant hostile positions. But even France and Sardinia took into consideration, for several times, the possibility of exchanging the Principalities to obtain compensations in Italy from Austria, while Russia was mainly interested in counterattacking England, Austria and the Ottoman Empire and in enhancing its prestige in the extra-Carpathians Romanian countries. At the end of 1854- after Austria crossed on the side of Western Powers, in the Crimean War- the diplomatic negotiations were around the four points (Boicu, 1975: 130), which were written in the English "Memorandum" of 16th/ 28th December and were imposed as terms in the peace negotiations with Russia. The conference in which the four points were debated took place in Vienna. In the Austrian capital the representatives of the great powers expressed unanimously their points of view regarding the disturbance of the geopolitical situation by Russia. Therefore, on 28th December 1854 they sent General Mihai Gorceacov, who, in the meantime, had evacuated the territory of Wallachia and Moldavia, a peace project containing almost all the European policy problems. The following were stipulated: the annulment of Russia's exclusive protectorate over the Romanian Principalities and over Serbia; the collective guarantee of the great powers for these countries was imposed; the Russian- Ottoman treaties referring to the privileges and immunities of the mentioned countries were annulled, new regulations that pleased both their interests as well as those of the suzerain power and Europe's, being imposed; a provision from the Treaty of Adrianople was annulled, by which the inferior course of the Danube was removed from Russia's control; The Ottoman Empire's place in the concept of European balance was adjusted, by revising the Treaty of London from 13th July 1841and abolishing Russia's supremacy; Russia was asked to give up its protectorate over the Christians from the Ottoman Empire in favour of a special legislation for respecting their identity (Osiac, 1999: 133).

In reply, Russia didn't give in to these proposals and tried to save the situation in the war with the allies in Crimea peninsula. At the same time, the tsarist projects of protectorate over some countries and Christian communities were crumpled in the international public opinion. Under these circumstances, the first Conference of Vienna took place between the plenipotentiaries of Austria, France, Great Britain, Ottoman Empire and Russia on 15th March/4th June 1855. On that moment all the great powers, excepting Russia proposed the restitution of the Sublime Porte's suzerainty in the empire's provinces challenged by the tsar and the settlement of the collective protectorate for the Romanian Principalities, for their quality of having independent and national administration, national military force and a defensive system created with the help of the Sublime Porte and Europe.

The end of the Crimean war led to the adjustment of the Great Powers' positions, such as France getting closer to Russia. Through all these measures Wallachia, Moldavia and Serbia became strong autonomous and national entities, due to the fact that their immunities and privileges were transferred to the European public law (Boicu, 2001: 127). From this point until Europe's becoming aware of the political and state unity of the Romanians from Moldavia and Wallachia was only one step, because this matter had been issued on 26th March 1855 within the Conference of Vienna. Also in Vienna, but in a new Conference, held under the circumstances of the allies' victory in Crimea, on 1st February 1856 a protocol was signed by the plenipotentiaries of Austria, France, Great Britain, Ottoman Empire and Russia's representative, by which the measures discussed in the conference in the spring of 1855 were stipulated, with a rectification of Russia's frontier

in Bessarabia area. Ever since 1853, a Belgium representative, Blondeel von Cuelebroeck, considered the fall of the Ottoman Empire as imminent and therefore, in order to avoid a European political catastrophe, he proposed the creation of a buffer state between Russia and the Ottoman Empire (like a Belgium), by releasing Moldavia, Wallachia and Serbia and turning them into neutral, independent states. Blondeel noticed that the Principalities matter was always the main problem of the moment. Bucharest had become "one of the most interesting theatres of the epoch" (Platon, 1992: 56) and the Principalities' union, even if it had meant ceasing the suzerainty relations with the Sublime Porte, it would have had much more important consequences in the European political plan. In 1855, the secretary of Belgium's legacy at Constantinople, which followed Blondeel, Joseph Jooris, as well as Belgium's general consul at Bucharest, Jaques Poumay, remained at the same conclusions.

The latter even added that the political destiny of the Principalities (this "granary of abundance" for the tsarist troops, "neighbourhood of all the Russian invasions against Turkey, the secret and the goal of all aggressions") "will have to exercise a great influence on the European relations and commerce" (Platon, 1992: 57). Towards such a consensus all the great European states were orienting. In the European international system back then, Russia, Turkey and Austria, even if they had perfectly understood the historic place of an independent Romanian state, couldn't give up the advantages they had obtained in the previous centuries by dominating the Romanian space and implicitly, all the European south-east.

The union of the two extra-Carpathians Romanian states became for the western states a guarantee, the new state being capable to counterattack Russia's expansion and also protect its own territory, if it remained close to the Sublime Porte. The national Romanian state had to represent- according to count Walewski, the foreign affairs minister of France- "the barrier that closed Russia's access to this part of the East" (Ciobotea, Osiac, 2008: 141). The unionist formula, supported by France, against adversities from the Ottoman Empire and Austria, and with Great Britain's reticence was stipulated as a virtual solution in the Peace Treaties of Paris on 18th/30th March 1856, although it was not stated correctly (Bucur, 1991: 525-529).

Under these circumstances the sessions of the Paris Peace Congress began under count Walewski's presidency between 13th / 25th February 1856- 18th/30th March 1856. The following states participated at this Congress: France, England, Sardinia, the Ottoman Empire, Austria and Russia. Prussia was missing because of England's disapproval. The delegates of the great powers present at the Congress pronounced themselves in favour or against the union of the Romanian Principalities, depending on their own interests and according to the domination policy and economic influence each had in this part of Europe (Timofte, 1996: 189-206).

After long debates, on 30th March 1856 the Peace Treaty was signed in Paris, by which the following had been established regarding the Romanian issue: the abolishment of Russia's protectorate, established by the peace of Adrianople; the Romanian Principalities were removed from Russia's dominion and put under the seven powers guarantee, but remained under the Sublime Porte's suzerainty; creating a commission in Bucharest formed by the representatives of the signatory states, having the duty of supervising the country's internal state and making proposals regarding the reorganization; the south of Bessarabia, formed of Counties Cahul, Ismail and Bolgrad were to be reassigned to Moldavia; the freedom of navigation on the entire Danube and for all the riparian states; creating a temporary Commission of the seven powers, having

the duty of assuring the navigation on the part of the river between Isaccea and its flowing into the Black Sea; creating Ad hoc Divans having the right to pronounce in the union matter. Their summons was done by the Ottoman Empire, with the participation of all the great powers representatives in Constantinople; evacuating the Austrian troops; the right to have a national army; the freedom of legislation and the freedom of worship and others (Ionaşcu, Bărbulescu, Gheorghe, 1971: 329-331). However, even if the Congress didn't accept the union, through its decisions allowed the unionist movement to accomplish it and it also internationalised the Romanian matter.

In conclusion, from a political point of view, during the military conflicts between 1853 and 1856 the Romanian Principalities came to the fore of the international diplomatic relations. This happened not only because their occupation by the tsarist troops was the immediate cause of the war and their fate was a fundamental aspect of the Eastern Question solution, but also because Europe acknowledged the fact that it had to be reconciliatory, to recognise and guarantee the rights of the Romanian people in order to end the outburst tensions, the battlefield against their expansionist policy, for the national freedom of the suppressed people (Istoria militară a poporului român, 1997: 347).

The Romanians' attitude, as well as the pressure put by their representatives in the western public opinion, determined the great powers of that time to adopt a peaceful solution in solving the Romanian matter, by accepting the union of the two Romanian principalities, the extra-Carpathians one. The solution was salutary for the force balance at that time as well as for establishing a durable political balance between the great political and military powers. In choosing this way to solution the stability of the continent from a political point of view, the outbreak of a continuous national war triggered by the Romanians that could motivate other people from the south-eastern Europe to fight for emancipation and freedom was also taken into consideration.

References:

Barbu, P. (1992). Pregătiri pentru o colaborare militară cu Poarta împotriva Rusiei ţariste şi declanşarea unei noi revoluţii în anii 1853-1854. *Arhivele Olteniei*, (7), 39-52.

Bălăceanu, I. (2002). *Amintiri politice şi diplomatice 1848-1903*, Bucharest: Cavallioti Publishing House.

Berindei, D. (1991). *Revoluţia română din 1821*, Bucharest: Romanian Academy Publishing House.

Berindei, D. (1995). *Diplomaţia românească modernă de la începuturi la proclamarea Independenţei de stat (1821-1877)*, Bucharest: Romanian Academy Publishing House.

Berindei, D. (1997). *Românii şi Europa în perioadele premodernă şi modernă*, Bucharest: Enciclopedic Publishing House.

Berindei, D. (2003). *Istoria Românilor*, vol. 7, tom 1, Bucharest: Enciclopedic Publishing House.

Bezviconi, Ghe. (2004). *Contribuţii la istoria relaţiilor româno-ruse*, Bucharest: Tritonic Publishing House.

Boicu, L. (1972). *Austria şi Principatele Române în vremea războiului Crimeii (1853-1856)*, Bucharest: Romanian Academy Publishing House.

Boicu, L. (1973). *Adevărul despre un destin politic. Domnitorul Grigore Alexandru Ghica (1849-1856)*, Iaşi: Junimea Publishing House.

Boicu, L. (1975). *Geneza „chestiunii române" ca problemă internaţională*, Iaşi: Junimea Publishing House.

Boicu, L. (2001). *Principatele Române în raporturile politice internaţionale*, Iaşi: Junimea Publishing House.

Brie, M., Horga, I. (2009), *Relaţiile internaţionale de la echilibru la sfârşitul concertului european (secolul al XVII-lea- începutul secolului XX)*, 2nd edition, Oradea: University of Oradea Publishing House.

Bucur, M. (1991). Statutul european garant al existenţei României (1856-1878), *Revista Istorică*, (9-10), 525-529.

Cernovodeanu, P. (1992). Iniţiative româneşti de redobândire a Basarabiei în perioada războiului Crimeii (1854-1856). *Revista Istorică*, (1-2), 81-96.

Chirică, C. (1999). *Anglia şi "chestiunea orientală" 1830-1900*, Iaşi: Helios Publishing House.

Chirtoacă, I. (2005). *Imperiul otoman şi Sud-Estul european până la 1878*, Brăila: Istros Publishing House.

Ciachir, N. (1961). Aspecte din relaţiile româno-ruse în timpul campaniei dunărene din războiul Crimeii (1853-1854). *Revista Arhivelor*, (2), 81-86.

Ciachir, N. and Bercan, G. (1984). *Diplomaţia europeană în epoca modernă*, Bucharest: Scientific and Emciclopedic Publishing House.

Ciachir, N. (1987). *Istoria popoarelor din sud-estul Europei în epoca modernă (1789-1923)*, Bucharest: Scientific and Enciclopedic Publishing House.

Ciobotea, D., Osiac, V. (2008). *Politica Imperiului ţarist la Dunărea de Jos. 1711-1878. Cu privire specială la zona Olteniei*, Craiova: Aius Publishing House.

Cliveti, G. (1988). *România şi puterile garante, 1856-1878*, Iaşi: Universitatea „Al. I. Cuza" Publishing House.

Cliveti, G. (1997). Un conflict european: "Războiul Crimeii" 1853-1856, *Cercetări istorice*, Iaşi, 16, 279-305.

Cliveti, G. (2006). *Concertul european*, Bucharest: Enciclopedic Publishing House.

Constantiniu, F. (1989). Românii şi marile imperii ale Europei moderne. *Arhivele Olteniei*, 6, 71-77.

Istoria militară a poporului român . (1997) 4th vol. *Epoca revoluţiilor de eliberare naţională şi socială. De la revoluţia populară din 1784 la cucerirea independenţei depline. 1877-1878*, Bucharest: Military Publishing House

Ionaşcu, I.; Bărbulescu, P. and Gheorghe, G. (1971). *Relaţiile internaţionale ale României în documente(1368-1900)*, Bucharest: Scientific and Enciclopedic Publishing House.

Osiac, V. (1999). *Istoria modernă a României*, Craiova : Universitaria Publishing House.

Pâslaru, S. (1997). Raporturi de forţe şi acţiuni pentru menţinerea echilibrului şi păcii în sud-estul Europei (1853-1878). *Anuarul Institutului pentru studii politice şi de apărare şi istorie militară*, Bucharest, 12, 214-215.

Platon, G. (1992), Personalitatea lui Alexandru Ioan Cuza în documente diplomatice şi în presa europeană, *Arhivele Olteniei*, (7), 56.

Riker, T. W. (2000), *Cum s-a înfăptuit România. Studiul unei probleme internaţionale, 1856-1866*, Iaşi: Alfa Publishing House.

Stan, A.. (1999). *Protectoratul Rusiei asupra Principatelor Române. 1774-1856. Între dominaţie absolută şi anexiune*, Bucharest: Saeculum I. O. Publishing House.

Stan, V. (1994). Aspecte ale luptei revoluţionarilor paşoptişti exilaţi pentru Unirea Principatelor (1853-1857), *Revista Istorică*, (5), 5-6, 388.

Tarle, E. V. (1952). *Războiul Crimeii*, vol. 1., Bucharest: Scientific Literature State Publishing House.

Timofte, M. (1996). Rusia şi modificarea tratatului de pace de la Paris (1856). Impactul asupra României. *Itinerarii istoriografice*, (15), 189-206.

Xenopol, A. D. (1997). *Războaiele dintre ruşi şi turci şi înrâurirea lor asupra Ţărilor Române*, Bucharest: Albatros Publishing House.

Zorin, V. A., Semionov, V. S., Skazkin, D. S., Hvostov, V. M. (1962), *Istoria diplomaţiei*, vol. 1, Bucharest: Enciclopedic and Scientific Publishing House..

Article Info

Received: July 2 2015
Accepted: November 16 2015

RSP • No. 48 • 2015: 63-77

ORIGINAL PAPER

Rendering Intercultural Dimension of the Future Teacher Competence Profile: New Proposals and Training Models

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Abstract
The postmodern, contemporary society can be characterized by cosmopolitanism in what it concerns the ethnical, cultural and religious diversity and variety and all these determine special efforts to integrate, cohabit and create equilibrium between individuality and otherness. Therefore, education also has to aim to form future citizens from the perspective of accepting and respecting the specificity and values of other cultural, religious and ethnical communities. The intercultural education is one of the new dimensions of education, which plays an important role on the personality formation of the postmodern man. The present study aims to prove the necessity to educate children from the intercultural perspective. We consider that in order to achieve this goal it is important to firstly form the trainers. Consequently, we aim to analyse the role of the intercultural education in shaping the competences for the didactic career, the competence profile of the future teacher. The fundamental hypothesis of the investigative approach implied to admit the need for training the students – future teachers from the perspective of the intercultural education. In order to prove the reliability of this hypothesis we used a sample of 110 students – future teachers, who take part in the program for teacher training, level II psycho-pedagogy. The research methods used were the opinion questionnaire and the focus-group interview, which meant to find the students' opinion on the possibility of developing the intercultural competence of the students – future teachers through the present Curriculum of the psycho-pedagogical programme. By means of the research instruments used we could also find out the students proposals for improving/completing the present Curriculum in order to develop the aimed competence. The results obtained confirmed the students' needs for training from the intercultural perspective. Pearson correlationindex allowed us to establish an obvious relationship between the characteristics, needs, society demands and the need to develop an intercultural competence. We have also analysed the students' proposals for improving the present Curriculum for the teacher training programme.

Keywords: *postmodernism, interculturalism, multiculturalism, intercultural education, pedagogical competence profile, intercultural competence*

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Theoretical aspects

Postmodernism brings important changes such as social and cultural ones or changes in the evolution of technique and in the way of projecting and carrying out education. Therefore, in this context, we present the main strategic guidelines of education in postmodernity (Macavei, 2001: 18): the real democratization of both the education system and education; the consolidation of anticipative (prospective) functions of the school – that is, to foresee and precede social changes; the expansion of extracurricular learning; the expansion of the community learning – in order to transform society into a real „educational fortress"; the development of change-adjustment skills; ensuring the freedom of thinking and of speech; capitalizing on competences, promoting meritocracy; articulating the levels of formal, non-formal and informal education; the international cooperation and collaboration.

In line with these guidelines, the author also specifies several criteria regarding the school curriculum (Macavei, 2001: 18-19): reassessment of the informative and formative functions of the school; reconception of syllabuses and school programs; elaboration of the curriculum in pluri-, inter-disciplinary, multi- and intercultural perspectives; Expansion of choice possibilities (optional and facultative subjects); use of means provided by the information technology (multimedia, virtual reality, long-distance learning); training of educators as organizers of learning, as managers of training and not as transmitters of knowledge (Macavei, 2001: 18-19). Taking a look at the guidelines and characteristics of postmodern education, we can see that one of the education's dimensions with a major importance in the formation of the individual's personality is the intercultural education.

The significance of the term „*intercultural"* can be established, firstly, starting from the meaning of the two words that compose it: *inter-* (which refers to interaction) and *cultural* – regarded from an anthropological perspective (Dasen, Perregaux, Rey, 1999). From an anthropological point of view, education can be considered both an enculturing process (of transmission and interiorization of cultural values and of formation of the cultural behavior) as well as an acculturation process (of reception and acceptance of the cultural values belonging to other cultural and ethnic communities (Dassen, Perregaux, Rey, 1999; Cucoş, 2000). When we say „intercultural", we take into account the following aspects: interaction, exchange, reciprocity, interdependence and solidarity (Marchiş, Ciascai, Costa, 2008).

At the same time, these characteristics mark the difference between interculturalism and multiculturalism. Hence, multiculturalism implies the presence, in the same time and space, of groups belonging to different cultures, with each group pointing out own characteristics and zero cultural interactions between them. On the other hand, the intercultural education promotes the interaction between the members of different cultures, hence, making possible the exchange of values and attitudes (Ionescu, 2011, apud Andronache, Bocoş, Budiu, 2011; Palaiologou, Dietz, 2012). Dietz and Cortés (2009) establish the difference between multiculturality /multiculturalism and interculturality/interculturalism by relating to two reference levels (see table 1).

Table 1. Multiculturalism/interculturalism

	Multiculturality	Interculturality
Factic level (or facts, that is, all that exists in reality)	Cultural, linguistic, religious diversity Multiculturalism	Interethnic, interlinguistic, interreligious relations Interculturalism
Normative level (or ethical and sociopolitical propositions, namely what it should be)	Recognizing the difference: 1. Principle of equality 2. Principle of difference	Coexistence in diversity 1. Principle of equality 2. Principle of difference 3. Principle of positive difference

The combination of the two ways gives birth to cultural pluralism.Ilie (2011) considers that there are two types of interculturality: *official* culturality –which encompasses academic programs developed within school; *non-official* culturality – having the same purpose as the official one, but carried out through different methods in information centers for the young, youth clubs, volunteer centers etc.The intercultural education is defined as a reflection on the educational policies and it contributes to different expectations of the society, being linked with school activities destined to help both the formation of a correct attitude of the members of a mingled society from an ethnic, cultural and religious perspective as well as the reduction of these conflicts generated by these differences (Banks, 2009 apud Polat, Barka, 2012). The above-mentioned differences can be the source of discriminative attitudes of individuals towards their peers. Hence, we come across racial, ethnic, sexual, political, religious, social or gender discriminations. Dulamă and Ilovan (2004) analyze these discriminations giving examples specific to the Romanian population.

The core of the intercultural education concept consists of the following pieces: dialogue of cultures; harmony between cultures; value and originality of each culture; concord between communities (Marinescu, 2013).At present, the concepts of intercultural education and intercultural pedagogy aim at covering social realities characterized by globalization and the necessity to create convergence in the context of cultural, religious and linguistic diversity (Portera, 2008).We mention a few fundamental particularities of the intercultural education (Marinescu, 2013): it is an antiracial education; it is a basic education; it is important for all students; it is comprehensive; it is the education specific to social justice; it is a process; it is a critical pedagogy.Munroe and Pearson (2006 apud Polat, Barka, 2012) have developed a model of multiculturalism, based on the taxonomy of Bloom and on Bank's transformational multiculturalist approach. According to this model the attitude of individuals towards multiculturalism is based on three dimensions: knowing, being aware, acting. The first dimension refers to the individual's need to know, have knowledge of different categories or social structures (gender, race, social status, religion, language, sexual orientation etc.). The second dimension refers to positive or negative assessments regarding different aspects of multiculturalism and it finds its expression in the individual's concern over the mentioned categories or social structures. The last dimension aims at the individual's actions to solve problems caused by these categories or social structures. The *goals* of the intercultural education are the following (Marinescu, 2013: 193): intercultural and international understanding; acknowledgment

of cultural differences and the respect for them; denial of racism and xenophobia; human and legal rights; equal educational opportunities; equal access to knowledge and education.

The main goal of the intercultural education is to prepare people to be able to live in a society whose important characteristic is diversity.Marinescu (2013: 193) presents several goals of the intercultural education which are based on some important axes such as: gaining knowledge in the field of culture in general and in the field of own culture in particular; being aware of the causes and roots of own cultural determinations, of stereotypes and own prejudices as well as identifying them with respect to the others; building positive attitudes in order to apply them in the case of a plural society: respect for diversity, for the identity of those perceived to be different and implicitly rejecting intolerant and discriminatory attitudes towards them; stimulating an active participation, that is to say, applying pluralist principles and fighting against racism, xenophobia and discrimination. Macavei (2001: 52-53) elaborates a list of goals of the education in and through culture, seen from the perspective of permanent education which is a necessity of the contemporary society just like the intercultural education: acquiring the fundamental skills for survival; assimilate elementary communication skills; assimilating the fundamental knowledge and the instruments of the intellectual activity (writing, reading, calculation, computing); assimilating basic elements from both the general culture and the specialty culture;assimilating cultural-national, ethnical and universal models; self-knowing, knowing of the other and developing identity and otherness needs; developing axiological competences; developing the cultural identity and cultural otherness; developing intra-psychic stability and states of inner peace; full development of own capacities; prevention and therapy of the alienation state of mind and of the "spiritual dessert" state of mind; assimilating self-learning, inter-learning and self-assessment methods; building pluralist attitudes and convictions; elaborating specific behaviors to engage in the struggle for a new quality of life; building and developing positive motivation for lifelong learning and for self-fulfillment at the highest possible level due to capacities, aspirations and social opportunities; developing communication skills with peers, other ethnic groups, other people and other nationalities; respect for differences and development of tolerance attitudes; fighting against snobbism and intolerance; knowing human rights, liberties, responsibilities and obligations and building a combative attitude to respect them; knowing the challenges of humans and the planet: peace, democracy, liberty, economic and political order and the involvement in order to solve them.Some authors (Maniatis, 2012) consider the intercultural education as a premise or necessity for the development of a country's educational system.

Other authors (Orgeret, 2012) underline the importance of the intercultural communication in a multicultural learning environment.Marchiş, Ciascai, Costa (2008: 70) suggest a few intervention ways which have in common all dimensions of the intercultural education in accordance with the European educational policies: integrating the intercultural education in the learning process; using a wide range of learning/training methods; supporting pupils in the self-knowledge process and in identifying own stereotypes as well as the ways to overcome them; combining individual activities with the ones carried out within the group; promoting partnership between pupils; using new communication and media technologies in the intercultural education; promoting the training of the teaching staff also from the perspective of the intercultural education.

According to some others (Bash, 2012), the intercultural education cannot be separated from the teenagers' history or their ongoing experiences.The intercultural

education takes place at three levels: at the level of the educational policies with respect to the formulation of purposes and educational objectives; at the level of institutions, in particular in the case of democratic systems, being materialized into the creation of open learning environments and inclusive policies; at the level of teaching, that is to say the approaches and methods which make up the substance of reference works.The strategy for the intercultural education (2010-2015) proposes a framework for this dimension of education. We enumerate the key components and specific goals (Intercultural Education Strategy, 2010: 57):

Table 2. A possible framework of the intercultural education

Key components	Goals
1. Leadership	Creating an intercultural environment at institutional level
2. Integration of dispositions regarding education	
3. Rights and responsibilities	
4. High aspirations and expectations	
5. Improvement of the quality of teaching	Consolidating the capacities of the education suppliers in order to develop an intercultural learning environment
6. Knowing the language (languages) in which the teaching activity is carried out	Support for pupils to become experts in the teaching language
7. Partnership and commitment	Encouraging and promoting an active partnership, engaging and conducting an effective communication between the suppliers of education, students, parents and communities
8. Effective communication	
9. Collection of data and research	Promoting and assessing collected data and monitoring so that decisions made be based on proofs
10. Action, monitoring and assessment	

Some authors (Koskarov, 2012) foster the importance of music in the context of the multicultural and intercultural education. Given that teachers play an important role in solving appropriately and efficiently the cultural diversity in the classroom (Lucietto, 2008; Leutwyler,Mantela, Petrović et al., 2014), we insist on the idea of training them in order to develop competences that are necessary to promote the intercultural education.The forms of achieving the intercultural education (Marinescu, 2013): general: common lessons, non-formal school activities; informal influences outside the school perimeter; types of activities: projects; research; surveys through interviews; classroom journals; reciting of poems, telling stories, interpretations of roles; acting; debating ideas starting from case studies; discussions on issues with an impact on the school life; possibility to negotiate and draw consensual decisions; exercises of critical and constructive reflection etc.; mass-media;sport;music.We mention also other ways of achieving the intercultural education (Dasen, Perregaux, Rey, 1999 apud Cucoş, 2000: 179-180): inviting outside professionals at school or in the educational environment; using libraries and audio-visual documentation centers which can be found in school or in the community; using new communication technologies; using journals that can replace the

pedagogical material; participating in cultural events and local holidays, in different activities such as visiting museums and exhibitions; engaging in musical or coral activities; studying the reciprocal contribution of cultures, which can be done also beyond specific cultural events; organizing meetings between persons of different cultures as opportunities to establish friendship relations; reaction to local and international political events; fraternities which offer a real opportunity for interchange and solidarity; school correspondence, which can be carried out by all children through the exchange of drawings and audio and video cassettes; collaborating with local or international associations, especially with non-governmental associations whose goals are in relation with the international understanding and the intercultural education; visits, courses, study days or weeks centered on a certain aspect; participating in the activities suggested by some organisms etc.Within the structure of the intercultural competence we can include abilities, capacities and characteristics such as: (Buza, Tabaku, Mita, 2008): ability to communicate effectively with persons belonging to other cultures, empathy, flexibility, capacity for emotional control, intercultural sensitivity, capacity to be aware of the intercultural differences or the ability to manage stress. Ilie (2011: 112-113) considers that the intercultural competence consists of:types of knowledge: about the culture of one's own country and that of other countries; knowledge about the interaction within the society between people of different cultures at different levels;types of capacities: capacity to interpret a document or an event that is specific to a culture; capacity to gain new knowledge from another culture as well as to understand new cultural practices; capacity to use the knowledge in certain situations; capacity to adjust; capacity to solve conflicts generated by the misinterpretation of facts or events; relational capacity; capacity to negotiate;attitudes: openness, curiosity, empathy, availability, cosmopolitism, flexibility.The intercultural competence is a condition, a way to deal with intercultural interactions (Vilaça, 2008).Among the benefits of the intercultural education we mention the following (Ionescu, 2011: 395): encouragement of curiosity regarding the cultural and social differences; development of imagination through the normalization of the existing differences; development of critical thinking by encouraging people to investigate own intercultural practices and hence, modify their perspective on their own culture and practices; development of sensitivity to the challenges of interculturality; prevention of racism.

Methodology

The research was carried out for the 2014-2015 academic year on a group of 110 students enrolled in the program for the certification of teaching competences, 2nd level, within the University of Craiova.The purpose of this research was to identify the needs for developing the intercultural competence of the teacher-to-be students. In close connection with the above-mentioned purpose we also aimed at the following goals: find out the opinion of the teacher-to-be students regarding the importance of the intercultural education in their training as future practitioners; conduct a critical analysis of the curriculum that the training of future teachers is based on; provide ameliorative solutions for the training of the teaching staff, from the perspective of new educations in general and of the intercultural education in particular.We took into account the following *fundamental hypothesis:* The intercultural competence of the teacher-to-be students is important in the context of their competence's profile. Starting from this general hypothesis, two *particular hypotheses* began to take shape: in order to achieve the intercultural education we must correlate the formal influences with the non-formal and

informal ones; the program for the certification of competences in the teaching profession must take into account also the training of future teachers from the perspective of the intercultural education.

The variables of the research were the following: regarding the general hypothesis, our aim was to carry out a correlation between the need for the training of the teaching staff, materialized into the profile of pedagogical competence, and the importance of the intercultural competence in the context of this profile; concerning the first particular hypothesis, we took into account the analysis of the relation between the different categories of educative influences (formal, non-formal and informal) and the achievement of the intellectual education; the second particular hypothesis allowed us to reassess the possibility of the certification program of competences in the teaching profession to form the teacher-to-be students also from the perspective of the intercultural education.

Group of subjects

As stated above, the group of subjects was composed of students in their 1st and 2nd year respectively, enrolled in the 2nd level of the psychopedagogical training program within the University of Craiova. The students graduated previously from the 1st level of the psychopedagogical training program that corresponds to the Bachelor's degree and which allows them to exert their profession in the compulsory education and they are preparing to earn the certification of teaching competences also for the non-compulsory education.

Research instruments and the ways to capitalize on them

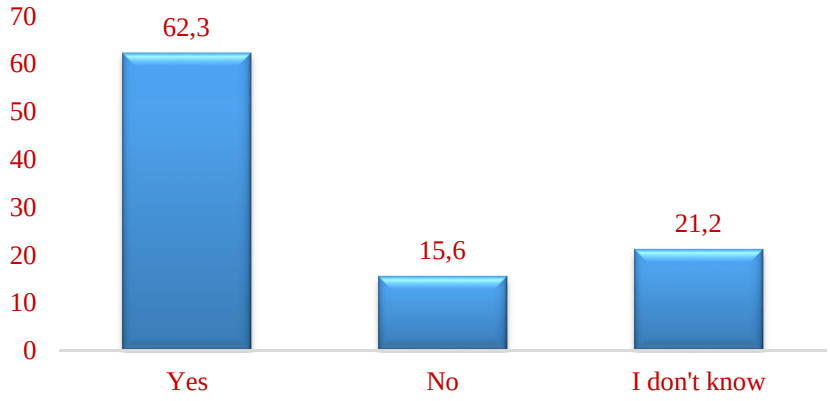
The research instruments used consisted of a survey and a focus-group interview.

The survey applied to students aimed at finding out their opinion regarding the importance and role of the intercultural education as well as the ways in which the latter can be capitalized on in the didactical activities. The instrument was conceived so that students cab express their personal points of view and personal options. Hence, it comprised also 3 subjective items besides the other 7 objective/semiobjective items. Some items aimed at exploring the students' opinion on the importance of the intercultural education in forming the individual's personality in relation with the other dimensions of education framed in the category of "new educations" (items 1 and 3) while other items demanded the enumeration of the advantages of the intercultural education (item 2) and the ways considered to be efficient in the training of pupils from the perspective of the intercultural education (item 6) or the ways in which this dimension of education can be achieved (item 5). Items 7 and 8 aimed at conducting a critical analysis of the curriculum of the program for the certification of competences for the teaching profession from the perspective of promoting the intercultural education. The competence profile of the future teacher and the intercultural competence were the final point of discussion of the last two items of the survey. The focus group interview was composed of questions related to the benefits of the intercultural education, the ways considered to be more efficient for the promotion of the intercultural education in school as well as the development methods of the intercultural competence. The interview was carried out with 12 teacher-to-be students in their final year of the program for the certification of competences in the teaching profession.

Findings and discussions

The subjects' answers registered following the use of the research instruments allowed to depict an image regarding the challenges of the intercultural education in the context of the current Romanian education and today's society. We present the students' answers to the survey. In the case of items with open answer, which questioned the students' opinion on the advantages of the intercultural education or the ways they consider to be most effective for the promotion of the intercultural education in school as well as the ways in which the teacher-to-be students can exert their intercultural competence, we mention also the answers given by the participating subjects in the focus-group interview.Hence, in item 1, regarding the importance of the intercultural education, the majority of subjects consider this dimension to be important (graph 1).

Graph 1. Subject's opinion on the importance of the intercultural education



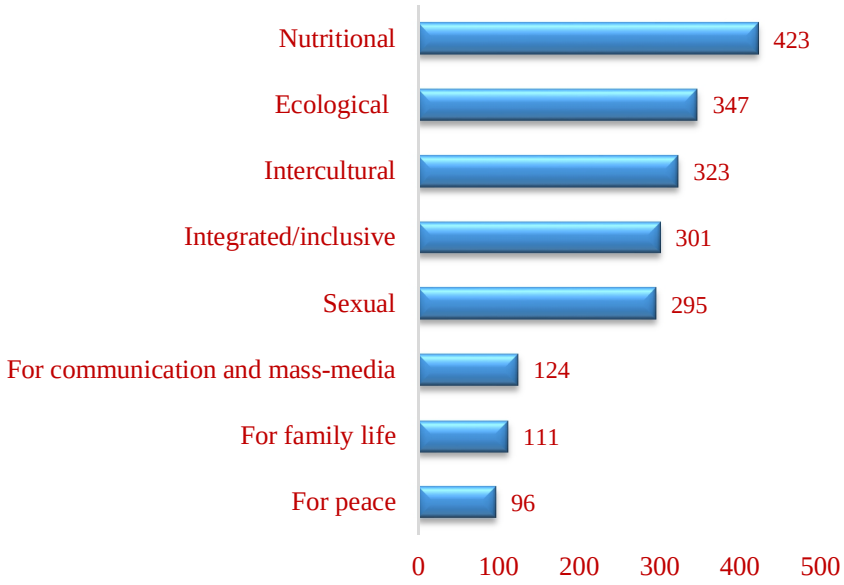
One of the items with open answer asked students to mention the advantages of the intercultural education. We run over the most frequent answers of the subjects: development of skills for social inclusion; development of civic spirit; preparation of pupils for the European space (interaction with other cultures, awareness of the discrimination phenomenon); promotion of tolerance; promotion of the need to understand the others; favoring of a better social life; development of relational and adjustment capacities; a better development of the pupils' personality; opportunity to learn easier a foreign language; possibility to get familiar with other religions and different ethnicities; stimulation of the creative mind; possibility to adjust easier to the intercultural environment; advantages on the labor market, that is to say, the possibility to find a job easier.

The subjects made a hierarchization of the education's dimensions mentioned in item 3, from the perspective of the attributed importance. Therefore we present this hierarchization as a result of the accumulation of points offered in table no.3 and graph no.2.

Table 3. Students' opinion on the importance of „new educations"

No.	Dimension of education	Points
1	Nutritional	**423**
2	Ecological	**347**
3	Intercultural	**323**
4	Integrated/inclusive	**301**
5	Sexual	**295**
6	For communication and mass-media	**124**
7	For family life	**111**
8	**For peace**	**96**

Graph 2. Students' opinion on the importance of „new educations"



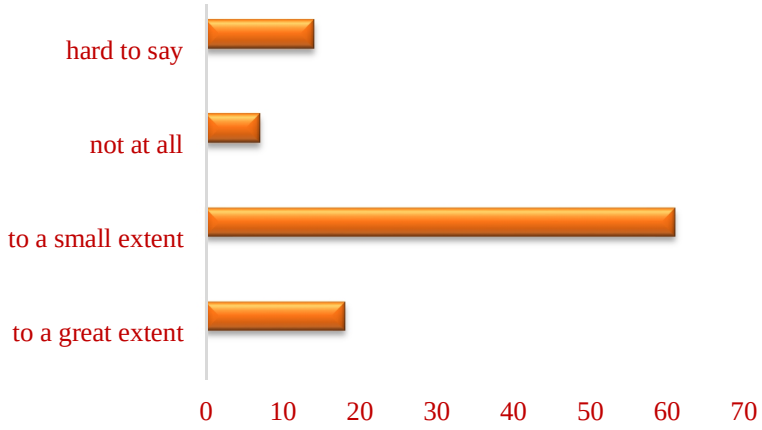
As we can notice from the above table and graph, students appreciate that the nutritional education is the most important of the dimensions presented, followed by the ecological education.

The role of mass media in promoting the nutritional problems or the ones related to the environment as well as the promotion of the ecological education in school (especially within the non-formal activities) can justify the students' option.

The intercultural education is in third place in the hierarchy made by students. Also, in the subjects' opinion, the integrated/inclusive education is considered important, and in this respect, an important role is played by the pedagogical practice carried out by students in different schools and classrooms in which there are numerous examples of integrated children.

A big part of the surveyed subjects consider that the Romanian education promotes the intercultural education to a small extent (graph 3).

Graph 3. Students' opinion on the promotion of the intercultural education in the Romanian educational system

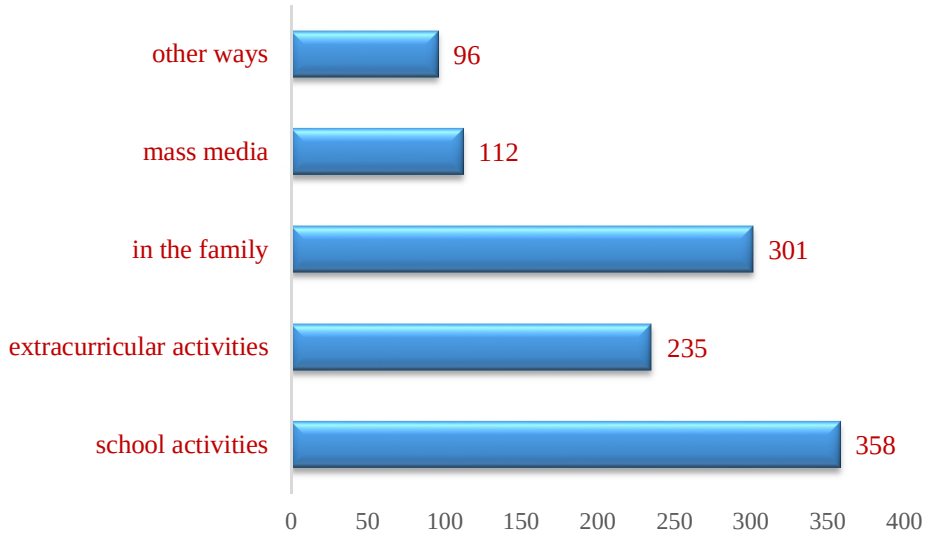


Out of the ways in which the promotion of the intercultural education can be carried out, students appreciate that school activities are in first place, followed by extracurricular activities and the ones carried out in the family and through mass media. The findings are presented in table 4 and graph 4.

Table 4. Ways to promote the intercultural education

Ways to promote the intercultural education	*Points*
a) school activities	*358*
b) extracurricular activities	*235*
c) in the family	*301*
d) mass media	*112*
e) other ways	*96*

Graph 4. Ways to promote the intercultural education

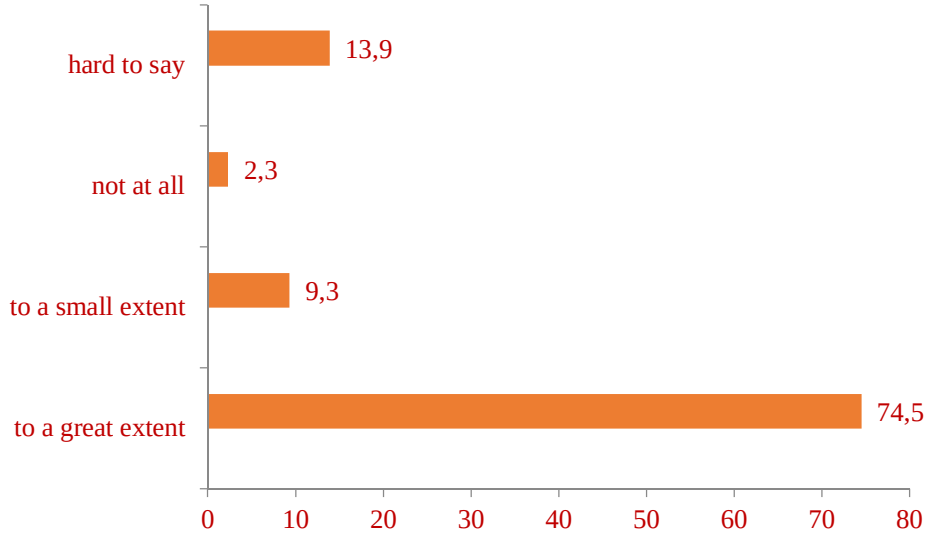


The subjects' answers confirm one of the particular hypotheses of the research regarding the role of the informal influences in promoting the intercultural education. Item 6 asked the subjects to present at least 3 ways that they considered to be effective in forming pupils from the perspective of the intercultural education. We mention several of the students' answers including the ones from the interview: exchange of experiences; organizing school activities on intercultural topics; increase in the number of extracurricular activities on intercultural topics; correlation of extracurricular activities with curricular activities; easing the interaction between pupils and other cultures; mass-media; publications in the field; organizing contests on cultural topics in order to motivate the pupils who want to get familiar with other cultures; intercultural reunions; informative meetings for pupils on the topic of intercultural education; involving pupils in different projects on the topic of the culture of different people.

The analysis of the curriculum, that is to say, of the syllabus of the program for the certification of competences in the teaching profession from the perspective of the possibility to stimulate the intercultural education, pointed out, on the one hand, the subjects/topics/ways in which this goal could be achieved (for students who chose "YES" for an answer), and on the other hand, the suggestions for the improvement and completion of this goal (for students who chose "NO" for an answer). Hence, for the first-case scenario, the students mentioned the following suggestions: subjects such as Pedagogy, Classroom Management and Pedagogical Practice which are tangential to the challenges of the intercultural education; addressing topics on the new dimensions of education; teachers' attitude towards the intercultural differences;giving examples from the real life that suggest the importance of respecting the cultural diversity. In the second category, we mention students' suggestions regarding the possibility to improve the syllabus of the program for the certification of competences in the teaching profession:inclusion in the syllabus of optional subjects on the topic of interculturality;developing within the existing subjects topics on the intercultural education;involving teacher-to-be students in projects

on the topic of intercultural education;participation of students in different scientific events (symposiums, conferences) on the topic of intercultural education;intensifying the exchanges of experiences and students' mobility through different programs (example: Erasmus); promoting the intercultural education within the activity of pedagogical practice; determining students to get involved in different extracurricular activities related to the intercultural education; the majority of the surveyed subjects consider the intercultural competence to be important for a future teacher (see graph no. 5).

Graph 5. The importance of the intercultural competence for a future teacher



Following the answers given by subjects for the last item of the questionnaire, we were able to identify the characteristics and capacities that compose the intercultural competence. Table no. 5 presents these characteristics/capacities depending on the value of the Pearson correlation coefficient which establishes their relevance level for the structure of the intercultural competence (depending also on the significance level we relate to).

Table 5. The values of the Pearson correlation coefficient for the component elements of the intercultural competence

Characteristic/Capacity	Pearson value
Tolerance	**,532****
Capacity to be aware of the intercultural differences	**,458****
Relational capacity	**,475****
Adjustment capacity	**,211****

Capacity to solve conflicts generated by the misinterpretation of some facts and events	,213*
Capacity to adjust	,147*
Empathy	,111*

**. Correlation is significant at the 0.01 level (2-tailed).

*. Correlation is significant at the 0.05 level (2-tailed).

Out of the capacities composing the structure of the intercultural competence, students consider to be important the capacity of being aware of the intercultural differences (correlation coefficient value being r=,458, at a 0.01 significance level), the relational capacity (r=,475, at 0.01 significance level), the capacity to solve conflicts or the capacity to adjust (r=,211, 0.01 significance level). Also, the capacity to solve conflicts generated by the misinterpretation of some facts and events as well as the capacity to adjust, they both occupy an important place in the competence structure (r values being ,313 and ,147 respectively, at a 0.05 significance level). The important characteristics are tolerance (r=,532, at a 0.01 significance level) and empathy (r=,111, 0.05 significance level).As any other competence, the cultural one can also be practiced. The propositions formulated by students within the focus-group interview can be synthesized as follows: within the seminar activities by using methods for the simulation of real situations (such as role play); involvement in extracurricular activities on the topic of the intercultural education;within the carried out activity of pedagogical practice;involvement in different projects on the topic of the intercultural education.

Conclusions

The intercultural education represents one of the essential dimensions of today's education. Its importance is also recognized at the level of programs certifying the competences in the teaching profession. Future teachers consider that the intercultural education must be promoted in school and they appreciate the importance of the intercultural competence in the general context of the teacher's profile of pedagogical competence. They conduct a critical analysis of the syllabus of teacher training programs pointing out first of all, the disciplines within/through which the intercultural education is promoted, but also different situations or real ways. At the same time, students make suggestions for the improvement and completion of the current syllabus or of the methodological ways used at present. Hence, we insist on the idea that one of the directions to promote the intercultural education must be, first of all, that of the instruction and instructors who are regarded as teachers-to-be and who, in their turn, must promote this dimension of education in schools.The development of the intercultural competence of the future teachers must be achieved both from a theoretical point of view (students' propositions to introduce new disciplines centered on the topic of the intercultural education being very expressive in this respect) as well as from a praxiological perspective (in this respect we point out the insistence in the subjects' answers on the organization of the pedagogical practice also from the perspective of promoting interculturality). In conclusion, in our opinion, the intercultural competence is an important condition for the cohabitation in a multicultural society.

References:

Andronache, D. C., Bocoş, M., Budiu, L. (2011). The need to promote intercultural education in disadvantaged youth groups by active methods. *Educaţia 21* (9). Retrieved from: http://www.pedocs.de/volltexte/2012/5554/pdf/Educatia_2011_9_AndronacheBocosBudiu_The_need_to_promote_intercultural_education_D_A.pdf.

Bash, L. (2012). Intercultural education and the global-local context: Critiquing the culturalist narrative. *Issues in Educational Research,* 22(1), 18-28. Retrieved from: http://www.iier.org.au/iier22/bash.pdf.

Buza, L., Tabaku, E., Mita, N. (2008). Embedding Intercultural Competences in the Legal English Curriculum in Albania. In Engels, N., Libotton, A. (eds.), Teacher *Education, Facing the Intercultural Dialogue*. Proceedings of the 33rd Annual Conference of the Association for Teacher Education in Europe, 128-137. Retrieved from: http://www.atee1.org/uploads/proceedings_atee_2008_final.pdf.

Cucoş, C. (2000). *Educaţia. Dimensiuni culturale şi interculturale*, Iaşi: Polirom Publishing House.

Dasen, P., Perregaux, C., Rey, M. (1999). *Educaţia interculturală*, Iaşi: Polirom Publishing House.

Department of Education and Skills and the Office of the Minister for Integration. (2010). *Intercultural Education Strategy, 2010- 2015*. Retrieved from: http://www.education.ie/en/Schools-Colleges/Information/Intercultural-Education-Strategy/mig_intercultural_education_strategy.pdf.

Dietz, G., Cortés, L.S.M. (2009). Intercultural discourse faced with the paradigm of diversity. In Odina, T., del Olmo, M. (eds), *Intercultural education – perspectives and proposal*, 45-65. Retrieved from: http://www.uned.es/grupointer/interalfa_book+english.pdf.

Dulamă, M.E., Ilovan, O.R. (2004). Evaluating the Students of the Intercultural Education Through Geography Course. *Science Education International*, 15 (3), 225-239. Retrieved from: http://www.icaseonline.net/sei/15-03-2004/15-03-2004-225_239.pdf.

Ilie, V. (2011). *Formarea stilului didactic din perspectiva noilor educaţii*, Craiova: Universitaria Publishing House.

Ionescu, M. (2011). *Instrucţie şi educaţie. Paradigme educaţionale moderne,* Cluj-Napoca: Eikon Publishing House.

Koskarov, L. (2012). The multicultural and intercultural aspects of music and education - important dimension in the contemporary society. *Facta Universitatis, Series: Philosophy, Sociology, Psychology and History,* 11(1), 43-53. Retrieved from: http://facta.junis.ni.ac.rs/pas/pas201201/pas2012-05.pdf.

Leutwyler, B, Mantela, C., Petrović D. S., Dimitrijević B. M., Zlatković B. (2014). Teachers' Beliefs about Intercultural Education: Different Levels of Intercultural Sensitivity in Schooling and Teaching. *International Research Journals*, 5(8), 280-289. Retrieved from: http://www.interesjournals.org/full-articles/teachers-beliefs-about-intercultural-education-different-levels-of-intercultural-sensitivity-in-schooling-and-teaching.pdf?view=inline.

Lucietto, S. (2008). Promoting intercultural dialogue among teachers of different modern foreign languages. The case of Trentino and its Continuous Professional Development Programme (2004-2007 and beyond). In Engels, N., Libotton, A. (eds.), *Teacher Education, Facing the Intercultural Dialogue.* Proceedings of the 33rd Annual Conference of the Association for Teacher Education in Europe, 115-127. Retrieved from: http://www.atee1.org/uploads/proceedings_atee_2008_final.pdf.

Macavei, E. (2001). *Pedagogie. Teoria educaţiei*, Bucureşti: Aramis Publishing House.

Maniatis, P. (2012). Critical Intercultural Education Necessities and Prerequisites for Its Development in Greece**.** *Journal for Critical Education Policy Studies*, 10(1), 156-167. Retrieved from: http://www.jceps.com/wp-content/uploads/PDFs/10-1-11.pdf.

Marchiş, I., Ciascai, L., Costa, V. (2008). Intercultural and media education in teaching practice. an exemple of good practice.*Acta Didactica Napocensia*, 1 (2). Retrieved from: http://dppd.ubbcluj.ro/adn/article_1_2_8.pdf.

Marinescu, M. (2013). *Noile educaţii în societatea cunoaşterii*, Bucharest: ProUniversitaria Publishing House.

Orgeret, K. S. (2012). Intercultural Educational Practices: Opening Paths for Dialogue. *Intercultural Communication Studies XXI*, (1), 189-204. Retrieved from: http://www.uri.edu/iaics/content/2012v21n1/17KristinSkareOrgeret.pdf.

Palaiologou, N., Dietz, G. (eds.). (2012). *Mapping the Broad Field of Multicultural and Intercultural Education Worldwide: Towards the Development of a New Citizen*, London: Cambridge Scholars Publishing.

Polat, S., Barka, T.O. (2012). Multiculturalism and Intercultural Education: A Comparative Study with a Sample of Swiss and Turkish Candidate Teachers**.** *World Applied Sciences Journal* 18 (9), 1180-1189. Retrieved from: http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.390.1226&rep=rep1&type=pdf.

Portera, A. (2008). Intercultural education in Europe: epistemological and semantic aspects. *Intercultural Education*,19 (6), 481–491. Retrieved from: http://euc.illinois.edu/%5C/eucdw2011/documents/PorteraInterculturalEdinEurope.pdf

Vilaça, T. (2008). Action-Oriented Health Education: A Didactic Approach To The Development Of Intercultural Competencies While Encouraging Youthful Dialogue Between Cultures. In Engels, N., Libotton, A. (eds.), *Teacher Education, Facing the Intercultural Dialogue*. Proceedings of the 33rd Annual Conference of the Association for Teacher Education in Europe, 313-324. Retrieved from: http://www.atee1.org/uploads/proceedings_atee_2008_final.pdf.

Article Info

Received: April 20 2015
Accepted: November 30 2015

RSP • No. 48 • 2015: 78-87

ORIGINAL PAPER

The Impossible Parliamentary Government: Cabinet Formation and Dismissal in Interwar Romania

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Abstract
We talk nowadays increasingly more about the "democratic traditions of the Romanian people". Who knows these traditions? Even a quick foray into the Romanian institutional history shows that they do not exist. The interwar period was neither a golden age of the Romanian democracy, nor its inferno. Romania never reached a real parliamentary or representative government but it largely kept up its appearances. In terms of political democracy, Romania's situation was worse than today, but not the worst in those circumstances. That is what we try to prove here, reviewing the Romanian constitutional texts as well as the Romanian political practices. Our motto is: "A knowledge of these things guards as, at any rate, from the illusion, for illusion it must be termed, that modern constitutional freedom has been established by an astounding method of retrogressive progress" (Dicey, 1889: 17).

Keywords: *Romania, government, cabinet, king, parliament*

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Since the Romanian Constitution contains, even in its first article, a reference to the "democratic traditions of the Romanian people", we should revisit of the only pre-1989 period that can be labeled as "democratic" to see how was it "democratic". Moreover, because "democracy" is a vague and abstract concept, we focus here on the part of its fundamental conditions in any monarchical regime: dependence of Parliament. The others (universal suffrage, electoral freedom, full legislative power to the representatives) require a separate discussion.

Origins: the letter of the Constitution, the Western model and the Romanian practice

The fundamental question is: who governs? Is it the king, as deduced from Montesquieu's influential *De l'esprit des lois*, or is it a Cabinet of ministers, as suggested by Benjamin Constant. According to his draft Constitution, the monarch was supposed to be a fourth power, "neutral, intermediary, without any obvious interest to disturb the equilibrium, but, on the contrary, all the interest effort to maintain it", the "Royal power" (Constant, 1872: 178). The king officially appointed the Ministers, but it was only based on the proposal of the parliamentary majority. This practice imposed in Great Britain after the Reform Act of 1832 (Finer, 1999: 1593), without being written somewhere. Even if he had many formal powers (Bagehot, 1873: 31-33), the head of state has chosen not to exercise them. He ceased to be "the real chief of the practical Executive" (Bagehot, 1873: 45), yielding the place to the President/Prime Minister, supported by the Parliament. The Cabinet transformed from a Crown council in a very powerful "committee of the legislative assembly" (Bagehot, 1873: 80). However, no matter how powerful, "ministers resign office when they have ceased to command the confidence of the House of Commons". Even this basic rule was a "Constitutional Convention", part "constitutional morality", and therefore the courts could not enforce it (Dicey, 1889: 26). This is probably the reason why the "British model" was not very successful in other countries. Walter Bagehot appeared skeptical even about the possibility of its functioning in the French parliamentary regime (and, more generally, about the idea of "parliamentary republic") (Bagehot, 1873: 45-46). We have to remember always Dicey's warning: "some polities, and among them the English constitution, have not been created at one stroke and, far from being the result of legislation, in the ordinary sense of that term, takes the fruits of mid-market up contests in the Courts on behalf of the rights of individuals". The British system was closer to what Dicey called „a sort of spontaneous growth", unlike most other systems, which, in the XIXth century, could be described as follows: "they made what they are by human voluntary agency" (Dicey, 1889: 183). It was therefore to be expectable that things might not match.

How were things in Romania? "The Government" often referred to in the Constitution of 1866 seems to be a synonym of "executive power" which was entrusted to the "Prince/King" who exercised it according to the Constitution, that is to say, even if not expressly provided, through the ministers whom he appointed and dismissed (article 93). This obligation resulted from condition that any royal act needed the "countersignature of a Minister through this even becomes responsible for this act". The text said nothing about any collegiate body or its Chairman (the Prime Minister). It will be barely mentioned in a bill (1881), allowing to the "President of the Council of Ministries" to be Minister without portfolio (Ghițulescu, 2010a). None of these is surprising. The situation was similar all over the continent: "in almost all monarchical countries, sovereigns have the same governmental powers. The right to appoint senior

civil servants, on top of which stand the ministers, it is almost always granted" (Bard, Robiquet, 1876: 322). The constitutions in force in Europe in 1866 did not provide for the existence of any Cabinet or Council of Ministers. They will begin to do it gradually, during the next decades (Serbia, Ottoman Empire-1869-1876-1879, Bulgaria etc.) (Demombynes, 1881). It was evident, in those circumstances, that we cannot speak about Cabinet formation based on a parliamentary majority or about Parliament's possibility to dismiss the Cabinet.

However, the idea that "Ministry" must result in Parliament existed in Romania. Here is how Ion Ghica motivated his resignation in 1866: "this Ministry was formed after the dissolution. Then came this honorable Assembly, recently elected, that has not yet given to the Government any Ministry. Therefore, I thought necessary to follow the parliamentary custom, i.e. to recommend to His Majesty another Ministry, because I was sure the King will be able to judge, to know how to get a Minister who has the confidence and sympathy that Assembly" (Nicolescu, 1903: 23). In 1867, in that Chamber, Kogalniceanu argued "the Prince is entitled and unbounded to choose his ministers, and when his ministers are starting to administer, then comes the right of the Chambers to criticize their acts". In 1876, shortly before the beginning of the "great liberal governance", G. Brătianu defined and argued the representative regime in its pure, English form: "What is the representative regime? A constitutional regime is the one in which the country is called for the elections, people choose the persons he agree and they constitute the National Representation; those people form, by their ideas, parties in the legislature; those parties and groups, composed of different shades, form the majority who discuss all the public affairs. For that, the majority choose a delegation to administrate the country, and that delegation is the country's Cabinet" (Nicolescu, 1903: 253). What followed was constitutional, after the basic law from 1866, but not representative. A political party formed, but outside the Parliament and not necessarily based on ideas. It received the "delegation" from the monarch and only after that, the country was called for the elections and gave a majority to the Cabinet. In June 1881, during the brief Government of Dimitrie Brătianu, we found an interesting discussion between liberal senators of the majority with regard to their role in the appointment of the new Cabinet. Some of them argued that the monarch must ask their opinion. Other claimed that they don' have the right to "bind the hands of the crown". The debate started again in 1884, when the liberal N. Stolojan argued: "It is the King who chooses the ministers. By law, the right to choose ministers is boundless. However, he takes them from those who have the confidence of the majority of the House. In fact, the Chamber elects the government". Even the Prime Minister I.C. Brătianu declared that: "you are the delegates of the nation, and we are your delegates" (Drăganu, 1991: 253). Nevertheless, the parliamentary support should not exist from the very beginning, for the same speaker added: "If a cabinet, after two or three dissolutions, after the country voted against it, it stays in power, it is unconstitutional" (Carp, 2000: 359). In 1911, when, following the withdrawal of Ionel Brătianu, the King appointed Carp, conservatives argued that "He has this incontestable right and he can appoint who he want", the situation fitting "into the true constitutional doctrine ". The famous legalist C. G. Dissescu, *takist* senator at the time, thought that the King was obliged to appoint the one "indicated by the public spirit as representing the public opinion". Instead, Brătianu sincerely accepted: "I believe that the arrival of the Conservative Party is constitutional" (Tătărescu, 2004: 123-125).

In Romania from 1866 until 1938, the dissolution followed by new elections was the main method of providing parliamentary majorities to the cabinets appointed by the

king. Of course, the supporters of the dualistic parliamentarianism saw the right of dissolution (existing in all the monarchical constitutions in the second half of the XIXth century) as an instrument of balancing the relations between the executive and the legislative and of peaceful settlement of disputes by returning to the people (Bard, Robiquet, 1876: 328-329. The problem was that, in Romania, the dissolution was too frequent and the elections were not free. Perhaps George Tătărescu best described the practice, in 1912: "all cabinets, with rare exceptions, were personal, as all came to power after an event not obvious to the legal country, but thanks to a royal decree of appointment. Even if this decree was later confirmed by a general election – and we know what these elections – further confirmation may not alter the original nature of their coming to power" (Tătărescu, 2004: 121). It would be a mistake to treat too harsh the practices of the era. It is hard to believe that in those social, economic and cultural circumstances things could have gone differently, keeping the minimal democratic appearances. Maiorescu was, once again, right: "We believe that Crown's preponderance in appointing parties and people in the cabinet is the result of the voters' weakness and until we manage to make them more independent, we must thank an agreement, either subsequently, between the Crown and the Parliament" (Maiorescu, 2002: 276-277). Lahovary saw things similarly: "in short, parliamentary politics is premature Romania. It is a luxury barely afforded by better moral, intellectual and economic equipped nations. The nations still unformed expose to serious by adopting it too early. They even risk sometimes their future" (Lahovary, 1897: 19). Beyond the political attacks, we can say that Romanians were lucky with their first king: "The country can take pride that it has on the throne a vigorous and shrewd King, who can dominate the inextricable situations resulted sometimes from the practice of a deeply fallacious system" (Lahovary, 1897: 12).

Things were just as entangled regarding the political liability of the cabinet. Constitutions of 1866 and 1923 did not provide this possibility. Ministers were indeed responsible (also) before the National Representation, but only legally. The Parliament could impeach each of them, but it could not dismiss the Cabinet. Only the King could do it.. Many authors consider today that the political responsibility developed by conventions/customs. Tudor Drăganu argues, for example, that "despite the fact that in the Constitution there was no reference regarding the *political* responsibility of the ministers, it was still possible that this rule, which had taken root under the Paris Convention, continue to affirm under the influence of the 1866 Constitution, as a constitutional practice; for its overall structure favored such a development" (Drăganu, 1991: 210). Radu Carp also concluded that the "ministerial political responsibility took progressively constitutional custom character" (Carp, 2003: 174). The same author found several cases in which the vote of censure did not lead to the withdrawal of the government, but to the dissolution of the assemblies: 1868 1869 1871 and 1891. Ioan Stanomir is on the same line: "beyond the specific cabinet formation and the predictable manner of creating majorities, the 1866 constitutional regime offered the institutional mechanism of the ministerial responsibility, as a corrective that allowed Chambers to exercise significant influence over the cabinet, including the withdrawal of the confidence as a vote of censure" (Stanomir, 2005: 75). In a previous paper, I also argued that we could not talk about a custom, but two about "competing customs" (Ghitulescu, 2011, 160). Now, after a review of the ministerial comings and goings I think the true custom was that of forcing the resignation of cabinet by extra-parliamentary methods. Here is what I rely on: (1) the cases of resignation following a vote of censure are concentrated in the early years after, when the regime was not yet consolidated; (2) the four votes of censure

followed by dissolutions; (3) even if there were waves in the Parliament, the only clear case of departure after a vote of censure is the late and ephemeral cabinet of Take Ionescu (January 1922), under many circumstances which deserves a separate discussion.

Developments were different in the states that served as models. A Belgian legalist appreciated about his country: "the legal responsibility of ministers to Parliament and not the King, his inability to keep them as expression of opinion through elections or after a no confidence vote on a important matter, these are the characteristics of the parliamentary regime [...]. The difference is not in the text, but in the application, in the national public life. It is a customary regime; it is in the spirit of the Constitution; the letter does not say anything about it" (Errera, 1909: 208). In France, during the Third Republic customary, the motion of censure imposed by custom as a "genuine means of control". Let's remember only that from 1871 to 1940 here functioned no more than 87 cabinets!

The Constitution of 1923

In Romania, the Cabinet had no basis in the written constitution until 1923, when, with no other details, art. 92 provided that "the Government exercises executive power in the name of the King, as established by the Constitution" and art. 93 that "Ministers compose the Council of Ministers, chaired with the title of President of the Council of Ministers by the one who was charged by the King to form the government." Overall, it was said that "as regards the powers of the king, the Constitution repeated the text of the fundamental law of 1866" (Scurtu, Bulei, 1990: 168-169). This is largely true due to the fact that: "the executive power is entrusted to the King, who exercises it as established by the Constitution" (art. 39), but the mere consecration of the cabinet marks a timid evolution towards parliamentarianism.

There was no reference to the parliament's role in the cabinet formation or dismissal process. From this point of view, Romania is a bizarre case. The states created after the World War I adopted constitutions, and many older ones were revised. It was found that the new constitutions were very similar, because of both similar sociopolitical conditions and the role of the theorists, called "constitution professors". They brought a "rationalization of power" and a "legalization of the politics" (Mirkine-Guetzevitch, 1950: 606-607). Among other things, they adopted a "systematized, dogmatized, streamlined version" of the customary French style parliamentarianism, namely: they inserted the "legal obligation of the ministry, to withdraw once being subject of a of vote mistrust" (Mirkine-Guetzevitch, 1950: 610). Romania took exception, although the European trend was known. Constantin G. Dissescu, the professor who played the coach of the 1923 Constitution, was very short on this subject: "this responsibility of ministers may be political, and exercised as interpellations that can bring changes of government ... I will not go in its details" (Dissescu, 1922: 45). Mattei Dogan made a statistical research on parliament's control over the Cabinet and its conclusions fits in Constantin Argetoianu' phrase: "I don't know in all our parliamentary past an interpellation to be overthrown government" (Dogan, 1946: 107). It worth noting that studies and preliminary draft studies prepared by the National Liberal Party's Circle of Studies provided that "ministers are jointly responsible for the general policy of the government and the Council of Ministers decided acts" (Dissescu, 1922: 50). This provision was not maintained in the final Constitution.

Romanians could not develop a constitutional custom to fill the constitutional silence. "The parliamentary government" failed to materialize. Even the existing frail form that existed decayed. The King continued to appoint ministers as before. There was, in

fact, than the consecration of a practice as old as the monarchy. The monarch charged a politician to form the cabinet and, based on its proposals, appointed the other ministers (Ghițulescu, 2010b). There were always two decrees: the first one "received" the resignation of the old cabinet and named the new president (countersigned usually the outgoing president); the second named the other ministers (countersigned by the new president). President's constitutional role was not highlighted; there was no reference to its proposal in the appointment decrees, as in the other decrees, that usually began with phrases like "seeing the report presented to us ..." or "on the report ...". Officially, the appointments were nothing but Crown's will.

This was the general interpretation among legalists. G. Alexianu, for example, believed that the Constitution "preserved this power to the King, because only thus he is able to lead the country, to judge which the currents of opinion are and to give preference to the most powerful or according to the country's interests. When a current, which is in power, has become dangerous for the country, or the King believes that the situation requires a change, he has the right to dismiss ministers, asking them resign" (Alexianu: 353). In turn, Paul Negulescu wrote: "the King who is delegate by the nation to exercise executive power must delegate himself Ministers to exercise that power", noting that "we cannot say that in our constitutional system the King is only a representative figure. On the contrary, his powers are considerable" (Negulescu, 1927: 429). However, according to Negulescu, ministers could be appointed only "if supported by the parliamentary majority" (Negulescu, 1927: 430). More moderate, Alexianu noted that "although the King is not bound to choose from the parliamentary majority, yet practical, and to the government to fulfill his work, he is forced to call on the parliamentary majority to appoint representatives" (Alexianu: 365-366). That was true, according to the Western European experiences. Things were different for us…

Ferdinand

In 1914, Ferdinand inherited from his uncle a liberal Cabinet (I.I.C. Brătianu). In 1916, he maintained and expanded it, despite the requests from several parties. It will go until January 1918, when the King called the General Alexandru Averescu to sign a separate peace. Things have not gone as wanted after a month, he demanded his resignation and, apparently at the suggestion of Brătianu (Mamina, 2000: 321), he named Alexander Marghiloman. Then, in the autumn, he brought Brătianu again. After his withdrawal, in the fall of 1919, things got complicated. The King was now seeking to form a Cabinet to organize the first elections by universal suffrage and after many discussions, he appointed General Artur Văitoianu (Duca, 1981: 188-189). The election brought a surprise: no party majority. Ferdinand, following the rules of the parliamentary game, has entrusted a coalition government, "Parliamentary Bloc", headed by Alexander Vaida-Voevod. As I.G. Duca Duca remembered, "the characteristic feature of King's personality was the sincere democracy. King Ferdinand was naturally democrat" (Duca, 1981: 120). However, the young and fragile Romanian democracy was at risk to fall into chaos. Following a Brătianu-Averescu arrangement (Mamina, 2000: 325), the latter replaced Vaida-Voevod in March 1920. The case is illustrative of the way in which changes were made throughout the period 1866-1938. Although it was evidently a dismissal (the Prime Minister was abroad, he did not sign any resignation) (Iorga, 1931: 193), Ferdinand kept up appearances of resignation. He dissolved the parliament Averescu can get a majority. In December 1921, following a crisis caused by the minister of foreign affairs, Take Ionescu (again Brătianu's complicity), Ferdinand entrusted him with the Cabinet, but a

month later, after receiving a vote of censure, he refused to provide a chance for elections and called again Brătianu. It is certain that the King granted all the support to the Cabinet during the "great governance" (1922-1926), allowing the adoption of all measures it wanted, including the adoption of a new Constitution, strongly contested by the opposition. Even after his retirement, the liberal leader continued to play a decisive role (it does not matter how!), in the appointment and dismissal of the cabinets. Averescu's Returning (March 1926) and departure (June 1927) and short Barbu Ştirbei government (June 1927) are generally considered "bratienist maneuvers". With his well-known sarcasm, Constantin Argetoianu accused the liberals that "no longer content to just govern, even from the opposition – but they want to reign, usurping the supreme prerogative of the Crown, i.e. the right to choose the ministers" (Argetoianu, 1996: 76). It does not matter, from the Constitutional perspective, why Ferdinand always listened Brătianu. The fact is he did it. Officially, Ferdinand always acted just like Carol I.

Charles II

After 1930 all the old practices were emphasized. From the beginning, the purpose of the new King was to form a Cabinet "above the parties". He had many attempts (General Constantin Prezan - June 1930, Nicolae Titulescu - April 1931, June 1932, Marshal Alexandru Averescu - 1934) (Chistol, 2007: 354-357) and only a partial success: the Nicolae Iorga Cabinet (1931-1932). It was only a partial success, because it had political support (including the National Liberal Parte) and it did not last too long. Otherwise, Charles appointed and dismissed Prime Ministers just as his predecessors and he directly involved in the Cabinet formation, imposing his men. There were many discussions, during the '30s, about how to form cabinet. Some politicians (Iuliu Maniu, Dinu Brătianu, etc.) claimed that parliamentary support was necessary. Others (Gh. Mironescu, Nicolae Iorga, etc.) said that, under the Constitution, the appointment of ministers was King's exclusive prerogative. Grigore Iunian said, in 1933: "The king or head of state also has some rights. It has a first right: he appoints the prime minister. His right, does it end here? No! The head of state in all constitutional regimes similar to that of ours can express some appetite in terms of how the composition of the cabinet". A huge scandal broke out after the assassination of IG Duca, when Carol appointed Gheorghe Tătărescu, who was not the head of the liberal party. The majority asked for the nomination of its leader, Dinu Brătianu. The King did not care. The Romanian parliamentary government" entered its final phase. Tătărescu made all the King's games, defying the Parliament more than ever. It was obvious that Charles only waited for an opportunity (crisis) to give the final blow. He found it after the 1937 elections, when nobody managed to win the majority. After an ephemeral Goga-Cuza cabinet, in 1938, he gave a coup and conceded a new Constitution, which clearly stated that "the ministers have political responsibility only to the King" (art. 65).

An assessment test in context

The Interwar period was not a "golden age of the Romanian democracy". However, it was nor the darkest time and place, as may be inferred from the words above. For a proper assessment, the context is essential. In the early '20s, Europe was living an "apparent victory for democracy". In a few years, its "fragile nature" had to become evident (Berstein, Milza, 1998: 39). In Spain, Portugal, the Baltic countries, Poland authoritarian / military regimes were quickly established and the "Balkan monarchies (Romania, Bulgaria, Yugoslavia) become radical and only kept up the appearance of

pluralism" (Berstein, Milza, 1998: 40). After the adoption of the Vidovdan Constitution. in 1921, the Kingdom of Serbs, Croats and Slovenes has known for a while "the benefits of the parliamentary government". The King did not involve in politics (Crampton, 2002: 160). In a country with a complicated regional-ethnic background, the parliamentary game created a serious governmental instability and a parliamentary chaos. To fill "the growing political gap", in 1929, the King gave a coup. The proclamation of Alexander of Yugoslavia, we do not know how sincere, is relevant to the perception of the political situation in the Eastern European states and to the manner in which the leaders agreed to a deal with: "parliamentarism, the political means entrenched in the tradition of My Father, whom I have not forgotten, has remained my ideal too. However, blinded political passions have started abusing it so much, that it now represents a hindrance to any fruitful activity in the country… Instead of strengthening the spirit of national and state unity, parliamentarism – in its current form – starts leading to spiritual chaos and national disunity. My holy duty is to preserve State and National unity by all means. And I will resolutely carry out this duty to the very end" (Petrovic, 2004: 36). In Bulgaria and Greece, the democracy lasted (with some interruptions) officially until the mid-30s. From the West, the establishment of the Balkan authoritarian regimes was seen as a "return to the nineteenth century, the era of the nation's rule was in the hands of the monarch and his close advisors" (Carpentier, Lebrun, 1998: 184). It seems that the "fall in pre-modern age" in every crisis, that Sorin Alexandrescu considered a "Romanian paradox" (Alexandrescu, 1998: 95) was at least a regional paradox. Indeed, in a certain perspective, it can be said that the Romanian regime has resisted better than its neighbors have. Here, the "democratic regime – fragile and partly fictional – resisted the longest time" (Dogan, 1999: 164). By comparison, one can even say that "the scheme established by Charles II [until 1937, n. MG] appears as the best possible in the circumstances of the time" (Dogan, 1999: 165-166). However, it was not worse.

Acknowledgement:

This work was supported by the strategic grant POSDRU/159/1.5/S/133255, Project ID 133255 (2014), co-financed by the European Social Fund within the Sectorial Operational Program Human Resources Development 2007-2013.

References:

Alexandrescu, S. (1998). *Paradoxul român*, Bucharest: Univers Publishing.

Argetoianu, C. (1996). *Memorii. Pentru cei de mâine. Amintiri din vremea celor de ieri*, vol. VI, Bucharest : Machiavelli Publishing

Bagehot, W. (1873). *The English Constitution*, new and revised edition, Boston: Little, Brown, and Company.

Bard, A., Robiquet P. (1876). *Droit constitutionnel comparé. La Constitution Française de 1875 étudiées dans ses rapports avec les constitutions étrangères*, Paris: Ernest Thorin.

Berstein, S., Milza, P. (1998). *Istoria Europei*, vol. V *Secolul XX (din 1919 până în zilele noastre)*, Iași: Institutul European.

Carp, P. P. (2000). *Discursuri parlamentare*, Bucharest: „Grai şi Suflet – Cultura Naţională" Publishing.

Carp, R. (2003). *Responsabilitatea ministerială. Studiu de drept public comparat*, Bucharest: All Beck Publishing.

Carpentier, J., Lebrun, F. (1997). *Istoria Europei*, Bucharest: Humanitas Publishing.
Chistol, A. (2007). *România în anii guvernării liberale Gheorghe Tătărescu (1934-1937)*, Târgoviște: Editura „Cetatea de Scaun" Publishing.
Constant, B. (1872). *Cours de politique constitutionnelle. Collection des ouvrages publiés sur le gouvernement représentatif*, deuxième edition, Paris: Librairie de Guillaumin et Co.
Crampton, R. J. (2002). *Răsăriteană în secolul al XX-lea... şi după*, Bucharest: Curtea Veche Publishing.
Demombynes, G. (1881) *Constitutions européennes. Résumé de législation*, tome premier, Paris: L. Larose et Forcel.
Dicey, A. V. (1889). *Introduction to the study of the law of the constitution*, third edition, London: Macmillan & Co.
Dissescu, C. G. (1922), Puterea şi responsabilitatea ministerială, *Noua Constituţie a României şi nouile constituţii europene*, Bucharest: Cultura Națională
Dogan, M. (1946). *Analiza statistică a „democraţiei parlamentare" în România*, Bucharest: PSD Publishing House.
Dogan, M. (1999). *Sociologie politică. Opere alese*, Bucharest: Alternative Publishing.
Drăganu, Tudor (1991). *Începuturile şi dezvoltarea regimului parlamentar în România până în 1916*, Cluj-Napoca: Dacia Publishing.
Duca, I. G. (1981). *Amintiri politice*, vol. I, München: Jon Dumitru Verlag.
Errera, P. (1909). *Traité de droit public belge*, Paris: V. Giard & E. Brière.
Finer, S. E. (1999). *The History of Government From the Earliest Times*, vol. III, *Empires, Monarchies and the Modern State*, Oxford: Oxford University Press.
Ghițulescu, M. (2010a). Despre instituția ministerială în România (1859-1918). Norme și „uzuri" constituționale, *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, (26), 100-106.
Ghițulescu, M. (2010b). Principii de organizare a administraţiei publice în România modernă. Aspecte teoretice, legale şi politice, *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, (28), 24-31.
Ghiţulescu, M. (2011). *Organizarea administrativă a statului român modern (1859-1918)*, Craiova: Aius PrintEd.
Iorga, N. (1931). *Memorii*, vol. II, Bucharest: „Naţionala" S. Ciornei Publishing.
Lahovary, G. E. (1897). *Histoire d'une fiction. Le Gouvernement des Partis*, Bucarest: Imprimérie de «L'Indépéndence Roumaine».
Maiorescu, T. (2002). *Istoria contemporană a României (1866-1900)*, Bucharest: "Titu Maiorescu" University Press.
Mamina, I. (2000). *Monarhia constituţională în România. Enciclopedie politică 1866-1938*, Bucharest: Encyclopaedic Publishing House.
Mirkine-Guetzevitch, B. (1950). Le régime parlementaire dans les récentes Constitutions européennes, *Revue internationale de droit comparé*, vol. 2, no. 4, octobre-décembre 1950, 605-638.
Negulescu, P. (1927). *Curs de drept constituţional român*, Bucharest: Alex. Th. Doicescu Publisher.
Nicolescu, G. D. (1903). *Parlamentul romîn*, Bucharest: I. V. Socecu.
Petrović, M. (2004). Constitution and legitimacy. Proclamation, changes to and validity of the constitution, with emphasis on the question of legitimacy as one of the principal concepts in the theory of constitution and constitutional law theory, *Facta Universitatis*, Series *Law and Politics*, Vol. 2, No. 1, Niš, Serbia.
Stanomir, I. (2005). *Libertate, lege şi drept. O istorie a constituţionalismului românesc*, Iaşi: Polirom Publishing.

Tătărescu, Ghe. (2004). *Regimul electoral şi parlamentar în România,* Bucharest: PRO Foundation Publishing.

Article Info

Received: August 28 2015
Accepted: September 20 2015

RSP • No. 48 • 2015: 88-96

ORIGINAL PAPER

Boosting the Social Structures in Modern Romania: A Historiographical Perspective in the Post-Communist Era

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Abstract
The communist regime in Romania has strongly influenced the historiography. A theme as that of the social structures was preferred by the communist ideologists for justifying the superiority of the communist organisation model over the other periods and for searching common features between the Romanian society and the communist ideology from the earliest periods. The modern age was surely "the test field" of the communists, because all the great events and reforms of the modern era had a strong social pattern. It is the reason for which the party ideology and the issue of the social structures should be presented by true specialists. After 1989, in the conditions of democracy, this theme was presented according to the European context. In the last 25 years, the historians have analysed this problem, starting from the principles used by the social history, sociology and even political sciences.

Keywords: *social structures, historiography, modern age, Romania, society*

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Introduction

Our study intends to present the evolution of the historical context on addressing the social structures in Romania, after 1989. In the last 25 years Romanian historians have tried a re-evaluation of this historical subject because of the strong politicization of it, prior to 1989. In this study we have tried to present the main historical works divided in the next categories: memoirs, studies of historical and institutional law, the general history of the Romanians, political thinking and enforcement of the reforms and the impact over the local communities (Hitchins, 1994: 363-364). The communist regime wanted, above all, a justification of its ideology as being deeply rooted in the historical past of Romania. The modern age is, essentially, the historical period in which the Romanian state was unified and, therefore, modernized. The main consequence of the unification and modernization was its independence, after which, naturally, the national reunification emerged. The way in which the ideology can be legitimised, represented the juxtaposition of the "social struggle" to the national way of modernization (Nacu, 2013: 8). Whether we refer to the revolution led by Tudor Vladimirescu or the Revolution of 1848-1849, the watchword in historiography before 1989 was the peasantry and the working class' struggle for social justice, having the alliance of the intellectuals (Berindei, 2003: 56).

The historical background

After the Union of 1859, the extensive reform programme, imposed by Alexandru Ioan Cuza, was also discussed as a consequence of increasing social inequality and the fight for its elimination. The period 1877-1907 was a historic era of modernization and development for the independent Romanian society. However, this modernization was carried out at the top of the social hierarchy (Nacu, 2013: 9). The population of Romania, during 1859-1918, was being concentrated, in its vast majority, in rural areas. The urban environment, where the elements of modern life were introduced, was marked by the growth of the population once with the settlement of people from rural areas, attracted by the possibility of paid work in workshops, factories, construction sites (Iosa, Lungu, 1977: 243).

The social and political status of Romania, in the first decade and a half of the twentieth century, show that the concentration of political power is in the hands of large landowners, followed by bourgeois and wealthy peasants, a large gap from the general population, to bear taxation regime compacts, military obligations, living in poor conditions with limited literacy education. The exponents, which are currently conservative (especially Constantin Argetoianu), continue to be redundant in the sense that they require „educating peasants" and agrarian reform and election, while the Liberals, from 1913, considered in their political program that it was necessary to reduce this gap. It is in this context that the National Liberal Party took the initiative of constitutional revision in 1914, the purpose of the expropriation of landowners, within certain limits and adopting the single Electoral College (Scurtu, 2001:55). The initiative was designed to bring new doctrinal clarifications to the Conservative Party and a tough political battle in the Parliament, press, public meetings. If all politicians recognized the need to amend the disparity between the high and the low property and improve the situation of the peasantry by assignment, differences arise in how to achieve them (Nacu, 2013: 10). Liberals were the advocates of the expropriation of landowners, specifically the large land properties, the compensation limits agreed with the opinion of the Conservatives and Democrats (Maciu, 1973: 343). The conservative Party's traditional

supporters considered to be sufficient the allotment lands, which were in the possession of the state, the purchase of the Rural House, the expropriation was illegitimate, unnecessary and dangerous for the condition of the Romanian society. Apart from the principle of the unique college, supported by the liberals, the conservative democrats thought more suitable the system of two colleges, and the traditional conservatives preferred the already existing system, of three electoral colleges. With the outbreak of World War I, the reforms were left aside. In 1917, when two-thirds of the national territory was occupied by the enemy, the government, the army and some people were in Moldova, the Parliament of Iasi, due to the need to ensure the participation enlivened the last resistance of the peasants, which was dangerous because the spectrum order of destabilization caused by the socialist revolution from Russia, and decided to resume the project of reforms in a more extensive manner. They considered the expropriation of more than 2 million ha and the universal suffrage (Nacu, 2013: 11). Despite the continuing political confrontations and differences, the results exceeded the expectations. The Romanian society, in addition to the need for democratization, had to face the possibility of materializing the national aspirations of unity of all Romanians that, at the end of the war, became a reality. If the representatives of the National Liberal Party found the possibility to adapt to the conditions, through these reforms, the Conservative leaders were aware that the struggle for survival, which in the early interwar period became impossible, and due to the label of „collaborationist" given to the Marghiloman government, they remained in Bucharest (Iosa, Lungu, 1977: 243).

The expropriation decrees from the 15th and 16th of December 1918 (followed by the agrarian reform laws on the 17th and 30th of July 1921) and the organization, in November 1919, of the first parliamentary general elections based on the universal suffrage, represented the end of a political process started in 1864. The need to strengthen the Romanian national state imposed a new Constitution with strong democratic principles, on the 29th of March 1923. Basically, we believe that the principles of the Constitution of 1866 dominated the Basic Law of 1923 that was, in fact, only an improved version, driven by new social and political- territorial configuration of Romania (Berindei, 2003: 59).

In 1921, Romania knew the most significant reform from its entire history. There were expropriated properties bigger than 250 ha, in plain, 100 ha of the properties rented at the date the law was enforced. Until 1937, in Romania, there were expropriated 4 million ha. In Romania, only 2700 properties had more than 500 ha, and 9,500 properties under 100 ha (Hitchins, 1994: 363-364). This was, generally speaking, the situation of the land property until the end of the democracy in 1945. Ultimately, the Romanian modern world was a polarized one. At the upper limit there were the great landowners, and industrialists, traders, bankers, self-employed, while, on the opposite position, there were the peasants, the workers and the small craftsmen (Nacu, 2013: 10). The voting system was one based on qualification, organized, according to the Electoral Law and the Constitution of 1866, in four colleges, subsequently reduced in 1884 to three. Principally, even though they were the main workforce, obliged to pay taxes, obligations to the state, the workers and the peasants had no right to vote. They did not have access to education, health and other elements of modernity. However, the historiography before 1989, strongly influenced by the party ideology, held that the decisive role in the socio-political changes was constituted by fighting peasants, workers, intellectuals, allied together, from those social groups. Basically both the social status and the boyar origins, iconic figures of the modern times, were somehow left into the background. First of all, the party

historiography insisted on their relation to "the masses". The official ideology had tried to minimize the influence on the evolution of modern Western thought. The only accepted theses were those of Karl Marx and Friedrich Engels, combined with Lenin's thinking (Axenciuc, 1997: 18).

The climax of "reorientation" of the Stalinist Romanian historiography is the work of Mihai Roller. Romania was artificially adjoining modern ideological reform movements of socialist orientation. There were brought forward important works by authors of socialist orientation, as it was Constantin Dobrogeanu Gherea, author of the concept of "neo-serfdom". According to this author, between the producers and the owners, the tenants were interposed, along with the brokers, interested in bringing progress to the extent that they help to make a profit quickly. They managed to have elected political leadership structures to represent their interests. They were not interested to introduce the much needed reforms, expected by the majority of the population: the land reform and electoral reform. In addition, there was a sensitive category, the foreigners who did not belong to any state, most of which were represented by the Jews. The solution found for their individual naturalization was a cumbersome and, practically, impossible to accept, for many of them. The legislation in the trades and occupations was not likely to favour them. Being an ideological regime based on "the ratio of the productive forces and means of production" the communism encouraged the historiography to show only the "social side". Therefore, since 1989, there have been many attempts for the reassessment of this area. A major shortcoming is the failure of the historical use for the non-disciplinary studies. Statistics, sociology, law provide sufficient quantitative tools for making solid historical judgments.

Historiographical overview

The period bounded by two important events of our modern history - the Romanian revolution of 1848 and the proclamation of independence of the Romanian state - represented years of profound changes in the social-economic, political and moral consistency in the development of the society, as a whole. A first sign of progress was given by the numerical increase of population, which has suffered a layering element, evident during Cuza's reforms, and the first consequences of the application of the Constitution from 1866. The census of population in the years 1859 to 1860 showed a population of 4.424.961 in the principalities. Dimitrie Frunzescu, in his work entitled *Topographical and Statistical Dictionary of Romania*, published in 1872 in Bucharest and M. G. Obedenaru in the work *La Roumanie economique d'apres les donnees les plus recentes*, published in Paris in 1876, estimated the number of inhabitants around 5,000,000. The census of 1899 recorded 5,956,690 inhabitants, the density being 45.3 people per sq km. In 1912, the population reached to 7.160.782 inhabitants (Berindei, 2003: 56). The natural increase of births was possible after the annihilation of angina diphtheria and cholera epidemics and the small proportion of the natural disasters from that time. Once with the growth of the population, it should be noted that the population's density and the uneven distribution in the territory, remained low. In the three decades of the second half of the nineteenth century one-fifth of the population (17, 6%) was living in the urban area, while in rural areas there were four fifths (82.4%) of the residents . Most inhabitants of the country, both in the rural and urban areas, practiced the agriculture (Axenciuc, 1997: 199). However the Romanian society experienced the phenomenon of the structural change during the early nineteenth century. A number of social categories experienced the changing of their status. It is the stage where the nobility "practically

ceased existence to the privileged social policy". The peasantry without rights (serves) improved the situation with the land reform of 1864 and the bourgeoisie increased its economic and political role. After the Organic Regulations and the Paris Convention of 1858, the noblemen became landowners, and underwent a process of transition for reaching the status of bourgeoisie with conservative and liberal positions (Creangă, 1907: 26).

On the whole, we are witnessing an increasingly growing economy, along with the significant number of employees, whether they were in agriculture as labourers or employees, the exploitation and processing of oil, mines or as workers in small workshops and factories emerged, particularly in Bucharest and in Iasi, Craiova and the Danube ports. According to the 1860 and 1912 censuses, the active population, highlighted the non-agricultural population increases and the developments. In 1860, 1,871,800 people were working in agriculture which represented 86.2% of the total population, 114,900 in industry (5.3%), transport 2,000 (0.1%), commerce and credit 44.900 (2, 1%), education, religious affairs, culture 8,300 (0.4%) in health care administration and army 600 in 24,400 (0.1%). In 1912, working in the same field parallels 3,193,400, representing 79.5% of the population, 8,200 in industry, 1,900 in transport, trade and credit in 3100, in education, religious affairs, culture 800, 300 health care, government, army 3.500 (Constantinescu, 1957: 88). Although the data above does not include the Crown domains and the state lands, we can still conclude that 957, 257 (99.1%) of the owners of properties between 1 and 50 ha, owned 3,849,508 ha (40, 18%), while 7,790 owners (0.9%) owned 3,977,198 ha (50, 82%). It is obvious disadvantaging of the peasants, regarded as the country's social spectators. At the beginning of the twentieth century, according to the archives' data, there were 408,502 families (48, 27%) of taxpayers, settled in the rural communities, who owned land. Referring to the social stratification and the role of the peasantry in the state, Radu Rosetti note, at the beginning of the twentieth century: "Our state is a plutocratic structure; the peasants rule it; when the poor hear formal advice, they listen to it again." (Rosetti, 1907: 588). The restoration of law, the market economy and the private property ownership were particularly important in Romania, especially after the abolition of collective farms and state farms extensive process for restitution of the nationalized houses. The reassessment of the role of the key social groups in history was represented by works such as those of the academician Alexandru Florin Platon and Gheorghe Platon. The academician Dinu C. Giurescu wrote several works of memoirs about those moments in history that we eyewitness.

The communist regime in Romania was analysed both based on the ideology and way of taking power seizing and the social structures, as Vasile Dobrescu and Lucian Giura presented in their study "prevailing the orientation studies for the political and ideological side or revealing the repressive nature of the communist regime, revealed the socio-economic structures of the regime. Or, the communist regime had reported itself in a new property, organizational and economic development, based on nationalized property and centralized management of business processes. On the other hand, the socialist economic system sought to be legitimized in the politics of the communist political parties as the regime that has to ensure the general welfare by eliminating disparities in wealth, hitherto existing between different social groups" (Dobrescu, Giura, 2004: 299). One of the historians who tried to answer to issues of social the structures is Cezar Avram. Under the title "An exceptional approach of the researcher Avram Cezar", Preda has made the following assessments on the paper "The agricultural Policy in Oltenia between 1949-1962" as follows: "the volume of the researcher Cezar Avram passed almost unnoticed,

entitled" Agricultural Policy in Oltenia between 1949-1962 (socio-economic changes in the Romanian village) "written with sobriety and conciseness, with scientific accuracy, can be considered a publishing event". Dinu C. Giurescu, PhD, welcomes the emergence of the book: "agrarian Policies in Oltenia in 1949-1962 (socio-economic changes in the Romanian village)": it represents a new chapter in the contemporary history of Romania. The historian Cezar Avram monitors and demonstrates the objectivity and the professionalism, obtaining what Gh. Gheorghiu-Dej, in 1949, called consensus (Constantin Romulus Preda, 2010: 1). The 1866 Constitution intended to preserve Romania's social status. Article 7 shall deprive the Hebrew citizenship and Article 12 prohibited any change in the property ownership, except for expropriation in the public interest for infrastructure projects. This is the paradox of the Romanian society, a country governed by the few in their interest, while most of the population was at subsistence level. A special category that could counter the financial impact of the ruling minority was kept away from political power. The lack of land remained a constant of the nineteenth century, partly mitigated by the agrarian reform of 1864 (Osiac, 1999: 306). We can observe that the historical writings present the evolution of Romania, according to the problem of the social structures. The monumental dictionary of localities of Oltenia is structured in a fine investigation of each locality. The main purpose is that of presenting the evolution of the property structure from the Middle Age, continuing in the Modern Age and the Contemporary Age. The work insists on the reforms made after 1990 in the social dynamics and local history. We display a list of the main historiographical contributions after 1990, in the evolution of social structures.

At the beginning of the twentieth century, according to the archive data, there were 408,502 families (48, 27%) of taxpayers settled in the rural communities, who owned land. On counties, the largest number of peasants deprived of land were in Dolj 30,130; 26,361 Ilfov-, Teleorman- 62,319 (Aurelian, 1880: XIX). Referring to the social stratification and the role of the peasantry in the state, Radu Rosetti note at the beginning of the twentieth century: "Our state is a plutocratic structure; the peasants rule it; when the poor hear formal advice, they listen to it again" (Rosetti, 1907:588). The situation of the Romanian village that was completed by 4,171 great owners having up to 100 hectares of which 66 hectares with over 5,000 had the highest percentage of arable land, having decision-making power by the Conservative Party, still subjected to limitation by the bourgeoisie class, which led the modernization and the national reunification. The lack of the agricultural inventory, the price increase for grazing, the lease in tithes increasingly larger, the agricultural work set out in the compacts price decreasing in most estates, the abusive authorities, tenants and landowners led to the extremism of the peasantry which have escalated to the late nineteenth century and the early twentieth century. A form of struggle of the peasantry, manifested after the war of independence, was the leaving of the villagers and setting their native places in other parts of the country or emigration to other countries. The information in the period 1878-1888, records many instances where peasants made their own decisions. The officers punished lessees, tenants, mayors, notaries, pub-owners (Cârţână, 2001: 317-345). The causes of violent behaviour of the peasantry, can be found in the ways in which reforms were implemented in 1864 and 1879. The agrarian reform of 1864, despite all the shortcomings, favoured, to some extent, the agricultural modernization. The weather statistics recorded "trade refreshing" 22 internal and external products. The agricultural engineering has improved the late nineteenth century unlike the culture which remained under extensive cultivation of land parameters. The cultivated land increased every year since 1865. For example, if in 1865 there were

2,221,862 ha in the principalities, in 1874, 3,303,205 ha, in 1906 reached 3,914,306 ha of farming surface (Poni, 1966:18). A worrying phenomenon was the evolution of livestock. In the last decades of the nineteenth century the number of animals decreased, as a result of crop expansion and the impoverishment of the Romanian village. The modernization of the State was, however, in progress, if we consider the new form of coexistence between "the large and small private property and state property" involved in cereal production, the use of cars, obviously differentiated from the existing gap between state ownership, great landowners property, the peasant private property (Cârţână, 2001: 317-345). The second half of the nineteenth century was the beginning of introducing industrial machinery after a revolution marked by "small industry". PS Aurelian speaks for an industry "exercised especially in the family", a city not lacking "tailors, shoemakers, skinners, wheelwrights, coopers, masons, carpenters, coppersmiths, locksmiths', a threefold increase number of craftsmen, only in Bucharest between 1832-1860 (Aurelian, 1880: XIX).

We organised our scientific presentation using certain main categories. We will start with the memoirs, which represent the main source of contemporary ideas of the people directly involved in the process of the evolution of the social structures during the Modern Age. In the memoirs, each author tries to present himself as a political statesman with the best intentions. Even if this is a subjective way, the memoirs presented problems which were clarified only after the access to the archive documents. Another group of works are represented by the general works of the Romanian History, in which the problem of the social structures represents a very important chapter and subject of analytical examination. Moreover, there are presented the main works on the juridical evolution of the social structures. The modern history of Romania, especially during the period 1821-1877, represents half of century of the most radical changes in the political, economic, social reforms. In half of a century, Romania succeeded to recover centuries of political and institutional crisis. The international context of the evolution of social structures in Romania also represents a very important direction for the historiography of Romania after 1990. The reforms were influenced by the contemporary European ways of thinking. Also, we presented the most important works of political thinking, theory and history of the political parties and their ideology. The 1848-1849 Revolution and the Peace Treaty of Paris from 1856 offered the political background of the social and institutional reforms, made during the seven years ruling of Alexandru Ioan Cuza (1859-1866). He gave a constitutional bill in 1864 and the first major rural reform which was the milestone of the modernization of the social structures: the medieval relations had entered in the history, as parts of the past. Finally, another aspect of our historiographical investigation presents the works about the modernization of the Romanian structures. There are both works and studies which present the general overview of Romania and also the local evolution of social structures and the impact of the reforms over the local communities in 1864, and after that time until 1918.

The land reform of Alexandru Ioan Cuza and the electoral law were followed by other measures which tried to optimize the impact of the initial reforms. The electoral and land crisis were the background of some important social uprisings at the end of the 19th century and in the first decade of the 20th century, in Romania. The political authorities had understood that the clarification of these two issues is very important. The reform of 1864 had no modern means to accomplish its purpose, a lot of peasant remaining without land because of the lack of modern means of measurement and bad intentions of the local authorities. A half century later, in 1914, the Romanian statesmen tried to present a new

land reform and electoral law, but the start of the First World War had imposed these issues after the end of the war, after 1918.

All the writings concerning the problem of social structures started from the same general idea: the social structures in the modern history of Romania are the milestone of the social, economic, cultural and political evolution. In 1918, Romania became the 8th state of Europe, as surface and population. The new provinces, united with Romania had merged with their specific issues: minorities which were privileged in the former imperial era and their economic status (new resources, new industries, new economical categories). Immediately after the war, in 1919, there was introduced the election based on the universal vote, that changed completely the political configuration of Romania, by the means of the social structures. The political parties needed to reconfigure their political views. The Conservatory Party collapsed politically after the 1922 elections. In the same time, Romanian electors started to believe in the ”man of the day”, a category of political statesmen as Alexandru Averescu, Iuliu Maniu, Ion Mihalache which had a personality able to convince the people, after the end of the Bratianu dynasty. In 1921, it was enforced the most important agricultural reform from the entire South-Eastern Europe. In 1923 it was enforced the new Constitution of the Romanian state, the most important constitutional act from that moment.

Conclusion

25 years after the Revolution of 1989, the Romanian historians succeeded in offering an objective overview of the great historical problem of social structures. They had a very difficult mission in separating the political influence from the reality of the sources, many of them ignored by the political history, imposed by the communists, between 1944 and 1989. The Romanian historians managed to reintegrate the evolution of the Romanian social structures in the large context of the European social history. Our historical investigation insisted on four great delimitations of the historical works: memoirs, works about the international context, works about the evolution of the reforms and works about the general modern history of Romania. The last 25 years represented a period of major works, which were conducted on the principle of objectivity, and analytical thinking. A lot of works were published by foreign authors interested in the Romanian modern history, which shows that our history, and especially the history of the social structures, are very important fields of research for the European and Romanian historians. The problem of the social structures in the modern Romania appears nowadays as one of the major fields in the Romanian historical research.

References:

Axenciuc, V. (1997). *Introducere în istoria economică a României. Epoca modernă*, Bucharest: Fundației "România de Mâine" Publishing House.

Berindei, D. (2003). *Istoria Românilor*, vol. VII, tom. 1, Bucharest: Enciclopedică Publishing House.

Cârţână, C. (2001). Structură şi stratificare socială în românia interbelică. Contribuţii sociologice româneşti privind schimbarea şi dezvoltarea social, *Sociologie românească*, (1-4), 317-345.

Constantinescu, N. N. (1957). *Aspecte ale dezvoltării capitalismului premonopolist în* România, Bucharest: ESPLP.

Creangă, G. D. (1907). *Proprietatea rurală în România*, Bucharest: Carol Göbl.

Dobrescu, V., Giura, L. (2004), *Istoriografia română de după 1989 cu privire la regimul comunist din România - puncte de vedere*. Retrieved from: socio umane.ulbsibiu.ro/dep.istorie/studia/studia1/Dobrescu%20Giura.pdf.
Hitchins, K. (1994). *România 1866-1947*, Bucharest: Humanitas publishing House.
Iosa, M., Lungu, T. (1977). *Viaţa politică în România. 1899-1910,* Bucharest: Politică Publishing House.
Maciu, V. (1973). *De la Tudor Vladimirescu la răscoala din 1907*, Craiova: Scrisul Românesc.
Nacu, F. (2013). *Structuri sociale în România anilor 1859-1918*, Craiova: Aius.
Platon, A. F. (1997), *Geneza burgheziei în Principatele Române (a doua jumătate a secolului al XVIII-lea – prima jumătate a secolului al XIX-lea). Preliminariile unei istorii*, Iaşi: Universităţii "Al. I. Cuza" Publishing House.
Preda, C. R., *(2010). O carte dedicată istoriei cooperativizării pământurilor în Oltenia.* Retrieved from: https://geopolitikon.wordpress.com/tag/dinu-c-giurescu/.
Rosetti, R. (1907), *Pentru ce sau răsculat ţăranii*, Bucharest: Socec.
Scurtu, I. (2001), *Carol I. Istoria românilor în timpul celor patru regi*, vol. I, Bucharest: Enciclopedică Publishing House.

Article Info

Received: May 13 2015
Accepted: October 20 2015

RSP • No. 48 • 2015: 97-110

ORIGINAL PAPER

The Romanian Presidential Elections (2014): Dealing with Local Strategies, Elections Promises and Effects of Results in Vâlcea County

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Abstract
Although Victor Ponta won the elections in Vâlcea County, the victory was a feeble one. In the second ballot of the presidential elections, the Prime Minister lost a lot of electoral capital in favour of Klaus Iohannis. The period between the two ballots was in the help of Klaus Iohannis, due to the deficient organisation made for the Romanian Diaspora. At national level, the Romanians confederated, generating ample protests against the Government and strong antipathy against PSD (Social Democrat Party), and, implicitly, against Victor Ponta. The fact that in many families from Vâlcea, there are people who were working abroad, made a difference among the members of their families and the people they knew, generating a general empathic phenomenon, of sympathy towards the Romanians who had left their country because of the inadequate decisions of the Government, and who had to work there in order to earn a living.

Keywords: *Vâlcea County, presidential elections, political parties, voters, diaspora*

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Introduction

In this article, we have proposed ourselves to research, beyond an electoral analysis of the Romanian presidential elections from 2014, the phenomenon from Vâlcea County. When writing the material, we decided to analyse the past ballots, the polls and to consult the electronic data basis, which contain specialised publications, useful for the chosen theme. All these, were realised by consulting the studies on this subject, from the country, studies that offered us a general view on the way in which the presidential elections from 2014 took place, along with the way in which the main "actors" performed on the Romanian political stage in general. The official information was given by the official statistics data, offered by Vâlcea County Electoral Office and the Central Electoral Office. The used details regarded the locality (the municipality, the city, the commune).

The presidential elections from 2014

In 2014, Romania was involved in two rounds of electoral elections – European and presidential. If the elections for the European Parliament did not bring forward controversial issues, the election of the president polarized the society and generated passionate debates, all marked by the impossibility to exercise the right to voting, for many Romanian citizens from Diaspora. At the headquarters of the Central Electoral Bureau, for the presidential elections from the 2nd of November 2014, there were registered 14 candidates. The candidate of the Electoral Alliance PSD-UNPR-PC (Social-Democrat Party-National Union for the Progress of Romania-Conservatory Party), Victor Ponta, began the electoral race as favourite. Being an attorney, the candidate of the alliance evidenced, both in the television and press interviews, and in the meetings with the electors, the continuation of the already begun projects, insisting, in front of his supporters, on the accomplishments of his mandate, in relation with his predecessors. During his entire electoral campaign, Ponta preserved the message from the Euro-parliamentarian elections, "proud to be Romanians", a message that invoked *the collective emotion* (Mihalache, 2014: 8; Mihalache and Huiu, 2015: 35; Bărbieru, 2015: 138). The President of the National Liberal Party (PNL), the ACL (Christian Liberal Alliance) candidate, Klaus Iohannis, started the race for the supreme position as a favourite, choosing as a slogan: "A Romania of things done properly" (Iohannis, 2014:1). He was remarked through his activity of mayor of Sibiu, and announced his candidature, after Crin Antonescu, the former president of PNL, renounced to it: "A Romania of the active people, of those who manifest themselves civically and politically, but also of the quite majority, the people who keep silence and work" (Paşcan, 2014: 55) is the paragraph that, in our opinion, synthetized the political project of Iohannis, for the next ten years. The campaign themes of the ACL candidate was based on the syntagmas "we can" and "less noise and scandals, more seriousness and concern about the people's needs" (Bărbieru, 2015: 138). During the electoral campaign, Klaus Iohannis was placed – as Sabin Drăgulin and Silvia Rotaru noticed – in antithesis with: Traian Băsescu, a position expressed through messages as: "I am a man of honoured promises, not of scandals and shows a man who builds, not one who destroys"; with Victor Ponta, synthesised in: "If you own values, you own them anywhere. If you lack them and believe in nothing, as long as you are at Victoria Palace, you will not have them and you will believe in nothing too, at Cotroceni Palace"; and with the entire political class: "I am a man of the facts, not of the idle words" (Drăgulin and Rotaru, 2015: 17).

In the presidential campaign, Elena Udrea started as the youngest candidate – 41 years old, the former Minister of Regional Development and Tourism during Emil Boc Governing, she was supported by the Popular Movement Party (PMP), and she presented herself in front of the electors with an electoral offer in which it was insisted on projects related to: "the modernisation of economy and the reduction of bureaucracy, the strengthening of the fiscal and economic way of governing, at the level of those from the European Union, the development of some intelligent ways of economizing, and consuming" etc. *Nonetheless, the message of the PMP candidate was considered to be *touching vulgarity*: "She is good for Romania", meaning "good for education, good for the health department, good for modernisation" (Barbu and Alexandru, 2014: 1). Monica Macovei ran as an independent and tried to convince the Romanians to vote her, transmitting them that she is "better than they are". She was the minister of Justice, a position from where she militated against corruption and resigned from the Democrat Liberal Party (PDL), in order to be able to candidate for the 2014 elections. The campaign of Monica Macovei was a non-conformist one, which took place mostly on Facebook, where we can also find most of her supporters (Dadacus, 2014).

The former premier of Romania, Călin Popescu Tăriceanu had to stand as a candidate for presidency coming from the Reformat Liberal Party, a political formation founded in 2014. Because of the late registering of the formation at the tribunal, Tăriceanu had to run as an independent. He started his electoral campaign under the slogan: "On your side. Welfare and respect".

Teodor Meleşcanu, 73 years old, the former director of the Romanian Foreign Intelligence Service, former Minister of the External Affairs and the vice-president of PNL, he assumed his independent position, presenting himself, during the electoral campaign, as a *wise patriarch*, who was promising to "seize the control over the country, against the increasing menace that was emerging from the conflict areas, in the eastern border of Romania" (Paşcan, 2014: 55). Meleşcanu built his entire campaign on the image of a *competent president* and a *good Romanian*, an eminently positive slogan, meant to structure, reflect and promote the personality of the candidate (Dadacus, 2014).

Dan Diaconescu represented PP-DD (Dan Diaconescu People's Party), a political formation that he has been leading since the year of its founding – 2010. "Now or never" and "Farwell Traian Băsescu!" were the two messages that the candidate for presidency presented in front of his supporters.

Kelemen Hunor ran for the second time for the presidential elections. In 2009, he had managed to obtain a percentage of 3.83%. "Hunor is the voice of a strong community" was the slogan that the UDMR (Democrat Union of the Hungarians from Romania) candidate used to start his campaign. Alfred Bulai and Radu Magdin – analysts – considered that it was a slogan that referred to his ethnic belonging (Panait, 2014).

The list of the candidates was completed by the next: Szilagyi Zsolt (Popular Magyar Party from Transylvania), 46 years old, considered a radical leader, representative of the Magyar minority from Romania, started his electoral campaign with the slogan: "Let's transform Romania into Transylvania; Corneliu Vadim Tudor" (Great Romania Party), a fifth time candidate for the presidential elections, tried to convince us that he is the only capable person for this position: "to save Romania from the disastrous situation"; Constantin Rotaru (Socialist Alternative Party), a businessman, second time candidate for the presidency of Romania; William Brînză (Romanian Ecologist Party), 42 years old, a deputy, he presented with a daring agenda in which he was proposing: zero VAT for tourism, ecological agriculture, money earned abroad and invested in Romania, and the

young people, up to 30 years old, who buy their first house; Mirel Mircea Amariţei (Prodemo Party), a lawyer who was promising seriousness in the political life, and Gheorghe Funar, an independent candidate for the highest position, who called himself, during the entire electoral campaign: "A true patriot, who loves his People and his Country". All these, led discrete electoral campaign, with reduced investments, given the reduced chances that they had, in front of the main candidates (Cernat, 2014).

Table 1: According to the Central Electoral Bureau (CEB), in the first round of presidential elections in Romania were recorded the following results

No	Electoral candidate Party/Political Alliance	Valid vote	Percentage
1.	Victor-Viorel Ponta (PSD-UNPR-PC Alliance)	3.836.093	40.44%
2.	Klaus-Werner Iohannis (Christian Liberal Alliance)	2.881.406	30.37%
3.	Călin-Constantin-Anton Popescu-Tăriceanu (Independent)	508.572	5,36%
4.	Elena-Gabriela Udrea (PMP-PNŢCD Alliance)	493.376	5,20%
5.	Monica-Luisa Macovei (Independent)	421.648	4.44%
6.	Cristian-Dan Diaconescu (People's Party – Dan Diaconescu)	382.526	4.03%
7.	Corneliu Vadim-Tudor (Greater Romania Party)	349.416	3,68%
8.	Hunor Kelemen (Democratic Union of Hungarians in Romania)	329.727	3.47%
9.	Teodor-Viorel Meleşcanu (Independent)	104.131	1.09%
10.	Zsolt Szilagyi (Hungarian People's Party of Transilvania)	53.146	0.56%
11.	Gheorghe Funar (Independent)	45.405	0.46%
12.	William Gabriel Brînză (Romanian Ecologist Party)	43.194	0.45%
13.	Constantin Rotaru (Socialist Alliance Party)	28.805	0.30%
14.	Mirel-Mircea Amariţiei (PRODEMO Party)	7.895	0.08%

Source: CEB

With a total number of 11.341.521 citizens who went to the polls, from a total number of 18.313.698 registered on the electoral lists (the number also encompassed the Romanian who could vote and reached the age of 18, until the 2nd of November 2014, including it), the rate of voting, for the first ballot, was of 32.44% (CEB, official source), with 4.77% more than in 2009, when 10.481.568 (27.67%) voted, from 18.197.361 registered citizens (Radu, 2010: 26-27).

The results obtained in the first ballot were not surprising, maintaining the position that the polling institutions had indicated. The result was *the expression of the*

political vote, Ponta succeeding in rendering valuable the electoral potential of his structure, the difference of 10 percent keeping him as a favourite (Buti, 2015: 42-43). In the interval 2nd-16th of November 2014, the topic of the Diaspora voting was approached, both by the political opponents of the premier and the press, and the images that were being transmitted in mass-media and the internet, with the Romanians from abroad, who were queuing to be able to vote, led to the historical changing from the second ballot (Drăgulin and Rotaru, 2015: 18-19). The electoral mobilisation – as Daniel Buti said – was an exemplary one, being registered the highest presence for voting from 1992 and until nowadays (Buti, 2015: 47). The ACL candidate succeeded in changing the result in his favour, obtaining a clear victory and becoming the fifth president of Romania and the first state leader who belonged to an ethnic and religious minority. The Romanians from Diaspora were pronouncing in his favour, in a percent of 89.73% (Canae, 2015: 142).

Even nowadays, we consider interesting some information offered by the official sources regarding the second ballot of the presidential elections. Thus, according to the information offered by the Central Electoral Bureau, the counties that registered a high percent were: Ilfov (80.17%), Cluj (69.56%), Olt (67.57%), Giurgiu (67.16%), Sibiu (66.61%), and a lower percent is registered in: Covasna (49.87%), Satu Mare (52.97%), Vaslui (53%) and Neamț (55.37%). In the municipality of Bucharest, the same official sources recorded a presence at voting of 65.53% (the highest presence being registered in Sector I – 77.60%) (CEB, official source). Following the socio-demographic characteristics of the voters, we could notice the next: 61.41% were from the urban regions, and 62.88% were from the rural regions; as regarding the age category, the situation was as following: 18-35 years old – 16%; 36-50 years old – 32%; 51-65 years old – 33%; 66 years old and over19% (IRES, official source).

We also considered interesting the information regarding the profile of the voters, for the two candidates from the second ballot. If we refer to the profile of Klaus Iohannis' voters, the socio-demographic situation was as following: 45% women, 55% men; among them: between 18 and 34 years old – 38%; between 35 and 49 years old – 32%; between 50 and 64 years old – 22%; 65 years old and over – 9%; 40% of the voters were from the rural areas, and 60% from the urban areas; according to the regions, the statistic data showed: 45% Transylvania and Banat, 37% South, Bucharest and Dobrogea, and 19% Moldova. As regarding the profile of Victor Ponta's voters, the situation was the next: 46% were women, and 54% men; Ponta was voted by 18% of the young people between 18 and 34 years old; between 35 and 49 years old, the percent was of 26%; between 50 and 64 years old – 32%, and 65 years old and over – 23%; 51% of the voters came from the rural areas and 49% from the urban areas; 26% of the electors had the domicile in Transylvania and Banat, 51% in South, Bucharest and Dobrogea, and 23% in Moldova (IRES).

The presidential elections from 2014 demonstrated that the civil society did not have the feeling that it was represented by the leading political class of that time. The loss of the elections, by the PSD-UNPR-PC Alliance candidate, who was starting as a favourite for the highest position in the State, did nothing else but underlining the necessity for reformation of the political class. The most political analysts agreed on the fact that the voting from the 16th of November was moreover a voting against Victor Ponta, than one in favour of Klaus Iohannis. The arrogance of the candidate Victor Ponta, the personal attacks against his adversary, the absence of an efficient campaign in mass-media, along with other factors, represented elements that had a negative impact on the campaign led by the PSD candidate. The campaign staff of Victor Ponta started from the wrong premise

that the young people are not interested in politics or in the major decisions that regard Romania, and that it is useless to invest time and money in the online promotion, through Facebook or Twitter. Klaus Iohannis and Monica Macovei used the new means of communication and attracted the majority of the "young" electorate (IRES, official source). If in the first ballot, Klaus Iohannis had approximately 500.000 likes, and in the election day, almost 850.000 likes, little time after the end of the elections – 28th of November 2014 – 1,2 million people were appreciating his Facebook page (Andriescu and Constanda, 2014; Bărbieru, 2015: 142). It is not a coincidence that the question, if the *social media* decided the final result of the presidential elections, appeared. The answer was given by the electoral campaigns from the last years, in which the socialising networks were used by a considerable segment of the Romanian population (Bulai, 1999; Flichy, 1999; Teodorescu, 2001).

The presidential elections from Vâlcea

The first ballot of the presidential elections from Vâlcea County was prepared starting with September 2014, when the representatives of the Permanent Electoral Authority (AEP) carried out several controlling activities in the county, aiming the training and electoral control activity. Moreover, at the beginning of the month, it was founded the County Technical Commission for the organisation and the taking place of the elections, having the following structure:

Table 2: County Technical Commission

No.	Name and surname	Position
1.	Cornoiu Dumitru-Nicu	County prefect
2.	Aurora Gherghina	Sub-prefect
3.	Constantin Dirinea	County secretary
4.	Sorin Statie	Director at County Department of Statistics from Vâlcea
5.	Ioan Hrebenciuc	Deputy leader, County Administration of Public Finance from Vâlcea
6.	Chief Commissioner Nicolae Sărdărescu	Authorised Chief Commissioner, Police Inspectorate from Vâlcea
7.	Ilie Ciontu	Director, County Department for the Evidence of People from Vâlcea
8.	Manuela Cătălina Irina Deaconescu	Head of the County Department for the Administration of Evidence of People's Data
9.	Lt. Col. Grigore Ciauşescu	Authorised Chief Inspector, Gendarmes Inspectorate of Vâlcea County
10.	Ion Gherghinaru	General Inspector, School Inspectorate of Vâlcea
11.	Mihaela Gabriela Brănescu	Executive Director, Public Health Office from Vâlcea
12.	Constantin Stoian	Head of CEZ distribution from Vâlcea
13.	Alexandru Marcu	Head of the County Office for Special Telecommunications from Vâlcea
14.	Lidia Vilău	Director, Permanent Electoral Authority, South-West Oltenia Branch

15.	Liviu Popescu	AGERPRES territorial correspondent
16.	Col. Adrian Andrei Mesescu	Chief Inspector, County Inspectorate for Emergency

Source: CEB

According to the County Electoral Bureau, in the first ballot of the presidential elections, in Vâlcea county, there were registered the next results:

Table 3: Results of the first ballot, Vâlcea County

No.	Name and surname	Party/Alliance	Valid votes	Percentage 1st ballot
1.	Hunor Kelemen	Democratic Union of Hungarians in Romania	1.146	0.38%
2.	Klaus-Werner Iohannis	Christian Liberal Alliance (PNL–PDL)	62.980	34.42%
3	Cristian-Dan Diaconescu	People's Party – Dan Diaconescu	6.605	3.61%
4.	Victor-Viorel Ponta	PSD–UNPR–PC Alliance	81.090	44.32%
5.	William Gabriel Brînză	Romanian Ecologist Party	485	0.26%
6.	Elena-Gabriela Udrea	PMP–PNȚCD Alliance	7.511	4.10%
7.	Mirel-Mircea Amariţiei	PRODEMO Party	213	0.11%
8.	Teodor-Viorel Meleşcanu	Independent	1.135	0.62%
9.	Gheorghe Funar	Independent	525	0.28%
10.	Zsolt Szilagyi	Hungarian People's Party of Transylvania	208	0.11%
11.	Monica-Luisa Macovei	Independent	3.264	1.78%
12.	Constantin Rotaru	Socialist Alliance Party	1.384	0.75%
13.	Călin Popescu-Tăriceanu	Independent	10.659	5.82%
14.	Corneliu Vadim-Tudor	Greater Romania Party	5.719	3.12%

Source: CEB

As we can notice, in Vâlcea County, in the first ballot, mattered only Victor Ponta and Klaus Iohannis, the candidates placed on the first two positions. For the first ballot, there were organised 426 polling stations, being expected for voting 338.462 people from Vâlcea, and voting 187.417, according to the data given by the Central Electoral Bureau.

The voting presence, according to the data offered by the same official source, was as following: at 10 o'clock – 7.13% from the total number of voters, at 7 o'clock p.m. – 52.51%, and at 9 o'clock p.m. – 55.37%. The percentage registered at the closing hour, placed Vâlcea County on the 11th place, in the classification of the counties, as voting presence.

A little time after the finding of the results, the PNL candidate, Cristian Buican, declared himself unsatisfied with the obtained result. He was motivating the result through "the monopolising of the national media by PSD, and the transmission, on all the national radio and television channels, of lies, denigrations as referring to the PNL candidate and, obviously, the presenting of the PSD candidate from a favourable position" (Chera, 2014). Furthermore, Buican considered that an element that brought "a plus for the PSD candidate, was the ordinance on the political migration and the repartition of governmental funds towards the mayors who had deserted from PNL, PDL or other political parties, and integrated in PSD or the satellite parties" (Chera, 2014). In the first ballot, ACL Vâlcea obtained good results in localities as: Horezu, Berbeşti, Grădiştea, Măciuca, Mitrofani, Orleşti. The results were not according to the expectations in: Băbeni, Mihăeşti, Ocnele Mari, Galicea, Goleşti, Alunu, Glăvile, Lădeşti, Lăpuşata, Lungeşti, Mădulari, Mateeşti, Voineasa, Şirineasa, Păuşeşti-Otăsău, Tetoiu or Zătreni, led by the ACL mayors (Chera, 2014). The candidate of the PSD-UNPR-PC Alliance obtained in the locality of Scundu, led by the social-democrat Dumitru Blejan, a percent of 73.15% of the citizens' votes, on the next places being the localities: Fârtăţeşti – 69.04%, Slătioara – 65.76%, Voiceşti – 63.08%, Cernişoara – 62.74%, Prundeni – 62.63%, Guşoieni – 62.61%, Pesceana – 62.36%, Dănicei – 62.09% and Şuşani – 61.81% (Barbu, 2014a: 1).

In the 4th table (annex 1), we are going to evidence the results of the presidential elections from the second ballot. From the exposed numbers, it can be seen that the result of the elections from Vâlcea, showed as a winner, the social-democrat candidate, Victor Ponta. As it has been previously evidenced, in the contributions in which the author analysed the elections from Romania, in the period 2012-2014(Ghionea, 2014: 201-215; Ghionea, 2015: 148-159), Vâlcea is one of the counties from the south of Romania, in which the Social Democrat Party has been placed, in the last years, on the first positions in the option of the electors.

In the second ballot of the presidential elections, in Vâlcea County, there was registered a record presence. The total number of the electors registered on the permanent lists was of 338.341 voters, among them, being present for voting 220.406 (65.14%). From the total number of the votes, there were validated 217.462, and 2.944 were declared nulled. The increasing of the number of voters was a significant one, confronted to the first ballot, when there were 187.417 people from Vâlcea (CEB, official source).

In the second ballot, the premier Victor Ponta obtained 110.074 votes (50.66%), confronted to 107.187, of Klaus Iohannis (49.34%). Although they declared themselves satisfied with the obtained result, the representatives of PSD were expecting a much higher number, considering that in the first ballot their candidate had won by far, with a difference of almost ten percent. At the county level, the votes obtained by Elena Udrea and Monica Macovei went to Iohannis, along with the majority of the votes of the people from Vâlcea, who came to the polls in the first ballot. The premier gathered almost 29.000 more votes than on the 2nd of November, while Klaus Iohannis gathered approximately 44.000 more votes.

For the Municipality of Râmnicu Vâlcea, the mayor of Sibiu, Klaus Iohannis won beyond question. The ACL candidate had 33,776 votes, confronted by the 25,834 of Victor

Ponta. In the first ballot, the difference between the two candidates was of four percent, while in the second ballot, it reached to more than 13. The result obtained by ACL was "the effort of the young people, especially the organisation in the great PNL, from the former PDL". The action "lampions for the diaspora" had a special effect, and the youth got mobilised, thanks to the daily and intense online campaign. After the announcing of the poll results, the co-president of ACL, Romulus Bulacu, declared, in front of the people present at the campaign office, the next: "We thank all the young people from our party, whose victory is mostly!" (Cirjaliu, 2014). In the second municipality of the county, Drăgăşani, the PSD candidate was the obvious winner, with a percent of 58.33%, obtained from few over 20.000 votes, confronted to the 14.400 of Iohannis. In the other cities of the county, the situation was: ACL won in the cities of Călimăneşti (56.02%), Brezoi (55.95%), Băile Govora (53.27%), Horezu (52.99%) and Berbeşti (54.90%), while Victor Ponta imposed in the cities of: Băbeni (52.69%), Bălceşti (63.41%), Băile Olăneşti (58.73%) and Ocnele Mari (54.36%). From the 89 localities of the county, PSD-UNPR-PC Alliance imposed in 65. As regarding the uninominal bodies, ACL obtained the north of the county and Râmnic Sud Body, at appreciable differences, and PSD managed to impose itself in the Bodies: Bălceşti with 55.32%, Drăgăşani with 58.33% and Horezu with 57.54% (Cirjaliu, 2014).

If we consider the table presented above and the political option of the mayors from each locality, we can notice that in some localities led by ACL mayors, Iohannis lost, the same way as in some localities led by PSD mayors, Victor Ponta had a low percentage. Thus, at Lungeşti, although the mayor was a PNL member, the percentage obtained by Victor Ponta was of 60.3%, and that of Iohannis, 39.7%. Similar cases we could meet at Mădulari, Roşiile, Lădeşti, Şirineasa etc. There were also numerous the cases in which, although the mayor was from PSD, the percentage obtained by Iohannis was higher. Such situations we met in the localities: Rm. Vâlcea, Vlădeşti, Suteşti, Bujoreni etc. (Barbu, 2014b:1).

The presidential elections from Vâlcea County were marked by minor negative events. After the first ballot, ACL filed a complaint to the Prosecuting Magistracy of Râmnicu Vâlcea Court, in which they asked the verifying of all the supplementary lists. The request was made due to the fact that "in the 426 poll stations from Vâlcea County, opened for the first ballot of the presidential elections from the 2nd of November 2014, there were suspicions that a lot of people expressed their vote in more poll sections, repeatedly, being registered on many other supplementary lists too, signing false declarations when voting". Moreover, the liberals declared that many localities from the counties transformed into real "touristic destinations". Minor incidents appeared also in the second ballot. Thus, among the complainer there was the mayor of Fârtăţeşti commune, Nicolae Voicescu, who was accused of influencing the electors, right next to the polling station.

Conclusion

The presidential elections from 2014 demonstrated that the civil society did not feel represented by the political class. Entered with the second chance in the race for the presidential elections, Klaus Iohannis succeeded, on the 16th of November, in defeating his opponent, Victor Ponta. The former mayor of Sibiu, according to the competitor statistics offered by the Central Electoral Bureau, obtained 54.43%, confronted to 45.56%, the result of the premier Victor Ponta. The loss of the elections, by the representative of PSD-UNPR-PC Alliance, accentuated the necessity of the political class reformation.

Most of the political analysts agreed that the voting from the 16th of November was moreover a voting against Victor Ponta, than in favour of Klaus Iohannis.

References:

Andriescu, V., Constanda, A. (2014). Din culisele campaniei de pe Facebook a lui Iohannis: „În ultima lună de campanie am avut aproape jumătate de miliard de afișări de pagină". *Adevărul,* online journal. Retrieved from: http://adevarul.ro/tech/retele-sociale/adevarul-live-1300-despre-campania-online-klaus-iohannis-mare-influenta-avut-facebookb-1_5478433ea0eb96501e29f477/index.html.

Barbu, A. (2014a). Cum au votat vâlcenii în primul tur. *ProExpres of Drăgășani*, (1), 3.

Barbu, A. (2014b). Ce vină au PSD-iştii români, în general, şi cei vâlceni, în special, pentru eşecul lui Victor Viorel Ponta, la prezidenţiale. *ProExpres of Drăgăşani*, (1).), 1.

Barbu, C., Alexandru, C. (2014). Sloganurile candidaţilor în alegerile prezidenţiale, comentate de analişti. Retrieved from: http://www.agerpres.ro/politica/2014/10/31/prezidentiale-sloganurile-candidatilor-in-alegerile-prezidentiale-comentate-de-analisti-12-07-17.

Bărbieru, M. (2015). Accuracy data of the presidential voting outcomes to an inferential bias of the new Romanian electoral code and electronic vote (2014). *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, (45), 135-147.

Bulai, A. (1999). Mecanisme electorale ale societăţii româneşti. Bucharest: Paideia Publishing.

Buti, D. (2015). Limitele electorale ale PSD în alegerile prezidenţiale. Cazul 2014. *Sfera Politicii*, 1(183), 40-49.

Canae, A. C. (2015). Alegerile prezidenţiale din România, noiembrie 2014 – o luptă acerbă între stânga şi dreapta. *Sfera Politicii*, 1(183), 142-151.

Central Electoral Bureau (2014), official source. National statistics on electoral offices. Retrieved from: http://www.roaep.ro/bec_europ2014/page_id=2000.

Central Electoral Bureau (2014), official source. Retrieved from: http://www.bec2014.ro/wp-content/uploads/2014/11/ComunicatFinaleProvizorii.pdf.

Central Electoral Bureau (2014), official source. Retrieved from: http://www.bec2014.ro/wp-content/uploads/2014/11/proces_verbal_PR.pdf.

Cernat, L. (2014), Alegerile prezidenţiale. Sloganurile şi promisiunile electorale ale celor 14 candidaţi. Retrieved from: http://www.b365.ro/alegeri-preziden-iale-2014-sloganuri-ce-promisiuni-fac-candida-ii-in-timpul-campanie electorale_217913.html#sthash.bucNQyqQ.dpuf.

Chera, N. (2014). Co-preşedinţii ACL Vâlcea, păreri divergente privind rezultatul alegerilor în primul tur al alegerilor prezidenţiale. *Jurnal Vâlcean*. Retrieved from: http://jurnalvalcean.ro/co-presedintii-acl-valcea-pareri-divergente-privind-rezultatul-alegerilor-in-primul-tur-al-alegerilor-prezidentiale/.

Cirjaliu, G. (2014). Alegerile prezidenţiale 2014. Roşul din Vâlcea s-a decolorat. *Monitorul de Vâlcea*. Retrieved from: http://www.monitoruldevalcea.ro/politica/46645/.

Covaci, M. (2015). Factorul Facebook în alegerile prezidenţiale din 2014. *Sfera Politicii*, 1(183), 85-91.

Dadacus, L. (2014). Sloganul, singura „strategie" de campanie a prezidenţiabililor. Retrieved from: http://www.mediafax.ro/politic/sloganul-singura-strategie-de-campanie-a-prezidentiabililor-13482682.

Drăgulin, S., Rotaru, S. (2015). Alegerile prezidenţiale 2014 – Preşedintele României şi eşecul previzionării. *Sfera Politicii*, 1(183), 10-28.

Flichy, P. (1999). O istorie a comunicării moderne-spaţiul public şi viaţa privată. Iaşi: Polirom Publishing.

Ghionea, G. (2014). The 2012 Romanian Local Elections. An analysis of the Local Strategies, Voting, Choices and Final Results in Drăgăşani (Vâlcea County). *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, (42), 201-215.

Ghionea, G. (2015). Explaining European Parliament voter' choice: competing insights on elections and elected from Vâlcea County – May 2014. *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, (45), 148-159.

Iohannis, K. (2014), Klaus Iohannis: România lucrului bine făcut. Retrieved from: http://www.evz.ro/uploads/2014-10/programul-prezidential-romania-lucrului-bine-facut.pdf.

Mihalache, D. (2014). The European Parliament elections in Romania. Communication and politic marketing in the 2014 campaign. *Sfera politicii*, (179), 3-12.

Mihalache, D., Huiu, I. (2015). Alegerile prezidenţiale din 2014 – rezultat surpriză sau strategie. *Sfera Politicii*, 1(183), 29-39.

Panait, L. (2014), Analiştii comentează sloganurile candidaţilor. *Obiectiv.info*. Retrieved from: http://www.obiectiv.info/analistii-comenteaza-sloganurile-candidatilor-psd-un-mesaj-corect-acl-fraza-goala-pmp-slogan-cu-tupeu_58762.html.

Paşcan, M. (2014). The internet, the online media and the virtual social networks are rewriting the sciences of communication. *Identities in Metamorphosis. Literature, Discourse and Multicultural Dialogue*, (2), 52-66.

Radu, A. (2010), Experienţa românească a alegerii preşedintelui republicii. *Sfera Politicii*, 1(143), 22-29.

România Frumoasă. Promisiunea mea pentru români. Udrea Preşedinte. Retrieved from: www. RomaniaFrumoasa.ro.

Teodorescu, B. (2001). *Marketing politic şi electoral*, Bucharest: SNSPA Publishing.

The Romanian Institute for Evaluation and Strategy, official source. Retrieved from: www.ires.com.ro/uploads/articole/ires-profilul-votantilor-la-alegerile-presidentiale-2014-tur-2.pdf.

The Romanian Institute for Evaluation and Strategy, official source. *Generaţia facebook şi convergenţa media au dus la victoria lui Klaus Iohannis.* Retrieved from: http://www.ires.com.ro/articol/282/genera-ia-facebook-%C8%99i-convergen%C8%9Ba-media-au-dus-la-victoria-lui-klaus-iohannis.

Appendix

Annex 1. Table 4. The situation of the elections in the second ballot, in Vâlcea County

No.	Locality	The total number of the electors who voted	The total number of valid votes	The total number of nulled votes	Victor-Viorel Ponta	Klaus-Werner Iohannis
1.	Municipality of Rm. Vâlcea	60.661	59.610	1.051	25.834	33.776
2.	Municipality of Drăgăşani	10.058	9.940	118	5.371	4.569
3.	City of Băbeni	4.865	4.799	66	2.528	2.271

4.	City of Băile Govora	2.139	2.112	27	987	1.125
5.	City of Băile Olăneşti	3.338	3.286	52	1.930	1.356
6.	City of Bălceşti	2.930	2.897	33	1.837	1.060
7.	City of Berbeşti	2.633	2.601	32	1.173	1.428
8.	City of Brezoi	3.358	3.310	48	1.458	1.852
9.	City of Călimăneşti	5.835	5.757	78	2.532	3.225
10.	City of Horezu	4.145	4.074	71	1.915	2.159
11.	City of Ocnele Mari	1.977	1.948	29	1.059	889
12.	Alunu	2.154	2.136	18	1.063	1.073
13.	Amărăşti	1.012	998	14	526	472
14.	Bărbăteşti	1.973	1.951	22	1.192	759
15.	Berislăveşti	1.645	1.633	12	788	845
16.	Boişoara	706	700	6	230	470
17.	Budeşti	3.172	3.142	30	1.242	1.900
18.	Bujoreni	2.460	2.429	31	1.058	1.371
19.	Buneşti	1.483	1.463	20	972	491
20.	Cernişoara	2.115	2.072	43	1.389	683
21.	Cîineni	1.302	1.289	13	409	880
22.	Copăceni	1.369	1.348	21	785	563
23.	Costeşti	1.983	1.941	42	1.156	785
24.	Creţeni	1.319	1.307	12	761	546
25.	Dăeşti	1.840	1.820	20	616	1.204
26.	Dănicei	1.161	1.148	13	742	406
27.	Diculeşti	1.041	1.030	11	608	422
28.	Drăgoeşti	1.206	1.189	17	774	415
29.	Făureşti	787	776	11	402	374
30.	Fîrtăţeşti	2.081	2.067	14	1.458	609
31.	Frînceşti	2.638	2.612	26	1.602	1.010
32.	Galicea	2.409	2.377	32	1.221	1.156
33.	Ghioroiu	956	941	15	615	326
34.	Glăvile	1.038	1.021	17	650	371
35.	Goleşti	1.503	1.486	17	709	777
36.	Grădiştea	1.401	1.381	20	571	810
37.	Guşoieni	925	917	8	591	326
38.	Ioneşti	2.109	2.087	22	1.168	919

39.	Lăcusteni	801	790	11	476	314
40.	Lădeşti	1.214	1.201	13	690	511
41.	Laloşu	1.089	1.071	18	632	439
42.	Lăpuşata	1.141	1.131	10	591	540
43.	Livezi	1.123	1.115	8	689	426
44.	Lungeşti	1.727	1.704	23	1.027	677
45.	Măciuca	1.677	1.658	19	559	1.099
46.	Mădulari	874	870	4	518	352
47.	Malaia	1.223	1.209	14	518	691
48.	Măldăreşti	1.167	1.151	16	685	466
49.	Mateeşti	1.797	1.778	19	1.009	769
50.	Mihăeşti	3.753	3.719	34	2.047	1.672
51.	Milcoiu	822	813	9	366	447
52.	Mitrofani	568	566	2	259	307
53.	Muereasca	1.218	1.207	11	430	777
54.	Nicolae Bălcescu	2.057	2.040	17	1.294	746
55.	Olanu	1.790	1.776	14	895	881
56.	Orleşti	1.762	1.739	23	804	935
57.	Oteşani	1.594	1.570	24	757	813
58.	Păuşeşti	1.540	1.517	23	878	639
59.	Păuşeşti-Măglaşi	2.220	2.188	32	955	1.233
60.	Perişani	1.289	1.284	5	418	866
61.	Pesceana	1.007	1.002	5	646	356
62.	Pietrari	1.814	1.786	28	890	896
63.	Popeşti	1.800	1.771	29	1.044	727
64.	Prundeni	2.305	2.288	17	1.533	755
65.	Racoviţa	947	932	15	309	623
66.	Roeşti	1.191	1.172	19	759	413
67.	Roşiile	1.326	1.308	18	762	546
68.	Runcu	567	564	3	267	297
69.	Sălătrucel	1.073	1.061	12	334	727
70.	Scundu	1.244	1.236	8	895	341
71.	Sineşti	1.317	1.310	7	630	680
72.	Şirineasa	1.271	1.255	16	721	534
73.	Slătioara	1.894	1.871	23	1.261	610
74.	Stăneşti	743	728	15	324	404
75.	Ştefăneşti	1.903	1.892	11	1.262	630

76.	Stoeneşti	2.076	2.062	14	1.304	758
77.	Stoileşti	2.110	2.096	14	1.153	943
78.	Stroeşti	1.502	1.485	17	885	600
79.	Şuşani	1.827	1.805	22	1.217	588
80.	Suteşti	1.105	1.088	17	527	561
81.	Tetoiu	1.453	1.436	17	793	643
82.	Titeşti	576	570	6	171	399
83.	Tomşani	2.377	2.352	25	1.453	899
84.	Vaideeni	2.219	2.194	25	1.227	967
85.	Valea Mare	1.451	1.436	15	837	599
86.	Vlădeşti	1.848	1.830	18	895	935
87.	Voiceşti	990	976	14	640	336
88.	Voineasa	971	963	8	369	594
89.	Zătreni	1.326	1.301	25	740	561

Source: CEB

Article Info

Received: May 18 2015
Accepted: October 10 2015

RSP • No. 48 • 2015: 111-119

ORIGINAL PAPER

Covering the Impact of Fiscal Policy on Economic Sustainability

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Abstract
The main goal of this research is to analyze the impact of expenditures and revenues in a certain periods of the year 2004 to 2013. The research includes data on GDP, public spending and revenues.Using the method of simple linear regression and through the application of the method of small squares (OLS), we will test the effects of income and public expenditures in GDP in the Republic of Macedonia.Regarding the impact of income in GDP of the Republic of Macedonia, the results show that the change of income for 1% will cause GDP growth 0.18%. At this point we have made a t-test which is 1.68 and it's bigger than 0.05, so we can confirm that the coefficient has powerful indication.So by this result we prove the hypothesis of the paper submitted at the beginning which says H1: public revenues affect negatively in the economic growth in Republic of Macedonia.From the results of the regression, we found that the eventual change of expenses for 1% will dramatically reduce GDP by 0.9%. Since the t-test shows that t = 14:33, is bigger than 0.05, thus I conclude that the test has indicator, since it is greater than 0.05.

Keywords: *fiscal policy, public expenditures, public income, economic sustainability*

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Introduction

Fiscal policy is one of the most important component of a state economic policy used for macroeconomic purposes. Its goal, is to maintain the economic stability and creating the conditions to enable the economic development. Starting from the problems of fiscal policy in Macedonia, economists have tried to approach the better way to reach planned results for the regulation of this policy. However, the evaluation of the International Monetary Fund (IMF) according to budget minus growth shows that the government of Macedonia deviated from the plan for adjusting fiscal policy. This deviation was introduced by growth of budget minus which from the 297 million euro has risen to 318.7 million euro. Or, otherwise said budget deficit of 3.5% of Gross Domestic Product (GDP) increased to 3.9%. In particular, when it comes to countries in transition, fiscal policy plays an important role in the preservation of macroeconomic stability. Republic of Macedonia as a candidate country, is typical case of a small and open economy. We know that the fiscal policy is destined to play a key role in economic development perspective. This is not simply the fact that the fiscal position is an important determinant of the macroeconomic stability. An essential argument is that the ability of such economies to generate revenues remains highly limited. Income taxes represent the most important channel of generation of the revenues in the Republic of Macedonia. These taxes affect the economic development of the state and also provide financial resources by which the state makes filling of public needs and performs its functions. As fiscal policy instrument it relates directly to public spending because revenues generated by taxes, the state itself puts them in function to create public goods. In most of the cases, it's believed that taxes are reflected in the economic performance and can slow down the growth of the economy. An increase of tax rates reduces the return on investments, which automatically reduces the tendency for investment after tax income impact of other factors related to economic development. Many authors first study the public spending then the public revenues, because first it must set the public expenditure which public needs will be funded and then to appoint the public revenues as a funding source of public expenditure. So public expenditures are spending money that the state make and other entities to fulfill the needs of collective and public interest. Therefore submitted the researching question do they have negative or positive effects on economic growth, revenue and government expenditure? To answer the research question hypotheses assigned - H1: Public revenues have a negative effect on economic growth in the Republic of Macedonia. Finding of hypotheses validity we will apply the method of small squares respectively the analysis of regression. Therefore through the regression analysis concerned hypothesis will be confirmed or dismissed.

Review of the literature

In this section, we will analyze the impact of fiscal policy by analyzing only some of the most important indicators such as: the overall revenues and governmental expenditures. We will show how these indicators impact on the country's economic viability. Also we will analyze the opinions of different authors who have studied in relation to fiscal policy, as the theoretical and empirical aspects, and what arguments and analyzes they have used to reach the conclusion that these indicators have a positive or negative impact in the economic growth of different countries. Discussions related to the effects of fiscal policy are numerous and ongoing, because the development of appropriate fiscal instruments may lead to stable and continued economic growth of one country. So, the purpose of all this analysis will be the connectivity between fiscal policy and economic

sustainability for a small place with open and developing economy as Macedonia. Once it is of interest to understand how public activity has led to stimulate economic growth through taxation and expenditures policies.

A study done by Masood, Sohaid and Syed on economic activities in Pakistan was reviewed by real GDP, household consumption and investment, the data were used for empirical analysis with VAR model by Johansen for the period 1973- 2010. And have found negative effects of tax to gross domestic product for real GDP, the negative effects of tax on investment income and negative effects of the sales tax on household consumption expenditure. And finally, we concluded that the current level of taxation in Pakistan needs to be reviewed carefully as this has a negative impact on economic activity in Pakistan.

Rother (2004) in his study using data for 15 OECD countries in recent years comes to the conclusion that fiscal policy volatility has significantly impacted on the level of inflation volatility with a negative effect on the production level. The author uses GARCH model, and the results show that the change of fiscal policy has obvious negative effects of inflation on the production level. The study by Blanchard (1990) presents a model where the initial level of public debt has an important role on the effects of fiscal policy. Example: Increase of taxes will have two effects: First, tax increases passes a tax burden from future generations to present and reduces current private consumption. Second, an increase of taxes today will avoid an increase of tax in the future, and will reduce the long-term loss of income.

De la Fuente (1997) also studies which analyzes public expenditures and taxation on economic growth by taking data from OECD countries. An empirical results show that fiscal policy affects growth through several channels. Firstly, the government contributes directly to the factors of accumulation through public investments in infrastructure and other assets. Second, public expenditures are collected from private investment, reducing available incomes. Third, does not suggest that taxes and public expenditures generate significant costs of efficiency which should be taken into consideration when we take budgetary decisions. Arnold J. (2008) in a study in OECD countries, shows the correlation between tax structure and economic growth, by analyzing the period from 1971 to 2004, using a model specified with Error-Correction. He comes in conclusion that tax revenues have generally negative correlation versus economic growth. Especially consumption tax and income tax have a larger impact in lowering economic rate. From tax income is the tax on corporations income who have a negative effect on GDP, while property tax and personal tax affect less the economic rate reduction.

According to Shijak and Gjokuta in the scientific work that examines the effects of fiscal policy on economic growth in Albania for the period 1998-2006, based on the Keneller (1999) model that the increase of tax burden weakens the incentives to invest, by reducing the economic growth, conclude that the overall rate of economic growth is negatively affected by public revenues in Albania. They concluded that the taxes have higher negative effects, and that this negative impact is mainly due to the expansion effects through distorting tax policies, which reflects to the behavior of counter-cyclical fiscal policy through increased capital expenditures and payroll. This shows that the increase of expenditures capital has had a positive impact on economic growth, and also has mitigate the negative effects that the global financial and economic crisis had in Albania. A study done by Anastassiou and Drirsaki (2005), tells us about the relation between tax revenue and economic growth rate for Greece, starting from the fact that tax cuts stimulate economic growth and the relation between tax revenue and economic growth. Analyzing

the years from 1965 to 2002, through econometric analysis VAR Model, have reached the conclusion that there is no relation between tax revenue and economic growth, and that the last one does not have an impact in this direction in long term. Meanwhile, Burnside and Dollar says that external borrowing for productive investments creates macroeconomic stability where external debt has a positive effect on domestic savings, investments and economic growth. Using small squares method, which means that foreign savings meet domestic savings for investment requirement care, However, Blavy (2006) shows that the debt reduces economic growth after growing stock including its internal component may discourage private investment due to expectations of higher taxes in the future. The study expands on previous researches with evaluation of the impact of public debt on growth and productivity, he follows the model proposed by Pattillo (2004). While Devarajan and Vinay (1993), used data for 14 developed countries for a period 1970-1990. They took various types of expenditures (education, health, transport, etc.) as explanatory variables and found that transportation, health and communication have positive effects, while education and defense have a negative impact on economic growth of the country. Even the author Widmalm (2001) in an analysis of 23 OECD countries for the period 1965-1990, by not relying on any argument that there is a correlation between tax rates and economic growth, he concludes and support the idea that taxes have a negative effect on economic growth. Also through econometric analysis using UAE model, concludes that long-term taxes are negatively correlated with economic growth and progressive taxes result with higher negative effects in correlation with real GDP, than the flat tax.

Almost all empirical works that analyze the effect of expenditures and income in economic stability, can conclude that empirical analysis that were made are different, where some of them show that there is not any correlation between expenditures, incomes and economic growth, while some of them have opposing opinions. By this work we will try somehow to contribute empirically to analyze expenses, incomes as fiscal policy indicators and their impact on economic stability in Macedonia's case.

Empirical analysis

After we have done the review of the literature with different opinions of the authors about fiscal policy on economic sustainability, now through an econometric model we will test the impact of revenues and governmental expenditures in the economy of the Republic of Macedonia. As a start we will do the specification of the econometric model and estimation method and after specification of the model, we will analyze the data in the empirical work and we will do econometric model calculation and implementation of the outcome. Also, in this part we will analyze and comment on the assumptions that we have given above and their validity.

Econometric model specification and evaluation of small squares (OLS)

Using the method of simple linear regression and through the application of the method of small squares (OLS), we will test the effects of income and public expenditures in GDP in the Republic of Macedonia.

Therefore, the specification of tredeminzional linear regression model is as follows:

$$Y = B_1 + B_2 X_1 + B_3 + u_i$$

Y - represents the dependent variable (the variable that is explained, predicted etc.), in our case pf research as the dependent variable is expenditure and GDP (gross domestic product).

X – represents the independent variable (regresor, which predicts etc.), in our case as the independent variable is income.

B1, B2 and **B3** are called parameters or evaluation ratios (where **B1** is the parameter of constant, while **B2** and **B3** are evaluation parameters of independent variable)

uiis stochastic variable or erorr term, contains all the factors or variables that are not foreseen in the model and is random variable without observation with positive and negative values.

Evaluation of small squares (OLS)

This model is derived from the assumption of error term, assumed that e≈N (0, σ2). In other words, knowing the value of the error term which in the model does not explain anything about the other variables (distribution of error term is independent from other variables), and the error term observations are not correlated with each other. In principle only **e** is normally distributed where E (e) = 0 (error term has an average 0) and a constant change.

And for a given X there is no series correlation between observations, for more the error terms are not heteroskedastic. In another words individual observations over time are different individual observations and such approach may be justified in cases where the sample size from indirect data is very small.

However, ignoring the panel structure of the data assuming that the error term is independent and identically distributed, leads to results that are not appropriate in many models. After the concerns raised by classic linear regression model, effective assessment can be achieved using the method of small squares (OLS).

Despite numerous prejudices, similar to other studies, also in this study the collected data will be evaluated by small squares (OLS) in our empirical analysis.

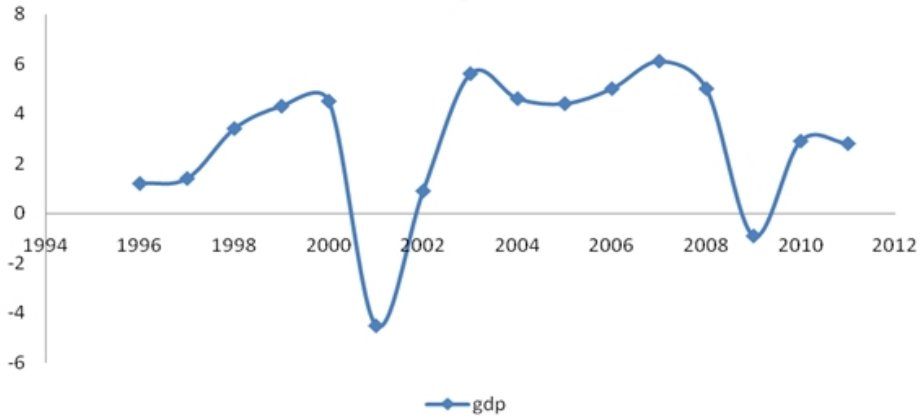
The data of the econometric model

Public expenditure data are taken from the Central Bank and the research was done in the period from 2004 to 2013. By analyzing the data we see an increase in spending from year to year, seeing that from 2011 the overall costs as part of the Gross Domestic Product (GDP) grew from 31% to 34% in 2012 while the primary government budget deficit grew 3.1% of Gross Domestic Product (GDP) in 2012, compared with 1.7% in 2011.

All these data on incomes were received from the Department of Public Revenue. The research was done from 2004 to 2013, unlike those mentioned above, during this period income had also increased and reducted from year to year. Data on GDP are the same period with expenses and incomes, while the data are taken from the National Bank of the Republic of Macedonia.

The variables that we used in the model are: GDP, expenditure and incomes.

Figure 1. Chart of Macedonia's GDP



Source: World Bank

Calculation of the econometric model and interpretation of the results

Now we would assess econometric model in the impact of expenditures and revenue as well as the GDP in the Republic of Macedonia. Through the analysis of regression we aim to examine the validity of the two hypotheses set out at the beginning of this paper. To transform all the variables in relative terms we should put them into log logarithm. The model are included two variables, which are in depended exogenous variables, expenses and incomes, and depended variables, represent, in our case the GDP is concrete. To make its calculation, in the following we will specify the model as multiple and logarithmic regression.

The econometric model we can write as:

1n (GDPi) + B1 + B2 1n *(income*) + B3 1n (*gov.spend*) + u

Y represents GDP or regresant; B1 coefficient of constanta; B2, B3, B4- partial valuation coefficients of income and expenses -regresors and u- standard error.The calculation of coefficients of the evaluation in the function equation of the regression sample we do it through STATA_12 software. With their selection we gain evaluators B1, B2 and B3, which are known as small squares assessors.

After calculating the coefficients of assessment B1, B2 and B3, we may rewrite the equation threedimensional regression, making replacements of corresponding values as follows:

ln GDP = 0.35 +0.18 ln income+0.94 ln gov.spend.

(se)	1.162	0.109	0.065
(t)	0.31	1.68	14.33

Regarding the impact of income in GDP of the Republic of Macedonia, the results show that the change of income for 1% will cause GDP growth 0.18%. At this point we have made a t-test which is 1.68 and it's bigger than 0.05, so we can confirm that the coefficient has powerful indication.So by this result we prove the hypothesis of the paper submitted at the beginning which says H1: public revenues affect negatively in the economic growth in Republic of Macedonia.From the results of the regression, we found that the eventual change of expenses for 1% will dramatically reduce GDP by 0.9%.

Since the t-test shows that t = 14:33, is bigger than 0.05, thus I conclude that the test has indicator, since it is greater than 0.05.From the results above, we have the same opinion with the majority of studies conducted for different countries, Widmalm F. (2001), Arnold J. (2008) Anastassiou and Drirsaki C. (2005).Although revenues in Macedonia represent the main channel of public revenues respectively the most influential voice of revenue of the state budget, for real sector they represent the certain tax burden or a tax which obliges this sector to share a part of revenue and making various payments tax. Having acknowledged the financial sector of Macedonia non profitability production of this government sector i.e. often needed instead of incentives the businesses, it imposes more taxes.

Conclusions

The main goal of this research is to analyze the impact of expenditures and revenues in a certain periods of the year 2004 to 2013. The research includes data on GDP, public spending and revenues. From the results obtained from the assessed model we understand that the income affected negatively in the economic sustainability and we support our formulated hypothesis that public income negatively affected in the economic raising of the Republic of Macedonia. Many authors first are studying about public spending then about public revenues, because first is needed to set public spending which public needs will be funded then public revenues must appointed as a funding source of public spending. Regarding to the impact of income in GDP of the Republic of Macedonia, the results show that the change of income for 1% will cause GDP growth for 0.18%. In this point we did the t-test which is 1.68 and it's bigger than 0.05, so we can conclude that coefficient has powerful indicator. It should be stressed that like any other research, this study also has its limitations because we have not included some other important variables such as public debt, inflation and the others. We think that in future researches, variables would be of particular importance to analyze these variables above.

References:

Afonso, A., Furceri, D. (2008). Government Size, Composition, Volatility and Economic Growth, *Working Paper Series*, (849), European Central Bank.

Agénor, P.-R., Montiel P. (1996), *Development Macroeconomics*, Princeton NJ: Princeton University Press.

Ahn, S., Hemmings P. (2000). Policy Influences on Economic Growth in OECD Countries: An Evaluation of the Evidence, OECD Economics Department Working Papers, (246), OECD Publishing. Retrieved from: http://dx.doi.org/10.1787/581718238837.

Anastassiou, T., Dritsaki C. (2005). Tax Revenues and Economic Growth: An Empirical Investigation for Greece Using Causality Analysis. *Journal of Social Sciences*, 1(2), 99-104.

Balassone, F. and D. Franco (2000). Public Investment, the Stability Pact and the "Golden Rule", *Fiscal Studies*, Institute for Fiscal Studies, vol. 21, no. 2, pp. 207–229.

Blanchard O., Chouraqui J.-C., Hagemann R. P., Sartor N. (1990).The sustainability of fiscal policy, New answers to an Old Question. *OECD Economic* Studies, (15).

Blavy R. (2006). Public Debt and Productivity: The Dificult Quest for Growth in Jamaica. *IMF* WP/06/235. Retrieved from: https://www.imf.org/external/pubs/ft/wp/2006/wp06235.pdf.

Burnside C., Dollar D. (2000). Aid, Policies and Growth. *The American Economic Review*, 90, (4), 847-868

Carr, J. 1989. Government size and economic growth: A new framework and some evidence from cross-section and time-series data: Comment. *American Economic Review*, (79), 267-271.

Cashin, P. (1994). Government Spending, Taxes and Economic Growth, *IMF Working Paper*, WP/94/92.

Chalk, N., Tanzi V. (2004). Public debt and economic growth. Channels of the longterm impact. In Buti M., von Hagen J., Martinez-Mongay, C. (2002). *The behaviour of fiscal authorities: stabilisation, growth and institutions*, Palgrave: Basingstoke.

De la Fuente A. (1997). Fiscal Policy and Growth in the OECD. Retrieved from: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=101409.

Devarajan, S., Swaroop, V, Heng–Fu Z. (1996). The composition of public expenditure and economic growth. *Journal of Monetary Economics* (37), 313-344.

Easterly, W. (1999). When is fiscal adjustment an illusion? *World Bank Policy Research Working Paper*, (2109).

Easterly, W. and S. Rebelo (1993), "Fiscal Policy and Economic Growth: An Empirical Investigation, NBER Working Paer, (4499).

Jens A. (2008). Do tax Structures Affect Aggregate Economic Growth? Empirical Evidence from a Panel of OECD Countries.*OECD Economic Department Working Paper*.France, 643. Retrieved from: http://www.oecd-ilibrary.org/docserver/download/5kzc0ms9f6kb.pdf?expires=1449491421&id=id&accname=guest&checksum=EF564A82B57EAA172DD590DE642374D3.

Masood M., Sohaid Y., Syed A. A (2010). Tax Revenue and Economic Growth: An Empirical Analysis for Pakistan, *World Applied Science Journal* 10(11), 1283-1289.

National Bank of the Republic of Macedonia (2013). Retrieved from: http://www.nbrm.mk

Philipp C. R. (2004). Fiscal Policy and Inflation Volatility. *European Central Bank. Working Paper* Series, (317).

Public Revenue Office Republic of Macedonia Tax revenue report 2004-2013. Retrieved from: http://www.ujp.gov.mk/en/statistika/naplata

Shijaku G., Gjokuta A. (2013). Fiscal policy and economic growth the case of Albania. Retrieved from: file:///C:/Users/Acer/Downloads/Fiscal_Policy_and_Economic_Growth_The_Case_of_Albania.pdf.

Widmalm F. (2001). Tax Structure and Growth: Are Some Taxes Better Than Others? *Public Choice*, 107, (3-4), 199-219.

World Bank national accounts data. Retrieved from: http://data.Worldbank.org/indicator/NY.GDP.MKTP.CD

Appendix

Data model table

Year	GDP	Income	Government spending
2004	280,786	46,161	55,034
2005	308,447	49,107	56,754
2006	334,804	51,875	60,599
2007	372,889	60,333	63,764
2008	414,890	67,006	75,509

2009	414,622	62,108	79,192
2010	437,296	50,257	83,523
2011	464,187	55,624	84,946
2012	466,703	51,676	86,340
2013	499,599	54,509	93,425

Article Info

Received: May 22 2015
Accepted: November 12 2015

RSP • No. 48 • 2015: 120-130

ORIGINAL PAPER

Rethinking the Legal Comparative Study on Children's Rights: Rights Protection and Institutional Capacities in Romania and Kuwait

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Abstract:
The issue of child rights protection is an important aspect of social policy of any modern state. In Romania, infringement of child right to a decent standard of living, reduced access of certain categories of children to health care or quality education, school dropout rate, the situation of children who leave social care homes and need support in finding a employment, homelessness, and lack of effective protection against discrimination were the problems that Romania had to overcome after the 1989 revolution. Even if there are difficulties in practice, most caused by bureaucracy, corruption in the judiciary system and budgetary constraints, Romania managed to build over the last 25 years, a coherent legal system in line with international treaties and conventions in which is a party. In Kuwait, although article 70 of the Constitution stipulates that international treaties ratified by Kuwait have the force of law, the judicial and executive authorities, however, have not taken enough measures to implement this article. In a society dominated by the power of man, with a law of religious origin, based heavily on doctrine and on amendments and interpretations of Sharia Islamic law by judges, violations of fundamental human rights, in particular of women and children, are common. The originality of the author's approach lies in the attempt to make a comparison in terms of child protection between two completely different systems of law, stopping on issues such as parentage, acquisition of citizenship, parental authority, guardianship, child custody after divorce, violence against children, age of majority, the right to education and the employment of minors.

Keywords: *age, minor, parent, marriage, divorce, custody*

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Introductory remarks

In any modern state child and youth protection is a fundamental objective of social policy (Avram, Radu, 2006: 7). Infringement of child right to a decent standard of living, reduced access of certain categories of children to health care or quality education, school dropout rate, the situation of children who leave social care homes and need support in finding a employment, homelessness, and lack of effective protection against discrimination were the problems that Romania had to overcome after the 1989 revolution (Avram, Popescu, Radu, 2006: 238). Even if there are difficulties in practice, most caused by bureaucracy, corruption in the judiciary system and budgetary constraints, Romania managed to build over the last 25 years, a coherent legal system in line with international treaties and conventions in which is a party. Even in the first article, the Romanian Constitution stipulates that "children and young people enjoy a special protection and assistance in realizing their rights". In Kuwait, although Article 70 of the Constitution stipulates that international treaties ratified by Kuwait have the force of law, the judicial and executive authorities, however, have not taken enough measures to implement this article. In a society dominated by the power of man, with a law of religious origin, violations of fundamental human rights, in particular of women and children, are common. It is hard to compare two systems of law so different as the Romanian and the Kuwaiti: first, whose main source of legislation is the law, the doctrine and the jurisprudence being excluded; the second is a traditional system of religious origin, which relies heavily on doctrine and on amendments and interpretations of Sharia Islamic law by judges. While in Romania the first attempts of codification of legal rules date back to the seventeenth century (Avram, Bică, Bitoleanu, et all., 2007: 162), in Kuwait the first projects of the law codes were drawn up in the late 1950s (Lombardi, 2013: 746; Hill, 1988: 182). The system of law in Kuwait is dominated by Civil code adopted in 1981, about which Shaikh Salman said that it was the first integrated civil code, whose provisions are in harmony with schools of Islamic jurisprudence and which does not contain any provision which would not be supported by any of these schools or be in conflict with the spirit of Sharia (Huneidi, 1986: 218). Rights of the child at various ages are covered separately by both the Romanian and the Kuwaiti legislation.

Filiation

Filiation is the relation of descendance linking a child of his parents (Lupașcu, Pădurariu, 2010: 206). This is a fundamental element of civil status, which produces legal effects of personal (name, parental rights and duties, etc.) and patrimonial nature (inheritance rights, maintenance right etc.). The legal consequences of filiation are different depending on the legal provisions in different branches of law that refer to it; the more different are in the two legal systems analysed: Kuwaiti and Romanian. Filiation from the mother stems from the fact of birth, whereas filiation from the father cannot be proved directly. In situations strictly defined by Romanian law, filiation from the mother may be established by recognizing the child from the mother or, where appropriate, by court.

The child born during the marriage, whether it was conceived during or before its concluding, enjoy a legal presumption that "the child born in wedlock has the mother's husband as father". This is a relative presumption of paternity which can be removed through a denial of paternity. Child born after termination of marriage is considered child resulted from marriage if he was born within 300 days from the date of divorce,

termination or cancellation of wedlock. The paternity of the child conceived as a result of relationships outside marriage can be established only by voluntary recognition made by man or by a legal action. Under the Kuwaiti law, a child is legitimate if it is born after at least six months from the conclusion of a marriage (Article 166 of the Personal Status Code). In these circumstances ties of kinship are automatically established between the child and the father and his family even if the marriage is irregular ("fasid"). If the child is born before six months of the conclusion of the marriage, the relationship between the husband and the child is not confirmed unless the husband declares the child to be his and obtains official documents in this regard.

Unlike the Romanian law, according to which children born out of wedlock are equal before the law with those born in wedlock and with those adopted (Article 260 of the New Civil Code), in Kuwait a child born outside a marital relationship is illegitimate and has no legal relationship to his father even if the father declares the child as his. This regulation leads to father's deprivation of any rights over the child and to the impossibility of the child to receive maintenance or to inherit from the father or the father's family. Between 1986 and 1988, 42 women were arrested for having given birth to a child out of wedlock. Of these, 11 were closed for more than 2 years, 17 were obliged to marry the father, and 14 were placed under the custody of male family members (Al-Mughni, 1993: 98).

Citizenship

Romanian citizenship is acquired by birth, adoption and application. Children born in Romania, from Romanian citizen parents, are Romanian citizens. There are also Romanian citizens those who were born on the Romanian territory, even if only one parent is a Romanian citizen, and those who were born abroad and both parents or only one of them has Romanian citizenship (Article 5 para. 2 of Law No. 21/1991 on Romanian citizenship). Child found on Romanian territory is considered Romanian citizen, until proven otherwise, if neither parent is known. Kuwaiti citizenship is acquired by birth but only from the father. Thus, a Kuwaiti man automatically transmits his nationality to his children wherever they are born, but a woman cannot transmit her nationality, unless the father is unknown or the mother is divorced or widowed from the nonnational father (Kelly, Breslin, 2010: 4-5). A child born from citizen mother and nonnational father does not inherit citizenship unless the mother is divorced or widowed from the nonnational father. Kuwaiti Nationality Act No. 15/1959 does not recognize dual nationality and stipulates that a Kuwaiti shall forfeit his nationality if he is convicted for a certain felony or chooses to adopt a foreign nationality (Article 11).

Law automatically grants citizenship to orphaned or abandoned infants, including Bedoon infants. Bedoon parents – citizens without citizenship which are considered to have resided in Kuwait lawfully despite the fact that they do not carry valid foreign travel documents or Kuwaiti residence permits (Abu-Hamad, 1995: 76) – are sometimes unable to obtain birth certificates for their Bedoon children because of additional administrative requirements,but since 2013 they can issue a birth certificate , but still they are in imposibility to access other public free of charge services such as education and health care.

Parental authority/ Guardianship

In the Romanian legal system, parental authority is the juridical measure of child protection through which rights and duties with respect to the person and property of

minors have been met by both parents, based on the principle of equality in the exercise of their parental rights and duties (Ungureanu, Munteanu, 2011: 240; Oprescu, 2010: 117-120). In exceptional situations where one parent is unable to exercise his rights and fulfill his parental duties, their fulfillment will return to the other parent (Chelaru, 2003: 105; Pop, 1994: 140). Thus, Article 507 of the New Civil Code (NCC) stipulates: "If one parent is deceased, declared dead by court order, placed under interdiction, deprived of the exercise of parental rights or if, for any reason, is in impossibility to express his will, the other parent exercises parental authority alone".

According to the established principles of Islamic jurisprudence, father is the natural guardian of the person and property of the minor child while custody is a right of the mother and not of either of the parents, or any other person (Rafiq, 2014: 268). The terms "custody" and "guardianship" have different meanings and implications in law. "Custody" means physical or material possession of the children, training or upbringing of the child while "guardianship" has a larger sense, meaning taking care of the child as well as of his property (Rafiq, 2014: 268). Unlike Romanian law, in Kuwait Article 209 of the Personal Status Law stipulates that the person with the most right to the guardianship of a minor is the father, followed by the father's father and the male relatives in the order of inheritance. If the father and grandfather are dead or not available to exercise parental authority and no guardian has been appointed through testament the court can appoint a guardian.

Child custody after divorce

In Romania, the Court of guardianship decides, in the divorce proceedings, as regards the relations between divorced parents and their underage children, taking into account the best interests of the child, the conclusions of the report of psychosocial investigation, and the parents agreement (Article 396 NCC). In accordance with article 5 of the Hague Convention of 25 October 1980, respectively with the provisions of Regulation (EC) No. 2201/2003, minor child is entrusted, in general, to his mother, this being considered as the best suited to handle the growth, education, school and professional training of the juvenile (Bistriţa-Năsăud County Court, Civil Division, Decision no. 36/2010, unpublished). With regard to parental authority, this is the joint responsibility of both parents (Ghiță, 2015: 306), except where court decides otherwise. Even if one of the parents wants to give up willingly parental authority, Court of guardianship must consider the request in relation to the best interests of the child, being unable to admit it except in cases duly substantiated i.e. abuse, neglect, child exploitation (Ungureanu et al., 2012:572; Dobre, 2015: 292-293).

Under the Kuwaiti personal status law, a divorced woman retains custody of her children until her sons reach puberty and her daughters are married (Al Na'im, 2002: 125). Although law does not fix any age at which custody reverts to father, Shiite family law (customary law), however, grants a divorced mother the custody of her daughter until the age of nine and the son until the age of seven (Al-Awadhi, 1994: 26). We must also emphasize that courts have the power to extend child custody to mothers beyond the age stated in texts, depending upon the circumstances of the case and having in view the welfare of the minor while deciding custody cases (Rafiq, 2014: 273). Child support benefits offered by the state are allocated solely to the father, even when a woman is awarded custody rights. Under Islamic law even if the physical custody of the child is granted to the divorced mother, father continues to be the guardian of the child as he is supposed to support the child financially (Rafiq, 2014: 269). In Islamic schools, the

mother forfeits her right to custody if she remarries. Should a husband divorce his wife on the grounds of her infidelity, the family courts can grant the custody of the children to their father (Rafiq, 2014: 269).

Under Article 196 of the Kuwaiti Personal Status Law, access to a child in custody is guaranteed for both parents and grandparents. If an agreement on contact arrangements cannot be reached the family court decides the day, time and place of contact visits. In the case that the custodian denies the parents or grandparents access to the child they can apply to the court to be awarded visitation rights. The mother custodian is prohibited from traveling with children out of Kuwait without the guardian's or the court's permission. The converse situation is also true because during the period of custody the guardian cannot remove the child from the country of residence without the permission of the custodian.

Adoption

In Romania, the institution of adoption is regulated by the Law on legal status of adoption no. 273/2004, which establishes the principle that adoption can be achieved only in the best interests of the child. Adoption is only possible during the child's minority, unless it was raised by adoptive family or person. In addition to the expression of the natural parents' consent or, where appropriate, of the guardian's approval, it is also required the consent of the child who has reached 10 years (Lupașcu, Pădurariu, 2010: 275-277). Adoptive person or family must meet the moral and material conditions necessary for guaranteeing full and harmonious development of the child's personality. Adoption law limits the possibility of international adoption, which can not be authorized unless the adopter or one of the adoptive husbands is the grandfather of the adopted child (Avram, Popescu, Radu, 2006: 246). In Kuwait adoption is prohibited but the concept of fostering is established in the Family Fostering Act No.82/1977.but this law changed in the beginning of 1980's and they allowed it without inheritance.

Violence against children

In Romania, Law no. 272/2004 on the protection and promotion of children's rights and Law no. 217/2003 on preventing and combatting domestic violence created legal mechanisms to intervene in the case of abuse of children whether physical, psychological, sexual or economic (Albăstroiu, 2015: 366). The child has the right to be protected from all forms of violence, abuse, maltreatment or neglect (Article 85, para. 1). The term "child abuse" means any deliberate action of a person who is in a relationship of responsibility, trust or authority towards it, through which the life, physical, mental, spiritual, moral or social, physical, mental or physical health of the child is put into danger, while "neglect" means the failure, voluntary or involuntary, of a person who is responsible for child care, growth and education, of taking any measure subject to this responsibility, which endanger the life, physical, mental, spiritual, moral or social development, bodily integrity, physical or mental health of the child (Article 89, para. 1 of Law no. 272/2004). The law prohibits corporal punishment in any form, and depriving children of their rights likely to endanger the life, physical, mental, spiritual, moral or social, physical, mental or physical health of the child in the family, as and in any institution which ensures the protection, care and education of children. Any person who, by nature of profession or occupation, works directly with a child and has suspicions related to a situation of abuse or neglect it is obliged to notify the public service of social assistance or general direction

of social assistance and child protection in whose jurisdiction the case was identified (Avram and Radu, 2006: 10-11).

Where, following the checks carried out following a complaint on cases of child abuse and neglect, the representatives of the general direction of social assistance and child protection determine that there are reasonable grounds to support the existence of a situation of imminent danger to the child, due to abuse and neglect, and not encounter opposition from people who provide care or child protection, the direction of social assistance and child protection establishes the emergency placement measure. The Romanian Criminal Code also states that: "Putting in serious jeopardy the physical, mental or moral development of minors by parents or persons in whose care is the minor, through measures or treatment of any kind, shall be punished with imprisonment from 3 to 7 years and deprivation of certain rights" (Article 197).

In Kuwaiti system there is no legal definition of abuse or violence against children although law incriminates certain acts of violence regardless of whether they were incurred to a child or to an adult such as: beating, killing, breach of trust, verbal offense, defamation, sexual assault, rape (assault by penetration). Unlike the Romanian law, the Kuwaiti law does not stipulate as being a crime the disciplinary beating inflicted on children by their guardians, custodians or caretakers (Global Initiative to End All Corporal Punishment of Children, 2015). Article 26 of Law no. 16/1960 on the Criminal Code states that "no crime is committed if the act is executed on the premise of exercising the right to discipline a child by one who is authorized by law to do so with the condition that boundaries are kept and the intention of beating is directed solely towards disciplining". Due to the difficulty of distinguishing between disciplinary beating and physical violence or abuse inflicted on a child by one of his guardians or caretakers, there are many cases in which guardians misuse their right to discipline their children in cases where beatings resulted in extreme physical or psychological harm of a child without incurring any legal consequence. In the case that a child sustains he is a victim of abuse or violence from his guardian and registers a complaint against him, the authorities conducting the investigation is not obliged to carry out the procedure of separating a child from his guardian or to place the minor in care shelters belonging to the Ministry of Social Affairs and Labor.

Sexual offences

Under Romanian law, sexual intercourse, oral or anal intercourse and other acts committed by vaginal or anal penetration with a minor aged between 13 and 15 shall be punished with imprisonment of one to five years. If this act is committed against a minor who has not reached the age of 13 shall be punished with imprisonment from 2 to 7 years and deprivation of certain rights. If the act was committed by a major with a minor aged between 13 and 18, where the major abused their authority or influence over the victim, shall be punished with imprisonment from 2 to 7 years and deprivation of certain rights (Article 220 of the Criminal Code). Production of pornographic materials with persons under the age of 18 years is prohibited by law. The sexual act of any nature committed by a major in the presence of a minor who has not attained the age of 13 shall be punished with imprisonment from 6 months to 2 years or a fine. Determination by a major to a minor who has not attained the age of 13 to attend the commission of acts of flasher or performances within which commit sexual acts of any kind, and making available the material pornography is punishable with imprisonment from 3 months to one year or a fine (Article 221 para. 3 and 4 of the Criminal Code).

In Kuwait, an act is not considered rape or assault by penetration except if the vagina is not penetrated whereas sexual assault is any other act of sexual harassment without any penetration that occurs on females and males or penetrating the anus by the male sexual organ. The law stipulates greater punishments on crimes of rape and assault by penetration but does not fix a minimum age for consensual sexual relations, although premarital sexual relations are illegal. The Kuwaiti Criminal Code states that "having sexual intercourse with a woman against her will, regardless of whether it was through force, threatening or trickery, the perpetrator is punished by execution or lifetime imprisonment. However, if the perpetrator was a relative of the victim or caretaker or a guardian or someone who has an authority over her or a servant who works for her or any of those formerly mentioned, the punishment will be execution" (Article 186). Due to the fact that the sole punishment placed on relatives of a victim and her caretakers is death penalty and to the fear of social stigma. All forms of pornography are illegal but there are no laws specific to child pornography.

Age of Maturity

Age of majority under the Romanian law is 18; full legal capacity is acquired at this age, unless, for good reasons, the Court of guardianship recognizes full legal capacity to the minor who has reached the age of 16 (advance capacity is governed by Article 40 NCC) and where the child acquires by marriage full legal capacity (Article 272 NCC). Romanian legislator considered that, since minor aged between 14 and 18 have developing discernment, must recognize its limited legal capacity (Baias, Chelaru, Constantinovici and Macovei: 246; Cercel, Scurtu, 2015: 299). The child who has not attained the age of 14 is not criminally liable. The child who is aged between 14 and 16 is criminally liable only if it is proved that he committed the act with discernment, and the child over 16 years has criminal responsibility (Article 113 of the Criminal Code). The minor who, at the time of the offence, was aged between 14 and 18 years, is sentenced by the court to the enforcement of a non-custodial educational measure (Avram, Popescu and Radu, 2006: 258).

In Sharia law, age is defined or interpreted by the age of maturity: 9 years for women and 15 years for men, with discretion based on physical/mental maturity (Campbell, 2007: 265). Age limit of civil majority, criminal responsibility, marriage, voting, candidacy or emancipation of minors varies. Kuwaiti law does not stipulate a limit of age when a child ceases to be a minor and enters adulthood. According to Civil law no. 67/1980, "Age of majority is upon reaching 21 whole years" (2nd Paragraph of Article 92) whereas Article 18 of the Kuwaiti Penal Code stipulates that anyone who was under seven years of age at the time of committing an offence cannot be held criminally responsible. A person can exercise his electoral right after he has reached 21 years of age as stipulated in article 1 of Law no. 35/1962 concerning Parliament member elections. Romanian citizens are entitled to vote at the age of 18, may be elected to the Chamber of Deputies or to the local governments bodies at the age of at least 23 years, from the age of at least 33 years may be elected to the Senate and of at least 35 years may be elected as President of Romania (Article 36 and 37 of the Constitution).

Matrimonial age

According to Article 272 NCC, marriage may be concluded if the spouses have reached the age of 18. For good reasons, a minor under the age of 16 can marry under medical opinion, with the consent of his parents or, where applicable, of his guardian and

the permission of the Court of guardianship in whose district the child resides. If a parent refuses to give his permission to child's marriage, the court of guardianship decides on this divergence in the best interests of the child. If one parent is deceased or is unable to manifest the will, consent of the other parent is sufficient. If there is no parent or guardian who can approve marriage, it is required the consent of the person or authority entitled to exercise parental rights.

The minimum age stipulated in Kuwaiti law for concluding a marriage is 15 years for females and 17years for males. In the same time, in order that the marriage contract itself be validated, Law no. 51/1984 regarding Family and Personal Status, includes the following provisions: " for a marriage to be legitimate, parties have to be of age (puberty) and of sound mind" (Article 24) and " the notarization and authentication of a marriage contract is prohibited if a female has not reached 15 years of age and a male 17 years at the time of registering the contract" (Article 26) because there are still some tribal groups in which girls continues to marry at a younger age. This is a situation similar to that of underage marriages concluded within the Roma minority in Romania (Oprea, 2005, 133-144; Andrei, Martinidis and Tkadlecova, 2014: 327-329).

Education

Law no. 272/2004 on the protection and promotion of children's rights includes a number of provisions relating to child education. The child has the right to receive an education enabling the development, in non discriminatory conditions, of his skills and personality. The child's parents have a priority right to choose the kind of education that shall be given to their children and are required to enroll the child in school and ensure regular attendance by the minor of the school courses (Avram, Radu, 2006: 7). The child who has reached the age of 14 years may request permission from the court to change the kind of teaching and training courses (Avram, Popescu, Radu, 2006: 251). According to the National Education Law no. 1/2011, primary education lasts five years, consisting of preparatory class, which becomes mandatory (when the child turns 6 years of age), followed by I-IV grades. Compulsory general education has ten classes (up to the age of 18). The lower secondary education which includes grades V-IX is compulsory, while secondary education is optional, consisting of X-XII / XIII grades. Child over 15 years has the right and duty to continue the courses in order to graduate compulsory general education. Units that have employed children older than 15 years have an obligation to support them to continue compulsory education.

Right to education is guaranteed by Article 40 of the Kuwaiti constitution: "Education is a right for Kuwaitis, guaranteed by the state in accordance with law and within the limits of public policy and morals. Education in its preliminary stages shall be compulsory and free in accordance with law. The law shall lay down the necessary plan to eliminate illiteracy. The State shall devote particular care to the physical, moral and mental development of youth" and by Article 13: "Education is a fundamental requisite for the progress of society, assured and promoted by the State".

According to Law no. 11/1965 on compulsory education, education is compulsory and free for Kuwaitis only: "Education is compulsory and free for all Kuwaiti children, male and female, from primary to intermediate levels. The state is obligated to provide school buildings, textbooks, teachers and all that is necessary to guarantee the success of compulsory education of human and material resources" (Article 1). This express provision of law makes education neither compulsory nor free for non-Kuwaitis. Public schools in Kuwait only admit, and provide free education to Kuwaiti children but

there are some groups of non-Kuwaiti admitted, as an exception, to public schools and provided with free education: children of a Kuwaiti mother married to a non-Kuwaiti, children of citizens of Gulf Cooperation Council countries, children of foreign diplomats, children of non-Kuwaiti prisoners of war and martyrs, children of employees in public schools including science lab technicians and librarians.

Legal age for employment

Until the age of 15 years old children can not be employed even if children's forced labour and exploiting is growing in the last years (Gheorghiță, Vădăstreanu, 2015: 274-285). Article 13 para. 2 of the Labor Code recognizes that minors who are aged between 15 and 16 years have a limited capacity to engage in work, that their employment is possible only with the consent of both parents or of their legal representatives and only if "their health, development and vocational training are not jeopardized" (Ștefănescu, 2001: 59-63). Parental consent must be prior or simultaneous with the conclusion of the employment contract; special (must refer to the contract of employment); clearly expressed (Radu, 2008: 119). At the conclusion of the contract will be mentioned the existence of the consent and those who gave it (parents or guardians) will sign the contract together with the minor. A natural person acquires full capacity to conclude an employment contract at the age of 16 years because it is presumed that at this age has physical and mental maturity necessary to enter into an employment relationship (Radu, 2015: 445). For reasons of health protection young employees under the age of 18 can not be assigned to jobs with harmful, heavy or dangerous conditions and may not be used to work at night.

In Kuwait, the legal minimum age for employment is 18 years. Employers may obtain permits from the Ministry of Social Affairs and Labor to employ minors between the ages of 15 and 18 in certain jobs that do not present a danger to child's health and development. According to section 20(a) of the Labour Code of 2010, young persons aged from 15 to 18 years shall not be employed in industries or professions that are, by a resolution of the Minister of Labour, classified as hazardous or harmful to their health. Law also prohibits forced labor and employment of a child under the age of 15 years. Minors may work only part-time, with a maximum of 6 hours a day on the condition that they work no more than 4 consecutive hours followed by a one-hour rest period. In the case of minors law prohibits overtime work and work performed between 7:00 p.m. and 6:00 a.m.

According to section 27 of the Labour Code of 2010, anyone who has completed 15 years of age shall be eligible to conclude a work contract, but these provisions of the Labour Code apply only to labour relations between workers and employers in the private sector.

References:

Abu-Hamad, A. (1995). *The Bedoons of Kuwait: "citizens without citizenship"*, New York – Washington – Los Angeles – London – Brussels: Human Rights Watch.

Al-Awadhi, B. (1994). *Women's Legal Guide*, Kuwait: Dar Qortas Publication (in Arabic).

Albăstroiu, R. G. (2015). The Protection Order Seeking and Accessing: A Mechanismin Combatting Domestic Violence. *Revista de Ştiinţe Politice. Revue de Sciences Politiques*, (46), 365-374.

Al-Mughni, H. (1993). *Women in Kuwait: The Politics of Gender*, London: Saqi Books.

Al Na'im, A. A. (2002). *Islamic Family Law in a Changing World*, London: Zed Books Ltd.

Andrei, R., Martinidis, G., Tkadlecova, T. (2014). Challenges Faced by Roma Women in Europe on Education, Employment, Health and Housing - Focus on Czech Republic, Romania and Greece. *Balkan Social Science Review*, 4, 323-351. Retrieved from: http://js.ugd.edu.mk/index.php/BSSR/article/view/956.

Avram, C., Bică, Gh., Bitoleanu, I., Vlad, I, Radu, R., Paraschiv, E. (2007). *Introducere în istoria dreptului*, Bucureşti: Fundația "România de Mâine" Publishing House.

Avram, C., Popescu, P., Radu, R. (2006). *Politici sociale*, vol. I, Craiova: Alma Publishing.

Avram, C., Radu, R.C. (2006). Romanian Social Policy concerning Children's Education and Health. *Revista de Ştiinţe Politice. Revue de Sciences Politiques*, (12), 7-13.

Baias, Fl. A., Chelaru, E., Constantinovici, R., Macovei, I. (2012). *Noul Cod Civil. Comentariu pe articole, art. 1-2.664*, București: C. H. Beck Publishing.

Bistriţa-Năsăud County Court, Civil Division, Decision no. 36/2010, unpublished.

Campbell, Ch. (ed.), (2007). *Legal Aspects of Doing Business in the Middle East*, Lulu Enterprises Incorporated.

Cercel, S., Scurtu, Ș. (2015). Full Legal Capacity Acquired before the Age of Majority. *Revista de Ştiinţe Politice. Revue de Sciences Politiques*, (46), 297-304.

Cercel, S., Olteanu, E.G. (2009). Consideraţii privind capacitatea de exerciţiu restrânsă a persoanei fizice în dreptul civil român. *Revista de Ştiinţe Juridice*, (1), 17-26.

Chelaru, E. (2003). *Drept civil. Persoanele*, Bucureşti: All Beck Publishing.

Civil law (1980), (67). Retrieved from: http://www.e.gov.kw/Documents (in Arabic).

Dobre, R.R. (2015). Investigating the New Legal Concepts on the Real Protection for the Child at Risk: Shifts in Family Relations and Caregiving. *Revista de Ştiinţe Politice/ Revue de Sciences Politiques*, (46), 287-296.

Gheorghiță, V., Vădăstreanu, C.I., (2015). Signalling Child Trafficking and Exploitation by Begging in Romania: on Public Traits, Victims Traffic and Societal Reaction. *Revista de Ştiinţe Politice. Revue de Sciences Politiques*, (46), 274-286.

Ghiță, O. (2015). Child Abduction by a Parent or Exercising Parental Authority: Balancing European and National Regulations. *Revista de Ştiinţe Politice. Revue de Sciences Politiques*, (46), 305-313.

Global Initiative to End All Corporal Punishment of Children (2015). *Corporal punishment of children in Kuwait*. Report retrieved from www.endcorporalpunishment.org (last updated February 2015).

Hill, E. (1988). Al- Sanhuri and Islamic Law: The Place and Significance of Islamic Law in the Life and Work of 'Abd al-Razzaq Ahmad al-Sanhuri, Egyptian Jurist and Scholar, 1895–1971. *Arab Law Quaterly*, vol. 1, no. 3, 182-218.

Huneidi, I. A. (1986). Twenty-Five Years of Civil Law System in Kuwait. *Arab Law Quaterly*, vol. 1, no. 2, 216-219.

Kelly, S., Breslin, J. (ed.) (2010). *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield. Retrieved from http://www.freedomhouse.org.

Kuwaiti Nationality Law (1959), (15). Retrieved from: http://www.refworld.org/docid/3ae6b4ef1c.html.

Kuwait's Constitution of 1962, reinstated in 1992. Retrieved from: https://www.constituteproject.org/constitution/Kuwait_1992.pdf.

Law No. 6/2010 promulgating the Law of Labor in the Private Sector. Retrieved from http://www.kuwaitlaborlaw.com/wp-content/uploads/2012/01/Kuwait-Labor-Law-2010-Detailed.pdf.

Law No. 51 in 1984 on the Kuwaiti Personal Status Law. Retrieved from: http://www.e.gov.kw/Documents (in Arabic).

Law No. 16/1960 on the Kuwaiti Criminal Code. Retrieved from: https://www.google.ro/webhp?sourceid=chrome-

instant&ion=1&espv=2&ie=UTF-8#q=Law+no.+16/1960+on+the+Kuwaiti+Criminal+Code&start=20 (in Arabic).
Law No. 21/1991 on Romanian citizenship (republished), *Official Gazette*, (576) of 13 August 2010.
Law No. 273/2004 on legal status of adoption, (republished), *Official Gazette*, (259) of 19 April 2012.
Law No. 272/2004 on the protection and promotion of children's rights, (republished), *Official Gazette*, (159) of 5 March 2014.
Law No. 1/2011 on National Education, *Official* Gazette, (18) of 10 January 2011.
Law No. 286/2009 on the Romanian Criminal Code, *Official Gazette*, (510) of 24 July 2009.
Law No. 287/2009 on the Romanian Civil Code, (republished), *Official Gazette*, (505) of 15 July 2011.
Law No. 53/2003 on the Romanian Labour Code, (republished), *Official Gazette*, (345) of 18 May 2011.
Lombardi, C.B. (2013). Constitutional Provisions Making Sharia "A" or "The" Chief Source of Legislation: Where Did They Come From? What Do They Mean? Do They Matter?. *American University International Law Review*, (3), 733-774.
Lupașcu, D., Pădurariu, I. (2010). *Dreptul familiei*, ediția a V-a amendată și actualizată, Bucharest: Universul Juridic Publishing.
Oprea, A. (2005). The Arranged Marriage of Ana Maria Cioaba, Intra-Community Oppression and Romani Feminist Ideals: Transcending the „Primitive Culture" Argument. *European Journal of Women's Studies*, (12), 133-144.
Oprescu, M.-A. (2010). *Ocrotirea părintească*, București: Hamangiu Publishing.
Pop, T. (1994). *Drept civil român, Persoanele fizice şi persoanele juridice*, Bucharest: Lumina Lex Publishing.
Radu, R. (2008). *Dreptul muncii*, Bucharest: C.H. Beck Publishing.
Radu, R. (2015). Incidenţa normelor Uniunii Europene asupra capacităţii de angajare a cetăţenilor români. *Arhivele Olteniei*, (29), 443-454.
Rafiq, A. (2014). Child Custody in Classical Islamic Law and Laws of Contemporary Muslim World (An Analysis). *International Journal of Humanities and Social Science*, vol. 4, no. 5, 267-277.
Ştefănescu, I. Tr. (2001). Necesitatea modificării Constituţiei României cu privire la vârsta minimă de încadrare în muncă. *Dreptul*, (4), 59-63.
Ungureanu, C.T. et al. (2012). *Noul cod civil. Comentarii, doctrină şi jurisprudenţă*, vol. I. Art. 1-952. Despre legea civilă. Persoanele. Familia. Bunurile, Bucharest: Hamangiu Publishing.
Ungureanu, O., Munteanu, C. (2011). *Drept civil. Persoanele în reglementarea noului Cod civil*, Bucharest: Hamangiu Publishing.

Article Info

Received: April 22 2015
Accepted: November 14 2015

RSP • No. 48 • 2015: 131-140

ORIGINAL PAPER

Legal Challenges of the Adoption Procedure: Current Views from Regulation and Practice

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Abstract
Adoption was initially seen as a compromise solution because of the principle of maintaining or reintegrating the underage child in the natural family was enshrined as an absolutist one, from which no derogations may be made. The child's best interest was reappreciated because of the situation in which the family became a true enemy because of the way the parents were managing parental duties. Negligence or worse, abusive behaviour on your own child, alcohol consumption have generated sometimes dramas so it was proposed to simplify the procedure of adoption and the possibility that the minor should be entrusted to adoption. However, adding a new stage in the proceedings, the repeal of the provisions relating to the substantive conditions of the special law relating to adoption-at the time of the enforcement of the new civil code, have made it difficult to establish this action as a target in the individualised plan of protection of the child. Very important, along with the republishing of the special normative act in the year 2012, there was a clear differentiation of the notion of internal adoption and international adoption. The right to information of the adopted child about his/her origins is today guaranteed due to the alignment of the provisions of the international regulations of the procedure in question. The study grants a special importance to the evolution of the number of cases finalized in practice, making a parallel between the old law and its form enforced today. If internal adoption now bears certain nuances in the interpretation of the statistical data, about international adoption it can be concluded that an uptrend is established (even if not at the level of expectations) after the existing blockage in the past in this problem.

Keywords: *principles of procedure of adoption, internal adoption, international adoption, adoption stages*

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Law no. 273/2004 sets out in detail the steps to be followed to complete the adoption procedure. A number of provisions of the special law no. 273/2004, republished in 2009 were expressly repealed by the new Civil Code, law no. 287/2009, amended by the law enforcement no. 71/2011. The following texts were repealed: article 1, articles 5-13, article 16, article 18 paragraph 2 sentence I, article 56 paragraphs 1-4, article 57, articles 59-63 and article 65.

The first article of the law contained the legal definition of adoption: "operation which creates the filiations relationship between the adoptee and the adopter, as well as the family ties between the adoptee and the adopter's relatives". Under this direction, "the removal of the respective text was probably intended as a change of nuance in that definition, but when the new Civil Code was enforced a legal vacuum in this regard appeared. A new text of article 1 was not introduced even by the new draft bill regarding the adoption procedure" (Dobre, 2011: 98). The new form of the adoption law has ignored the abrogation since two new articles 13 index 1 and 13 index 2 were introduced, although article 13 no longer existed. The lack of the legal texts that regulated the substantive conditions has invaded the of resolution of the adoption procedure because the magistrates were not clarified with respect to the legal criteria on which they could have decided the completion of this measure which was meant as an alternative to the system of protection of the underage child at risk.

The effervescence of that new legislation has raised new problems, mainly related to how to proceed in order to open and to complete an adoption file (Dobre, 2015: 287-296). Some of the reported contradictions that caused an administrative blockage were eliminated when the adoption law was republished in 2012 – a whole chapter dedicated to the substantive conditions article 6-15 of the new form of the special law being eloquent in this respect. The new form of the adoption law extends the concept of internal adoption because it will target the adopter and the adoptee with their usual residence in Romania. Usual residence means the effective domicile in the country of the Romanian citizens or of those with multiple nationalities, including the Romanian one on an uninterrupted period of at least one year before the date the application to initiate the adoption was filed. The reasoned discontinuity of this term for periods of up to three months will not lead to consider this condition as unfulfilled. Any citizen of a member state of the European Union who has the right to permanent residence in our country is assimilated to the Romanian citizens in this situation."Regarding the right to stay in a Member State other than home, and the opportunity arising here – establishing a residence for community citizens, secondary Community legislation began contain provisions regarding privileged treatment booked in relation to the majority of foreigners.Community regulations are centred on the issuing of a document called residence card" (Fuerea, 2006: 286).

The same logic is used to locate the habitual residence of the adoptee, whether a Romanian citizen or one of a member state of the European Union. In this case we discuss about domestic adoption because since Romania's accession to the European Communities the western border of the continent, where other EU member states are to be found practically no longer exists. The European Union is a super state that tends to be organized in Federation form. In fact, "in practice, there has recently been found the emergence of increasingly more cases in which Romanian citizens have started the internal adoption procedure in conditions in which they had a permanent residence in other states, preserving their residence in Romania too or re-establishing it in Romania (although they actually lived on the territory of a foreign state)" (Buzducea, Lazăr,

Bejenaru, Grigoraș, Panait, Popa, 2013: 7). These situations created a number of difficulties regarding their recognition in the foreign states. The historical evolution of the concept of adoption is interesting: "the old Romanian law was known as the «adoption» – article 236 et seq. Callimachi Code and under the Code Caragea – making the soul children is a gift for the salvation of those who do not have children, article 1 of Part IV, Chapter 5" (Avram, 2001: 95).

The most concise definition of the many doctrinal ones for the concept of adoption seems to be the following: "the measure that aims to ensure the protection of the patrimonial and non patrimonial interests of children without parental or an appropriate care (Bacaci, Dumitrache, Hăgeanu, 2012: 219). Since the adoption procedure includes four stages the nature of which is administrative or jurisdictional it will be interesting to see how the documents issued by the authorities involved in this matter can be further classified. The new conception of the adoption procedure establishes that the adopter and the adoptive family will have to meet with other legal requirements too, namely those related to moral probity and material guarantees necessary to perform the duties of parental care (the newly introduced article 12). The legal definition of evaluation to obtain the certificate needed to complete the adoption procedure can be found in the content of article 16 issued after the amendment: the parenting skills are identified, the achievement of moral guarantees and material conditions of the adoptive family are assessed and their preparation in order to knowingly assume the parent role. There are new statuses for all that are involved: the biological parents, the adopted child who changes the habitat and the adopters who will start a life specific to complete families."The stress factor is a life event that causes or has the potential to produce changes in the family social system" (McCubbin, Patterson, 1982: 7-37).

The starting point of this very difficult path is the request from the pretender to the quality of adopter. "If anyone can become a parent naturally, not everyone can aspire to a foster parent, but only those who meet certain requirements established by the law" (Gavrilescu, 2009: 23-53). That request will be answered by releasing or not the certificate within 120 days after its registration at the Social Work and Child Protection Service in the jurisdiction of residence of that person. Thus this institution appears to have a deciding role as it will release or not the requested certificate and will issue a decision in this regard.

The criteria to be considered when evaluating the candidates for adoption are primarily psycho-social (article 16, paragraph 3 of the framework law) and they involve the undergoing of an administrative circuit which can sometimes be interpreted subjectively by a public specialized organization – The Social Work and Child Protection Service. If the report concludes that the conditions are fulfilled, a certificate which will be valid for one year will be issued. The expiry of the certificate may be extended by the law in the event that there is already a case before the court which seeks custody for adoption. The extension will run until the completion of the whole procedure of adoption. It assimilates this exception to that when the adopter has already been entrusted one or more children for adoption. If the report has a positive result a provision will be issued by the director of the competent authority that will grant the certificate. Otherwise, if the result is negative, it may appeal against the records in the report within five days of the notification of that response. Failure to exercise this right to reform the report will lead to finalizing the report which anticipated the solution and the decision not to issue the certificate.

The state administration body with responsibilities in the field, the Romanian Office for Adoptions will resolve any complaints so that those files will be submitted to

that forum. Interestingly, although the content of the files are censored when submitted to the Social Work and Child Protection Services, the Romanian Adoptions Office does not issue a jurisdictional decision, as their opinion on the objection raised cannot be taken into account by the direction that had initially developed the report. It is therefore unquestionably clear that the role of the above mentioned central authority is consultative. In this respect one could argue with article 21 (example: the former article 19 sentence 5 newly introduced with the modification of the adoption law in 2011) which states: "The Direction may decide (after the announcement of the result by the Romanian Office for Adoptions) upon the maintaining of the proposal passed in the report referred to by article 18, paragraph 1 and the issue of the provision with respect to the not issuing of the certificate". However article 20, paragraph 2 of the law includes the following wording: "if the Office considers the appeal to be well founded, it issues the following recommendations and proposals for the direction". The occurrence of a case that would establish the adoption as a measure - purpose of the plan of the child's protection would have no substance unless there is a database of the families who have obtained the certificate for adoption. The matching phase (recently created by the amendment to the special law in 2011) would appear absolutely unjustified in the regulation economy if we refer to the fact that the custody stage for adoption was meant to check how the adoptee and the adoptive family manage to build specific family connections.

The distinct role of the Romanian Office for Adoptions during the matching stage shows, however, the importance of their work on the information mediation between the specialized departments – that from the adopter's home and from the adoptee's home respectively (article 36-39 from the special law in the updated form). Access to data on the identity of the adopter, the adoptee and the original family of the adoptee are limited under the "principle of confidentiality guarantee, so the court will send invitations to those involved in the procedure without mentioning the existence of the file" (Irinescu, 2009: 50). Never does the official website of the Ministry of Justice (www.just.ro/) mention the lack of any information linked to the cases involving the adoption. The principle of celerity in the transposition of solutions on the child without parental care can be best seen in the current form of the law. This principle is sharper with "the establishment of the Romanian Office for Adoptions as a specialized institution of central public administration, with legal personality, which coordinates and oversees adoption and achieves international cooperation in the adoption field" (Emese, 2010: 551).

If until now a part of the administrative board has been brought into attention (the specialized service and the Romanian Office for Adoptions) there also must be formed an image related to the competence granted to the judgment courts as a result of these changes. Although it seems a formal, simple one, the role of the magistrate in the adoption procedure is extremely important and apparently discretionary in some instances. Thus, the natural parents' consent cannot be abusive as the competent court may censor the indifferent or abusive attitude of the natural parents when the child's best interests require this: "The court can overrule the refusal of the natural parents or of the tutor, respectively to consent to the adoption of the child, if it is proved by any means that they improperly withhold their consent to adoption and the court considers that the adoption is in the best interests of the child, taking into account his/her opinion given according to the law, with the express argument of the sentence in this regard. The refusal to consent to the adoption when, although legally summoned, the natural parents or tutors repeatedly fail to be present at the time scheduled to express their consent may also be considered abusive." (article 8, paragraph 2 of the special law).

If the adoption was considered a safety valve for extreme situations in which the special protection measures did not fulfil their purpose, the regulatory changes brought the conclusion that family reintegration should not be exacerbated as principle as long as the family members show notorious lack of interest. However, even if "parents are deprived of parental rights or sanction with denial of parental rights werw imposed they keep the right to consent to adoption of the child" (Lupașcu, 2004: 2010). Regarding the adoptive parent consent "will be subject to the same legal treatment to that of natural parent" (Bodoașcă, 2009: 46).

As such, article 26 of the new wording states that the individualized protection plan, as governed by the law no. 272/2004 on the protection and promotion of children's rights, as amended, ends with the internal adoption in three case. In the first case it has been a year since the special protective measure was instituted and the the child's natural parents and relatives up to the fourth degree cannot be found or do not cooperate with the authorities to integrate or to reintegrate the child in the family. In the second situation, after the institution of the special protective measure the child's parents and relatives up to the fourth grade who could be found declare in writing that they do not want to deal with the child's education and care and within sixty days have not withdrawn this statement. Last hypothesis means that the child was recorded of unknown parentage.

Weighing the danger that a child deprived of parental care may undergo when the negligence of the legal representatives becomes self-evident and that the principle of keeping the child as much as possible in the family milieu the optimal solution, namely adoption was reached. If the biological parents or the extended family do not pay at least that emotional support necessary for the harmonious development of the child (leaving aside other material, financial, conditions, etc.) the alternative of the adoptive "surrogate" family's assimilation becomes true. "Family plays a vital role in achieving the security, the emotional, the affiliation and self-esteem needs in early childhood. The more limited that family's resources, the more reduced the chances of its members to benefit from resources to assert their capacities" (Constantinescu, 2008: 208).

Keeping children in residential centres of special protection system does not confer the advantages of the interfamily networking. In order to increase the positioning of the natural family in those cases where adoption prevails as the solution certain limits to reach an agreement were set (giving up the parental rights by natural family) or in which to note the lack of diligence that a parent can usually have to his/her children (the lack of parental cooperation with the authorities or the impossibility to identify the legal representatives). Furthermore, "the purpose of establishing such a term is the need to provide a period of time sufficient to realize the importance of the consequences that the adoption produces to their future relations with the child" (Drăghici, 2013: 291). The national legislation is also consistent with the principles enacted also by the European Convention of Strasbourg where it is recommended that the terms during which the natural family can take radical decisions regarding their child (breaking the family ties following the consent given for adoption) should not be shorter than 6 weeks.

The last hypothesis described in the new article which seeks to shorten the formalism of the procedure (thus sanctioning the hiding of the natural parents' identity that abandoned the child) when the domestic adoption procedure for the minor whose parents are unknown is declared open it envisages that the data referring to the child had been collected and his/her full name had been settled administratively in this situation.

Noteworthy is the way in which the minor's consent is assessed to complete the adoption procedure. Certain texts of the law use the terms "the minor's opinion" and other

provisions use the term "the minor's consent". In the first case the court may interpret the views of the child in what it is best for him/her, while in the second case the views of the minor shall be decisive. In certain circumstances we can even talk about the exclusion of adoption as measure according to the child's point of view – reaching the age of fourteen (article 26, paragraph 2 of the law). This view is based on the European legal practice: case Pini, Bertani, Manera and Atripaldi against Romania. It concludes that once reached a certain age the child can consciously express his/her opinion on the future of the family environment, their decision being free and uncensored.

This decision belongs to the minor and this time it coincides with the superior interests of the child. Children who have been adopted will be informed that they have been subjected to such procedures and may also be supported to identify their course in life from the moment that they have been institutionalized and up to date. Disclosing the identity of the natural parents will be done only when the adopted child has full capacity to exercise.

Regarding the other pole, the natural parent – adoptee, the law is restrictive in that it allows only some general data to be collected and only if the adoptee or the adoptive family agree to provide such information (article 68, paragraph 2 of the republished law no. 273/2004). If the old form of the law specified that informing the child about his being adopted by the adoptive family will be done gradually, depending on the level of his understanding, now the information should be provided "since early ages with the support of the specialists from the department of adoptions and post adoptions" (article 68 of the republished law no. 273/2004). An interesting discussion occurs on the effects generated by the adoption. The article 519 of the new Civil Code are also applicable in the case of kinship resulting from adoption."The adoptee, as a natural child of the adopter, is entitled to maintenance first from the adopter, then from his /her relatives" (Drăghici, Duminică, 2014: 66).

Applying the legal theory of symmetry, once with the cancellation of an adoption will return to the previous situation (the adopters and the adoptee will not be relatives) and thus stopping its effects (the parental obligations). In parallel the blood kinship of the child who had been adopted and his birth family will be restored, with all the rights and the correlative obligations reactivation of these subjects. Only exceptional cases will apply to a special protection measure (eg. when parents are serving a prison sentence or are deprived of parental rights) as at this moment the principle of preserving or reintegrating the minor in the family appears primordial. A judicial final decision to approve the adoption of a minor is only legally the last act established in the procedure. The protective nature of the rules regarding minors in situations of risk is transferred in the adoption law. That rule according to which quarterly reports from the service where the child resides, outlining the family life of the adoptee must be completed for 2 years after the adoption procedure; this was transhipped from art. 44 in the oldest form (which was repealed) to article 81 of the newly introduced Chapter VIII, entitled "monitoring and post-adoption activities".

The report drawn by the delegated social workers of the Social Work and Child Protection Service at the end of the two years of monitoring is in fact the last act made in this procedure but its nature is an administrative one. This will be communicated to the central body in question. The content of the post adoption activities will be also done in private, not only by the public system subordinated to the County Councils. In this way free practice cabinets in social work or NGO's that will have partnerships with the Romanian Office for Adoptions will be opened. The competition that will appear between

these forms of exercising the job of the social worker and the employed staff in specialized departments does nothing else but to raise the standard of the services provided to the beneficiaries (in this context to the adopted children and the adopters).

Usually the social workers' ground actions do not always involve mandatory participation of the other "actors" of the instituted procedure and when involving such an act they do not require penalties for noncompliance. In the monitoring phase we are talking about if any risk to the finalization of the adoption is foreseen, the adopters will be required to be present in order to achieve the completeness of the provided above services. Failure to comply this invitation will implicitly lead to a punitive reaction of the person in charge of the case, consisting in extending the supervision over the term of two years established as a rule.

The main measures of adaptation found in the literature of child adoption are integrating family and maintaining its unity (Barth and Berry, 1988: 167) or there can be the interruption and dissolution of adoption (Triseliotis, 2002:193), positive results in terms of child development (Rosenthal, 1993: 21), marital satisfaction and wellbeing of the mother after adoption (Glidden, 2000: 187) and not the least in relation to the adoption of overall satisfaction (Smith-McKeever, 2006: 825-840).

The method used in the development of this practice part of the paper is represented by the synthetic review of the statistic data. The report from the National Authority for Child Protection in 2014 shows that a number of 4060 children were declared as adoptable. The possible beneficiaries of the adoption measure can be classified under five categories: adoptable that does not have an adoptable sister/brother (3054 people), 417 groups of two adoptable brothers (834 people), 38 groups of three adoptable brothers (114 people), 12 groups of four adoptable bothers (48 people), 2 groups of five adoptable brothers (10 people). The other subject of the judicial report that comes from the judicial operation of adoption – the adoptive family – provides a number of 1766 potentially beneficiaries as a result of obtaining the certificates asked by the legal dispositions. Correlating the two indices, there is an "application" of 3523 adoptions that could be initiated to cover the 5 classes of children adopted earlier and an "offer" of 1766 in which adoptions could attract families that had documented in this way. If a substantial proportion of the adoption procedure would have required a total of over 1750 completed adoption procedures, in reality adoption records in the National Register numerically reflect a volume much below expectations: 834 final decisions out of which 821 affirm domestic adoptions and 13 which find the jurisdictional circuit as closed for international adoption. Even if the reporting system does not encompass all the actions promoted with such an object as the balance for 2014 is to be updated only on the 30th of June, 2015, the data subjected to further interpretation are far from the results that should satisfy the efforts in this area.

An important category of the adoptable minors, according to the personalized protection plan are those who have a disability and were thus employed under special provisions regarding: a total of 811 cases or approximately 20% of all children who find themselves in situations described by the special law. Using the age criteria for the minors who may be involved in a domestic or international adoption procedure one can observe that a substantial percentage of over 52% of those who meet the legal requirements in this respect are included in the 7-13 years age segment followed by the category of 3-6 years at a rate of about 26%, the range 0-2 years which holds a percentage of 13.5% and at the end of the hierarchy the age group of 14-17 years with a rate of 7.5%. The principle changes in the law during 2011-2012 resulted in a significant decrease in the number of

cases in which the adoption procedure was completely carried out. If in 2010 a number of 1051 internal adoptions were materialized, the immediate involution of this type of adoption is invisible in 2011 because the decrease registered is only 1% (for 1041 of cases), followed by an alarming downward trend: 15% in 2012 (892 cases), 29% in 2013 (751 cases) and finally 22% in 2014 (821 cases).

The year 2000 is the top of internal adoptions with a number of 1710 cases if one analyzes the segment of the last 16 years of reporting, while 2005 is assimilated from the perspective of the enforcement period of the law no. 273/2004- as reporting in the top position of the upper hierarchy, with a total of 1136 cases. The arithmetic mean of the last 16 years in respect of domestic adoptions is about 1112 cases per year and if the calculation is done for the period between 2004- 2014 (after the enforcement of the law no. 273/2004) the arithmetic mean is about 982 cases a year. The statistics of 2010 appears slightly below the general line (about 5.5%: 1051 cases vs. 1112) determined by the arithmetic mean resulted in the first version (the study of the last reported 16 years) as compared with the arithmetic mean from the second version (strictly the reports occurred under the law no. 273/2004) appears slightly above the general line which was last calculated (about 6.5%: 1051 cases vs. 982). As related to the international adoption we should mention that the previously applicable law enactment to law no. 273/2004, O.U.G. no. 25/1997 raised much criticism at the time of the circumvent of the purpose of child protection. In some particular cases there were intermediaries who financially profited from foreign adopters mediating such a process (despite the limited circumstances in which minors were concerned), sometimes foreign adopters did not have a noble interest to provide a real home for the children at risk, but subsequently subjecting minors to seriously degrading work or using them in prostitution or in trafficking human organs. A number of cases which sought annulment of this type of adoptions did make stir at the time. The appearance of this scandal with international effects suspended all proceedings of this kind until the implementation of the law no. 273/2004 between 2001 and 2005. Moreover, the adoption of a Romanian child would be made under extremely restrictive conditions in the sense that "the adopter or one of the couple in the adoptive family living abroad is the child's grandfather who availed the opening of the internal adoption procedure" (article 39 in the initial form of law no. 273/2004). The adaptation to the new European requirements of the rules in this regard has expanded the area of the people who can acquire the status of adoption: a) the adopter or one spouse in the adoptive family is related to the fourth degree including to the child for whom the opening of the domestic adoption procedure was availed; b) the adopter or one of the spouses in the adoptive family is a Romanian citizen too; c) the adopter is the spouse of the natural parent of the child whose adoption is sought (article 52 of the updated special law). The changes from 2011 have allowed thawing this procedure with international elements, the statistical data for the years 2013 and 2014 when there have been a number of 7 and 13 cases of adoptions respectively standing testimony which constitute a real progress if we parallel it to the non-existence of such cases in 2006 -2012.

Today the world finds a decline in international adoptions (Selman, 2009). The literature has emerged both in terms of adopters' profile: most people who adopt (six from eight families) have no biological children, have tried unsuccessfully to have their children, are of an average age of 38-40 years, have high education levels and in terms of the adoptees' profile: children between 0-3 years without health problems, are the same ethnic group and have not been institutionalized (Buzducea, Lazarus, 2011: 330).The share of adoption casuistry in the total number of children in the social protection system

is of particular importance as this will indicate whether practically the adoption was reconsidered and its existing status – that of the "last resort" was removed.

In 2014 this system involved 58 703 children of which 17.653 were institutionalized in units of public welfare and 4075 respectively in private centres of the same kind. So adoptions are equivalent to only 1.4% of the general situations in which the minors are integrated into a specific social assistance system, ie 3.8% of those cases in which children have been the subject of institutionalization in a residential centre, no matter what form of organization it had (public or private).

It can be concluded that last minute regulations referring to adoption negatively influenced the expansion of this measure, although the intention was a contrary one: to eliminate the multitude of bureaucratic inconveniences and to promote the idea that adoption must be preferable to the child's institutionalization in state-run child's protection centres.

References:

Annual Report of the National Authority for Child Protection and Adoption, 2014. Retrieved from: http://www.copii.ro.

Avram, M. (2001). *Filiația. Adopția națională și internațională*, Bucharest: All Beck Publishing.

Bacaci, A., Dumitrache, V., Hăgeanu, C. (2012). *Dreptul familiei*, Bucharest: C. H. Beck Publishing.

Barth, R. P., Berry, M. (1988). *Adoption and disruption: rates, risks and responses*, University Of Carolina: Aldine Transaction Publishing.

Bodoaşcă, T. (2009). Reglementările legale privind consimțământul la adopție, *Revista Dreptul*, (2), 46-53.

Buzducea, D., Lazăr, F. (2011). Profilul părinților adoptivi din România și motivația adopției copiilor greu adoptabili, *Revista Calitatea vieții*, (3), 313-334.

Buzducea, D., Lazăr, F., Bejenaru, A., Grigoraș,V., Panait, B. A., Popa, R. (2013). *Strategii de comunicare despre adopție între părinții adoptivi și copilul adoptat, Raport*, Bucharest: Romprint Paper Publishing.

Constantinescu, M. (2008). *Dezvoltare umană și asistență socială,* Pitești: Universitatea din Pitești Publishing.

Dobre, R. R. (2011). *Drept în asistență socială*, Pitești: Universitatea din Pitești Publishing.

Dobre, R. R. (2015). Investigating the New Legal Concepts on the Real Protection for the Child at Risk: Shifts in Family Relations and Caregiving, *Revista de Științe Politice. Revue des Sciences Politiques*, (46), 287-296.

Drăghici, A. (2013). *Protecția juridică a drepturilor copilului*, Bucharest: Universul Juridic Publishing.

Drăghici, A., Duminică, R. (2014). *Obligația legală de întreținere*, Bucharest: Universul Juridic Publishing.

Emese, F. (2010). *Dreptul familiei*, 3rd edition, Bucharest: C.H. Beck Publishing.

Fuerea, A. (2006). *Manualul Uniunii Europene*, 3rd edition, Bucharest: Universul Juridic Publishing.

Gavrilescu, A. G. (2009). Modificările principale aduse legii 273/2004 prin O.U.G. 102/2008, *Revista Dreptul*, (4), 23-53.

Glidden, L. M. (2000). *Adopting children with developmental disabilities: A long term perspective. Family relations*, vol. 49, (4), 397-405.

Irinescu, L. (2009). Reflecții privind instituția adopției, *Analele Științifice ale Universității A.I. Cuza Iași, Științe Juridice,* tom LV, (1), 47-65.
Jurisprudența CEDO în cauzele împotriva României (2012), Bucharest: Hamangiu Publishing.
Legea 273/2004 privind regimul juridic al adopției (2012), Official Gazette, part I, (259).
Lupașcu, D. (2004). Aspecte teoretice și de practică judiciară privind adopția. *Revista Dreptul*, (12): 9-45.
McCubbin, H. I., Patterson, J. M. (1983). The family stress process: The double ABCX model of adjustement and adaptation, *Marriage & Familly Review, vol. 6,* (1-2),7-37.
Rosenthal, J. A. (1993). Outcoomes of adoption of children with special needs.*The future of children:adoption*, 3rd volume, (1), 77-88.
Selman, P. (2009). The rise and fall of intercountry adoption in the 21st century. *International Social Work*, 52nd volume, (5), 575-594.
Smith-McKeever, C. (2006). Adoption satisfaction among African-American families adopting African-American children. *Children and youth services review*, 28th volume, (7), 825-840.
Triseliotis, J. (2002). Long term foster care or adoption? The evidence examined. *Child and Family Social Work*, 7th vol., (1), 23-33.

Article Info

Received: April 23 2015
Accepted: November 27 2015

RSP • No. 48 • 2015: 141-150

ORIGINAL PAPER

The Theory and Legal Assessements of the Shipping Contract: Enabling the Optimal Solution in High Complexity Shipments

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Abstract
Shipping activity is so widespread and complex that it factually includes transport of goods. It is an absolutely necessary activity which targets movement of goods, through specific operations, in the most inexpensive conditions for the client. Shipping Contract is, in turn, a comprehensive legal structure that involves specific closing conditions, effects and responsibility. Although qualified as a type of commission contract, Shipping Contract is not reducible to it, having its own legal characteristics. Also, Shipping Contract must not be confused with Transport Agreement. The obligation undertaken by the commissioner is to perform legal acts; consequently, it is an obligation *to do*, the consigner being a service provider.

Keywords*: Shipping Contract, consigner, principal, commissioner*

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General aspects of the Shipping Contract

If we analyze transportation of goods, we see that we are dealing, on the one hand, with a broad legal structure and, on the other hand, with a complex practical operation. Transport activity involves not only moving goods from one place to another, from one city to another, but also requires a number of related activities, such as: cargo loading operations, unloading them, cargo insurance, import or export formalities, phytosanitary and port, cargo handling, storing them, etc. No doubt that the main role, the center of these operations is the Forward freight agreement, but precisely in order to streamline it, by streamlining the movement of goods, a new structure of legal was born, with auxiliary role, the Shipping Contract of goods, that targets to intercede the link between client and carrier and to ensure the "legal cloak" for all those transport related operations. The necessity of this operation is that it is the one that facilitates the movement of goods between producers and consumers and that it responds to acute problems of transport with a high degree of complexity, such as international traffic and multimodal transports (Piperea, 2013: 63-65).

Different transport means between two geographic areas, the emergence of a growing number of international regulations in matters of development of imports and exports across different states, the need to provide operations and complex related services to achieve transport of goods in good conditions, have increased the complexity of products' manufacturing on the market. The volume of specific knowledge exceeded, in general, the general trade knowledge and led to the division of labor in the trade sector, defending and developing a new branch with a particular professional singularity: international expedition.

Specifics and varying degrees of complexity for each branch of transport generated the development of specialized shipping companies that deal with the organization of shipments (Budică, Bocean, Popescu, 2005: 334). Therefore, the scope of issues and activities ensured by the shipment contract conclusion is wide: it provides information on means of transport to be used for each type of cargo, on the duration of transportation or the best route to follow; it ensures the monitoring of goods circuit during transport, it deals with the fulfillment of various formalities, cargo handling, loading and unloading operations (Stănescu, 2004: 134-138). At the same time, using the consigner may lead to lower prices, especially when talking of transporting small amounts of goods, having the advantage that he has many customers with the same type of cargo and can use a means of transportation for more customers, which will lead to sharing the costs of transport between them (Stanciu, 2008: 183-185). In practice, in international expedition, sometimes, the first consigner addresses in turn another with relationships in the destination country, and the later a third who knows the local ramifications of transport terminals.

Aspects of the terminology, definition and legal characteristics of the Shipping Contract

Regarding the name used for this type of contract, before it could receive legal regulations in the Civil Code, we note that most authors opted for the collocation *forward freight agreement*. Another version that has been used for this contract, taken from the French doctrine, is that of *commission contract for transport*. In the current regulation, the one from the Romanian Civil Code, the parties of this contract are *the principal and*

the consignor. The principal is the person on whose behalf the Transport Agreement shall be concluded and shall be performed its ancillary operations and the consignor is the person who undertakes to conclude on his own behalf and on behalf of the principal, the transport agreement. The doctrine notes that even regarding this contract the Civil Code makes modifications at terminology level as regards the Contracting Parties. Thus, *the customer* becomes, under the current regulations, *principal*; and *the expeditionary* becomes *consignor* (Baias, Chelaru, Constantinovici, Macovei, 2012: 2065). The Shipping contract is, according to art. 2064 Romanian Civil Code, the contract concluded between a party – principal and another party – consignor, by which the consignor undertakes to conclude, on his behalf and on behalf of the principal, a transport agreement and to fulfill the ancillary operations of the transport, for remuneration called commission.

The shipping contract of goods is a *nominated* contract. If prior to the adoption of Romanian Civil Code, there is no express legal regulation for the shipping contract, the legal framework is made up of two sets of rules: the legal provisions relating to commission and standardized norms by treaty, which in time have become commercial usage, currently the shipping contract has a specific regulation in the Romanian Civil Code, through art. 2064-2071. Shipping contract may be characterized as: a *synallagmatic*, *consensual*, *onerous*, *commutative* contract and a *service provision*. It is also an *autonomous* contract because, on the one hand, within the limits imposed by express instructions of the principal, the consignor has full freedom regarding the means, route and procedure to be followed in the handling and transport of goods, and on the other hand, he is autonomous in relation with the transport agreement or agreements he concludes, because the consigner shall contract the transport *on his behalf* (Dogaru, Drăghici, 2014: 64). Basically, it is a contract concluded *intuitu personae*, because the consignor enjoys, usually, the confidence of his client (Stanciu, 2008: 186-187).

Elements on the legal nature and specificity of the shipping contract

Compared to general features common to those of the commission contract, in transport sector the commission is underlined by the fact that the parties know each other: the carrier knows the name of the principal whose goods it takes for transport, but also the name of the recipient to whom he is to deliver the goods, in such operations there is no interest to keep secret the identity of those concerned, as it happens, for example, with bank commission. Also characteristic for the transport commission is that here arises an imperfect representation: the commissioner remains contractually bound all the time, unlike the mandatory who withdraws as soon as he fulfilled the operation for which he was mandated (Deak, 2002: 260). Also as a specific element of the shipping contract is worth mentioning that, one party, the consignor, carries out his activity on a professional basis, undertaking the obligation to conclude on his behalf and on behalf of the other party, a transport agreement and to perform accessories operations. Therefore, the consignor is a professional and must meet the legal requirements in this regard, i.e. the provisions of art. 3 paragraph 2 and 3 Civil Code. In correlation with the consignor's obligation, the principal has the obligation to pay the consignor a sum of money for his services. If we refer to the mandate, from the idea that it represents the genus in relation to the species – commission, or consignment – we note that remuneration is an essential feature of a goods' transport organizing operation, the mandate being both a gratuitous mandate contract and a gratuitous one. Shipment of goods is a brokerage operation, similar to commission (Căpăţînă, Stancu, 2000: 251).

Article 2043 Civil Code provides: „commission contract is the mandate that covers the sale or purchase of goods or services on the principal's account and on behalf of the commissioner, acting professionally for a remuneration called commission", and art. 2064 Civil Code: "shipping contract is a type of commission contract". From the provisions of the two articles result that, in fact, the commissioner is an intermediary between the principal and third persons, acting in his own name in the contract he concluded with third parties. So, unlike a mandatory who concludes a legal act for and on behalf of the principal, the commissioner is bound directly to the person who contracted with, being a mandatory without representation (Piperea, 2013: 67-68). In the current regulation there is a situation, considered exception to the rule, where, if he expressly assumes, the consignor is required to perform himself the transport of goods subject to the shipping contract. So if in the previous regulation the carrier could be intermediary/expeditionary, in the current regulation of the consignor/expeditionary can assume the quality of carrier, as an exception, becoming consignor-carrier. However, the transport contract shall not be confused with the shipping contract and shall not affect the autonomy they have in relation to one another. Similarly, although a type of commission contract, the shipping contract is not reducible to it, having its own legal characteristics. The obligation assumed by the commissioner is an obligation to perform legal acts; consequently, it is an obligation *to do*, and not an obligation *to give*, the consignor being a service provider.

Legal Regulations

Currently shipping contract has an express regulation in the Romanian Civil Code, through art. 2064-2071. Given that this contract is defined by law as being "a type of commission contract", the regulation shall be completed by art. 2043-2053 Civil Code, i.e. legal texts regulating commission contract and by art. 2039-2042, articles dealing with the mandate without representation and which in turn are common law for the commission contract. Also as common law shall be applied, where appropriate, the rules on the trust mandate which complement legal regulations of non regulatory mandate, i.e. art. 2009-2038 Civil Code (Dogaru, Olteanu, Săuleanu, 2009: 746-750).

Conclusion of the Shipping Contract

The contracting parties of the shipping contract are the principal and the consignor. Although in terms of terminology, our Code's options for formulas such as *principal and consignor* as parties of the shipping contract is one with a clear justification: the name principal in the shipping contract is taken from the commission contract, the shipment being, as legal nature, a type of this kind of contract and the option for the term consignor is explained by the fact that this contracting party is going to conclude a transport agreement, on his behalf, agreement where he shall take the legal position of consignor, and we think it could create confusion when it comes to the liability of the consignor: liability that may arise, on the one hand, from the shipping contract, or on the other hand, from the transport agreement, separate contracts. The term Expeditionary, imposed by practice, was a specific one without the possibility of creating confusion in terminology and with no potential to induce the idea that between the transport agreement of goods and the shipping contract might exist overlaps or accessoriality, the two being independent contracts with distinct legal regimes (Scurtu, 2001: 25-40). However, references in various texts of law, other than those governing transport or expedition, to the concept of consignor, may arise the question: what consignor?, the one from the

contract agreement or the one from the shipping contract? Background conditions for concluding a shipping contract are general valid terms of any agreement: the capacity to contract, valid consent of the party who undertakes, a specific objects and a lawful cause. Being a consensual contract, the written form of the shipping contract is not required as an *ad validitatem* condition.

Specificity notes relating to background conditions are only related to the consent issue, i.e. usually the shipping contract is concluded in the form of standard contracts, which include general business conditions imposed by the consignor. So in this case, we talk about an adhesion contract, the agreement being achieved simply with the customer accepting the conditions (Piperea, 2013: 68). Order made by the client/principal is sufficient to perform the contract.

Shipping Contract Effects

Shipping contract is a mutually binding contract and it shall give rise to reciprocal and interdependent obligations borne by the principal and by the consignor. Shipping contract effects are represented by all these obligations and rights of the parties. With the conclusion of the shipping contract, the principal (customer) undertakes a series of obligations to the commissioner. We mention those expressly arising from regulations in the Civil Code on this matter: *Principal's obligation to pay the price for the expeditionary services*. This price is called commission and is settled through negotiations between the Contracting Parties or, in some instances, it is previously set by the consignor, shipping contract sometimes having the character of an adhesion contract; *Principal's obligations to pay for the ancillary services and expenses incurred to achieve these benefits* (Moțiu, 2011: 263-266). According to art. 2069 Civil Code paragraph 1, the consignor is entitled to the commission provided for in the contract and, in absence, as established by professional charges or usages, and if none, they shall be established by the court depending on the difficulty of the operation and the consignor's endeavors. Interpreting *per a contrario,* if the consignor is entitled to commission, the principal has the obligation to pay commission. Paragraph 2 of the same article states explicitly: the value of ancillary services and expenses are reimbursed by the principal based on invoices or other documents proving their performance. There is a legally stipulated possibility for the parties to predefine a lump sum for the commission, ancillary services and expenses that are carried out.

The contracting parties may give the desired content to the legal act, within the limits imposed by law, and thus there may be other obligations for the principal. However, for the consignor to perform the work undertaken, there are other obligations of the principal, which, although not covered by the Code may be considered implicit for the realization of the transport activity. These are: principal's obligation to place the consignor in possession of the goods and the obligation to hand to the consignor all necessary transport documents, to give full instructions, if so determined by the contract and to ensure accuracy and adequacy of the data submitted to the consignor in order to carry out the transport (Stanciu, 2006: 147-154). The shipping contract comprises a number of rights for the principal. Two of them benefit of legal regulation: the principal's right to unilaterally terminate the shipping contract - revocation (art. 2065 Civil Code) and the principal's right to oblige the consignor to be available to execute the counterorder in the transport agreement/agreements signed by the consignor (art. 2066 Civil Code). According to art. 1270 Civil Code, the concluded valid contract has the force of law between the contracting parties. From the recognized value of the contract as "law of

parties" two important rules arise: contracts' irrevocability and the principle of relativity of contract's effects. The rule on contracts irrevocability expresses the idea that a contract can be revoked only by mutual consents. This is the rule underlined by the provisions of art. 1270 paragraph 2 Civil Code: *the contract is amended or terminated only by agreement of the parties or in cases authorized by law*. So, the rule is that a contract may not be revoked except by agreement of the parties, and the exception is that a contract may be terminated by the will of a single party, but only for cases authorized by law (Stănciulescu, 2012: 496-498). The unilateral termination is possible under art. 1321 Civil Code which establishes the grounds for termination of contract and unilateral termination. Thus, under common law, unilateral termination is possible and revocation from the shipping contract is a unilateral termination by the principal which has as effect the termination of the contract concluded with the consigner. Art. 2065 Civil Code provides that *by the conclusion of the shipping contract, the principal may revoke the shipping order, paying the consignor the expenses and a compensation for the endeavors conducted until the revocation of the shipping order*.

From the legal regulation results the following: the principal is the holder of the right to unilaterally terminate the shipping contract; the deadline within which the right to unilaterally terminate the shipping contract can be exercised is by the conclusion of the shipping contract; the principal revoking a shipping contract supports the effects of such an exercise: pays the consignor the expenses and a compensation for the endeavors conducted by the communication of the termination (Atanasiu, 2011: 756-758). The legal act through which the consignor (as party of the shipping contract) amends, unilaterally, the shipping contract is called *counterorder*. Regarding the content of the right to counterorder, there are two articles of the law that establish it: art. 1970 Civil Code, which refers in general terms to what the consignor may amend and art. 1973 Civil Code, detailing those powers by concrete references to issues that can be amended. Thus, according to Art. 1970 paragraph1 Civil Code, the consignor may suspend the shipment and require: restitution of goods or handing them to a person other than the one mentioned in the transport document or may dispose of the goods as he see fit. According to art. 1973 paragraph 1 Civil Code, the consignor's right to further disposal gives him the following possibilities: to withdraw the goods that were to be transported before departure, to stop the goods during transport, postpone handing the goods to the consignee, to order the return of the goods to their departure place, to change the consignee, to change their destination or have another modification of the transport performance conditions. However, the sender cannot give a further disposal having as effect the division of transport, unless special law provides otherwise. Art. 1970 Civil Code states that the consignor that gives a counterorder shall pay the carrier *expenses and damages* occurred as immediate consequence of this counterorder, and art. 1973 paragraph 2 Civil Code details: consignor who gave a further disposal is required to pay the carrier, according to the modification made: the price of transport part performed, fees due by executing the further disposal, costs caused by implementing the further disposal and compensation for any damage suffered as a result of the counterorder performance. Art. 2066 Civil Code states that "starting with shipping contract conclusion, the consignor is obliged to exercise, at the principal's request, the right to counterorder applicable to the shipping contract". From the legal regulation results the following: the holder of the right to counterorder remains the consignor, as party in the shipping contract; the principal is entitled only to oblige the consignor to be at his disposal regarding the execution of the counterorder, right which shall not be confused with the right to counterorder - the prerogative of the transport

contract and not of the shipping contract; such entitlement coincide not with the time of conclusion of the shipping contract, but with the time of conclusion of the transport contract, to this moment the principal having another right - his right to unilaterally terminate the shipping contract - revocation made under art. 2065 Romanian Civil Code. As stated, in the current legislation there is a situation considered exception to the rule, where if expressly assumes, the consignor is obliged to perform himself the transport of goods stipulated in the shipping contract. Therefore, the consignor may assume the quality of carrier, as an exception, becoming shipper-carrier. In this case, the consignor in the shipping contract being also carrier shall have all rights and obligations of the carrier, including the one to execute the counterorder. Exercising the right to counterorder shall be made under art. 2048 Civil Code concerning the obligation to respect the principal's instructions. Thus, according to legal regulations the commissioner – consignor in shipping contracts – *is obliged to observe the express instructions received from the principal*. Carrier's obligation in the transport contract is an obligation *of result* i.e. to hand the goods to the consignee. This obligation is similar to that of the consignor's, in the shipping contract, he also undertakes and obligation *of result,* and not one *of diligence*: the obligation that the goods shall arrive at destination in the best conditions. Although at first glance the consignor's obligation seems more one *of diligence,* than one *of result,* the reason for which the principal (customer) hires a consignor is not only to relieve himself from a number of formalities, but especially to be certain that the cargo shall arrive at destination in good conditions (Căpăţînă, Stancu, 2000: 268). For a presentation outlining consignor's obligations specificity in the shipping contract, Civil Code regulates in art. 2064, 2066, 2067, 2069, his main obligations: the obligation to conclude a transport contract and to perform ancillary operations; the obligation to exercise counterorder; consignor's obligation to comply with the instructions of the principal in choosing the route, means and modalities of transport, and if there are no such instructions, to act in the interests of the principal; the obligation to ensure goods; the obligation to make sure the goods reach their destination; the obligation to give the principal the prizes, bonuses and reductions of tariffs, obtained by the consignor (Baias, 2012: 2067). The main duty of the consignor is to organize the transport without carrying out himself the movement of the goods. This obligation, to conclude a transport contract is considered the characteristic obligation of the shipping contract and it should not be confused with the actual transport. Doctrine (Baias, 2012: 2065) notes that the obligation to perform ancillary operations, although it is mentioned in the legal regulation of shipping contract, it does not benefit from a legislation to define and to establish its content. Consignor's performance of activities related to the organization of transport we can thus assume that implies activities such as: storing goods, customs declarations, inspection of goods, enforcement of dispositions on the collection of amounts due to the principal, etc.

Consignor may have a number of other obligations to his client: the consignor must have the structures, equipment and resources necessary to carry out the obligation that he undertook, he must provide to his client the necessary consultancy for organizing the requested transport of goods, he may also be obliged to facilitate his client to cash out the value of the goods to be delivered to the consignee, the consignor may also be required to perform the export and import operations based on a special regime document - "provision of transport and customs clearance" (Piperea, 2013: 69-73), taking the necessary measures to preserve judicial or arbitral actions, valuing the customer's entitlements against third parties and registration required. Civil Code regulates, besides obligations and rights considered to be characteristic of the shipping contract. Thus, in art.

2069 par. 1 and 2 are stipulated two right of the consignor as resulting from this contract: *consignor's right to commission and to recover the amounts he advanced in order to achieve ancillary services.*

The consignor has, under the legal regulation, the right to the commission the Parties have established through contract. If the parties have not set a price in the contract, this shall not affect the validity of the contract, the commission is an essential element, but not regarding the validity of the shipping contract. The value of the ancillary services and expenses is reimbursed by the principal based on the invoices or other documents proving their performance. There is also the possibility that the parties to predefine a lump sum for the commission, ancillary services and expenses to be carried out.

Consignor's Liability

Consignor's liability is different from the carrier's liability, the consignor being liable to the principal for his own deed, but also for the carrier because it is he who organizes the transport. Furthermore, the consignor is also responsible for the fact of the person who substituted him. Also, he shall be personally liable towards third parties with whom he contracted in order to organize the transport. Regarding shipping contract, about liability, the provisions of art. 2068 Civil Code are applicable, which governs a segment of consignor's accountability, responsibility for transport delay, destruction, loss, theft or corruption of goods. According to legal regulations, the consignor is responsible for transport delay, destruction, loss, theft or corruption of goods in case of negligence in the performance of the shipment, in particular with regard to the handling and storage of goods, choosing the carrier or using of intermediary consignors. However, when, without reasonable grounds, he deviates from the transport means indicated by the principal, the consignor is responsible for the transport delay, destruction, loss, theft or corruption of goods caused by unforeseeable circumstances, unless he proves that this would have happened even if he did as instructed. In a general context, the liability of the consignor is a broader one, structured on two levels: the consignor's liability for his own deed and the consignor's vicarious liability.

Consignor's Liability for His Own Deed

Consignor's liability for his own deed results from common law rules. Thus, consignor's liability is engaged if: (a) he committed an unlawful act, (b) the act was committed with guilt, (c) damage was caused; (d) there is a causal link between the damage caused and the consignor's deed. The consignor is liable not only for failure or improper fulfillment of obligations resulting from the shipping contract, but also for failing to fulfill tasks not specifically provided in the shipping contract, but arising from the organization of the transport. Consignor's guilt may result from situations such as: he did not provide complete information to the principal (customer); he agreed in the contract concluded with the carrier a price too expensive compared to the financial strength of its customer or he chose an insolvent and uninsured carrier; he disobeyed the instructions of its client (Stănescu, 2015: 74-76).

Consignor's vicarious liability

Such type of liability may arise in situations like: (a) the consignor is responsible to the customer if the carrier's obligations hired by him were not executed or defective; (b) the consignor has substituted a third party in performing his obligations and shall be

liable to the customer (principal) for damages suffered by him (client) due to the improper activity of the third party that replaced him.

Consignor's liability for the carrier's deeds

The legal regulation of the Civil Code regarding consignor's liability is especially related to his liability for the carrier's deeds, than to his liability for his own acts, considered a major contractual liability without specific notes. Thus, according to legal regulation, the consignor is held liable for the carrier in the following situations: when the consignor undertakes to hand the goods at destination; when the consignor proves negligence in the performance of the expedition, especially regarding the handling and storage of the goods, the choice of carrier or intermediary consignors; when the consignor does not observe the principal's indications regarding the transport. The fact that the consignor undertakes responsibility for the actions of the carrier also results from the enumeration of the facts he is liable for, facts related to the shipping contract and failure to comply with the obligations assumed by the carrier: transport delay, destruction, loss, theft or corruption of goods.

Consignor's failure to observe principal's indications on the means of transport is also a form of negligence in the performance of shipping and in this case, the consignor is liable for the fortuitous event, unless he proves that this would have happened even if he did as instructed.

Conclusions

Freight forwarding activity, is now so widespread and complex that, factually, includes transportation of goods. The consigner is an "architect of transport" in both domestic and international traffic, his activity starting before the completion of the transaction, because he must submit to the exporter data on costs related to transport, so that he can conclude the transaction which shall bring the lowest costs, and ends at destination. It is an absolutely necessary activity, which aims the movement of goods in the most inexpensive conditions for the client.

References:

Atanasiu, A.G., Dimitriu, A.P., Dobre, A.F., (2011). *Noul Cod civil, Note. Corelaţii. Explicaţii*, Bucharest: C. H. Beck Publisher.

Baias, Fl.A., Chelaru, E., Constantinovici, R., Macovei, I. (2012). *Noul cod civil, Comentariu pe articole,* art. 1-2664, Bucharest: C.H. Beck Publisher.

Budică, I., Bocean, Popescu, A. (2005). *Transporturi şi asigurări de mărfuri*, Craiova: Universitaria Publisher.

Căpăţînă, O., Stancu, Gh. (2000). *Dreptul transporturilor. Partea generală*, Bucharest: Lumina Lex Publisher.

Dogaru I., Olteanu E. G., Săuleanu L. B., (2009). *Bazele dreptului civil. Volumul IV, Contracte speciale*, Bucharest: C.H. Beck Publisher.

Dogaru, I., Drăghici, P. (2014). *Drept civil. Teoria generală a obligaţiilor*, Bucharest: C. H. Beck Publisher.

Moțiu, F. (2011). *Contracte speciale în noul Cod civil*, Bucharest: Universul Juridic Publisher.

Piperea, G. (2013). *Dreptul transporturilor*, 3rd Edition, Bucharest: All Beck Publisher.

Scurtu, Șt. (2001). *Contracte de transport de mărfuri în trafic intern şi internaţional,* Craiova: Themis Publisher.

Stanciu, C. (2006), *Dreptul transporturilor, Note de curs*, Bucharest: Universitaria Publisher.

Stanciu, C. (2008). *Dreptul transporturilor*, Bucharest: C.H. Beck Publisher.
Stănciulescu, L. (2012). *Instituții de drept civil în reglementarea noului Cod civil*, Bucharest: Hamangiu Publisher.
Stănescu, A. T. (2004). Răspunderea contractuală a operatorului în contractul de prestații terminale, *Revista de Drept Comercial*, (4), 134-143.
Stănescu, A. T. (2015). *Dreptul transporturilor. Contracte specifice activității de transport*, Bucharest: Hamangiu Publisher.

Article Info

Received: September 23 2015
Accepted: November 19 2015

RSP • No. 48• 2015: 151-168

ORIGINAL PAPER

Discussion on Demography and Human Development: An Examination of Natality and Mortality in Post-Communist Romania

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Abstract
In recent decades, Romania has experienced significant changes in the demographic structure, especially reflected in changes in the age structure of the population. There is a continuous decrease in the birth rate and increase in death rate, caused by the increasing number and proportion of older and adult population, while the number and share of young population is decreasing. The changes occurred after 1989, involving political and legislative transformation, had a strong influence on both the demographic and socio-economic life. While in the early stages of the demographic transition process it was accentuated the decrease of fertility, in the second phase it was emphasized an increase in mortality. This led to the rise of number of older people and the acceleration of the aging process. Statistical data indicate a population on the decline in all age groups, affecting mostly young people. The population of working age will enroll in a downward trend, the number of women of childbearing age will decrease and the process of demographic aging will enter into a pronounced development.

Keywords: *natality, mortality, demographic phenomenon, Romania, transition*

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Introduction

In 1990, Romania has entered a new stage of social development, with the transition from a totalitarian system to a democratic one. This transition has produced important changes in the indicators for measuring the demographic structure of the population. With the evolution of the prindustriale societies to modern, it was noted the transition from a traditional society with high percentages of birth and death, to a free society, characterized by lower values of birth and death. These fundamental changes in the demographic structure of the countries was described as a process of demographic transition, one that seeks to explain the movement of population from one unbalanced regime to a balanced regime, under the influence of socio-economic, cultural, educational, legislative and psychological factors (Gheorghiță, Vădăstreanu, 2015: 287-296). The demographic transition began during the Renaissance in Western Europe and in the European countries, the demographic transition began in the latter part of the XVIII century and early XIX century, with a different pattern from one country to another. After the Second World War until 1970, it was a period of demographic growth period called "baby-boom". Then, under the impact of social transformations it started to decrease birth rate and fertility. Moreover, it is noted that the "fertility transition was accomplished in the first phase by delaying marriage and increasing the share of definitive celibacy, and the second one by limiting fertility of marriages. This development of marriage is related to the condition of women, by extending the tuition that increases the age at marriage, by increasing its role in society through economic activity, becoming economically independent"(National Institute of Statistics, 2012: 6). Limiting fertility involves switching the aspects of family lifeto to a secondary targeting, such as marriage and the decision to give birth to her first child.

Demographic composition of the EU member states

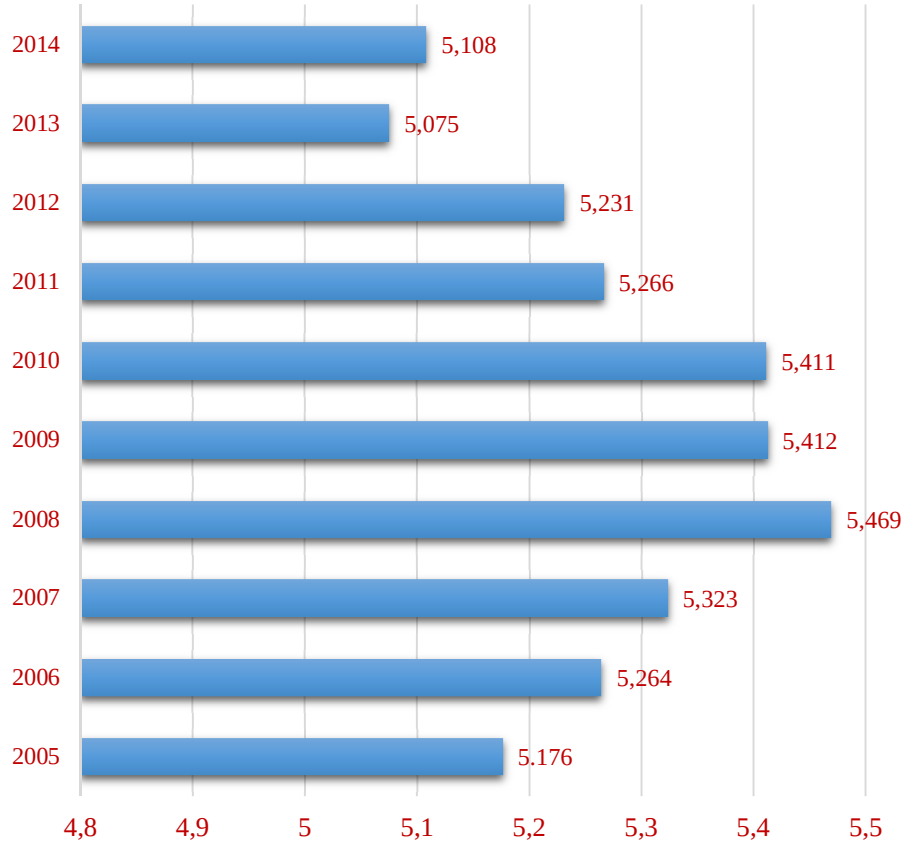
According to Eurostat, on 1st of January 2015, the EU population was 508,191.116 million people, about 1.3 million more than the beginning of 2014. Although population growth is observed in all EU states, 12 of them registered a decline (Bulgaria, Estonia, Greece, Spain, Croatia, Cyprus, Latvia, Lithuania, Hungary, Poland, Portugal and Romania).

Since 1960, the ratio of births and deaths has considerably decreased in 2014 reaching a very low level. Current trends of low fertility and aging of population in the coming years indicates a negative natural change in the EU states. Demographic aging "turns towards generational profile: it is amended the structure of generation in the existing population, the number of generations coexisting with four generations model will gradually replace the model with three generations.

Old age is extended to 75-80 years, and the age of four, knows a net progression of staff, marked by health problems and addiction" (Bălașa, 2010). In 2014, in the European Union, were born 5.108 million of children, the lowest number was in 2005, when there were 5.176 million live births.

There is an increase in the number of live births during 2005-2010 and in the following period, 2010-2013, reveals a decrease. Only in 2014 was a slight increase in the number of children.

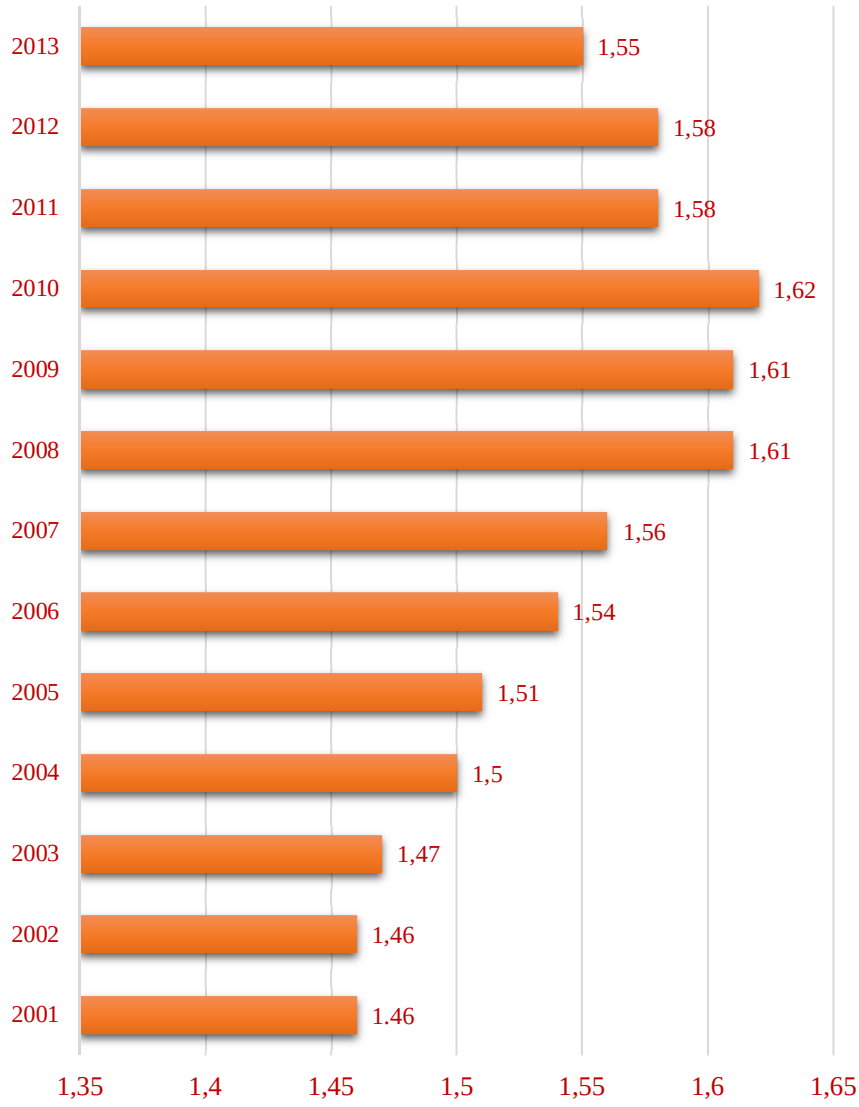
Figure 1. Evolution of the number of live births in the European Union



Source: Eurostat, http://ec.europa.eu/eurostat

Changes in size and population are measured by fertility rate, "the mean number of children that would be born alive to a woman during her lifetime if she were to pass through her childbearing years conforming to the fertility rates by age of a given year" (Eurostat, 2015a). This is down from 2007, reaching 1.55 live birth per woman in 2013. In the previous period, 2001-2007, the fertility rate rose from 1.46 to 1.56 live birth per woman. For a company to survive, the fertility rate should be 2.1 births per woman. In 2013, none of the EU countries did not reach this number. The highest fertility rates were highlighted in: France (1.99), Ireland (1.96), Sweden (1.89) and Britain (1.83). Instead, a fertility rate of 1.3 live birth per woman (live births per woman) indicates the lowest fertility, among EU countries are in this case is Portugal (1.21), Greece (1.30), Cyprus (1.30) and Slovakia (1.34).

Figure 2. Fertility rate in the European Union. ***The number of live birth per woman***

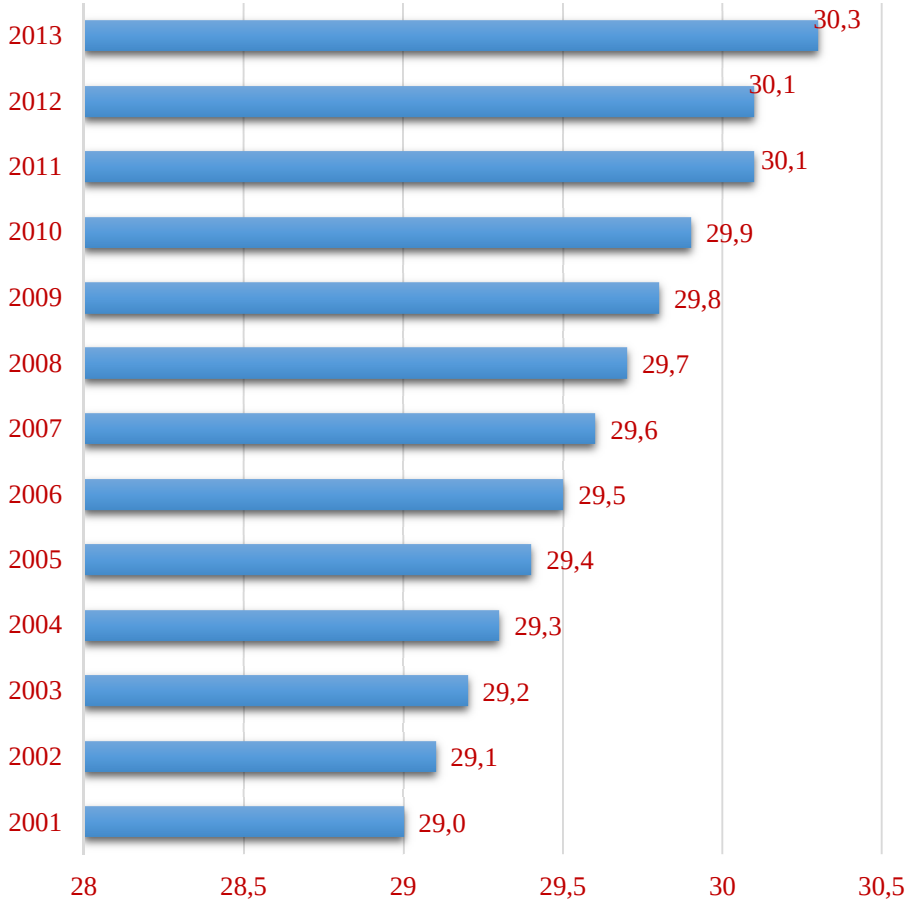


Source: Eurostat (2015)

The main cause of the decline in fertility is the changing of values. The interfernece of the State is limited, without a direct impact on the increase of fertility. Rather then the lack of support for families and the economic and employment policies seem to contribute to its continued decline. The imminent demographic and socio-economic risks resulting from high decline of birth rates, were clearly perceived also, by the European Union. Therefore, ”the new European strategy for the period 2014-2020 came on the background of the intensification of long-term challenges: aging,

globalization, pressure on the use of resources and economic and financial crisis which annihilated substantially the benefits from the Lisbon Strategy" (Goga, 2014: 197). In the 28 countries of the European Union, the average age of women at birth continued to increase between 2001 and 2013, from 29 years to 30.3 years, which is due to the tendency to delay the birth of first child.

Figure 3. The average age of women at birth in the EU



Source: Eurostat, 2015

At European level, in recent decades, life expectancy at birth increased, the countries being on top among the highest life expectancies. This is due to factors such as reducing infant mortality, increasing life and education standards, and advances in healthcare and medicine. Life expectancy at birth has increased in the last 10 years, from 79.9 years in 2010 to 80.6 years in 2013. For men, the lowest life expectancy had been recorded in Lithuania (68.5 years) and highest in Italy (80.3 years), while women ranged from 78.6 years in Bulgaria to 86.1 years in Spain. Regarding Romania, in 2003 it recorded the lowest levels of life expectancy for women (74.8 years) (Eurostat, 2015b). An

increased life expectancy also involved a lower infant mortality, which in about 10 years, from 1998 to 2013 was almost halved. Despite this progress, infant mortality rates are highloghted in Romania and Bulgaria. On the opposite side are Cyprus, Finland and Estonia.

The downward trend of reducing infant mortality in the European Union is aligned to international statistics. The degree of infant mortality at children under 5 fell from 12.7 million in 1990 to 6.3 million in 2013. Although the annual death rate was reduced in 2013, there were 17,000 thousand children who died daily (United Nations Of Children's Found [UNICEF], 2013a: 1).

Demographic structure of Romania

Currently, Romania is in a process of intermediate demographic transition, social transformations of the past 50 years have had a strong impact on demographics, particularly birth and death. The gap compared to other European countries is explained "by the effects of pro-natalist policy of the old regime forced. On the other hand, new economic and social realities have put their mark on the downward trend of the phenomenon. Degradation of living standards, unemployment, uncertainty and stress are lowering factors specific to the transition period" (National Institute of Statistics, 2012: 10). It also emphasized the influence of other factors, aimed at changes in behavior and attitudes towards marriage, divorce, cohabitation and fornication, procreation and contraception. On 20th of October 2011, Romania's stable population was of 20,121,641 people. Compared to the situation at the census of 1992, the stable population decreased by 2,688,394 thousand, ie 11.8%. The population declined in 2002 to 7.2%, meaning 1,559,333 people, with an average annual decrease of 0.8%.

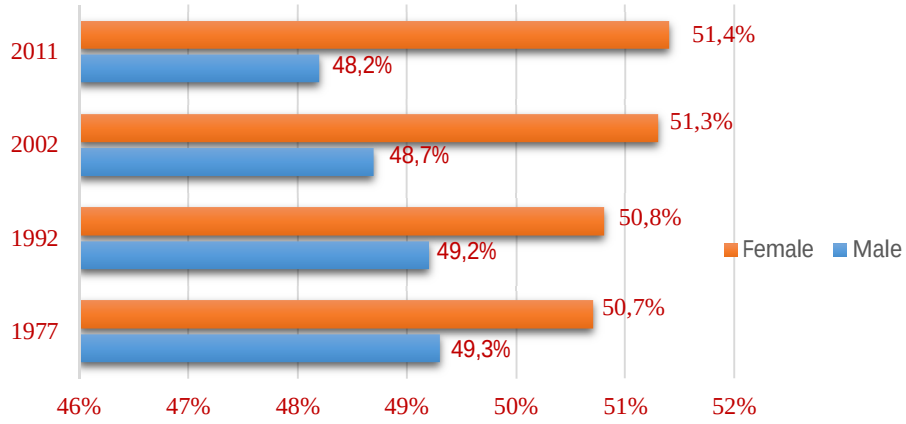
Table 1. The evolution of population of Romania in Census from 1992, 2002, 2011

7 ianuarie 1992	*18 martie 2002*	*20 octombrie 2011*
22.810.035	21.680.974	20.121.641

The reduction of the population equally affected, both women and men. Thus, nationally there are 10,333,064 women, representing 51.4% of the total of resident population.

The gender structure is relatively stable, 48.6% being men and 51.4% women. "In Vaslui County it was recorded the smallest difference between men and women, the latter being 91 people more incresed than men. At the opposite pole lies the Municipality of Bucharest, where it was recorded the lowest share of men 46.3%, the gap between the number of women and men being of 140 400 persons" (National Institute of Statistics, 2011a: 1). In the period 1977-2011, the gender structure remained constant, the gap between men and women is 2%. There is a slight downward trend in the share of the male population and an increase in the female. The causes range of this trend range from an average duration of life expectancy in men less than women, and a majority on the main cause of death.

Figure 4. Structure of population per genders (1977-2011)



Source: National Institute of Statistics

Of the total resident population, the majority consists of people aged 25-64, who hold a share of 55.7%. Other age groups are distributed as follows: "children (0 to 14 years) have a share of 15.9%, young people (15-24 years) is 12.3%, persons aged 65 and over represent 16 1% of the total, while those aged 85 and over have a share of 1.3% in the total resident population" (National Institute of Statistics, 2011b: 1).

National rate in birth and fertility

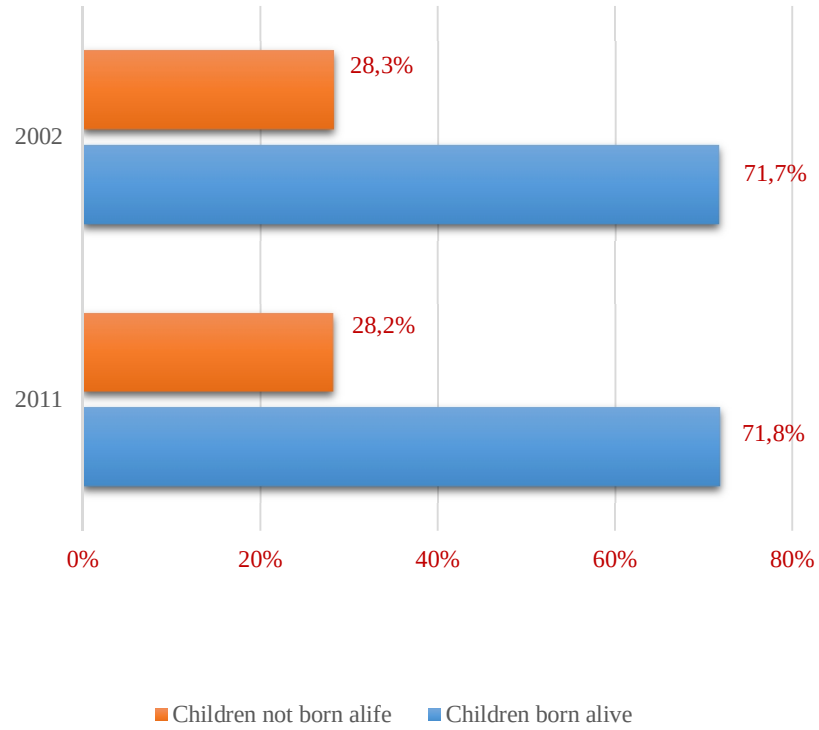
Determining the demographic profile of the population of Romania is determined by studying birth, defined by Eurostat glossary as an "index results from reporting of newborns per 1,000 people living in a certain period of time". After the Second World War, the birth rate has fluctuated, there are both downward trend, and upward. Thus, it highlights some important periods: between 1947 and 1956 the birth rate rose from 23.4% to 24.2% live births per 1000 inhabitants; between 1956-1943 the birth rate had a downward trend, from 24.2% reaching to 14.3% live births per 1000 inhabitants. The small values of birth were influenced "so the liberalization of abortion and social, economic and education causes of women, and wide access to education, her participation in economic activity, mobility and social generated by industrialization and urbanization" (National Institute of Statistics, 2012: 11). The birth rate rose between 1966-1989 and is directly influenced by the adoption of legislation on banning of abortion and contraception. In the first two years of implementation of the decree, the birth rate reached 26.7% in 1968, this percentage is a clear effect of natalist policy of the communist period. During the period 1980-1989 there was a 24% decrease in the birth rate, birth rate oscillated "between 14 newborns per 1,000 people and 18 newborns per 1,000 inhabitants" (Chițu, 2014). The birth rate fell between 1990-2011, recording values of 9.9% live births per 1000 inhabitants in 2010. The fall of the communist regime and thus legalizing abortion halved the number of children in the last 15 years, reaching 196 242 children born in 2011. "Statistics show that in 1990 were born almost 50% fewer children than in 1989. The situation became even more dramatic in terms of birth rate in 1991. Then they

were born with 70% less children than in 1989" (Chițu, 2014). Reproductive behavior varies by area of residence.

Although 54% of the population is concentrated in urban areas, while only 46% in rural areas, there is a lower birth rate in urban than in rural areas. In urban areas there are fewer families with two children and over, most couples limited to one child or maximum two. Birth differences between the two areas are built based on several factors: the woman's age at first childbirth, distribution of women of childbearing age, the activity of women, education level, cultural specifics and degree of migration.

In 2011, the total of 10,333,064 women, 85% (8,781,729 women) represent the female population of 15 years and over, who bore children. Between the two censuses (2002-2011), the number of women who have living children, but also those children who were born alive remained almost identical.

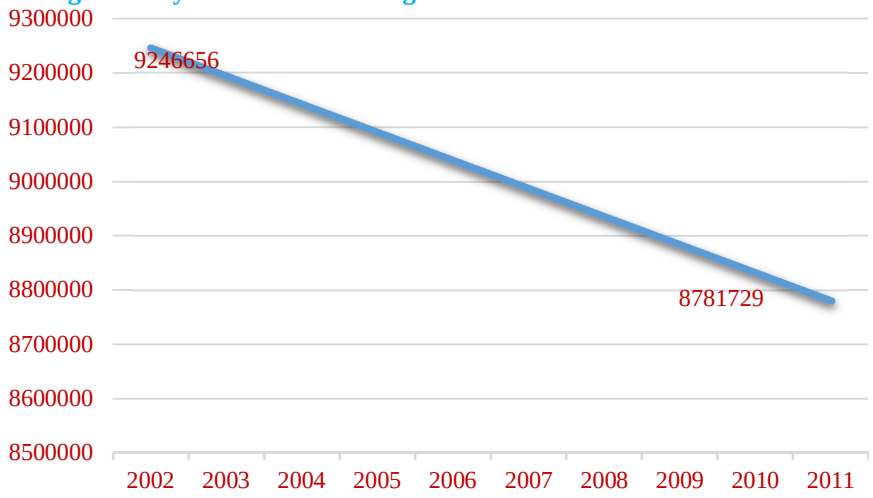
Figure 5. Evolution female population aged 15 and over who born (2002-2011)



Source: National Institute of Statistics

Also, there is an increase in the number of women who became mothers, a trend which is an effect of diminishing both the population and the changes produced in the family. Compared to the previous census, the number of women who decided to become mothers has decreased by 5%, ie 464 927 persons.

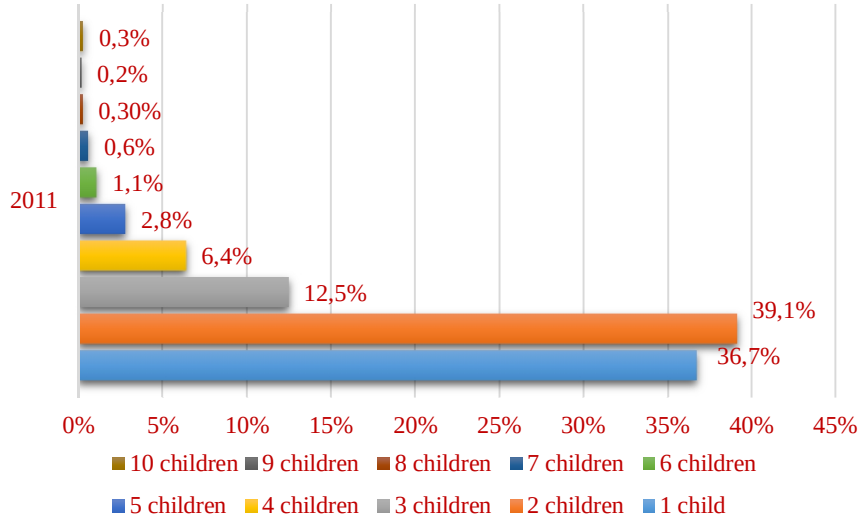
Figure 6. Dynamics of women aged 15 and over who became mothers



Source: National Institute of Statistics

Related to the number of children per family, 39% of all women who gave birth have two children and 37% of these remained to one child. Only 12% of women gave birth to three children, while 6.4% gave birth to four children.

Figure 7. Women who gave birth to living children (2011)

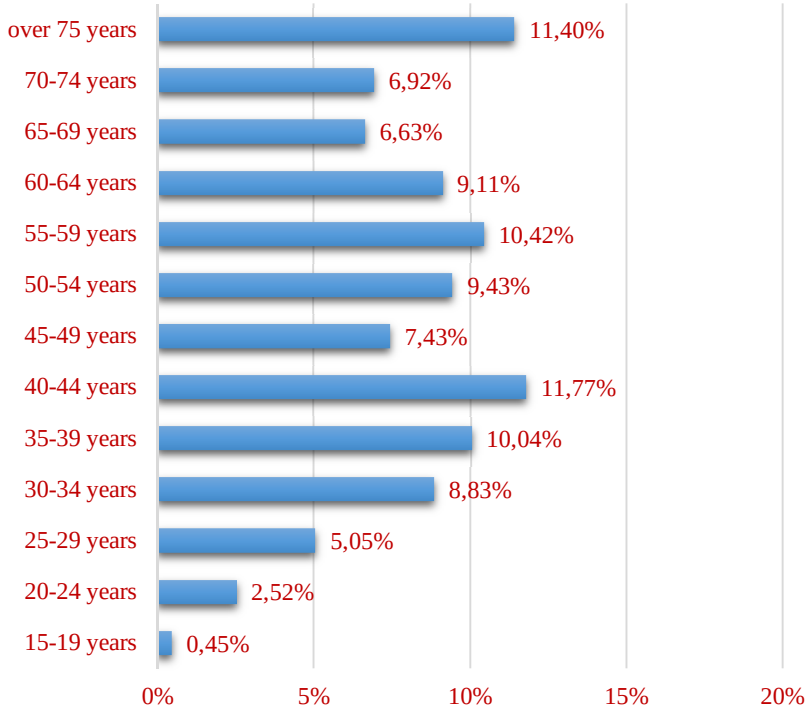


Source: National Institute of Statistics

Between 2002-2011 the number of children live births per 1,000 women aged 15 and over fell from 1647.5 to 1510, ie from 1.5234.218 to 13,260,007 children. In 2012, "the average age of mothers was 27.8 years in all births, while at first birth was 26.2 years. Rural women continued to give birth at their first child at a younger age (23.5 years) in comparison to those in urban areas (29.0 years)" (Aurelia, 2014).

Until 2002, emerged an early model of fertility, the average age of the mother at birth is about 25 years. With the adoption of the ban on abortions in 1966, the average age of the mother reached about 24 years. In the previous period, ie 1960-1966, there was a significant decrease in population, which has influenced the increasing age from birth to 26 years. After 2002, the continuous growth phenomenon occurs when the average age exceeded 26 years. At the census in 2011, women in the 40-44 years age group and those over 75 have been identified as having the most children with live births. For the age group 40-44 the number of children is explained by high birth policy during communism, one that resulted in a significant increase in the number of births. In contrast, for the age group over 75 years, the explanations aimed at restoring the deficit of people after the Second World War, when there was an increase in the number of births. A number of factors contribute to the decline of feminine population that decide to have a child and the age at first birth: "rising costs of childcare, increased, participation of women in the labour market and in higher, education, extended periods of transition from childhood to adulthood and greater availability of contraception, particularly the pill, are widely held to account for women having children later in life" (The Social Issues Research Center, 2008).

Figure 8. Female population aged 15 and over who gave birth to living children. *Age groups*



Source: National Institute of Statistics (2011)

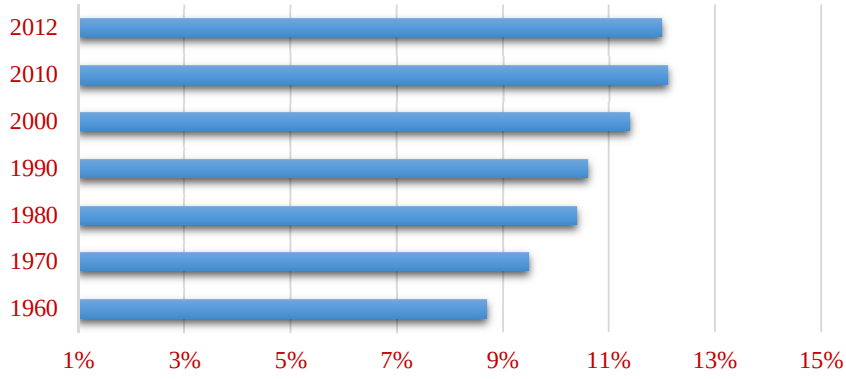
The distribution of births by rank directly influences the average age of mothers at childbirth. "Over 70% of live new-borns in 1961, represented rank I and II. If we add that at the same period, infants whose mothers were aged up to 30 years accounted for 4/5, strengthens the claim that fertility in Romania was kind of early, concentrated in ranks I and II, so with a relatively small size. In the period 1967-1970 there is an increase in the share of births of rank III (approximately 19%) and rank IV (approximately 10%) and between 1986-1989, it was registered the increase of births of rank V (between 6.4% and 7.7%). The decrease in birth rates since 1989 occurred due to the reduction in the number of live births of all ranks and, in particular, senior rank (rank III and more). The decrease of birth rates recorded after 1995, is synonymous with increasing the share of births of rank I, which proves that the model preferred by families today is the *type narrow*, with one or maximum two children" (National Institute of Statistics, 2012: 14-15).

Romania has low levels of birth, the sociologist Bogdan Voicu explains this phenomenon by the fact that "natural growth collapsed after 1989, when, with the fall of communism, abortion became legal. Statistics show that in 1990 were born almost 50% less children than in 1989. The situation became more dramatic in terms of birth rate in 1991. Then there were born 70% less children than in 1989" (Chițu, 2014). Also, the low birth rate is strongly influenced by the lack of jobs that lead young people, who should start a family to migrate for work. In addition, "the fact that there has been an "explosion" of Romanian higher education after 1990, and the share of women was higher than men among students, prompting women to stay longer in school and then to find a job, thus postponing the decision to make children" (Mihai, 2014). Currently, says sociologist Bogdan Voicu, "having a baby is no longer an ideal among Romanians. They dream to have the top job sites, to travel. This is not to blame for that is the natural evolution of developing countries"(Chițu, 2014).

Mortality at national level

Mortality, as the second component of population movements, remained relatively high in Romania. In 2013, the total number of deaths was 249,321, with more than 6000 cases less than in 2012. Thus, there were 133 659 000 deaths in urban and and 115 662 000 deaths in rural areas.

Figure 9. The evolution of general mortality during 1960-2012



Source: National Institute of Statistics (2013)

The high levels of deaths by age group "were mainly due to the high proportion of deaths at extreme age population, 0-4 years and 65 years and above. The lowest level of mortality was recorded in the age group 5-19 years, followed by young people 20-39 years, especially in the female population. Given that in recent years the population of 80 years and over, "the longlivings" and the older female population is double than that of older male population, the proportion of female deaths has also increased and (48.7% in 2012)" (National Institute of Statistics, 2013: 15). In addition, low birth levels have accentuated the growth of the elderly, and hence the share of deaths population aged 65 and over.

Table 2. Deaths by age groups

Age groups	Male		Female	
	1960	2012	1960	2012
0-4	21.8%	18.3%	0.9%	0.8%
5-19	2.8%	1.9%	0.5%	0.3%
20-39	7.1%	5.6%	3.1%	1.3%
40-49	5.1%	4.7%	5.2%	2.2%
50-64	22.6%	17.3%	24.0%	11.7%
65-79	31.2%	37.6%	38.1%	35.0%
80+	9.4%	14.6%	28.2%	48.7%

Source: National Institute of Statistics (2013)

The evaluation of health condition of personnel is a "way in which people define their own health and an important dimension of quality of life. *Quality of Life 2010* survey data in show that people value health condition in a tessitura: average appreciation is 3.2 on a scale of 1 to 5, from very bad to very good. A proportion of 46% of the population evaluates their health as being good and very good, 28% as satisfactory, while about a quarter of respondents (26%) see it as bad and very bad (Institute of Research of Quality of Life, 2010: 26). In 2012, 60% of causes of death were diseases of the circulatory system. The remaining cases included tumors (19%), respiratory diseases (5.2%), digestive diseases (5.7%), infectious and parasitic diseases (1%) and accidents (4%).

Table 3. Mortality by main causes of death (1965, 1980, 1990 și 2012)

				at 100.000 persoans
	1965	1980	1990	2012
diseases of the circulatory system	272.2	1047.7	1064.7	1198.8
tumors	123.0	135.4	142.1	230.2
respiratory diseases	135.9	137.1	97.3	62.2
digestive diseases	40.0	45.5	50.3	67.9
infectious and parasitic diseases	9.1	10.9	13.1	11.2
accidents, poisoning, trauma	52.0	67.3	76.5	49.7
other causes	3.2	3.0	2.8	10.7

Source: National Institute of Statistics (2013)

In the sex ratio, female mortality causes targeted endocrine, nutrition and cerebrovascular diseases. In contrast, men showed high percentages in most cases of death (accident, tumour, digestive diseases and infectious diseases), this way speaking of a "male supramortality".

Table 4. The main causes of general mortality by gender

at 100.000 persoans				
	1965	1980	1990	2012
diseases of the circulatory system	244.3	299.0	685.5	751.7
tumors	133.4	113.1	281.2	181.8
respiratory diseases	141.8	130.3	79.1	46.1
digestive diseases	48.4	31.9	83.9	52.7
infectious and parasitic diseases	9.8	8.3	15.7	7.0
accidents, poisoning, trauma	77.1	28.0	79.5	21.5
other causes	3.2	3.3	13.0	8.6

Source: National Institute of Statistics (2013)

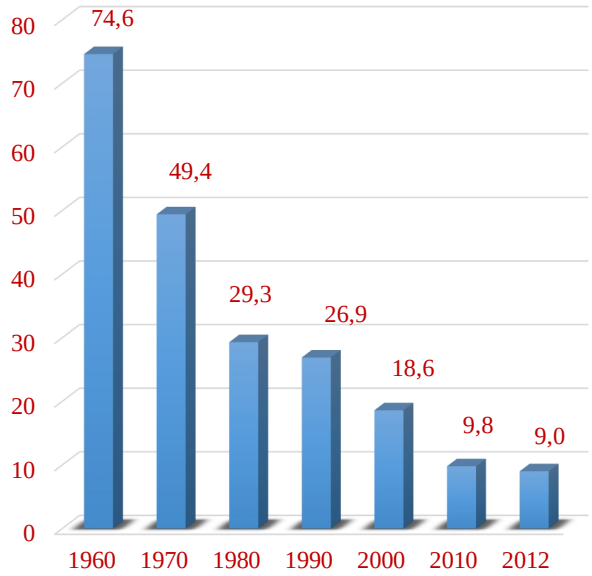
Levels of perinatal mortality (pregnancy, childbirth, postpartum) remains a major concern in Romania. Identifying the frequency of maternal deaths outlines a general framework on health and particularly the effectiveness of the health care of pregnant women during pregnancy and childbirth. Major risk factors that influence women's mortality at birth are multiple pregnancies, maternal age, smoking during pregnancy, obesity or above average weight of the mother. They also might identify other secondary factors related to the mother and influence mortality: birth rank (increased risk of birth); other mother's physical characteristics (size and low weight); personal history (cardiovascular diseases, diabetes, tuberculosis, etc.); drugs taken during pregnancy; smoking, alcohol or drugs; poor nutrition; psychological and physical trauma suffered by pregnant; obstetric problems during pregnancy and birth (placenta previa, accidents during birth) (National Institute of Health and Medical Research [INSERM], 2013: 2). In 2012 “there were 11 deaths in Romania by direct obstetrical risk, the mortality rate is of 0.055 deaths per 1,000 live births.

The level of mortality by direct obstetrical risk is higher among women from rural areas than in urban areas” (Ghenea & Antal, 2013a: 1). Demographic policy measures on banning abortions at the end of 1966, “had the effect of increasing maternal mortality rate from 85.1 deaths (1965) to 136.3 (1985) per 100,000 live births. Since 1989, progress has been made in reducing maternal mortality due to mainly legalization of abortion and family planning programs. In the past 23 years, maternal mortality has seen a remarkable decrease from 83.0 deaths (1990) to 11.4 deaths (2012) per 100,000 live births. If in 1990, deaths from abortion were more than 2.2 times higher than the risk of obstetrical ratio has, this has reversed since 1998, deaths from obstetrical risk ones surpassing the one's by abortion 7 times in 2012” (National Institute of Statistics, 2013: 20).

Infant mortality is understood as an indicator of economic development of the country and hence the collective welfare. Infant mortality for ages 0-5 years, is defined as “the frequency of deaths of 0-5 years per 1000 live births in the same period and territory”. According to United Nations Of Children’s Found [UNICEF] statistics on infant mortality

of child under five, Romania ranks 129 of 192 countries (countries are prioritised in descending order, the lowest values being recorded in the country ranked the last) (UNICEF, 2013). Mortality rate of boys under 5 years of age is higher than girls, ranging from 14 to 11. During 1990-2012, infant mortality declined significantly, with an annual discount rate of 5%. If in 1990, the index U5MR (child mortality under 5 years) represents 38 cases per 1000 inhabitants, in 2002 it reached 27 cases per 1,000 inhabitants, and in 2013 to 12 cases per 1,000 inhabitants (UNICEF, 2014: 22). In 2013, according to Eurostat data, Romania recorded the highest rates of infant mortality, 9.2 deaths per 1000 live births. In 2013, there were 1680 deaths under 1 year, 132 less than in 2012. According to the National Institute of Statistics, the evolution of infant mortality in Romania had a downward trend since 1960. Between 1860-2012, deaths under 1 year per 1000 live births dropped from 74.6 to 9.0.

Figure 10. Evolution of infant mortality in Romania (1960-2012). ***Deaths at under 1 year per 1,000 live births***



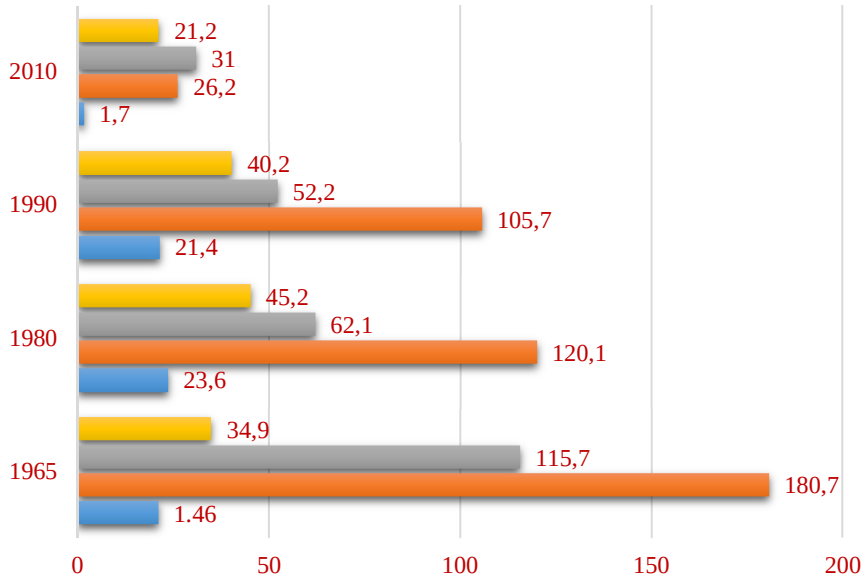
Source: National Institute of Statistics (2013)

During 1994-2012, the main infant cause of death it is "the perinatal causes that bring forward the group of respiratory apparatus diseases, except for 2002 when they caused 28.9% of all deaths under one year and returned to second place. Deaths from respiratory diseases, considered avoidable, come on the second position since 2003, but continue to maintain a very high level" (Ghenea, Antal, 2013b: 7-8). Over the period of analysis, other causes of death, those incurred by infectious and parasitic diseases, digestive and accidents have a constant evolution. Regarding the child, in general, the factors underlying mortality are prematurity and low birth weight, male gender, rank of the new- born, age and biological disabilities (malnutrition, rickets, anemia, malformations, recurrent infections). At world level, according to Unicef, in 2013 the main cause of infant mortality in children under five years was malnutrition (41%). The

other factors mentioned were: pneumonia, a complication at birth, complications during birth, diarrhea, malaria.

A more detailed analysis of the causes of infant mortality has been performed by the World Health Organization, which states that" prematurity was the largest single cause of death in children under five in 2013, and approximately 50% of under-five deaths were due to infectious causes" (World Health Organization, 2013). Nationally, in 2012, the main cause of death of children under one year is because of perinatal disorders (injuries, obstetric, hemolytic disease of the newborn, hypoxic conditions, etc.). Infant deaths in Romania occur from other causes as those aimed by respiratory diseases, followed by congenital anomalies and infectious and parasitic diseases.

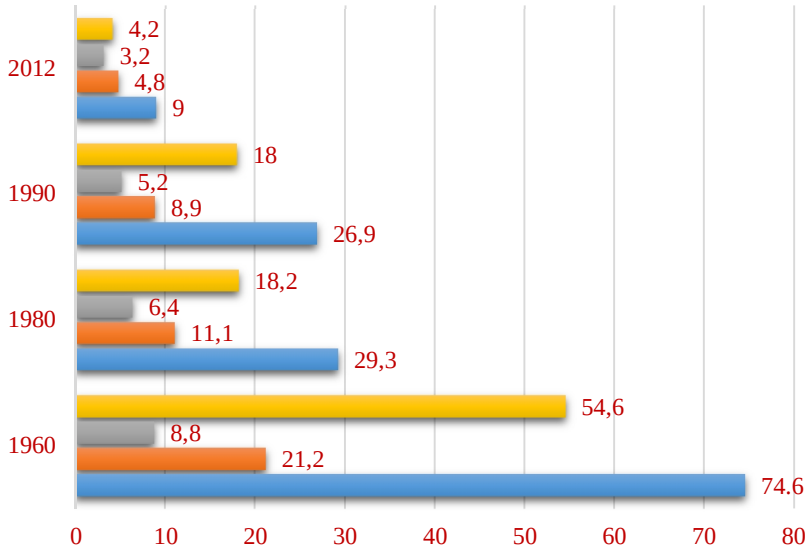
Figure 11. Infant mortality by cause of death (1966, 1980, 1990, 2012)



Source: National Institute of Statistics (2013)

Reducing the number of deaths under-five in the period 1960-2010 has shown significantly. The number of deaths in case of child mortality fell from 74.6 to 9.0 cases per 1000 live births. Low levels of postnatal mortality were recorded in 2012 when there was a decrease of 50 cases per 1000 live births in the 2960. Also early neonatal mortality and neonatal mortality have decreased, the less noticeable is the early neonatal mortality which oscillated between 8.8 and 3.3 in the analysis perioad in1000 births cases.

Figure 12. Infant mortality by age (1960, 1980, 1990, 2012) *at 1000 newborns*



Source: National Institute of Statistics

Conclusions

The financial crisis which began in the autumn of 2008 has caused the most severe recession since the Second World War, affecting the entire economy of the European Union. "The economic crisis has brought a multitude of influences and negative determinations at social level, such as: a reduction of jobs and implicitly of secure incomes, an increase of debtors' rate and forced executions, a pauperization of large social categories and an extension of poverty, visible deterioration of life quality and chances of future evolution of numerous human collectivises etc" (Ilie, 2013: 100). Romania's population decreased by 3,089,754 people in the period from 1990 to 2011, ie 13.3%, both due to negative natural growth, but also due to external migration. This continuous decrease in the number of persons and political transformations occurring after 1989 set new demographic perspectives in Romania. Demographic behavior of population is determined by three indicators: birth, mortality and migration. From the perspective of developing birth rate and migration, its is observed a process of deaths and births mitigation at national level, which falls Romania in the fourth stage of demographic transition (birth rate and low rate of mortality). The decline in the birth rate has immediate effects on the Romanian population and its distribution by age. In addition, there are noted changes in the reproductive behaviour: births in old age and decision of majority of couples to have one child. Birth rates drop in recent decades has produced disparities between urban and rural areas, the birth rate is higher in villages than in cities. These differences are built on the involvement of women in the labor market, evident from the industry, the collective mentality, culture and fertile share of population. Among birth indicators, the following increased: the average age of the mother at birth, the percentage of live births to women aged 25-39 years and the number of births outside marriage. On the other hand there is a decrease in fertility, which determines the birth rate. Mortality

forms the negative natural population movement, its increase imposing an aging of population. This situation will lead to an increase in deaths, particularly in older age groups. At the national level there is a superiority of the male versus the female mortality, especially in rural areas. The main causes of death are related to circulation problems that underlie 60% of all deaths. Although progress has been made in reducing infant and maternal mortality, actual results positioning Romania among the countries with the highest levels of mortality among children under 5 and mothers. After Romania's transition from communism to capitalism in 1989, for Romanians, migration abroad was a solution primarily economic. "The numbers estimated reached almost 3.500 million people, which represents a significant percentage of the total population (exceeding 10%) and an extremely large one from the active population, and most of them were directed to countries such as Italy, Spain, Germany, France or England. According to Eurostat the EU Romanians are the largest group of immigrants coming from a European country, their number reached 1.677 million, including 734.800 in Spain and 625.300 in Italy" (Niță, 2014: 20).

On the other hand, internal migration has played a decisive role in rejuvenating the population in economically developed regions. The transfer of the population in poor areas to rich ones imposed low levels of fertility and an aging population in these areas. Demographic aging turns towards generational profile: it is amended the generation structure of existing population, the number of generations coexisting increases, the four generations model will gradually replace the model with three generations. Old age is extended to 75-80 years, and the fourth age of four, knows a net progression of staff, marked by health problems and addiction.

References:

Aurelia, A. (2014). Când se căsătoresc femeile din România? La ce vârstă nasc femeile din România primul copil? *Descoperă.ro*. Retrieved from: http://www.descopera.ro/dnews/12217339-cand-se-casatoresc-femeile-din-romania-la-ce-varsta-nasc-femeile-din-romania-primul-copil.

Bălașa, A. (2010). Relații între generații în contextul îmbătrânirii populației. Implicații pentur politicile sociale. In I. Mărginean & I. Precupețu (ed.), *Diagnoza anuală a calităţii vieţii,* Bucharest: Expert Press, 148–167.

Chițu, M. (2014). România îmbătrânește. Cum a evoluat rata natalității în ultimii 25 de ani. De ce nu mai fac românii copii. *Gândul*. Retrieved from: http://www.gandul.info/stiri/romania-imbatraneste-cum-a-evoluat-rata-natalitatii-in-ultimii-25-de-ani-de-ce-nu-mai-fac-romanii-copii-12506058.

Eurostat. (2015a). *Fertility statistics - Statistics Explained* Retrieved from: http://ec.europa.eu/eurostat/statistics-explained/index.php/Fertility_statistics.

Eurostat. (2015b). *Mortality and life expectancy statistics - Statistics Explained*. Retrieved from: from: http://ec.europa.eu/eurostat/statistics-explained/index.php/Mortality_and_life_expectancy_statistics.

Ghenea, G., Antal, M. (2013a). *Mortalitatea maternă în România. Anul 2012.* Bucharest: National Institute of Public Health - National Center for Statistics and Informatics in Public Health Publication [INSP-CNSISP].

Ghenea, G., Antal, M. (2013b). *Mortalitatea infantilă în România. Anul 2012.* Bucharest: National Institute of Public Health - National Center for Statistics and Informatics in Public Health Publication [INSP-CNSISP].

Gheorghiță V., Vădăstreanu C. I. (2015). Signalling Child Trafficking and Exploitation by Begging in Romania: on Public Traits, Victims Traffic and Societal Reaction, *Revista de Științe Politice. Revue des Sciences Politiques*, (46), 287-296.

Goga, C. I. (2014). The status quo of regional social policy in the European Union. *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, (42), 135-146.

Ilie, G. (2013). The Qualification Need for the Unemployed Persons in Rural Areas of Gorj County. *Journal of Community Positive Practices*, (3), 100-112.

Institute of Research of Quality of Life (2010). *Calitatea vieții în România 2010*. Bucharest: Expert Publishing.

Mihai, A. (2014). Cel mai mare dezastru al României: Natalitatea este la jumătate faţă de acum două decenii, iar tinerii apţi de muncă emigrează. *ZF Company*. Retrieved from: http://www.zf.ro/companii/cel-mai-mare-dezastru-al-romaniei-natalitatea-este-la-jumatate-fata-de-acum-doua-decenii-iar-tinerii-apti-de-munca-emigreaza-13149256.

National Institute of Health and Medical Research [INSERM]. (2013, May 27). *A healthy start. The Health and Care of Pregnant Women and Babies in Europe in 2010. Second European Perinatal Health Report*. Paris: EURO-PERISTAT project. Retrieved from: www.europeristat.com.

National Institute of Statistics. (2011a). *Rezultate definitive ale Recensământului Populaţiei şi al Locuinţelor – 2011 (caracteristici demografice ale populaţiei)*. Retrieved from: http://www.recensamantromania.ro/wp-content/uploads/2013/07/REZULTATE-DEFINITIVE-RPL_2011.pdf.

National Institute of Statistics. (2011b). *Comunicat de presa nr .159 din 4 iulie 2013 privind rezultatele definitive ale Recens mântului Populaţiei şi al Locuinţelor – 2011 (caracteristici demografice ale populației)*. Retrieved from: www.recensamantromania.ro.

National Institute of Statistics. (2012). *Evoluția natalității și fertilității în România*. Bucharest.

National Institute of Statistics. (2013). *Evoluția mortalității generale în România.* Bucharest.

Niță, A. M. (2014). Migration and retro - migration of roma population in Europe. Case study: repatriation of roma population from France. In Boldea, I. (ed.), *Globalization and Intercultural Dialogue. Multidisciplinary Perspectives*. Târgu-Mureş: Arhipelag XXI Press, 16-27.

The Social Issues Research Center. (2008). *The Ecology of Family Life*. Oxford. Retrieved from: http://webarchive.nationalarchives.gov.uk/.

UNICEF. (2013b). *Statistics Romania.* Retrieved October 27, 2015. Retrieved from: http://www.unicef.org/infobycountry/romania_statistics.html#0.

UNICEF. (2014). *Levels and trens in child mortality*. Retrieved from: http://www.unicef.org/media/files/Levels_and_Trends_in_Child_Mortality_2014.pdf.

United Nations Of Children's Found [UNICEF]. (2013a). *Levels and trends in child mortality. Report 2013*. Retrieved from: http://www.who.int/maternal_child_adolescent/documents/levels_trends_child_mortality_2013/en/.

World Health Organization. (2013). *Causes of child mortality*. Retrieved from: http://www.who.int/gho/child_health/mortality/causes/en/.

Article Info

Received: October 2 2015
Accepted: November 20 2015

RSP • No. 48• 2015: 169-178

ORIGINAL PAPER

Constructive Motion of No Confidence as a Tool for Parliamentary Control of Government: the Czech Republic in a European Comparison

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Abstract
This study presents constructive censure as an element used to strengthen the stability of Governments in parliamentary regimes. It analyses its strengths and weaknesses and use in the political systems of European countries. An analysis of the draft amendment to the Constitution of the Czech Republic, presented by the Czech Government in the spring of 2012, is then put to this framework. Although the Chamber of Deputies had been dissolved in the meantime and the discussion of the draft had not been completed, it was the first and so far only legislative proposal to address the instability of Governments.

Keywords: *parliamentary control, Czech Republic, government, stability*

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In parliamentary regimes, with the Czech Republic being an example, the political stability and the stability of Governments is largely dependent on the stability of parliament, respectively on the chamber of parliament that performs powers of creation and control in relation to Government and that the Government is constitutionally and politically accountable to. Much has been written about the fact that one of the key factors that can bring stability to the legislative assembly (and thus to the Government which is based on it) is for example an electoral system with all its implications for the party system, its structure and fragmentation. However, the functionality of parliamentary systems is also dependent on the behaviour of individual participants and institutions and their mutual relations which, in addition to political culture and traditions, are also affected by the tools that individual components of power have against the other components, and governing procedural rules.

If we look at what tools legislatures have against Governments in parliamentary systems, then it is particularly a contribution to creating the Government, mostly in the form of a vote of confidence, as in the Czech Republic, or a choice of the Prime Minister or Chancellor, which is the case in Hungary and Germany. During the term of the Government, the legislature performs a supervisory role mainly through interpellations. An important element that affects governance is the approval of the Government's draft state budget. Last but not least, the legislature in a parliamentary system has the right to express no confidence in the Government, which is an element to be addressed in the following article. The threat of no confidence motion is above every Government and even the Governments established as majority are not spared the opposition attempts, although the Government should not feel threatened if its deputies are disciplined. However, the situation is changed at the moment when the Government relations change, there is a collapse of the coalition or an internal crisis, a number of conflicts or indiscipline of individual Government parties appears.

Paradoxically, we can say that of all the Czech Governments established after 1993, the Government that could be worried about a no confidence motion the least was the minority Government of the Czech Social Democratic Party (ČSSD) led by Miloš Zeman in 1998–2002, which was based on the so-called Opposition Agreement concluded together with the Civic Democratic Party (ODS) which came second in the elections. The Opposition Agreement in its article VI talks about the fact that *'the above-mentioned parties (ČSSD and ODS – author's note) agree that during the parliamentary term of the Chamber of Deputies, none of them will cause the vote of no confidence in the Government or avail themselves of the constitutional possibilities leading to the dissolution of the Chamber of Deputies, and should such proposals be submitted by another political entity, they will not support them by voting'* (Opposition Agreement 1998). In Article IX, the above-mentioned parties *'undertake to, within the duration of this agreement, not enter into a coalition or an agreement with a third political party, which would mean the entry of this party into the Government, or that would lead to the redeployment of some of the functions specified in this contract. They also undertake to not conclude a lasting agreement on voting in the Parliament of the Czech Republic with a third party and furthermore, to not suggest an independent as a member of the Government without prior consultations'* (Opposition Agreement 1998). If the stability of the Government is approached pursuant to the likelihood of no confidence motion, then Zeman's Government was the most stable one.

Back to the problems with no confidence motion by the Parliament themselves. When the Government of Prime Minister Mirek Topolánek was expressed no confidence

at the end of March 2009, it was for the first time in the history of the Czech Republic and Czechoslovakia. For this reason, the situation was discussed and analysed many times in the media and in political science and constitutional law studies and commentaries. The situation resulting from the no confidence vote to Topolánek's Government also revived and dusted off the idea of introducing a so-called constructive motion of no confidence not only with political scientists and constitutional lawyers, but also with some politicians. Those who had initiated the motion and succeeded were criticized not only for the inappropriate timing (to the middle of the Czech presidency in the Council of the European Union), but also for offering no alternatives. The Czech constitutional system actually had not demanded and still does not require to immediately present an alternative within the no confidence vote in the Government. However, that does not mean that politicians cannot have it ready.

Constructive motion of no confidence – as the term itself suggests – is to prevent possible political crises to be further deepened. The aim is to approach a Government or Prime Minister's removal constructively, that is to immediately offer an alternative that has the support of the legislature, and therefore has the legitimacy necessary for the Government in a parliamentary system. Simultaneously with the removal of a Prime Minister, a new Prime Minister must be elected or endorsed (or candidate for a Prime Minister) in the parliament, who already has the legitimacy of the legislature at that point. The introduction of this element to the constitutional systems is motivated by the simple thesis that consensus on the removal of something / someone (negative approach) is easily found, while finding consensus on some alternative (positive approach) may be a superhuman task. Returning to March 2009, then 101 deputies standing behind the removal of Mirek Topolánek's Government (parliamentary groups of ČSSD and KSČM, as well as MPs V. Tlustý and J. Schwippel of ODS and V. Jakubková and O. Zubová of the Green Party) were so incongruous and the motives of the various groups and individuals to take this step so diverse that the same 101 basically could not even be able to find an alternative positive solution.

After all, the initiator of that vote himself, a former ČSSD chairman Jiří Paroubek, refused the participation of ČSSD in a Government that would replace the just deposed Government in an interview for Hospodářské noviny dated 27 March 2009. '*No, I am not currently rushing to it (the Government – author's note). Following the elections to the Chamber of Deputies, ČSSD is interested to form the Government. But now, let the coalition Government direct it and let us bring the country to early elections as quickly as possible,'* Paroubek said, among other statements (Němeček, 2009). This situation could not arise if the constructive no confidence vote had been in force. The initiator of vote of no confidence would have to officially submit a candidate's name for a new Prime Minister in that case. Therefore, the vote of no confidence in the Government / Prime Minister would also be a vote on a new prime minister. Although I am speaking of the Prime Minister, it concerns the Government as a whole through him.

The state where this feature was first introduced directly into the constitutional text was the Federal Republic of Germany. The constructive vote of no confidence was already incorporated into the Basic Law during its creation in 1948–1949. The merit lies with a representative of the Social Democratic Party of Germany (SPD) in the Parliamentary Council (the body preparing the text of the Basic Law), jurist Carl Schmitt, who is considered the spiritual father of the constitutionally-political instrument. The entire constitutional structure is very simple. According to the Article 67 of the Basic Law, the '*Bundestag [can] express no confidence in the Chancellor only by selecting his*

successor and doing so by an absolute majority of all members' (Grundgesetz, 1949). Thus, the German Chancellors are dismissed indirectly to a certain degree because the actual voting is voting for a new Chancellor. If the vote on the new Chancellor is successful, the Bundestag *'will ask the Federal President to remove the Federal Chancellor from office'* (Grundgesetz, 1949). The Chancellor is newly elected and from that moment has legitimacy in office and is just formally acknowledged by the Federal President. The Basic Law expressly obliges the President *'to comply with this request and appoint the newly elected Chancellor'* (Grundgesetz, 1949). Thus the Basic Law directly obliges the President to follow the proposal of the Bundestag, although it does not provide any time frame within which it must be done. Voting on the new Chancellor must take place within 48 hours of the proposal expressing no confidence to the current Chancellor. During almost 70 years of the Federal Republic of Germany, the request for a constructive vote of no confidence in the Chancellor has been initiated only twice. First on 27 April 1972, the then opposition Christian Democratic Union (CDU) initiated the removal of the Social Democratic Chancellor Willy Brandt. The alternative candidate for the Chancellor was the then head of the CDU in the Bundestag, Rainer Barzel. However, the proposal failed by two votes. Yet the attempt to overthrow another Social-Democratic Chancellor, Helmut Schmidt, was a success a decade later, on 1 October 1982. The then chairman of the CDU, Helmut Kohl, became the new Chancellor.

The German model of no confidence motion inspired several post-communist countries after 1989. For example, Hungary introduced it within an extensive amendment to the Constitution from 1989-1990 and protected this element by Article 39A. The constructive no confidence motion has been retained even in the new Hungarian Constitution, adopted in 2011, effective from 1 January 2012. Hungarian development after 1990 witnessed a single process of the constructive vote of no confidence, which was actually "managed" by the Prime Minister to be dismissed. In spring 2009, the then Prime Minister for the Hungarian Socialist Party (MSZP), Ferenc Gyurcsany, decided to resign through his party proposing a constructive vote of no confidence associated with the election of the then Economy Minister Gordon Bajnai to be next Prime Minister. The former main opposition party, the Federation of Young Democrats (FIDESZ), which at that time had 2/3 support according to polls and an almost certain election victory, criticized this fact, even called it illegitimate. Doubts about a democracy of this step were expressed by the then President Laszlo Solyom, otherwise the former Chief Justice of the Constitutional Court.

Poland allowed the no confidence motion in Government of both the constructive and classical (nonconstructive) manner until the adoption of the so-called Great Constitution in 1997. But if there was a nonconstructive censure (i.e. without a co-nominated candidate for a new Prime minister), the President could dissolve the Sejm (the Senate would automatically fell as well with the dissolution of the Sejm according to the Polish Constitution) and call early elections. That is what happened in 1993 when the Sejm nonconstructively expressed no confidence in the minority Government of Prime Minister Hanna Suchocka. After 1997, the no confidence motion can be expressed only in a constructive manner while the procedure itself is similar to the Hungarian application. Since the above case of vote of no confidence in the Government of Prime Minister Suchocka, any other similar act against the Government by the Sejm has not occurred. As reported by Kubát (2009: 136), the need to observe the procedure of a constructive vote of no confidence has meant that even the coalition conflicts and the collapses of the governing coalitions led to the preservation of minority Governments and Prime Ministers

in power if they themselves sooner or later have not resigned (Jerzy Buzek in 2000, Leszek Miller in 2003).

As the third from the post-communist countries, we can mention Slovenia where using the procedure of a constructive vote of no confidence, the Prime Ministers Alojz Peterle (1992) and Janez Drnovsek (2000) were removed from their office. The German model of a constructive vote of no confidence was taken into its Constitution even by Spain in 1978 (Just, 2009: 9). Belgium has also been using this element since a constitutional amendment in the mid-1990s. In case of the latter country, however, it is a combination of constructive and nonconstructive vote of confidence when the Chamber of Representatives faces dissolution if it does not provide the name of a successor. Therefore, it is a Polish adaptation valid until 1997.

There are currently six member states, which have this element in their constitutional systems in the European Union. With the exception of Belgium, these are the countries where the modern political and constitutional system has been basically newly created after the transition from non-democratic systems towards democracy. Introducing the constructive no confidence motion should lead to stabilization, which in most instances has been the case. Poland – as mentioned above – has experienced much less political turmoil since 1997 than it had before. Also, all Hungarian Governments since 1990 have been – despite occasional turbulence – relatively stable, certainly the most stable of all post-communist countries. There is no doubt that the constructive censure has its share in this, although it is certainly not the only factor. The above-mentioned fact that only two attempts to censure the Government have taken place in Germany since 1949 is also meaningful.

Though each of the above examples of countries benefiting from this constitutional element differ in minor details, they have three things in common which the general framework of this instrument could be derived from: (1) the name of a new Prime Minister is known at the moment of the vote of no-confidence; (2) to make the change, the absolute majority of all deputies of relevant parliamentary chambers is necessary and finally, (3) President (Sovereign in case of monarchies) is required to accept this result and appoint a Prime Minister who has been put in a proposal to censure if the vote is successful (Just, 2009: 9). It is clear that a possible introduction of the constructive vote of no confidence would require changes also in other articles of the Constitution of the Czech Republic. At least, the section dedicated to the President would have to be modified. One impact of the introduction of this feature is a certain weakening of the President limiting his space to manoeuvre and transferring the responsibility for resolving the political crisis to the parties represented in the Parliament, or transferring the crisis solution to the axis of Parliament – Cabinet, as the logic of parliamentary regime functioning assumes. For that matter, all the above-mentioned countries have a parliamentary form of Government and – with the exception of Poland – relatively weak heads of state.

So far, more positives of this change have been mentioned; however, it is impossible to not notice certain risks that come with this constitutional element. Even a dysfunctional Government could thus be kept in power only because there would have not been enough votes for the nomination of a new Prime Minister although enough votes for its dismissal would. This could complicate governance, block Government action and in theory, it could have a negative impact on political and economic development in a situation continuing over a long period. Within this situation, minority Governments could be held in power, which could lead to a disruption of one of the main principles of a

parliamentary form of Government where the loss of majority support in the relevant parliamentary chamber is a reason for termination of the Government mandate (Vastagh, 2009: 2).

Constitutional lawyer Zdeněk Koudelka warns that *'in any variant of a parliamentary republic, including the chancellor's, a stable parliamentary majority determines the stability of a Government'* (Dostál 2011). After all, lawyer Vernon Bogdanor warns that the introduction of the institute of constructive censure *'increases the danger of weak Governments'* (Bogdanor, 2010: 2). Koudelka documents it by referring to the above mentioned situation before the fall of Topolánek's Government: *'Constructive no confidence vote would probably prevent the fall of Topolánek's Government during the EU Presidency, but it would not prevent the disruption of Green Party, the split of TOP 09 from the KDU-ČSL and the departure of some ODS deputies'* (Dostál 2011). According to Koudelka, Topolánek's Government would have been just watching the new majority in the Chamber of Deputies rejecting its proposals and passing the proposals with which it disagreed. Finally, critics say the procedure limits Parliament's supervisory role and thus the sovereign power of opposition to provoke the vote of no confidence.

All this and other factors that will be mentioned later are reflected in the debate on introducing this element into the Czech constitutional system. However, the attitudes of individual parties are often influenced by special-interest momentary factors. So far, the parties reflected on the adoption of this regulation only at the moment when they were in a Government and faced a possible no confidence vote or the no confidence motion actually was made. Opposition parties are unanimously against it.

The idea to introduce a constructive censure into our system appeared for the first time during the preparation of the Constitution of the Czech Republic in the second half of 1992. The proposal was mentioned several times in 2005 (discussed in more detail below) but began to be spoken of intensely after the aforesaid fall of Topolánek's Government, especially by the ODS and the KDU-ČSL, two of the three ruling parties at that time. Later, this theme was embraced even by TOP09. In its policy statement of June 2010, the Government coalition of the ODS, TOP09 and Public Affairs, which emerged from the general election, committed itself to enforce this element in the Constitution of the Czech Republic. The Government actually sent the relevant amendment to the Constitution (The Government's draft 2012) to the Chamber of Deputies in April 2012. It was discussed in the first reading in the Chamber of Deputies in the spring of 2013; yet the proposal went off due to the dissolution of the Chamber in the second half of 2013.

Nevertheless, the article presents this proposal because it has so far been the only paragraphed proposal to introduce this element into the Czech constitutional system.

The Government proposed new wording of article 72, section 2 of the Constitution: *'The proposal to censure the Government must be submitted in writing by at least fifty deputies, and it shall indicate the person to be appointed Prime Minister'* (The Government's draft, 2012: 1). The following articles 73 to 75 dealt with additional follow-up steps. The proposal should be voted no sooner than 48 hours after its submission and the adoption of the resolution would require an absolute majority of all deputies. In case of a successful vote, the President would appoint a new Prime Minister on a proposal from the Chamber of Deputies; in case of failure, it would be possible to vote of no confidence again after six months – it would have been possible sooner only if the proposal was filed by 80 deputies (The Government's draft, 2012: 1). The duty of a newly appointed Government (headed by the Prime Minister emerged from the constructive vote

of no confidence) to appear within 30 days of its appointment before the Chamber of Deputies with the request of a vote of confidence would not perished with this adjustment (The Government's draft, 2012: 6). The original Government's draft did not require doing so; but it got there within an interdepartmental reflection process (Jelínek, 2012). It could therefore be that the Prime Minister established within the framework of constructive no confidence vote in his predecessor, could not eventually gain the confidence in his Government. Germany cannot experience this situation because, even under normal circumstances, the confidence of the Bundestag is bound only to the Chancellor, rather than the Government as a whole. Parliament does not in any way endorse the Government as a collective body.

The Czech proposal of 2012 contained several bottlenecks. Somewhat surprising was that the amendment did not interfere in the articles of the Constitution that govern the powers of the President. It is questionable whether the current constitutional wording on the President's right to appoint the Prime Minister could or should remain in its current form with the change of the above-mentioned articles 72–75. In addition to the formulation aspects of the texts of the Constitution, the President's obligatory role of appointing a Prime Minister legitimized in this way should be – especially in the Czech context – probably emphasized more. At the same time, the question is how much time the President has or what would happen in the event of the President's refusal or delay.

Given that this is a change in the Constitution, 3/5 of all deputies and 3/5 of senators present would be needed for approval. And this is where a problem would probably appear because no Czech Government after 1993 has so far had the relevant majority and the opposition whose votes would be needed has never consented to this change. Therefore, even if the Chamber of Deputies was not dissolved in 2013, the chance to enforce this law would apparently be slight. The largest opposition party active at the time of submission of the proposal – the Social Democrats – declined the introduction of a constructive vote of no confidence several times through its chairman, Bohuslav Sobotka. In response to this proposal, Sobotka repeatedly argued that *'the country needs to deal with 10 thousand other things other than the constructive no confidence motion. (...) We have clearly said that we as social democrats would not support similar constitutional experiments at the moment. (...) In my opinion, the constructive no confidence motion is not a key issue for the country. I can see far more important issues'* (ČT24, 2012).

Sobotka spoke against constructive censure as such in several speeches. In his text of 14 April 2012, Sobotka says that after the fall of the Government, it would not be the voters deciding on the new one in new elections, but again the 'majority Government' (Sobotka, 2012). Sobotka adds that the opposition is put aside and its power of control is weakened in this way. He also considers it incomprehensible *'to force the President to appoint a Prime Minister whom the Chamber of Deputies agrees on,'* arguing, among other things, with the direct election of the President (Sobotka, 2012). It is necessary to say that Sobotka's warning against imposing the Prime Minister who is agreed on by the Chamber of Deputies would be a much more systematic element fitting into a parliamentary nature of Government than e.g. a direct presidential election which the Social Democrats did not mind. *'It is equally illogical to make the Prime Minister appointed on the proposal of Deputies to come again before the Chamber of Deputies for the vote of confidence'* (Sobotka, 2012). As I mentioned above, the Government initially did not request this and it has changed it based on the outcome of interdepartmental reflection process.

Last but not least, the ČSSD chairman states that *'the institute of "constructive no confidence motion" is strange to our constitutional tradition; it is not found in the democratic constitutions of the First Republic'* (Sobotka, 2012). Although it is true, it is hardly sufficient as an argument for rejecting. Tradition reflects to the present not only through the following of 'good' examples from the past but also through the effort to avoid the mistakes of the past. Germany in 1949 did not have a tradition of constructive no confidence motion but a relatively rich tradition of unstable Governments from the period of the Weimar Republic which they did not want to repeat. In forming the Czech Constitution in late 1992, some traditions were reflected in a new arrangement, e.g. in the structure of a bicameral parliament. However, it was based also on the fact that not all elements and relations within the then bicameralism were functioning, and thus, they were adjusted in 1992. After all, the traditions of the functioning of Governments rather show that the system of constructive censure could be possibly applied during the interwar period because a total of 18 cabinets had been replaced within 4 parliamentary elections in 20 years. It is true that the Government did not fall because of the vote of no confidence in Parliament and in many cases, new Governments had been pre-negotiated as a first step before a subsequent fall, resignation, abdication or removal of the current Government. Marek Ženíšek, a political scientist and vice-chairman of TOP09, refers to the *'removal and destruction without presenting alternatives'* as the Czech political tradition (Ženíšek, 2011).

The Communists were opposed to the proposal as well and Jiří Paroubek spoke very loudly against the law because, among other things, this proposal was unofficially called 'Lex Paroubek' as it was inspired by the vote of no confidence in Topolánek's Government in 2009 when Jiří Paroubek was the head of the ČSSD. But it is not without interest that prior to the ODS, it was ČSSD that strove for the introduction of a constructive vote of no confidence. In the spring of 2005, when the then party chairman and former Prime Minister Stanislav Gross faced the attempt to no confidence vote as a result of his affairs, the Social Democrats used exactly the same arguments that were proclaimed by the leaders of the just dissolved Government of Mirek Topolánek in 2009. News server iHned.cz reported about it on 24 April 2005 as follows: *'The Speaker of the Chamber of Deputies Lubomír Zaorálek (ČSSD) would like to introduce the principle of the so-called constructive no confidence motion into the Constitution. This means that the opposition would need to present its "shadow" Prime Minister within the vote of no confidence in Government. He should get a majority and prove that he is capable to govern. Zaorálek has presented the idea in today's Sedmička discussion programme on TV Nova. At the same time, he has described the proposal of ODS to simplify the dissolution of the Chamber of Deputies in case of a protracted Government crisis as "defective". The adoption of the proposal of the strongest opposition party would lead to the formation of unstable Governments according to Zaorálek. The head of the Chamber of Deputies thinks that the parliamentary parties should instead support the winner of elections, so that they are able to lead the country throughout the election period'* (ČTK, 2004).

This disagreement between the relevant parties in the Czech Republic ultimately prevented the change to be a part of an amendment to the Constitution introducing direct presidential election. The question is whether it would be preferable that this change is initiated rather by the Chamber of Deputies and not by the Government. *'It would be fairer and the opposition would not have obtained the impression that it is confronted with a fait accompli'* (Jelínek, 2012). In connection with any change of the process of no confidence

motion, they talk about other elements that could rationalize parliamentary activities, such as an expansion of options under which it is possible to dissolve the Chamber of Deputies. However, this would have been a different topic.

References:

Bogdanor, V. (2010. *Summary of Evidence to House of Lords Constitution Committee on Fixed-Term Parliaments.* London: House of Lords, 2010.

ČT24 (2012). *Otázky Václava Moravce.* Prague: Česká televize, broadcasted on 29.4.2012.

ČTK (2004). Zaorálek navrhuje změnu ústavy a kritizuje premiéra [Zaorálek proposes to amend the constitution and criticizes the Prime Minister]. In *iHNed.cz, 24.4.2005* [online]. Prague [cit. 2010-04-08]. Retrieved from: http://domaci.ihned.cz/c1-16024280-zaoralek-navrhuje-zmenu-ustavy-a-kritizuje-prezidenta.

Dostál, V. (2011). Z vládních návrhů změn ústavy nejspíš nezbude skoro nic [There will probably be almost nothing left from the Government draft amendments to the Constitution]. In *Deník Referendum, 10.1.2011* [online]. Prague: 2011 [cit. 2013-11-30]. Retrieved from: http://denikreferendum.cz/clanek/8328-z-vladnich-navrhu-zmen-ustavy-nejspis-nezbude-skoro-nic.

Fundamental Law of Hungary (2011), Budapest.

Hungary Constitution (1949), Budapest: 1949.

Grundgesetz für die Bundesrepublik Deutschland (1949), Bonn.

Jelínek, L. (2012). Nedůvěra všude kolem [No confidence all around]. In *Deník Referendum, 7.6.2012.* Prague [cit. 2013-11-30]. Retrieved from: http://denikreferendum.cz/clanek/13326-neduvera-vsude-kolem.

Just, P. (2009). Konstruktivní vyjádření nedůvěry: inspirace pro Českou republiku [Constructive no confidence motion: Inspiration for the Czech Republic], *Parlament, vláda, samospráva*, (4), 8-9.

Kubát, M. (2009). Racionalizace parlamentního režimu: polské zkušenosti jako poučení nejen pro českou politiku [Rationalization of the parliamentary regime: the Polish experience as a lesson not only for the Czech politics], *Politologický časopis/Czech Political Science Journal*, (2), 131-147.

Němeček, T. (2009). Jiří Paroubek: Já se teď do vlády hrnout nechci [Jiří Paroubek: I do not want to rush into the Government now], *Hospodářské noviny, 27.3.2009.* Prague [cit. 2009-04-08]. Retrieved from: http://proc-ne.ihned.cz/c1-36512940-ja-se-ted-do-vlady-hrnout-nechci.

Opoziční smlouva [Opposition Agreement] (1998). Prague.

Poland Constitution (1952). Warsaw.

Poland Constitution. (1997). Warsaw.

Slovenia Constitution. (1991). Ljubljana.

Sobotka, B. (2012). Vláda bez důvěry [Government without confidence]. In *cssd.cz, 14.4.2012.* Prague [cit. 2013-11-30]. Retrieved from: http://www.cssd.cz/aktualne/blogy/vlada-bez-duvery/.

Vastagh, P. (2009). *Anatomy of Governmental Crisis.* Budapest: Vastagh Pál = Institute of Parliamentary and Political Law.

Vládní návrh ústavního zákona, kterým se mění ústavní zákon č. 1/1993, Ústava České republiky, ve znění pozdějších ústavních zákonů [The Government's draft Constitutional Act amending the Constitutional Act No. 1/1993, the Constitution of the Czech Republic, as amended] (2012). Prague: Poslanecká sněmovna Parlamentu České republiky.

Ženíšek, M. (2011). Bourat a ničit bez předložení alternativy [Demolish and destroy without presenting alternatives], *blog.idnes.cz, 9.5.2011*. Prague [cit. 2013-11-30]. Retrieved from: http://zenisek.blog.idnes.cz/c/190874/Bourat-a-nicit-bez-predlozeni-alternativy.html.

Article Info

Received: October 19 2015
Accepted: November 17 2015

RSP • No. 48• 2015: 179-190

ORIGINAL PAPER

Apportionment amongst Member States and the Value of a Vote in the 2014 European Parliamentary Elections

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Abstract
This quantitative analysis deals with the issue of the apportionment of seats in the European Parliament amongst the 28 Member States and its goal is to quantify the existing principle for allocating the EP seats, the so-called principle of degressive proportionality provided for in the first subparagraph of Article 14 (2) of the Treaty on European Union. The analysis employs quantitative tools commonly used in electoral analysis for measuring disproportionality of electoral rules (the discrepancy between seats and votes). At the individual (Member State) level, the paper finds both the value of a vote (the average size of population per seat) and how much each of the Member States overrepresented or underrepresented (by the advantage ratio measure). At the aggregate level for the whole European Parliament representation, the value of malapportionment is measured by the distortion index created by Loosemore and Hanby (1971), as it was earlier suggested as a suitable strategy for measuring malapportionment by Samuels and Snyder (1991).

Keywords: *European Parliament, Member States, representation, degressive proportionality, malapportionment, value of a vote*

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Introduction

The issue of direct elections to the European Parliament has attracted the attention of political scientists for many years. The possibility to introduce a uniform electoral system across the European Union member states has become one of the major topics of professional interest (see, e.g., Reif, 1984; Millar, 1990; Farrell, Scully, 2005; Charvát, Outlý, 2015). The idea of a single electoral system is enshrined in the founding treaties of 1957; The Treaty establishing the European Economic Community in Article 138, paragraph 3 entrusted the Assembly with the task of preparing a proposal for the introduction of direct elections of deputies of the Assembly, moreover, by the uniform election rules in all member states. The question of direct elections to the European Parliament has been very problematic and eventually was introduced in 1979. The issue of a uniform electoral system has been – and still is – so controversial that uniform election rules for the European Parliament elections do not yet exist. Provisional culmination of this process was the decision of the Council no. 2002/772/EC which amends the Act on direct elections from 1976. According to the Council decision of 2002, the European Parliamentary elections are held pursuant to a uniform principle that is the principle of proportional representation which has, however, appeared in 28 country-specific versions. Another common principle is that the European Parliamentary elections are held on the basis of equal, direct, secret and universal suffrage (see, e.g., Charvát, Outlý, 2015).

Of course, it could be argued that despite the political agreement on the principle of equality of the vote as one of the basic common principles of the European Parliamentary elections, the very mechanism of the distribution of seats in the European Parliament among the European Union member states, the so-called principle of degressive proportionality, is contrary to this principle since the elections of a deputy in a large European Union member state requires a much higher population than in a small European Union member state. The question of the apportionment of seats of Members of the European Parliament seats among the individual European Union member states is being paid little attention in contemporary political science research. A much greater interest in this subject can be captured rather with mathematicians (see, e.g., Cegielka, 2011; Dniestrzański, 2011; Florek, 2012; Grimmet, 2012; Kellermann, 2012; Słomczyński, Życzkowski, 2012; Serafini, 2012; Delgado-Márquez, Kaeding, Palomares, 2013).

Data and Strategy of Measuring Value of a Vote and Malapportionment

This quantitative analysis deals with the issue of the apportionment of seats in the European Parliament amongst the 28 European Union member states. The main objective of the study is to quantify the existing principle for allocating seats in the European Parliament, the so-called principle of degressive proportionality – as it is provided for in the first subparagraph of Article 14 (2) of the Treaty on European Union – in the 2014 European Parliamentary elections. The analysis presented here therefore employs two quantitative tools commonly used in election analysis for measuring disproportionality of electoral rules (the discrepancy between seats and votes): advantage ratio is used for measuring the degree of overrepresentation and underrepresentation of individual member states in the European Parliament (individual level); at the aggregate level, an adaptation of the original distortion index is employed as a strategy for measuring the degree of malapportionment (see below).

Data on the population of each European Union member state are necessary for such an analysis. Eurostat, a publicly available data archive, has been used as the source

of these data. Population figures have been determined in all cases on 1 January of the year in which the elections to the European Parliament took place. Therefore, if the apportionment of seats of Members of European Parliament is analysed in the 2014 European Parliamentary elections, it is based on the data on the size of the European Union member states population as well as the European Union as a whole from 1 January 2014.

For purposes of this analysis, the advantage ratio (A_i) is calculated as the ratio of the number of Members of the European Parliament allocated to a given member state *i* from the total number of Members of the European Parliament (s_i) divided by the proportion of the population of a given member state *i* from the European Union's total population (p_i).

$$A_i = \frac{s_i}{p_i}$$

When the value of advantage ratio equals to 1, it would imply that member state *i* occupies the same proportion of seats in the European Parliament as is its share of the total European Union population. If the values of advantage ratio index are lower than 1 it indicates underrepresentation of member state *i*; with the smaller a value is, the higher is the underrepresentation of the respective member state *i*. For example, when advantage ratio index equals to 0.75 it would mean that country *i* occupies only 75 per cent of seats compared to the situation that would have belonged to it in compliance with the principle of strict proportionality. Conversely, values of advantage ratio index that are greater than 1 mean the overrepresentation, i.e. that country *i* occupies a greater share of seats in the European Parliament than the equivalent of its share of the population in the total population of the European Union; the higher the value is, the greater is the overrepresentation of member state *i*. For example, if the advantage ratio index equals to 2.5 it would mean that the respective country *i* occupies 2.5 times more seats in the European Parliament than it would have in case of a pure proportional allocation of seats among the individual member states.

In all the elections it is virtually impossible for electoral areas to get an equal percentage of both, the population (or, the voters) and the seats contested. Malapportionment is used to indicate this discrepancy – that means to indicate unevenly or disproportionately defined constituencies when the constituencies are delimited regardless of the number of residents or voters, leading ultimately to the overrepresentation of some electoral regions. Such wards or regions therefore send to the representative body more elected representatives than would correspond to the shares of the population or voters from their total number. In single-member districts, the malapportionment manifests itself with the individual wards having a different number of voters. In multi-member districts, which is the case for the European Parliamentary elections, this feature is reflected by the fact that there is a higher number of voters per elected mandate in some wards than in other constituencies.

The avowed aim of malapportionment is to systematically favour certain groups (Lijphart, 1994: 15). This method is most often used in order to overrepresent less populated areas, or provide some form of bonus to parties that have the highest voter support in the overrepresented areas (Lijphart, 1999: 156; Gallagher, Mitchell, 2005: 634). However, as aptly put by a well-known political scientist and theorist of electoral systems Rein Taagepera, malapportionment is known, along with gerrymandering, as one of the

pathologies of electoral systems (Taagepera, Shugart, 1989: 17–18; Taagepera, 2008: 42–43), among others because it limits the degree of proportionality of election results – at least according to political scientist Michael Gallagher (see Gallagher, 1991: 44–45). Malapportionment simultaneously alludes to one of the fundamental principles of competitive elections (and the theories of democracy in general), namely the principle of equality of voting rights (or 'one person – one vote – one value principle') which is impossible to fill in to the greatest extent possible in case of there being uniformly defined constituencies. The higher the rate of malapportionment, the more an electoral practice moves away from its ideal of equality of votes.

David Samuels and Richard Snyder propose to use the well-known distortion index of John Loosemore and Victor Hanby (see Loosemore, Hanby, 1971) to measure malapportionment (Samuels, Snyder, 2001: 654–655; Charvát, 2011). The distortion index is commonly used to measure the allocation disproportionality of representative seats which is moreover similar to the malapportionment issue. While the original Loosemore-Hanby distortion index works with the shares of seats and votes in individual constituencies, for the purposes of this article it is adapted to the conditions of the European Parliamentary elections, respectively the apportionment of seats in the European Parliament among the European Union member states. The malapportionment rate (*MAL*) in relation to the representation of member countries in the European Parliament is therefore calculated so that the proportion of the number of deputies assigned to a given member state *i* from the total number of Members of the European Parliament (s_i) is subtracted from the proportion of the population of member state *i* from the European Union's total population (p_i). The values for each member country are converted to absolute values, and these absolute values for all European Union member states are added together. After the result of the addition is divided by two (so that the deviations are not counted twice), we obtain the value of malapportionment in the respective elections.

$$MAL = {}^{1}/_{2} \sum_{i=1}^{n} | s_i - p_i |$$

The malapportionment values move in a closed interval of <0; 1>. When the value of malapportionment equals 0 it would imply a purely proportional (equal) apportionment of seats in the European Parliament among the European Union member states (each European Union member country divided exactly that proportion of seats as had match the proportion of its population in the total population of the European Union). Conversely, if the value of malapportionment equals to 1, although the values of malapportionment never come close to it in the electoral practice, it would mean a maximum disproportion in the delimitation of constituencies with regard to the size of their population.

The resulting values are then easily interpretable and – in simple terms – indicate the percentage of the actual apportionment of seats among member states for the European Union as a whole deviating from the ideal uniform (proportional) apportionment of seats in the European Parliament. For example, if the value of malapportionment equals to 0.25 it would mean that 25 per cent of the total number of seats in the European Parliament was occupied in other countries than would correspond to the situation while respecting the principle of strict proportionality of seat allocation among the European Union member countries.

Results and Discussion

Under the Treaty on European Union, the total number of Members of the European Parliament (MEPs) cannot exceed the number of 750, and this number does not include the President of the European Parliament. There was an exception of a brief period from 2013 to 2014, when the European Parliament had temporarily 766 members after the accession of Croatia to the European Union. The number of Members of the European Parliament representing each European Union member state is then derived from the population size of a given member state according to the principle of degressive proportionality (see Article 14 (2) of the Treaty on European Union). Simultaneously, the Treaty of Lisbon provides for a minimum and maximum number of Members of the European Parliament elected in a single member state. Each member state of the European Union is thus entitled to a choice of at least six Members of the European Parliament. At the same time, it is true that any member state of the European Union shall not be allocated with more than 96 seats in the European Parliament. The demographically smallest European Union member states (Malta, Luxembourg, Cyprus and Estonia) thus receive the six seats, while the demographically largest country of the European Union, Germany, is distributed with 96 seats. Eight to seventy-four seats were divided among the remaining European Union member states in the 2014 European Parliamentary elections: 74 seats for France, 73 seats in the European Parliament having both the United Kingdom and Italy, 54 seats for Italy, 51 seats for Poland, 32 seats for Romania, less than 10 Members of European Parliament have even Latvia and Slovenia, both having 8 seats in the European Parliament (for more details see Table 1).

Table 1. The number of Members of the European Parliament of each European Union member state in the 2014 European Parliament elections

Member State	no. of MEPs	Member State	no. of MEPs
Germany	96	Austria	18
France	74	Bulgaria	17
United Kingdom	73	Denmark	13
Italy	73	Finland	13
Spain	54	Slovakia	13
Poland	51	Croatia	11
Romania	32	Ireland	11
Netherlands	26	Lithuania	11
Belgium	21	Latvia	8
Czech Republic	21	Slovenia	8
Hungary	21	Estonia	6
Portugal	21	Cyprus	6
Greece	21	Luxembourg	6
Sweden	20	Malta	6

The extreme values of each member state representation were, together with the principle of degressive proportionality, set deliberately with regard to significant variance between the number of inhabitants in the largest and smallest European Union member states. The degressive proportionality principle presupposes a certain level of benefit for

smaller member states when filling the Members of the European Parliament at the expense of large member states. A list of the most advantaged (overrepresented) smaller European Union member states and all the six disadvantaged (underrepresented) large European Union states is presented in Table 2. During the 2014 elections to the European Parliament, a total of 22 – out of 28 – European Union member states is favoured, while only the six demographically largest European Union countries (the French Republic, the United Kingdom of Great Britain and Northern Ireland, the Kingdom of Spain, the Federal Republic of Germany, the Italian Republic, and the Republic of Poland) are underrepresented in the European Parliament. Also Romania was slightly overrepresented in the 2014 European Parliamentary elections; Romanian advantage ratio equals to 1.0842 (that means about 8.5 per cent overrepresentation of Romania in the European Parliament compared to its population), and it was required more than 623 thousand Romanian inhabitants per one Romanian Member of the European Parliament, while the EU-28 average was about 675 thousand inhabitants per one European Parliament seat (see Table 2).

Table 2. Overrepresentation and underrepresentation of the European Union member states in the European Parliament since the 2014 European Parliament elections

Underrepresented			Overrepresented		
	A_i	ø inhabitants per mandate		A_i	ø inhabitants per mandate
France	0.7592	889,954.1757	Malta	9.5334	70,897.3333
UK	0.7670	880,935.0822	Luxembourg	7.3767	91,613.3333
Spain	0.7845	861,254.8148	Cyprus	4.7244	143,000.000
Germany	0.8030	841,458.3333	Estonia	3.0810	219,303.1667
Italy	0.8115	832,639.2877	Latvia	2.7008	250,183.5000
Poland	0.8960	754,816.8431	Slovenia	2.6224	257,635.6250
			Lithuania	2.5250	267,588.3636
			Croatia	1.7501	386,063.6364
			Slovakia	1.6218	416,611.4615
			Ireland	1.6144	418,548.0909
			(...) Czech Republic	*1.3497*	*500,591.3810*
			(…) Romania	*1.0842*	*623,207.0000*

Source: own calculations using data from Eurostat

The principle of degressive proportionality, however, necessarily entails discrimination against voters of the population of large European Union member states since they account for a significantly higher proportion of the population per seat in the European Parliament than in the case of demographically smaller countries. Table 2 clearly shows that while in the demographically largest countries, over 800 thousand inhabitants is necessary for one seat, the demographically smallest countries need 200 thousand inhabitants and less. Comparing the two extremes, France, the UK, Spain and Germany on the one hand need about twelve times more people per a Member of the European Parliament than Malta or Luxembourg needs on the other one. However, the European Parliamentary elections are thus in conflict with the basic democratic principle

of elections of the same value of all voters' votes. Simultaneously, Table 2 shows that the proportion of the larger in population the country, the higher is its underrepresentation does not apply. Germany, the largest in population, is in fact only the fourth most disadvantaged member country, while the most disadvantaged countries are represented by the second and third demographically largest European Union member states, namely France and the United Kingdom. Nevertheless, Table 2 reflects the malapportionment rate of individual member states in the European Parliament in 2014 only at the individual level, it does not tell us anything about the overall malapportionment rate in the 2014 European Parliamentary elections. As a useful tool for determining this value, and therefore to quantify the principle of degressive proportionality in the European Parliamentary elections in 2014, there is a procedure recommended by David Samuels and Richard Snyder (2001; see above). If we apply this calculation to the situation in the 2014 European Parliamentary elections, the value of the malapportionment adaptation of the original distortion index of Loosemore and Hanby equals to 0.1424. Thus, a total of 14.24 per cent of the seats in the European Parliament was distributed unevenly across the European Union member states in the 2014 European Parliamentary elections; or, in other words, 107 seats in the European Parliament were given to a different country in 2014 than would correspond to the principle of proportionality representation of the European Union member states (compared to their population shares).

Rather to illustrate, Figure 1 is given below comparing the malapportionment rate in each direct European Parliamentary elections from 1979 to the present. Along with the rise in the number of European Union member states, there is currently also an increase in the overall malapportionment rate in the European Parliament. It should be noted that the number of European Union member states is not the only variable that directly affects the malapportionment rate. These include the total number of Members of the European Parliament, the number of seats in the European Parliament allocated to individual European Union member states, the number of overrepresented and underrepresented countries, etc. But since the development of the malapportionment rate over time is not the aim of this study, this analysis will not address this issue further.

Figure 1. Malapportionment in the European Parliamentary elections since 1979

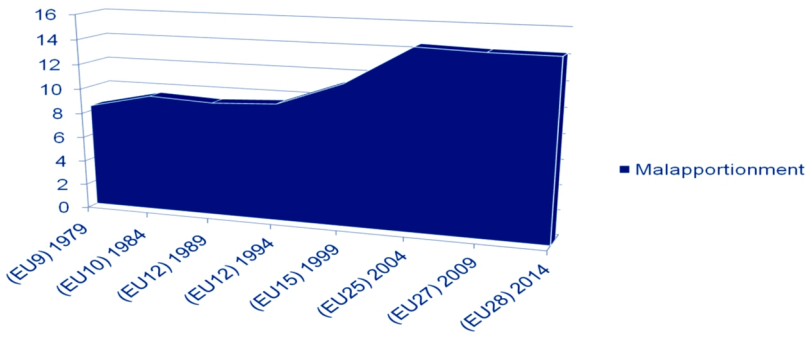


Table 3 represents a model situation of the apportionment of seats in the European Parliament amongst the member states, should the same number of seats be divided as it was in the 2014 European Parliamentary elections (that means 751 seats) and simultaneously, if the seats for individual European Union member states were allocated

by the principle of strict proportionality in accordance with the proportion of their population. At the same time, this model calculation is compared with the situation in the 2014 European Parliamentary elections as well. Table 3 demonstrates that if the population equality were the criterion for apportionment in the 2014 European Parliamentary elections, then Germany would have to have 120 Members of the European Parliament (instead of 96 seats), France, the United Kingdom and Italy 90 or more Members of the European Parliament (instead of 74 or 73 seats, respectively). On the contrary, Malta, Luxembourg and Cyprus would have to have only one seat and Estonia two seats in the European Parliament (instead of six as guaranteed by the Treaty of Lisbon). In case of the criterion of the population equality was applied, Romania would have to have three Members of the European Parliament less than it was in 2014 (29 seats instead of 32).

Table 3. Representation of individual European Union member states in the European Parliament in case of proportional allocation of seats (with regard to the proportions of the population in European Union member states as of 1 January 2014)

Member State	no. of MEPs	Member State	no. of MEPs
Germany	120 (+ 24)	Austria	13 (- 5)
France	97 (+ 23)	Bulgaria	11 (- 6)
United Kingdom	95 (+ 22)	Denmark	8 (- 5)
Italy	90 (+ 17)	Finland	8 (- 5)
Spain	69 (+ 15)	Slovakia	8 (- 5)
Poland	57 (+ 6)	Ireland	7 (- 4)
Romania	29 (- 3)	Croatia	6 (- 5)
Netherlands	25 (- 1)	Lithuania	4 (- 7)
Belgium	17 (- 4)	Latvia	3 (- 5)
Czech Republic	16 (- 5)	Slovenia	3 (- 5)
Greece	16 (- 5)	Estonia	2 (- 4)
Hungary	15 (- 6)	Cyprus	1 (- 5)
Portugal	15 (- 6)	Luxembourg	1 (- 5)
Sweden	14 (- 6)	Malta	1 (- 5)

Source: our own calculations using data from Eurostat

Note: the number written in brackets indicates the difference between the number of Members of the European Parliament for a given member country in a strictly proportional allocation of seats among the European Union member states (see number before the brackets) and the current state of the number of Members of the European Parliament in the individual European Union member states (see Table 1). The value {+ 24} means that the country would have 24 more seats within the proportional allocation of seats than it had in the 2014 European Parliamentary elections. Or in other words, that the country was underrepresented by 24 parliamentary seats in the 2014 European Parliamentary elections. Conversely, the value {- 6} implies that, respecting the principle of strict allocation of

seats, a given country would be given six parliamentary seats less than it was in the 2014 European Parliamentary elections; or, it was overrepresented by six seats in the European Parliament in 2014.

Moreover, the model situation – as presented above in Table 3 – reflects also a clear risk of a strict proportional allocation of seats in the European Parliament amongst the European Union member states with respect to their population. Six of the demographically smallest European Union member states (Malta, Luxembourg, Cyprus, Estonia, Slovenia and Latvia) would occupy from one to three seats in the European Parliament in such circumstances after the 2014 election. In total, these six small countries would gain only eleven seats in the European Parliament (while three demographically smallest European Union member states – Malta, Luxembourg and Cyprus – would each have just one Member of the European Parliament), and their status and power in the European Parliament would be essentially zero.

Conclusion

Even after 25 years since the first direct election of the European Parliament, there are no clear rules for the apportionment of the number of Members of the European Parliament per individual member state. Although the Treaty of Lisbon introduces the basic principle of degressive proportionality, the total number of Members of the European Parliament and the minimum and maximum number of Members of the European Parliament per European Union member state, but it does not specify the mechanism by which the total population of European Union member states determines the number of Members of the European Parliament that belong to a given European Union member state in the relevant European Parliamentary elections. Therefore, the representation of individual European Union member states in the European Parliament is the result of political negotiations between leading representatives of the European Union member states. This situation should, however, be changed before the next European Parliamentary elections (to be held in 2019) and a binding mechanism for calculating the number of Members of the European Parliament for each European Union member state with respect to its population should be adopted.

Although there previously were attempts to formulate the procedure how to allocate seats in the European Parliament amongst European Union member states, there were never (strictly) applied. One of the well-known is the algorithm set at the meeting of the Council of Europe in 1992. According to this algorithm, each member state receives at least six seats. Simultaneously, the seats are allocated to the member states with the respect to the population density of each member state in the following way: states with a population of 1 to 25 million receive a mandate for every 500 thousand citizens; states with a population of 25 to 60 million receive a mandate for every million citizens; states with a population exceeding 60 million receive a mandate for every 2 million citizens (see, e.g., Cegielka, 2011). Similarly, a group of seven mathematicians and one political scientist led by Professor Geoffrey Grimmet presented at the Committee on Constitutional Affairs meeting in February 2011 their proposal called Cambridge Compromise. The Grimmet's team proposed a two-stage procedure of allocating seats in the European Parliament amongst European Union member states. In the first stage, each European Union member state receives five seats in the European Parliament. In the second stage, the remaining number of seats is divided by the Adams divisor method (series of divisors as follows 0; 1; 2; 3; 4, etc.) which is, according to Geoffrey Grimmet, the most suitable divisor method of proportional representation in this case. By this procedure, each

European Union member state receives a minimum of 6 seats as it is guaranteed in the Treaty of Lisbon (for more details see Grimmet, 2012).

Overall, the very principle of degressive proportionality appears not to be entirely satisfactory. This is mainly due to the fact the principle of degressive proportionality appears to be in conflict, as is, among other things, confirmed by the presented study, with the principle of equality of voting rights. Yet the principle of 'one person – one vote – one value' belongs among the basic common principles (not only) of the European Parliamentary elections. When compared France, the UK, Spain and Germany as the most populated European Union member states on the one hand and Malta or Luxembourg as European Union member states with the least inhabitants on the other, the former need about twelve times more people per a seat in the European Parliament than the latter need. At the same time, it is obvious that the representation of individual European Union member states in the European Parliament must more or less reflect the population size of a given country, but also every European Union member state must obtain a sufficiently large representation in the European Parliament in order to not be an insignificant member of the community. Thus, if the demographically small European Union member states should have a relevant position in the European Parliament, as for example guaranteed in the Treaty of Lisbon, then there is nothing left but to overrepresent them in the form which is currently the case. On the other hand, the situation of unequal representation of the individual European Union member states in the European Parliament is unavoidable in this case. As aptly put by well-known election geographers Peter John Taylor and Ronald John Johnston in their *Geography of Elections* of 1979, if Luxembourg will have six deputies in the European Parliament, then the malapportionment in the European Parliament is inevitable. So it is today, 25 years later. But today it is not only the case of Luxembourg, but moreover the case of Malta, Cyprus, Estonia, Slovenia, Latvia and Lithuania as well.

The objective of the study is not to compare the European Union to a federally arranged state, or the European Parliament to the parliaments of federal states, however, it is useful to recall that the federal states typically resolve this issue by setting up two parliamentary chambers: one chamber reflects the population size of individual federal units, the second chamber is then established according to the principle of equal representation of the various federal units. The European Parliament is a unicameral body and today it seems unlikely that it could receive a second chamber in the near future. Yet in this one chamber, there is obviously an attempt to combine both principles typical for federal parliaments as presented above. This again necessarily presupposes the existence of unequal representation of the individual European Union member states in the European Parliament. But one could argue that this unequal representation is caused or determined by a voluntary agreement between top representatives of the European Union member countries.

Acknowledgement:
The paper has been prepared as a partial output of scientific research project of Metropolitan University Prague (no. 34-16) funded by the institutional support for long-term conceptual development of research organization in 2015.

References:

Cegiełka, K. (2011). Degressive Proportionality in the European Parliament. *Mathematical Economics*, 7 (14), 31-38.

Charvát, J. (2011). Malapportionment, hodnota hlasu a volby do Zastupitelstva hlavního města Prahy 2010 [Malapportionment, the Value of a Vote and the Election of the Municipal Council of the Capital City of Prague, 2010]. *Politologický časopis/Czech Political Science Journal*, 18 (4), 335-353.

Charvát, J., Outlý, J. (2015). Pravidla voleb do Evropského parlamentu v roce 2014: poměrné zastoupení v dvaceti osmi specifických národních variacích [Electoral Rules to the European Parliament in 2014: Proportional Representation in 28 National Varieties], *Politics in Central Europe*, 11 (1), 13-38.

Consolidated Versions of the Treaty on European Union and the Treaty of Functioning of the European Union (2010/C 83/01) [online], Official Journal of the European Union, vol. 53, 30. March 2010, C83 [cit. 2015-04-04]. Retrieved from: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2010:083:FULL&from=EN.

Dniestrzański, P. (2011). Degressive Proportionality – Source, Findings and Discussion of the Cambridge Compromise, *Mathematical Economics*, 7 (14), 39-50.

Eurostat. (2014). Population on 1 January [online], [cit. 2015-04-04]. Retrieved from: http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tps00001&plugin=1; http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do.

Farrell, D. M., Scully, R. (2005). Electing the European Parliament: How Uniform are 'Uniform' Electoral Systems? *Journal of Common Market Studies*, 43 (5), 969-984.

Florek, J. (2012). A numerical method to determine a degressive proportional distribution of seats in the European Parliament. *Mathematical Social Sciences*, 63 (2), 121-129.

Gallagher, M. (1991). Proportionality, Disproportionality and Electoral Systems. *Electoral Studies*, 10 (1), 33-51.

Gallagher, M., Mitchell, P. (eds.). (2005). *The Politics of Electoral Systems*, Oxford: Oxford University Press.

Grimmett, G. (2012). European apportionment via the Cambridge Compromise. *Mathematical Social Sciences*, 63 (2), 68-73.

Kellermann, T. (2012). The minimum-based procedure: a principled way to allocate seats in the European Parliament. *Mathematical Social Sciences*, 63 (2), 102-106

Lijphart, A. (1994). *Electoral Systems and Party Systems. A Study of Twenty-Seven Democracies, 1945–1990*, New York: Oxford University Press.

Lijphart, A. (1999). *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries*, New Haven: Yale University Press.

Loosemore, J., Hanby, V. J. (1971). The Theoretical Limits of maximum Distortion: Some Analytical Expressions for Electoral Systems. *British Journal of Political Science*, 1 (4), 467-477.

Millar, D. (1990). A uniform electoral procedure for European elections. *Electoral Studies*, 9 (1), 37-44.

Reif, K. (1984). Transnational problems of a uniform procedure for European elections. In Grofman, B., Lijphart, A. (eds.), *Choosing an electoral system: Issues and alternatives*, New York: Praeger, 231-245.

Samuels, D., Snyder, R. (2001). The Value of a Vote: Malapportionment in Comparative Perspective. *British Journal of Political Science*, 31 (4), 651-677.

Serafini, P. (2012). Allocation of the EU Parliament seats via integer linear programming and revised quotas. *Mathematical Social Sciences*, 63 (2), 107-113

Słomczyński, W., Życzkowski, K. (2012). Mathematical aspects of degressive proportionality. *Mathematical Social Sciences*, 63 (1), 94-101

Taagepera, R. (2008). *Predicting Party Sizes: The Logic of Simple Electoral Systems*, Oxford & New York: Oxford University Press.

Taagepera, R., Shugart, M. S. (1989). *Seats and Votes: The Effects and Determinants of Electoral Systems*, New Haven & London: Yale University Press.

Taylor, P. J., Johnston, R. (1979). *Geography of Elections*, Routledge.

2002/772/EC,Euratom: Council Decision of 25 June 2002 and 23 September 2002 amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Decision 76/787/ECSC, EEC, Euratom [online], [cit. 2015-04-04]. Retrieved from: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002D0772:EN:NOT.

Article Info

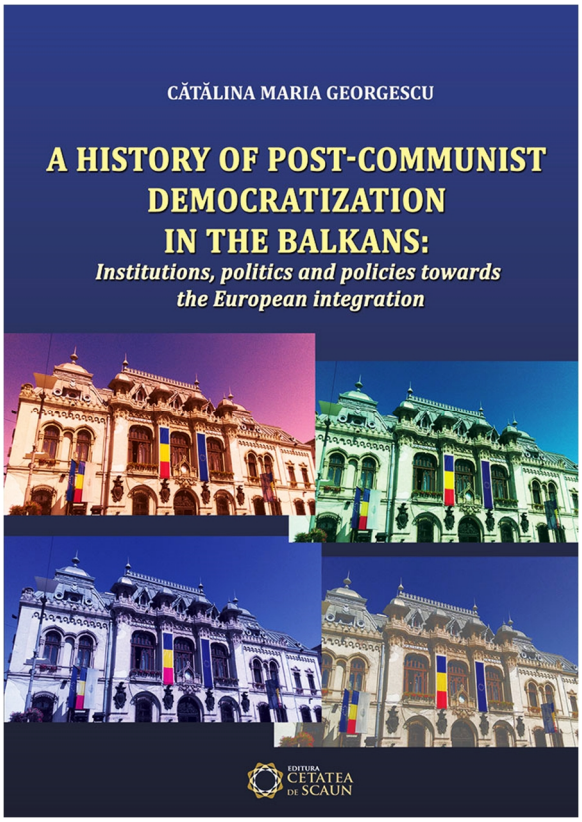
Received: October 25 2015
Accepted: November 17 2015

RSP • No. 48• 2015: 191-192

BOOK REVIEW

Cătălina Maria Georgescu, A History of Post-Communist Democratization in the Balkans: Institutions, politics and policies towards the European integration, Târgoviște: Cetatea de Scaun Publishing House ISBN 978-606-537-306-8, 157 pages.

Anca Parmena Olimid*



The book of professor Cătălina Maria Georgescu aims to explore the history of democratization in the Balkans by applying the "new historical institutionalist approach" to the study of public organizations. The book features complex methodological details in which conceptual representations, historical conditionalities, political implications and current approaches are emphasized in order to understand the continuous change in the post-communist policy-making.

Professor Cătălina Georgescu's main interest in her book, *A History of Post-Communist Democratization in the Balkans: Institutions, politics and policies towards the European integration*, is to investigate "whether convergence or divergence prevails in terms of the evolution of public organizations within South Eastern Europe following the fall of communism" (p. 9).

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Through professor Georgescu's extensively applied historical neo-institutionalism to institutional dynamics analysis, the reader is given insight into how the path dependent approaches to European integration are build and enabled. Georgescu is also careful to re-configurate the "conceptual map" of Europeanization and the patterns of integration.

She sets out the approach to the "ideal" alternatives within the institutionalist dynamics analysis and its reflections encompassing the conceptual framework for the integration of the new European Union member states arguing that "the current situation discusses the application of Europeanization process in governance applicable to the European Union integration framework of New Member States" (p. 55).

Professor Georgescu's emphasis allows the reader to "re-think future research" and to configure the "governance and intra-governmental relations under the European integration logic". It is not, therefore, surprising that the research mainly focuses on Romania. As a "post-communist political transition", the idea of the "backwardness of transition societies of South-Eastern Europe" is present throughout the last two chapters.

For professor Georgescu, the multi-level governance models "corroborated to institutional structures intended to increase citizens' participation" (p. 101). Professor Georgescu's study of the "Europeanization phenomenon" and its "path dependences approaches" is a great opportunity for the reader to accommodate those aspects beyond the political theory. Drawing on complex cross-sectorial analysis of EU conditionality-administrative capacity-reform drive, Georgescu argues that the "return of Europe" approach was the "commonplace for political discourses within the South Eastern policies" (p. 109).

The book successfully seeks a balance between EU conditionalities and norms and the South Eastern European analyses in the governance reform process. Precisely by highlighting these EU imposed conditionalities, *A History of Post-Communist Democratization in the Balkans: Institutions, politics and policies towards the European integration* offers a relevant review of the post-communist democratization in the Balkans. In sum, this is an excellent book that invites the reader to seek new approaches between politics and administration, history and law, social and institutional in their common findings for democratization and integration. Professor Georgescu urges history of democratization to work towards a theory of a successful integration of the New EU Member States. The invitation is generous and throughout innovative, and is certainly worth discovering Eastern Europe through national representation and cross-administrative patterns.

Book review Info

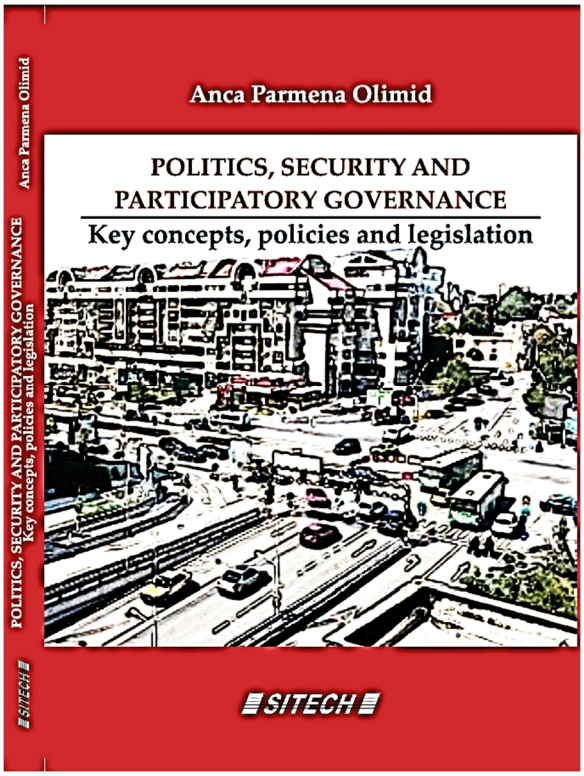
Received: October 18 2015
Accepted: November 20 2015

RSP • No. 48• 2015: 193-194

BOOK REVIEW

Anca Parmena Olimid, Politics, Security and Participatory Governance: key concepts, policies and legislation, Craiova: Sitech Publishing House, ISBN 978-606-11-4861-5, 206 pages.

Cătălina Maria Georgescu*



2015 brought to light an editorial product which corroborates valuable contributions in the field of political science, security studies and public policies analysis of professor Anca Parmena Olimid. *Politics, security and participatory governance: key concepts, policies and legislation* encapsulates the author's view in the field by introducing key concepts, methods and analytical interpretations on regulation and national and/or international intervention on democratization of governance. Professor Olimid's nine chapter-structured work outlooks over the theoretical approaches of transition for the Eastern European space by considering the logic of the "import of the rule of law as a democratic tradition in post-communist constitutional usage" (p. 26) as a guideline for the re-consideration of theoretical matrices on democratization. The analytical process brings forward a correlation of "civic engagement and citizen participation in local governance" (p. 49) with a special focus on the relation between membership patterns and group dynamics on the one hand, and, on the other hand, by re-heating the discussion on the institutionalization of "civic community, cultural governance and participatory governance" (p. 48).

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The discussion moves forward to discover the "paradigm shift in security policy agenda in the 2000s" (p. 74) by exploring security research conceptual innovations and methodological questioning with an application on information security policies. The author draws a special attention to the change of paradigm which re-configures security policy making by pointing out the highlight on objective systematic analysis of the international security context (p. 77). The approach is further individualized in the fifth chapter in which Professor Olimid presents the results of a study on UN Security Council Resolutions covering the period 2012-2014 for the thematic areas "international peace" and "security cause". The message it communicates is to move away from a rigid meaning of the principles set forth by international rules as for the last years the will of the international community was to "engender the interests of states, institutions or local communities" (p. 99). The reading thus becomes mandatory within the current international security context boosting the acknowledgement to prevent and combat terrorism. Whitin this note, a discussion featuring spirituality and legality reconfigures the historical evolution of the institution of self-administration and cultural movement (p. 125). Throughout the sixth chapter we follow Professor Olimid rendering critical junctures in the understanding of Romanian modern state constitutional provisions; the work guides the reader into "a broader interpretation" of the modern religious ideas and organization analyzing the passing of historical heritage within a multidisciplinary study.

The seventh and eighth chapters dwel upon the legislation, finances, organization and administrative regulations correlating data and findings from newly entrants into the EU. The interest is comparative-based, the author aiming at identifying the red line guiding the "religiosity debate" of the contemporary period (p. 137) into drawing a model of church-state relations. The final chapter further exposes the author's intuitive remarks and empirical findings on public policies with a special focus on the "Romanian housing tenure". The approach is comparative, the author's investigation drawing attention on public policy making before and after EU membership acquiring. With an interest into discovering legal arrangements for state-led investments as against private financial intervention, statistical data employment renders the approach measurable across the dimensions of economic development, local management and national housing market accounting for the provision of a new "state ownership majority of dwellings paradigm".

The work should fulfill all expectations of interested researchers in the field of political sciences, history, law, administrative sciences, cultural studies, theological and security studies as it offer an interplay across established cultural zones, national and international regulations along a timespan arguably so as to offer an alternative perspective to the mainstream by correlating information on institutions, legislation and norms during the post-communist transition across a diversity of national legal systems and historical, cultural and socio-political context. In a nutshell, the volume proves its academic utility through the variety of themes and innovative methodological approaches which add another piece to the great puzzle of post-communism and democratization of an emerging and assymetrically developed region.

Book review Info

Received: October 10 2015
Accepted: November 24 2015

CEPOS CALL FOR PAPERS

6TH INTERNATIONAL CONFERENCE AFTER COMMUNISM. EAST AND WEST UNDER SCRUTINY

Craiova (Romania), House of the University, 8-9 April 2016

Dear Colleagues,

We are delighted to invite you to participate in the Fifth International Conference AFTER COMMUNISM. EAST AND WEST UNDER SCRUTINY in Craiova, Romania, 8-9 April 2016. 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", 25 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 2016 Conferences and Events Series

PROPOSED PANELS

Center of Post-Communist Political Studies (CEPOS) proposes the following panels:

-Communism, transition, democracy;
-Political theory, ideology and social action in transition;
-Revolution and political history;
-Political culture and ideology
-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 ATTACH CEPOS CONFERENCE 2016 REGISTRATION FORM)
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: 10 MARCH 2016 (ACCESS AND DOWNLOAD
CEPOS CONFERENCE APPLICATION FORM 2016 attached)
Proposals must be submitted until 10 March 2016 at the following addresses:
Center of Post-Communist Political Studies (CEPOS) cepos2013@gmail.com, cepos2013@yahoo.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

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 2012-2013 are available on:
- CEPOS official website sections
Past Events available at http://www.cepos.eu/past.html
Foto Gallery available at http://www.cepos.eu/gallery.html) - CEPOS FACEBOOK ACCOUNT:
https://www.facebook.com/pages/Center-of-Post-Communist-Political-Studies-CEPOS/485957361454074

CONFERENCE INTERNATIONAL INDEXING OF THE PAST EDITIONS
CEPOS Conference 2014 CONFERENCE INTERNATIONAL INDEXING OF THE PAST EDITIONS

CEPOS Conference 2015
The Fifth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 24-25 April 2015) was evaluated and accepted for indexing in 15 international databases, catalogues and NGO's databases:
- THE ATLANTIC COUNCIL OF CANADA, CANADA
http://natocouncil.ca/events/international-conferences/
- ELSEVIER GLOBAL EVENTS LIST
http://www.globaleventslist.elsevier.com/events/2015/04/fifth-international-conf
- GCONFERENCE.NET
http://www.gconference.net/eng/conference_view.html?no=47485&catalog=1&cata=018&co_kind=&co_type=&pageno=1&conf_cata=01
- CONFERENCE BIOXBIO http://conference.bioxbio.com/location/romania
- 10 TIMES http://10times.com/romania
- CONFERENCE ALERTS http://www.conferencealerts.com/country-listing?country=Romania
- http://www.iem.ro/orizont2020/wp-content/uploads/2014/12/lista-3-conferinte-internationale.pdf
- http://sdil.ac.ir/index.aspx?pid=99&articleid=62893
- NATIONAL SYMPOSIUM http://www.nationalsymposium.com/communism.php
- SCIENCE DZ http://www.sciencedz.net/conference/6443-fifth-international-conference-after-communism-east-and-west-under-scrutiny
- ARCHIVE COM http://archive-com.com/com/c/conferencealerts.com/2014-12-01_5014609_70/Rome_15th_International_Academic_Conference_The_IISES/
- CONFERENCE WORLD http://conferencesworld.com/higher-education/
- KNOW A CONFERENCE KNOW A CONFERENCE
http://knowaconference.com/social-work/
- International Journal on New Trends in Education and Their Implications (IJONTE) Turkey http://www.ijonte.org/?pnum=15&
- Journal of Research in Education and Teaching Turkey
http://www.jret.org/?pnum=13&pt=Kongre+ve+Sempozyum
CEPOS CONFERENCE 2015 is part of a "consolidated list of all international and Canadian conferences taking place pertaining to international relations, politics, trade, energy and sustainable development". For more details see
http://natocouncil.ca/events/international-conferences/

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

International Society of Political Psychology, Columbus, USA, http://www.ispp.org/uploads/attachments/April_2014.pdf
Academic Biographical Sketch, http://academicprofile.org/SeminarConference.aspx;
Conference alerts, http://www.conferencealerts.com/show-event?id=121380;
Gesis Sowiport, Koln, Germany, http://sowiport.gesis.org/; Osteuropa-Netzwerk, Universität Kassel, Germany, http://its-vm508.its.uni-kassel.de/mediawiki/index.php/After_communism_:_East_and_West_under_scrutiny_:_Fourth_International_Conference
Ilustre Colegio Nacional de Doctores y Licenciados en Ciencias Politicas y Sociologia, futuro Consejo Nacional de Colegios Profesionales, Madrid, http://colpolsocmadrid.org/agenda/.

TRANSPORT
The 6th International Conference "After communism. East and West under Scrutiny" (2016) 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, Bergamo etc.
Other airports, such as Bucarest (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/).

ACCOMMODATION
Rooms could be booked at:
Hotel Royal, http://www.hotelroyalcraiova.ro/
Hotel Meliss, http://www.hotelmeliss.ro/
Hotel Lido, http://www.lido-craiova.ro/
Hotel Europeca, http://www.hoteleuropeca.ro/en/

CEPOS CONFERENCE 2016 FEES AND REGISTRATION REGISTRATION DESK
The Conference Registration Desk will be opened from Friday, 8th of April (from 08.00 a.m. to 18.00 p.m.) until Saturday 9th (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 380 ron/ arround 85 euros/paper can be paid directly via bank transfer on CEPOS Bank account as follows: (official National Bank of Romania exchange course 1 EUR = 4.45 lei)
Details for online payment
Banca Romana pentru Dezvoltare (BRD)
Titular: ASOCIATIA CENTRUL DE STUDII POLITICE POSTCOMUNISTE
Referinte: CV taxa participare si publicare CEPOS
Nr. cont RO64BRDE170SV96030911700 (RON)

MEALS AND OTHER ORGANIZING DETAILS
The registration fees covers:
* Conference attendance to all common sessions 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-April 8, 2016 - April 9, 2016. During the two days conference, 4 coffee breaks are offered.
* Welcome reception (April 8th 2016)
* Lunch (April 8th 2016) offered in the University House Mihai Eminescu Gala Room
* A Festive Gala Dinner and Cocktail (April 8th 2016) offered in the University House Mihai Eminescu Gala Room
* A Free Cocktail Buffet will be served from 19:30 p.m. to 21.30 p.m.
* A Free Entrance Voucher is provided inside of each Conference Bag.
* Lunch (April 9th 2016)
* Certificate of attendance (offered at the end of the conference Saturday, April 9th 2016)
* Publication of the Conference Papers in the International Indexed Journal Revista de Stiinte Politice. Revue des Sciences Politiques (previous publication of the 2015 Conference papers is available at http://cis01.central.ucv.ro/revistadestiintepolitice/acces.php (RSP issues/ 2015)
* 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 2016
* Participants in CEPOS CONFERENCE 2016 have free acces to the Social and Cultural Program of the Sixth Edition of International Conference After Communism. East and West under Scrutiny, Craiova, 8-9 April 2016: including free guided tours of the:
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, April 9th 2016.
PUBLISHING THE PAPERS IN THE INTERNATIONAL INDEXED JOURNAL REVISTA DE STIINTE POLITICE. REVUES DES SCIENCES POLITIQUES

After the reviewing process, the conference papers will be published in Revista de Stiinte Politice/Revue des Sciences Politiques.
The whole text of the papers must be written in English and delivered until 18 April 2016 at the following addresses:
Center of Post-Communist Political Studies (CEPOS) cepos2013@yahoo.com, cepos2013@gmail.com
Important note: All conference materials presented at the:
- Second International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 2-3 March 2012) were published in no. 33-34, 35 and 36/ 2012 of the Revista de Stiinte Politice. Revues des Sciences Politiques (RSP).
See the full text (free acces) at the following address:http://cis01.central.ucv.ro/revistadestiintepolitice/acces.php
- Third International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 5-6 April 2013) were published in no. 37-38, 39, 40/ 2013 of the Revista de Stiinte Politice. Revues des Sciences Politiques (RSP).
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http://cis01.central.ucv.ro/revistadestiintepolitice/acces.php
-Fourth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 4-5 April 2014) were published in no. 41, 42, 43, 44/ 2014 of the Revista de Stiinte Politice. Revues des Sciences Politiques (RSP).
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