



**UNIVERSITY OF CRAIOVA
FACULTY OF SOCIAL SCIENCES
POLITICAL SCIENCES SPECIALIZATION &
CENTER OF POST-COMMUNIST POLITICAL STUDIES
(CESPO-CEPOS)**

**REVISTA DE ȘTIINȚE POLITICE.
REVUE DES SCIENCES POLITIQUES**

No. 51 • 2016



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CONTENTS

Revista de Științe Politice. Revue des Sciences Politiques

RSP • No. 51 • 2016

Leaders and Leadership in Review: Connecting Political and Cultural Spotlights to Leading Styles

EDITORS' NOTE

Anca Parmena OLIMID, Cătălina Maria GEORGESCU, Cosmin Lucian GHERGHE 9

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

ORIGINAL PAPERS

Ali PAJAZITI, Ylber SELA, Jasmina TRAJKOSKA,
Multiculturalism in a (Post)Crisological Society: From Wrong Acception to a New Pluralistic Sociey-Building Approach 12

Rafael Marchesan TAUIL, Terrell Foster CARVER,
Marxism and Democracy: a New Approach to Comprehending the Relationships between Intellectuals and Politics by Examining the Life and Works of the Brazilian "Activist" and Theoretician Francisco Weffort 24

Adisa AVDIĆ-KÜSMÜŞ,
Democracy in Bosnia and Herzegovina: Moving Beyond Dayton 39

Anna GROMILOVA,
Resolving the Russo-Estonian Border Dispute in the Wake of the Ukrainian Crisis 49

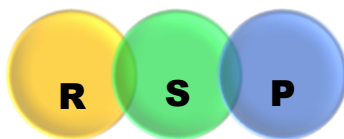
Gazmend ALIJI, Jonuz ABDULLAI,
The Status and Role of Albanians in the Western Balkans during Transition 63

Cosmin-Ștefan DOGARU,
Power Networks in Romania during the Reign of Charles I: Family, Political and Economic Ties 73

Loredana-Maria ILIN-GROZOIU,
Principles and regulations stipulated in the Constitution from 1923 83

Georgeta GHIONEA,
The Political Press in Oltenia of the Interwar Period 94

Gabriela SAFTA, <i>Aspects Regarding the Oppression of the Religious Cults during the Communist Regime in the Files of the Romanian Securitate</i>	109
Claudiu Angelo GHERGHINĂ, <i>Normative Administrative Act</i>	120
Mihaela GHENȚA, <i>Employment in Health and Social Assistance Sector in European Union</i>	131
Bertha SĂNDULEASA, Aniela MATEI, <i>Gender Role Attitudes and Implications on the Ability to Negotiate the Balance between Work and Family Life</i>	144
Ștefan SCURTU, <i>Discharging Civil Obligations by Payment as Provided by the Romanian Civil Code</i>	155
Afet MAMUTI, <i>The New Reproductive Technology and Parent-Child Relationship</i>	165
CEPOS NEW CALL FOR PAPERS 2017	174
RSP MANUSCRIPT SUBMISSION	186
Errata, Corrigenda and Retractions	189



EDITORS' NOTE

Leaders and Leadership in Review: Connecting Political and Cultural Spotlights to Leading Styles **Note of the Editors of the** *Revista de Științe Politice. Revue des Sciences Politiques*

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

In search of state of the art connections among political and legal spotlights to leading styles, the diligent authors of *Revista de Științe Politice. Revue des Sciences Politiques* (RSP) 51st issue contribute to a broader understanding of the contextual nature of leaders and leadership.

The first article entitled *Multiculturalism in a (Post)Crisological Society: From Wrong Acception to a New Pluralistic Sociey-Building Approach* authored by Ali Pajaziti, Ylber Sela and Jasmina Trajkoska proposes a multicultural perspective of the “(post)crisological society” as a descriptive-analytical and empirical-quantitative development aimed at “producing an objective overview of the perceptions of citizens of Kumanovo in relation to plural identities”.

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An analysis of the political activity and writings of Francisco Weffort subdued to the triad “populism”, “nationalism” and “democracy”, the paper of Rafael Marchesan Tauil and Terrell Foster Carver, *Marxism and Democracy: a New Approach to Comprehending the Relationships between Intellectuals and Politics by Examining the Life and Works of the Brazilian “Activist” and Theoretician Francisco Weffort*. The authors’ interest is eloquently affiliated to describing Weffort’s merits and political activity rather than his prodigious writings. Thus, the authors argue for Weffort’s indisputable influence over the gradual transformation of the Brazilian democratic state.

More on democracy, we encounter Adisa Avdić-Küsmüş article *Democracy in Bosnia and Herzegovina: Moving Beyond Dayton*, an exploratory intervention on the Bosniac political system, international protectorate, threatened consociationalism. The paper drills on the political system cemented through the Dayton agreement, wondering on its effects upon effective governance and Bosnia and Herzegovina’s path towards towards “becoming a sovereign democratic state rather than persisting in its position of a weak and fragmented state under international supervision”.

Nevertheless, the article of Gazmend Aliji and Jonuz Abdullai presents the status and role of the Albanians in the Western Balkans during the transition period arguing “emergence of political crisis with consequences in inter-ethnic and inter-religious relations”.

Further on international relations, Anna Gromilova analyses whether the Ukrainian Crisis would backfire in the Russo-Estonian Border Dispute in the paper entitled *Resolving the Russo-Estonian Border Dispute in the Wake of the Ukrainian Crisis*. The author sheds light on the maze of one century old Russo-Estonian relations.

Going back into Romanian modern history, Cosmin-Ştefan Dogaru extolls the power relations surrounding the Romanian young monarchy in his article *Power Networks in Romania during the Reign of Charles I: Family, Political and Economic Ties*. Building on elite theory and political power literature, as well as inedited accounts of modern Romanian political leadership, the author analyses the political, legal and economic systems that governed modern Romania.

Narrowing the geographical space to the historical Oltenia region and advancing through time we discover the article of Georgeta Ghionea, *The Political Press in Oltenia of the Interwar Period*. Methodically placing itself on archival documents content analysis, the paper dwells on the regional press influence and the focus on the “modern newspaper ideal” in forging public opinion and a political life.

The article signed by Loredana-Maria Ilin-Grozoiu deals with the same historical period focusing on the democratic principles and regulations established through the Romanian fundamental law adopted in 1923 “declaring the state national unitary and indivisible, with inalienable territory, with the specification that the political power belongs to the nation”..

On the opposite, the article signed by Gabriela Safta renders obvious the acts of oppression of religious activities by analysing the files of Romanian former secrete police archives. The paper *Aspects Regarding the Oppression of the Religious Cults during the Communist Regime in the Files of the Romanian Securitate* states the results of content analysis in C.N.S.A.S. archives by stressing the “means of repression of the communist authorities against the cults, the state’s approach of the spiritual and religious life as a constant threat to the regime, and the mechanisms through which some personalities [...] were surveilled, condemned and prosecuted, and others [...] collaborated with the Securitate”.

The normative administrative act is dealt with intensely in the article authored by Claudiu Angelo Gherghină. For a term defined in the interwar period, the conceptual understanding and interpretation of the normative administrative act is brought forward by the present doctrine which “emphasizes not only the formal-material aspect, but also the functional-legal side of the administrative act, referring both to the authority and to the applicable legal regime”.

Accounting for the contemporary demographical changes and challenges, Mihaela Ghența focuses on analyzing the *Employment in Health and Social Assistance Sector in European Union*.

A further research signed by Bertha Sănduleasa, Aniela Matei focuses on *Gender Role Attitudes and Implications on the Ability to Negotiate the Balance between Work and Family Life* building upon “data from the European Labour Force Survey (EU LFS) completed by qualitative research findings from two focus groups developed in Bucharest among working mothers”.

Ștefan Scurtu makes an encounter on the discharge of civil obligations as defined by the old and new Romanian Civil Code and by the legal doctrine in *Discharging Civil Obligations by Payment as Provided by the Romanian Civil Code*.

The article of Afet Mamuti *The New Reproductive Technology and Parent-Child Relationship* brings forth one of the most controversial topic of bioethics for all the parties involved, be they doctors, patients, religious and/or feminist standards focusing on the “the use of new methods of family planning, especially for the human reproduction” arguing that this field remains “one of the most controversial topics both by academic circles, medical deontology and political circles when adopting the legal regulations”.

Once again, striving to offer novel interpretations and a seminal understanding of the past, present and future the RSP Editorial Team wishes to express its gratitude to all RSP contributors and interested readers for appreciating its concept design and citing RSP in their future works!

Wishing you all the best,

RSP Editors



ORIGINAL PAPER

Multiculturalism in a (Post)Crisological Society: From Wrong Acception to a New Pluralistic Sociey-Building Approach

Ali Pajaziti**

Ylber Sela**

Jasmina Trajkoska***

Abstract

In the last few decades, multiculturalism, in Western countries, and in Macedonia since 2001 Ohrid Framework Agreement, has been frequently used in theoretical and public debates in the field of cultural policies in terms of whether there should be a stratification of cultures (dominant and secondary) or cultural relativism (every culture is important and deserves equal treatment). This paper, which comprises of a descriptive-analytical and empirical-quantitative part, aims at producing an objective overview of the perceptions of citizens of Kumanovo in relation to plural identities in this town, to the relations with the others, the otherness, communication, mutual trust, socio-economic conditions, the impact of indicators such as the media, politicians, education, family, etc., upon the ethnical cohabitation-frustration. The results of our field research (surveys, interviews) show that it is necessary to invest a lot more in building cultural bridges, in making citizens with liberal approach and tolerant life philosophy, which would help in having a more active cohabitation and minimization of the current static coexistence of the type one next to the other as well as prevention of the establishment of concentric circles based on ethnicity and/or religiosity and their replacement with active multiculturalism.

Keywords: *post-conflictual context, multiculturalism, diversity, interculturalist thelos, Macedonia, Kumanovo*

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Multiculturalism: Theoretical Approach

Among the most frequently used expressions-syntagms in today's postmodern societies are those referring to interculturalism, multiculturalism, recognition policies, diversity, understanding "the other", varieties, etc. Multiculturalism, in fact, is a type of public policy, which refers to cultural diversity in multiethnic societies, namely ways how diversities should be treated, managed in the society and the country, i.e. in the political and social context. It is a notion, which can be related to cultural relativism versus cultural absolutism or domination of a single cultural, ethnic or religious element – a reality which is very problematic in establishing a functional society (Pajaziti, 2009: 431-432).

Today, in almost every democratic country or in those in the process of democratization, including our country as well, there have been debates about whether and how public institutions should recognize the identities of different communities and groups (Tejlor, 2004: 3). The issue of multiculturalism, which originates from the western social and political anthropology, primarily from the Anglo-American, is a problem of communication among different cultures, ethnicities and religions. Multiculturalism favors diversities by emphasizing the need for tolerance and uniqueness of groups, which ask for identity and protection within a *tolerant and rational society*. This actually means recognition of equal value of all cultures, not only by letting them survive, but rather stress their meaning. In other words, all cultures should be at the same level without any of them being excluded or marginalized. Multiculturalism is in fact against dominant cultures establishing their hegemony over the demographically smaller groups and imposing on them the feeling of inferiority (Tejlor, 59). In sociological literature, one of the definitions of multiculturalism is the following: "A policy with which public relations among different cultures in a given society are regulated, including the way of usage of languages and symbols." According to Prelić, multiculturalism is a synonym for the processes of hybridization of cultures and identities in the modern globalized world, where cultures are in permanent contact and interaction (Prelić, 2012:139-149).

The topic on multiculturalism represents an important part of political programs across the globe and impacts the encouragement of revision of public policies with the aim of finding a modus, which is the most appropriate for meeting the requests of different groups and identities. The well-known world scholar, Charles Taylor, says that multiculturalism is a policy of recognition, an antipode of rejection or wrong acceptance, which can be very dangerous for the society; they can involve ways of humiliation and isolate man in a false, deformed and reduced form of existence. Since most people tend to get tied to their own culture, the thesis of multicultural countries implies the idea that specific cultural-ethnic communities should enjoy their rights, whereas the institutionalization of those rights is the best way to achieve the *telos* and completeness in every society.

Multiculturalism is a project, which in essence deals with the inclusion of citizens with different cultural backgrounds in the society and tries to eliminate the power of domination of one group over the other. Multiculturalism aims at termination or at least enervation of the exclusion mechanism, namely enforcement of the inclusion mechanism.

According to Kymlicka, the state is multicultural if its members belong to different nations (multinational state) or migrated from different nations and if this fact represents an important element of personal identity and political life (Kymlicka, 2001). However, in our opinion, if a society is a cultural mosaic, it does not mean that it is also multicultural, because the most important components of the real multiculturalism are

acceptance, closeness, and active communication with the others, not living by each other, which unfortunately is the case with our country. Ethnically inhabited neighborhoods and municipalities, which have been largely encouraged and built in recent years, speak about destructive policies and the climate, which is their result. This spirit of division in our country can be felt in many spheres of social life, including education. In the post-Ohrid educational system, primary and secondary school instruction is realized in the mother tongue of respective communities, which are adequately represented and not being able to learn the language of the other, creates linguistic barriers in the youth, and this very fact “divides” them instead of bringing them together.

Kumanovo: An Intercultural depiction

Republic of Macedonia represents a historic, political, economic and cultural reality in the Balkans. It is a part of this geographic region and distinguished for its ethnical and cultural diversity. Some authors have characterized it as the epicenter or the heart of the Balkans (Davutoglu, 2010). The territory of Macedonia has always been part of great empires and civilizations. The end of the “2001 conflict” resulted in a new social agreement with the help of the mediation by the international community, which was signed on August 13, 2001. Its main objective was to establish peace and a new framework for the improvement of relations between entities, which cohabit in the Republic of Macedonia. It was a project of building inclusive, cohesive, intercultural society and political entity (state).

Kumanovo, a town in the north-eastern part of the country, at an altitude of 340 meters, is located on the crossroads of the two most important corridors in our country (Corridors 8 and 10), and only 40km away from the capital city – Skopje. Kumanovo is the largest municipality in Macedonia, with 509.48 km². In terms of the demographic composition of the area, we can say that it has quite a dynamic development of the population, which is a very important element for the development of this part of the country. The natural-geographic peculiarities have been the main factors for the population of this area since prehistoric times, proven by many findings from that period. The settlement of Slavs in the Balkans in the 6th century changed the composition of the population, whereas the intrusion of Turks in the 14th century and their five-century indwelling highly influenced the structure of the population.

The first facts on the inhabited Kumanovo area date back to 1519, whereas the source of the data comes from the archives in Istanbul, Turkey. At the beginning, this area was inhabited by 52 families and 300 people. The most detailed information derives from Evlija Chelebija, who had travelled across this region and had noticed the following: “The inhabited area of Kumanovo is situated within the territory of the Skopje sanjak. The town has a lot of rivers and about 600 houses covered in roof tiles. The mosque, which is situated in the market area, is beautiful and has a school (madrasah), hamam, and a trade center, whereas the climate in the town is mild. There are a lot of vine fields and orchards with many different types of fruit.”

Kumanovo became an urban area with an administrative center in the late 16th century or the beginning of the 17th century. After the Karposhian Uprising in 1689, Kumanovo entered a period of stagnation and remained a Turkish kasaba (small town) until the end of the 18th century. By the end of the 19th century, the town experienced economic upswing (in agriculture, artisanship, trade), but did not undergo any significant industrial development until the end of World War Two. After 1945, Kumanovo experienced a rapid economic, administrative and cultural development, which deflated

Multiculturalism in a (Post)Crisological Society: From Wrong Acception ...

in the period after the fall of communism, i.e. during the two and a half decades of transition, when many people left their households in search of better living and working conditions abroad, including Afghanistan. Today's borders of the municipality of Kumanovo have been defined by the new territorial division of the country arranged in August 2004. The structure of the population in the municipality of Kumanovo is heterogeneous not only in the town itself but also in rural areas, where citizens of different ethnic, cultural and religious backgrounds reside. According to the 2002 census, the number of inhabitants in Kumanovo is 105,484. 63,746 are Macedonians, 27,290 – Albanians, 292 – Turks, 4,256 – Roma, 147 – Wlachs, 9,062 – Serbs, 20 – Bosniaks and 671 – other. (stat.gov.mk, 2005: 35) According to these data, we can say that Kumanovo represents a real natural multiethnic environment, i.e. “Macedonia in miniature”. Kumanovo is a town with a long multicultural tradition, which is still being nurtured. There is a special kind of intercultural relations, respect and cohabitation. Since education is the main component, which influences the building and preservation of authentic differences and the spirit of plurality, in the last few years, especially after the OFA, with the support of international organizations, there have been organized many cultural events, whose main objective is the preservation and further affirmation of this active multiculturalism.

One of those events is the Street Festival, which has been held since 2008 – a peace building action in a post-conflict area such as Kumanovo, and whose aim is to bring together Macedonian, Albanian and Serbian youngsters in the town square for a common intra-national and intercultural music experience. In 2011, this event was called “Plug-in Diversity”, supported by UNDP, as part of the common program “Enhancing the interethnic dialogue and communication among communities”. This aim of this project was to unite youngsters and make them part in the establishment of an inclusive and tolerant society through music and arts. All of this was done through the exchange and merge of ideas of young people and local authorities in order to increase the multiethnic awareness in the cultural life in Kumanovo. Within the framework of the project, a video-competition “Media for diversity”, which promoted education in the languages of communities, was also organized. In 2010, in Kumanovo the *Multi-culti youth center* supported by UNICEF, was officially opened in Kumanovo; it was one of the three centers opened in ethnically mixed communities in the country. Through youth programs and extra-curricular activities, the *Multi-culti youth center* offers additional opportunities for socialization and familiarization with others outside their ethnic groups. These activities include after-school projects, leadership, photography, journalism, animation, film and English language courses, as well as many other activities designed to promote tolerance and better communication among the youngsters in Kumanovo.

In 2013, the Center for Intercultural Dialogue and the Committee for relations among communities, took part in the project “A model of active citizenship in a multicultural society”, realized by USAID. The project supported by Open Society Foundation undertook an initiative for creating a local printed medium in six languages, through which the citizens of Kumanovo would be informed about local events. The motto “It needs to be said, citizen of Kumanovo” was promoted in this project. It is very important to point out that cohabitation and multicultural approach in the Kumanovo context are dynamic phenomena and after the event of May 9, 2015 (police action in which an armed group in one of the neighborhoods of Kumanovo was neutralised) when aggravation of interethnic relations was expected, many citizens and representatives of local authorities gathered together to call for coldness and reason at those very critical

moments. The case of the reasonable citizen, Avdi Avdiu, who appeared on the media and gained a lot of support, is the best example for this. A similar message was delivered by the mayor of Kumanovo, Damjanovski, who said that Kumanovo is known for its interethnic tolerance and multiculturalism, which should be further nurtured and promoted. Another very impressive example for building cohabitation, was the recent collective 'Iftar' on July 5, 2015, during the month of Ramadan, which went beyond religious and national boundaries, even though it is an Islamic ritual. The Islamic Youth Forum in Kumanovo organized the 8th joint dinner – Iftar in the town square, in which more than 1,000 Muslim and Christian believers took part.

Field research: Analysis and interpretation of quantitative results:

In this study there were more research methods and the most significant part is the empirical one, which has to provide a study picture about the perceptions of the citizens of Kumanovo in relation to the different reflections of multiculturalism policies in this town. The empirical part of this study is based on a survey consisting of 25 questions carried out in April 2015 with 310 respondents, divided according to different indicators, such as sex, age, ethnic background, education, etc. The main hypothesis was the conclusion that even after the formal steps for the implementation of multicultural policies through the OFA, entities that gravitate to the municipality of Kumanovo live in *parallel worlds* and have psychological and practical barriers in terms of their relations with the members of other different communities in their everyday lives. The auxiliary hypothesis says that the ethnic element is closely related to the religious one and this produces a dichotomy of the type Macedonian-Serb orthodox and Albanian-Turk Muslim. The analysis begins with the categorization of the sample by age, whereupon we wanted to detect the differences in perception among generations. If we take into consideration the above-mentioned indicator, we will see that 65% of respondents belong to the young generation, i.e. the perspective, the future and the most creative part of a society, although other age groups have been represented as well. This means that the stances, which are part of this analysis, have the capacity to reflect those of the population living in Kumanovo. The ethnic code in our society is a very important factor and denominator of interpersonal and inter-group relations. The sample of this research has been constructed in that way to correspond to the demographic picture of the municipality of Kumanovo. According to the ethnic background, half of the respondents were ethnic-Macedonian (51%), 35% Albanians, 7% Serbs, 2% Turks, 2% Bosnians, 1% Roma and 2% of the respondents did not state their ethnic identity at all. According to the religious background, most of the respondents were orthodox Christians and Muslims, whereas an insignificant portion belongs to other religions such as Catholics, and other religions and sects.

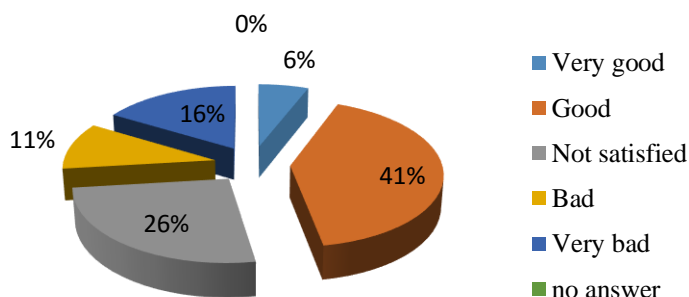
As an important indicator of every social trend is the level of education of the individual or the group. Most of the respondents in this study had university education (54.8%), a third (34.2%) were with completed secondary education, 4.2% were with completed primary education, 0.5% were without any official educational degree, 0.5% did not respond and 5.8% had academic titles. This element of the level of education of the respondents was considered significant because the higher the educational level is, the more open-minded the person may become which in turn makes them more tolerant and positive. Religion in recent years has become quite and incumbent element of modern societies. Sociologists speak about the revitalization of spiritual values, for the revival of one's own after the deep crisis in which modern society has fallen. This is also reflected in our society in which all social entities from the masses to political leadership very often

Multiculturalism in a (Post)Crisological Society: From Wrong Acception ...

utilize religious symbols. State religious holidays, public service congregations, and ceremonial openings of secular institutions with the presence of priests, the construction of religious buildings by the state (St. Elena and Constantine), debates on religious education (*pro et contra*), the three international conferences on inter-religious dialogue (Ohrid and Skopje), debates on religious extremism, Wahabism, youngsters who go to fight in Syria and Iraq, pompous Ramadan iftars sponsored by politicians, etc. are all reflections of the religious expansion in the 25 years of the long-lasting transition of our country. Republic of Macedonia represents a religious mosaic and even though religiosity is something which is intimate to people, it can often be manifested in social relations. The fifth question was aimed at the quantitative categorization of religiosity among the citizens of Kumanovo. The overall picture is that they consider themselves to be believers (81%); atheism is a very minor category represented with only 4% of the population and 10% are strong believers, closely related to spirituality. In our society “strong religiosity” has sometimes been trivialized through the absurd competition of construction of huge religious symbols, such as the 71-meter tall Millennium Cross, 53-meter tall cross in front of the towers in Aerodrom, the 75-meter tall minaret of the mosque in Arachinovo, etc. Since the beginning of the transition period, Macedonia has mainly lived in peace and cohabitation, though from time to time there have also been tense situations in terms of interethnic relations between the two largest entities in Macedonia, i.e. Macedonians and Albanians.

Even though cohabitation is formally present in the public discourse and programs of political parties, the social reality provides a completely different empirical picture. Figures from our research reveal that 53% of citizens of Kumanovo consider interethnic relations as unsatisfactory, bad or even terrible. If we take into consideration that field research was carried out before the Case of Kumanovo (police action on May 9, 2015), the negative trend would probably show greater percentages, which is an alarming signal for the whole society, especially elites, which are responsible for building a stable multicultural society. Based on the informal conversations with citizens during the realization of this study, we concluded that division and gravitation to respective ethnic groups is present almost everywhere, such as neighborhoods, cafés, bars, playgrounds, etc.

Figure 1. How would you evaluate interethnic relations in Macedonia?



Source: Authors' own compilation

The division, especially on ethnic grounds is present in the perception of ethnic situations in Macedonia in general. Macedonians have a much more positive attitude towards current interethnic relations - in Macedonia - than Albanians, who are quite doubtful about the current situation and the future of this country. 65% of Macedonian respondents said that interethnic relations are good and 10% said they were very good, whereas the picture in the Albanian block is much different. Compared to 1% Macedonians who consider the situation as very bad, this number in the Albanian population is drastically larger – 39%. 81% of Albanian ethnic group () considers that interethnic relations are negative. When it comes to smaller communities, the data analysis shows that dissatisfaction is also present in these groups. 45% of the Serb respondents consider that the trend in terms of the improvement of interethnic relations is unsatisfactory. Apart from only one Turkish respondent, all other representatives of smaller communities (seven out of eight Turks, Bosnians and Roma) have a negative attitude towards this question.

Egalitarian societies represent a type of socio-utopia. Stratification is an omnipresent phenomenon globally, but in democratic societies the socialelevator is active, horizontal and vertical mobility is functional.

The tenth question (*Put the following in the order from 1 to 6 (1-the most acceptable, 6-the least acceptable) depending on who you think should be the Prime Minister of Macedonia*) of our questionnaire targeted the measurement of the perceptions in relation to a very important state position, such as that of the prime minister, which has traditionally been considered as “reserved”, which seems quite absurd for open liberal societies. The ethnocentrism which has been a dominant factor in the Balkans for more than 25 years is present in country as well. However, it is more than necessary to overcome these perception barriers and mythological viewpoints so that meritocracy replaces the ethnic criteria. Stereotype perceptions are evident in both major ethnic communities in Macedonia. 72% of Macedonian and 75% of Albanian respondents said that a person from their respective background would be the most suitable for the position of the country’s prime minister. The picture is similar with other smaller communities, which would also prefer their “own” (ethnic) prime minister.

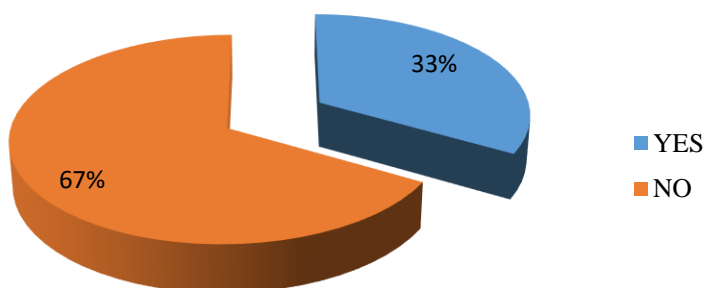
The trust among people is crucial for the cohabitation. This rule applies to the building of relations among different ethnic groups – communities. Sociological analyses show that the equidistance between the individual or the group and the otherness is almost impossible and that both individuals and groups have their preferences about establishing communication with the others. This study makes us face with the psychology of egocentrism and ethnocentrism. In their relationships with others, Macedonians mostly trust Serbs (11%), then Albanians (9%), whereas Albanians mostly trust Turks (4%). These little percentages of trusting others are due to the great percentages of trusting only people within ones’ own community. hese data match those of another study carried out by USAID and FOOM (“Open Society” Foundation Macedonia), according to which youngsters in Kumanovo, generally, have frequent contacts with Macedonians, whereas minimal contacts with Wlachos and Bosnians. The ethnic structure of perceptions revealed that apart from Albanians, all others maintain frequent contacts with Macedonians. The opposite also applies in this case: Macedonians and other smaller community members rarely keep contacts with Albanians. Because of this, most probably, young Macedonians see their Albanians peers as most distant and their Serbian peers as the closest. On the other hand, young Albanians feel the closest to Turks (and then Macedonians) whereas the most distant to Serbs and Wlachos (Mladenovski, 2015). According to our analyses,

Multiculturalism in a (Post)Crisological Society: From Wrong Acception ...

religion is another important factor that influences these kinds of relations among members of different communities in our country. Seen from the aspect of citizens' attitudes towards the religiosity of the others, the chart shows that it is more emphatic in the Albanian community. Almost half of Macedonian respondents (49%) said the Albanian community is the most religious in Macedonia.

The 5th illustration clearly shows the citizens' opinions about their own status and the status of members of other communities with whom they cohabitate. The mere fact that 55% of respondents say that there is a privileged community in our country, speaks about the dilemmas which individuals have in terms of their own social position. This means that there should be more attempts towards the introduction of inclusive and integrative policies and projects aimed at building and developing a real multicultural society. Economic transactions are an important part of our everyday lives and they make us establish contacts with members of different ethnic communities. Shopping is an activity, which has recently been faced with global capitalism, even though the spirit of our society has somehow helped us maintain the traditional mode of economic communication. When it comes to the material dimension in life, i.e. money and welfare, people usually tend to ignore ethnic barriers in search for cheaper yet more qualitative products and services. This thesis can be confirmed by the analysis of the data from our study, whereupon 67% of respondents did not consider at all the ethnic criterion when it comes to their economic affairs. (Compared to the UNDP study "People Centred Analyses", from 2009, the percentage of people who buy in shops owned by people from other nationalities, has decreased (71 %) (Malevska, 2010).

Figure 2. Whith regard to your daily activities in terms of purchasing food and other necessary items, do you mind the owner's ethnical background?



Source: Authors' own compilation

A completely different situation occurs when it comes to investing in real estate, i.e. apartments, houses or shops in neighborhoods in which the investor would be “a minority” (63% of citizens in Kumanovo say that they would not buy a house or a flat in a neighborhood where the majority is from another ethnic community). The general empirical fact that education does not influence the elimination of prejudices is somewhat contradictory; this means that even well-educated respondents belong to the category of citizens who would rather live within their own communities. The 17th question regarding the ethnic profile of the most wanted first neighbor generates a confirmation of the above-stated results. People want to live in ethnic camps and possibly close to those with the same or similar religious background. Ethnic Macedonians would primarily cohabitate with other members of their own ethnic background (62%), followed by the Serbs (20%) and only 8% with Albanians and 3% with Turks. On the other hand, 83% of ethnic Albanians prefer to cohabitate within their own ethnic camp, 8% with Turks and only 3% with Macedonians.

The distance in interethnic relations is obvious in the sphere of marriages as well. Respondents from all ethnic groups prefer marriages with partners from the same ethnic group. Only 2.97% (8 of 269) of the respondents from the two major ethnic communities, i.e. Macedonians and Albanians said that they would conclude a marriage with a partner from another ethnicity/religiosity. In terms of the development of interethnic relations, the citizens’ perceptions in Kumanovo in the last 12 months indicate that they have either worsened (48%) or have remained static/unchanged (33%). Only a small group of citizens think that interethnic relations in this town have actually improved (16%). The ethnic component or differentiation is a characteristic of the results of this question too. Namely, if we analyze the opinions of the two biggest ethnic groups, we will notice very different perceptions. Ethnic Albanians consider that interethnic relations have become worse in the last 12 months (63%), whereas 43% of ethnic Macedonians think that interethnic relations have not undergone any major changes in the last year. Only 7% of the Albanian respondents and 23% of Macedonian ones think that interethnic relations have improved in the last 12 months.

Education is a crucial component of every sound and rational society. In our context, the divided society generates divided schools and other educational institutions on ethnic grounds. The latest developments in several schools in Macedonia include two different shifts – Macedonian and Albanian, separately. The perceptions of citizens of Kumanovo are much more different from this negative national trend. $\frac{3}{4}$ consider that multicultural environment is the most appropriate for purposes of their own education as well as their children’s. Positive examples of this approach in Kumanovo include two secondary schools (Pero Nakov and Nake Buzoni) and one primary school (Toli Zurdumis) in which pupils from different ethnic communities attend classes in the same shift.

One of the important questions that illustrate the factual situation regarding multiculturalism is knowing the language of the other, which is a way to overcome barriers among people and get them closer together. The fact that francophone people in different countries across the globe are closely connected to the French culture even though they live and work thousands of miles away speaks enough in favor of this situation. In Macedonia, the second largest community – the Albanian, can speak Macedonian quite well. However, on the other hand, the commodity of having the status of a dominant community has had its consequences. The Macedonian population does not know the languages of other communities in the country, including Albanian, and probably do not

Multiculturalism in a (Post)Crisological Society: From Wrong Acception ...

find it necessary to do so. Experiences show that older generations were much more realistic and active in this respect. However, there have been some positive trends recently in terms of attendance of Albanian language courses by Macedonians. There are several Macedonian students studying at the Department of Albanian Language and Literature at the Ss Cyril and Methodius University in Skopje, as well as some journalists in Alsat-M who present the news in a fluent Albanian language.

The 21st question of the questionnaire was as follows: *“Do you think that learning the language of other ethnic communities is an asset for your future?”* 81% of respondents from Kumanovo think that knowing the language of the other is a comparative advantage in every aspect, from daily communication to greater employment opportunities. However, in reality this perception cannot be confirmed as such. This is why greater attempts are needed towards the formation of more multilingual individuals. In this respect, there are several subjects that can help, including schools, NGOs, organized social events, youth camps, etc. It is obvious that the feeling of a dominant language is slowly disappearing; people have started to understand the truth and the saying that *“The number of languages you speak is the number of times you are human.”* The data show that the better the education, the greater the awareness about the importance of knowing other languages is.

For purposes of development of multiculturalism in a society, other factors/institutions such as media, politicians, educational system, family, religious associations, intellectuals etc. are very important too.

Table 1. In your opinion, how much do the following institutions influence the development of interethnic relations?

	Positively	Negatively	Does not influence	no answer
media	22%	50%	23%	5%
politicians	13%	60%	22%	5%
politicians in local level	33%	34%	27%	6%
education	48%	17%	30%	5%
family	63%	10%	22%	5%
religious communities	42%	20%	33%	5%
university (scientists)	57%	8%	30%	5%

Source: Authors' own compilation

Based on the above-presented chart, we can clearly see that the greatest destructors of interethnic relations and multiculturalism are politicians (60% of respondents said that they exercise negative influence on these developments) and the media (50% of respondents said that they negatively reflect on the improvement of interethnic relations and multiculturalism in general). On the other hand, the most constructive factor in creating good interethnic relations is the family (63%), then universities/scholars (57%), the educational system* (48%) and religious communities (42%). The already negative image of politicians in this region was degraded even further after the scandalous affair related to “wiretapping 2015” full of discriminating

declarations, segregation attitudes, corruptive affairs, etc. The media enjoy an identical reputation in this country. International reports say that the media are politically affiliated (including the public service) and they have no objective, critical, transparent and research-based approach. It is very important that citizens believe at least in their own families as facilitators of the culture of tolerance and mutual understanding.

Conclusions

Republic of Macedonia is multicultural society, with a diversity of its ethnic and religious composition, an environment, where for centuries are situated components of different ethnicities, complex identities, different civilizations, ancient cultures, Byzantine, Ottoman, Slavic, Albanian, Macedonian, Turkish, Serbian, Bosnian, Vlahos' etc. In addition, Macedonia is a multiethnic society, multi-religious, grouped in distinctive systems of values.

Multiculturalism is a policy which is debated at global level, including our country, especially after the OFA, which was supposed to change the philosophy of political organization and increase the awareness and the perception of others, so that it could become the real *Unitas multiplex*.

Based on this study, we have come to the following conclusions: interethnic relations are far from what they are expected to be for a multicultural society such as ours; stereotype viewpoints are obvious in both major communities. They both prefer to see people from their ethnic affiliation in higher institutional bodies; the trust in others in the context of Kumanovo depends on both the ethnic and religious aspect (Macedonians trust Serbs more whereas Albanians trust the Turks more); a great deal of respondents (55%) say that in Macedonia there is a privileged community, which means that citizens do not think they have equal rights, opportunities and responsibilities in terms of the functioning of the political system; citizens of Kumanovo consider that the economic dimension is beyond ethnic (and even religious) boundaries, being constantly in search for a qualitative but cheap products or services; it is interesting to note that when it comes to long-term investments in real estate or similar undertakings, the same people tend to favor ethnic elements more than others; citizens think that interethnic relations in the last 12 months have deteriorated; the most appropriate educational institution was considered that which was multicultural and they considered that knowing the language of the other was an advantage; the media and politicians are the two categories, which were evaluated as the most negative in terms of the improvement and development of multiculturalism and interethnic relations.

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ORIGINAL PAPER

**Marxism and democracy: a new approach to
comprehending the relationships between intellectuals
and politics by examining the life and works of the
Brazilian “activist” and theoretician Francisco
Weffort**

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Terrell Foster Carver**

Abstract

Our aim in this article is to explore the role played by Francisco Weffort in the intellectual and political field before and after the left-radicalization between the 1960's and the 1980's in Brazil. His initial intellectual formulations departed from a radical Marxist/'class-ist' perspective by arguing for the necessity for a drastic rupture of the Brazilian political and economic system. His ideas indirectly contributed to the Brazilian politics in two ways: in favor of the armed struggle against the military dictatorship; in favor of the foundation of a “new kind of politics” able to overwhelm the archaic Brazilian political tradition, having as its main consequence the foundation of the Partido dos Trabalhadores – PT (Workers' Party) in 1980. Weffort helped to found the PT, which had a radical socialist orientation, but with the end of the Brazilian dictatorship in 1980 and the fall of the Berlin Wall in 1989, Weffort's theories changed substantially. He began to privilege democratic representative institutions instead of a communist/socialist voluntarist activism. Our intention is to use a new analytical perspective to evaluate Weffort's influence in the political processes. We have as assumption the idea that he played a role less as a university researcher than as a “public intellectual,” energizing Brazilian left-wing political practice. We are leaving aside for a time his textual production regarded in strict academic terms, and in contrast taking into account his political role during the decay and collapse of the USSR. We will demonstrate that as a “public intellectual” his formulations contributed to the foundation of the PT and informed the role taken by some left-wingers in the armed struggle.

Keywords: *Marxism – Post-communism – Democracy – Intellectuals – Francisco Weffort*

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Marxism and Democracy: a New Approach to Comprehending the Relationships...

Introduction

Our intention in this article is to analyze the role played by Francisco Weffort in the intellectual and political field before and after the left-radicalization of 1960 to 1980 in Brazil. His initial theorizations departed from a ‘class-ist’/ Marxist perspective by arguing for the necessity for a drastic rupture of the Brazilian political and economic system. Weffort developed the greater part of his theories and formulations between 1960 and 2010 at the University of São Paulo - Brazil. His ideas indirectly contributed to the Brazilian politics in two ways: in favor of the armed struggle against the military dictatorship, albeit argued in indirect terms, and thus to fight over the long term for communism in Brazil; in favor of the foundation of a “new kind of politics” able to surmount the archaic Brazilian political tradition, having as its main consequence the foundation of the Workers’ Party (Partido dos Trabalhadores, PT) in 1980. Weffort helped to found the PT, which had a radical socialist orientation – and he worked as its general secretary between 1983 and 1987. With the end of the Brazilian dictatorship in 1980 and the fall of the Berlin Wall in 1989, Weffort’s theories changed substantially. He began to privilege democratic representative institutions over voluntarist activism.

Our aim is to use a new analytical perspective to evaluate Weffort’s influence in - the pre and after dictatorship’s period and post-Cold War political processes. Our hypothesis is that he played a role less as a university researcher, working within the empirical and theoretical formulations of political science of the time, than as a “political publicist” or “public intellectual,” energizing Brazilian left-wing political practice. We are leaving aside for a time his textual production regarded in strict academic terms, and in contrast taking into account his political role during the decay and collapse of the USSR. We will show that as a political publicist and public intellectual his formulations – even more radical than the Brazilian Communist Party’s theoretical elaborations – contributed to the foundation of the PT and informed the role taken by some left-wingers in the armed struggle.

Francisco Weffort’s trajectory is a significant example of the relationships between intellectuality and politics in Brazil between the 1960’s and 1990’s. Studies on populism and syndicalism developed by Weffort and the group of intellectuals gathered around him were begun in the University of São Paulo in the context of the military rule set up in 1964 and the decay of communism in the USSR and its satellites. In the national context, his investigations were developed in the middle of a period of increasingly authoritarian rule that began with the establishment of the AI5 (Institutional Act), with the curtailment imposed on “left wing” intellectuals who attempted to oppose to authoritarian rule in any way, and, further on, with the re-democratization perspectives of the late the 1970’s (Chilcote, 2014; Baptista, 2009; Lahuerta, 1999; Pécaut, 1990; Sorj, 2001; Vianna, 1986).

At the international level, the fragility and disintegration of the “Soviet empire” expressed by the period of crisis between the 1970’s and 1980’s – arising out of the American arms race, the economic stagnation that was starting to jeopardize favorable social indexes, and the collapse of the “soviet agricultural cellar” caused by Chernobyl disaster – greatly contributed to the change in Weffort’s and other Brazilian Marxist intellectuals’ understanding of communism/socialism reality and of the general worldwide “left wing” (Ramos, 2013; Chilcote, 2014; Araújo, 2012).

In the academic environment, Weffort’s “view of Brazil” was initially influenced by the reception of Marx’s works during his participation in the *Capital* seminar. Studies

of this group have attempted to interpret reality through Marxist theory. Their methodology was based on Western Marxism, and their major concern was not to be contaminated by the national-populist left wing, which were acting in concert with the orthodox Soviet Marxist view presented in a great deal of the interpretations expressed by Isebian intellectuals and the Brazilian Communist Party (Soares, 2011; Lahuerta, 1999; Schwarz, 1998). The Higher Institute of Brazilian Studies – ISEB was initially “... a grand intellectual and political front that included liberals, communists, social democrats, progressive Catholics, and others. Its participants followed various theoretical lines, among them Marxism, existentialism, and other philosophical tendencies, and its objective was to formulate an ideology for national development. During its nine years of existence, it moved from a theorizing phase to a militant leftist phase, but throughout, it maintained a continuity in its defence of national sovereignty and democratic politics” (Chilcote, 2014: 63).

This attempt at intellectual withdrawal from and criticism of orthodox Marxism – typical of the Marxism current at the University of Sao Paulo (USP) – contributed to the emergence of a new line of theoretical interpretation and production that proclaimed the need for a “new” “voluntarist” break with the political institutions that Weffort and other intellectuals considered to be contaminated by the elitism and alliance practices of Brazilian politics. This pursuit of the “new” (Perruso, 2008) had as its consequences, on the one hand, the entrance of left-wing militants and intellectuals into the armed struggle, and, on the other hand, the alignment of intellectuals with the social movement responsible for the constitution of the PT. PT was constituted at first as a “socialist party” – without the pretensions of traditional Marxist political parties in formulating theories and ideologically guiding for merging different sectors of society: workers, union leaders, intellectuals, ecclesiastically-based communities, among other associations and movements (Meneguello, 1989; Floriano, 2008; Keck, 1991; Secco, 2011; Hunter, 2010).

Francisco Weffort was one of the main agents in the foundation of the party and acted as its general secretary from 1983 to 1987. Because of programmatic and ideological divergences, he withdrew from the party in 1994, and took on a position in the Ministry of Culture during President Fernando Henrique Cardoso’s government up to 2002, when he left politics and started to dedicate himself to the academic/intellectual life.

Political grammar: Populism, nationalism and democracy

In this paper, we have attempted to show that a considerable portion of articles written by Francisco Correa Weffort from 1963 to 1984 had as their motivation an attempt at political transformation rather than a strictly academic/scientific intention. This significant fraction of his papers had an important transformative effect on the scope of actual politics in Brazil. Through an epistemological investigation, allied to a historiographical perspective, we intend to analyze the use of a specific grammar (Pocock, 2003) employed by Weffort when building his political arguments during that period. The specific terms we use in our review are nationalism, populism, and democracy. The articles are: *Política de massas* [Mass politics], written in 1963 and published in 1965, in *Política e revolução social* [Politics and social revolution] (1965); his professorship thesis, *Sindicatos e Política* [Unions and politics] (1972), defended at the University of São Paulo; his article *Participação e Conflito Industrial: Contagem e Osasco 1968* [Participation and Industrial Conflict: Contagem and Osasco], (1972), published by CEBRAP; and his book *Por que democracia?* [Why democracy?] (1984), published by Brasiliense publishing house.

Marxism and Democracy: a New Approach to Comprehending the Relationships...

The concepts of populism, nationalism and democracy were repeatedly applied by Weffort in these works and were given strong political meanings in a context of extreme ideological polarization between the left and the right in Brazil and worldwide. Moreover, this took place in a period of when military rule was strengthening, and, later on, after its downfall and the consequent re-democratization process. At that time, Weffort made use of an intellectual repertory close to that of other academicians from USP, in an effort to understand and launch the basic tenets of a new interpretation of Brazil. We interpret the use of that grammar in the aforementioned works as a rhetorical effort by Weffort to pursue change and transformation in the national political scenario. We will demonstrate that these particular works were motivated by intentions closer to the political field, rather than by the academic context that he had been in up to his integration into the institutional political sphere. This was at the time that the PT was founded in late in 1979. Understanding the use of those concepts by the author, and the manner by which the intellectual has gathered them, allows us to recognize his “speech acts” and respective “intentionalities” (Skinner, 2002). Thus we can understand his theoretical formulations on political events within that context as an attempt to influence the *status quo* through academic formulations legitimated by the seal of the university and study centers where he worked.

Theories dating from the time when he wrote his first works – 1960 and 1970 – were permeated with markedly Marxist and structuralist ideas, and by investigations founded on theoretical bases that were predominantly “economicists” and “sociologizants”. The Marxist dependency theory was one of the most significant representations of these views, and they were common modes of thought in institutions such as the Instituto Superior de Estudos Brasileiros - ISEB, the Brazilian Communist Party – PCB, and the Latin American and Caribbean Economic Commission – CEPAL. These theories would have been germinated early in the University of São Paulo Philosophy, Sciences and Arts School – FFCL - USP, among other movements, through the Capital Seminar and the Center for Social and Labor Economics - CESIT, but they matured in Weffort’s experiences at the Brazilian Center for Analysis and Planning - CEBRAP, where intellectuals such as Fernando Henrique Cardoso, José Arthur Giannotti, and Roberto Schwarz were prominent. The use of nationalism, populism and democracy as conceptual frameworks within a classist interpretation of political relationships in Brazil formed the *Leitmotiv* in Weffort’s interpretations of the national context.

Nationalism

Weffort’s early ideas constituted the most radical expression of opposition to the nationalist ideological trends. In his criticisms, he proposed an abrupt rupture with the “political tradition” through his theories that denounced nationalism as an ideology capable of disguising the populist character of politics in Brazil, and his conceptual formulations that focused on the inefficiency and the subordinated position of the left wing, represented by the Brazilian Communist Party in relation to official syndicalism. He criticized them for not breaking with the political structure of the time, which was founded on alliances between the middle classes and traditional oligarchies.

Although there is no direct reference to the source from which Weffort absorbed populism and nationalism as concepts, it is likely that his adviser, Professor Paula Beiguelman, directly influenced him. She was from a Jewish family and was interested in totalitarianism and authoritarian personalities at that time. The work on authoritarian personalities developed by Frenkel-Brunswick, Levinson, Sanford and Adorno excited

Beiguelman and her group of students. Beiguelman's interest in the subject was closely related to the possibilities of a similar phenomenon in Brazil, where power was centralized in President Vargas for such a long time. The mobilization – in a pejorative sense – of populism and nationalism derives from that context. However, the concepts were also being discussed by some Isebian intellectuals and by some Latin-American thinkers, such as Gino Germani.

One of Weffort's main criticisms concerned the close proximity to the state of an intellectual/political fraction. For Weffort, the proximity of these intellectuals to the national-developmental ideology of the populists prevented the left from making an incisive criticism of the alliance-based political classes that constituted the government. From Weffort's viewpoint, this intellectual fraction, contaminated by the national-developmental ideology, would not be qualified to make precise diagnoses of Brazilian political realities. It would therefore be unable to elaborate diagnoses based on concrete and "scientifically neutral" foundations.

According to Weffort's criticisms, the nationalist ideologists remained tied to the state, since they did not have any deep links with the masses, or important interconnections with the political parties' organizations. This distance between the ideology, the political parties, and the masses was due to the fact that nationalism is an ideology rising within the state itself. Thus nationalism served the state as an ancillary force, while being unable to ally with it or to withdraw from it (Weffort, 1965). Therefore, for Weffort, nationalism seemed to be nothing but the consecration of the state. Contrary to expectations – when putting itself forward as people's representative – the state would be disguising true class interests, in fact representing them as a "homogeneous mass" lacking any autonomy or independence. Therefore, it would be responsible for a kind of national mystification, viewing in reformist demagogy a kind of revolution. With this configuration, according to Weffort, even though unintentionally, nationalism would end up by supporting the most reactionary political sectors, having given ideological support to the government of Juscelino Kubitschek in its support for imperialism. For Weffort, nationalism, as well as populism, would be responsible for diminishing the sense of class in the emergence of mass politics, thereby confounding populism with the notion of "people."

Thus: "Surprisingly ... , even nationalist authors, who claimed themselves as identified with people, were not able to go further from the conception forged in the traditional horizon" (Weffort, 1965: 172). Thus, according to Weffort, this ideology, responsible for bringing a feeling of "being Brazilian" to the masses, was hiding class distinctions and paradoxes, which would otherwise be the real combustion points for political change. Nationalism as a homogeneous ideology would not be capable of representing contradictions within the "people", it conceived of it from a generic point of view, without understanding the distinctions and specificities within the population. Weffort's accusation also referred to the nationalists' fascination with the state's oligarchic features, since they had not pursued the fight for autonomous organization of popular movements. Their purpose was to represent masses, however, by putting themselves above them, and not on the contrary to be their "authentic representatives".

Although post-1945 suffrage assured some advances related to democratization, Weffort stated that the masses were still distant from the real political game, due, among other factors, to the exclusion of illiterates and a great part of the "agrarian population". In this sense, his criticism focused on nationalism as an illusory representation of the people. His other criticism is that nationalist sectors of the population acted in a conciliatory way toward the state instead of reformulating their ideology and actions in

Marxism and Democracy: a New Approach to Comprehending the Relationships...

conflict with it. In this way, when attempting to give support to and to adhere to the government's progressive elements, they ended up strengthening even the most reactionary forces. "One result is that the nationalist politics gave ideological support to the government of Juscelino [Kubitschek], including its concessions to imperialism, in the same way that it gives support to the government of Goulart in its policy of balance" (Weffort, 1965: 191).

In summary, Weffort's criticisms of nationalism are as follows: 1) The submission of official syndicalism to the state structure, making it incapable of giving a response to the contradiction of capital vs labor, its main function in developing capitalist societies; 2) The excessive closeness of intellectuality and politics, preventing the former from making sharp but objective criticisms; 3) The inability of a national-developmental ideology to perceive the importance of the autonomy of the workers' movement in relation to the state, and the relevance that this new political agent could have in that political and economic context, since it was capable of breaking and burying once and for all inheritance of corporative syndicalism of Vargas's era – itself a residue of Italian fascism; 4) The "politicization" of strikes and the remaining social movements that ended up neutralizing this new political agent; 5) Class collaboration, the main obstacle for an actual break with the political-economic structure inherited from Vargas era; and finally 6) The misinterpretation of the conjuncture by the PCB, which did not anticipate the coup of 1964 and instead pursued a political strategy of peaceful co-existence.

Populism

Therefore, a classist view of the society would have given the ideal conditions for Weffort to adopt the idea of nationalism when constructing his criticisms of populism. Thus, in a certain way, it would be possible to say that nationalism would have been an essential step for the adoption of populism as a concept by Weffort in his explanations for a most of Brazilian politics. Although populism can still be seen as an analytical concept, may also be considered a political interpretation and the way that Weffort made the use of it as a sort of political interpellation. His formulations on populism varied greatly according to the institutions with which he was involved, such as USP, CEPAL, and CEBRAP. His idea was that the course of national politics in Brazil would be left to traditional oligarchies and middle, with the masses and popular classes having mere supporting actor roles in the process of historical transformation. This kind of narrative would constitute a kind of invitation for masses to participate in the political sphere.

According to Weffort, populism was the idea that wide sectors of the population (in this case, the masses) coming from rural to city migrations and from the industrial evolution of the time – a process that started during World War I with the strengthening of Brazilian industry arising from difficulties in importing manufactured products – started to energize a national-political scenario alongside old oligarchies and the urban middle class. This new, more diversified composition, together with a power crisis and greater participation of the masses in politics, provided the state, according to Weffort, with the ideal political scenario for driving the progress of the nation by utilizing typical relationships of domination of the leader over the masses.

When formulating these ideas, Weffort noted the absence of a political agent – typical of traditional bourgeois revolutions – which would have the ability to push capitalist development forward and so lead the Brazilian nation to "modernity", with the state commanding the course of national politics. According to this interpretation, the state

would always be arbitrator of the classes, mediating relationships among political, economic, and ideologically “antagonistic” fractions.

Populism peculiarity comes from the fact that it arises as a form of domination under “political emptiness” conditions, in which no class has hegemony and exactly because no class looks alike capable of assuming it. It is worthy to remember that populism emerges when there is a crisis in oligarchic hegemony and in liberal institutions that impose a wide and unstable commitment among the dominant groups, managed by a strengthened executive, economic and administrative power of the State (Weffort, 1978: 159).

Weffort’s first drafts on populism as a concept appear in *Política de massas* (1965). According to Weffort, populism should be understood as the political expression of given class interests. Specifically in the Brazilian case, this was decaying liberal elite, relying on the most reactionary interests of society. This would be, according to Weffort, a way of masking reactionary interests, by disguising them as mass interests. For Weffort, populism was nothing other than sophisticated nationalist ideals, materialized in the demagogic style of the populist leader’s concrete politics.

Mobilized one year after the Military Coup in 1964 and deploying a very radical class appeal, the term populism is to be understood not only as an explanatory category/concept of the Brazilian politics, but also as a rhetorical apparatus, mobilized to cause political/social transformations.

When looking over his doctoral thesis, *Classes populares e política (contribuição ao estudo do ‘populismo’)* [Popular classes and politics (contribution to the study of “populism”)], which was defended at the University of São Paulo in 1968, we come across questions similar to those of his first work written in 1963, although having a less effusive and more academic tone, perhaps resulting from the scientific accuracy demanded for a doctoral thesis, or even possibly because he was carrying out his researches in an institution considered the birthplace of Brazilian nationalist ideas - CEPAL. In this case, we refer to the Cepaline structuralist perspectives, which helped to transform the nationalist idea in a suitable option for the state and some intellectuals in Brazil. This perspective, which viewed archaic x modern dualism as the best way to interpret reality in Latin American countries, had as belief the idea that the underdeveloped countries should follow the developed countries model as a means to overcome the underdevelopment barriers.

Subsequent working at to CEPAL, Weffort was invited to join CEBRAP. In a setting where intellectual freedom was curtailed – on account of the strengthening of military rule – and where the professionalization of social scientists allowed criticisms of national-populist ideology, Weffort was a continued presence in the Paulista intellectual agenda. New research subject matter, such as the questioning of stagnation theories, the deepening of structural theories on dependency, and the characterization of authoritative rule were strengthened through criticism of its institutions, and through a search for understanding the social bases that molded the rule.

At that time, Weffort still focused on studies on the political importance of the working class and the syndicalist movement, and he defended his free-professorship thesis *Sindicatos e Política* [Unions and politics] at the University of São Paulo in 1972. The work presented the results from researches that he had been developing in CEBRAP. In addition, he wrote the work *Participação e Conflito Industrial: Contagem e Osasco, 1968* [Participation and Industrial Conflict: Contagem and Osasco], published by CEBRAP in

Marxism and Democracy: a New Approach to Comprehending the Relationships...

1972. These two works, differently from his doctoral thesis and closest to *Política de massas* (1965) text, had a marked critical character. In those two works, in addition to continued criticism of populism, Weffort announced the importance of a new political performer. Popular classes that had then reached “citizen” status with their inclusion into labor market, with the labor laws created during the New State, and the new consumption possibilities open by the capitalist modernization process, would represent that performer.

In his free-professorship thesis, Weffort launched his criticisms of syndicalist corporatism and of the political relationships that unions were subjected to, an expressive message from the “official left wing” to nationalist ideas and supporters. In *Participação e Conflito Industrial: Contagem e Osasco, 1968* Weffort called attention to workers’ autonomy in the social movements that were taking place then and to the need for workers’ movements to break with the populist syndicalism, which was the prevailing political trend in Brazil from the 1950’s. He also called attention to the important fact that strikes in Osasco e Contagem would have been movements outside the official syndicalism at that time. Thus, he was stating the relevance of “thinking independence” by the working classes of the time. According to Weffort’s view, these were the political performers that would be able to (and should) take the lead in radical transformations that were about to take place, both at the institutional political level, and at the level of disputes not linked to the scope of official politics. Weffort was betting then on the independence of cutting edge sectors of the working class (Weffort, 1972). His basic assumption was that those performers would be able to break with the national-popular political tradition and with its corresponding syndicalist structures.

Thus, one may see that nationalism and populism walked hand in hand in Weffort’s early formulations from 1965 to 1972. Allied to those formulations was the emergence of a new political performer, who, in Weffort’s view, would be able to transform the power relationships of traditional national politics. This independent and self-governing performer would be Weffort’s bet both on the plane of political transformation, with a view to re-establishing democracy, and in relation to the economic system, opening a way to lead Brazil to the socialist horizon that permeated intellectual ideas of the time. Criticisms of nationalism and populism had an essential role as a theoretical-ideological substratum and “ideological justification” in Brazilian politics, paving the way for part of the left wing to make an armed fight and for the other part to move towards a “new politics” within the context of institutional legality, which was opening up with the promise of re-democratization.

Democracy

In addition to Weffort’s work on nationalism and populism, his account of democracy is also notable. This was an important point in his trajectory, since from that specific stage he turned even more strongly towards social movements and towards viewing the working classes as the political leaders required for Brazilian historical transformation. This provided further energy for the formation of the Workers’ Party. This may be viewed as a change in the author’s “political choice”. This gradual transformation – marked by the events within the national and international scope – was consistent with his support for institutional politics with the foundation of the Workers’ Party late in 1970, gradually leaving behind his radical rhetoric of break with the traditions of Brazilian politics. Although leaving behind this specific radical rhetoric, Weffort started acting “politically” again, but from now writing in defense of democracy after the left defeat..

From 1972, in *Sindicatos e Política* (1972) and *Participação e Conflito Industrial: Contagem e Osasco, 1968* (1972), Weffort supported the new social movements represented by a new syndicalism, district associations, and communities of the church in making an opening for democratic politics in Brazil. In addition, he called attention to the significant elements that these new forces could add to the development of a new political associations not contaminated by vices of the past politics and that could turn the representative process of the democratic system into a reality within the national context.

With the ebullient social movements and the progress of the democratic transition, Weffort started to focus on institutional changes in the democratic sphere. Thus, subject matter such as “democratic transition”, “citizenship”, “political representation”, “economic growth and democracy strengthening”, among others, were included in his agenda.

Following his radical criticisms of nationalism and populism, Weffort produced texts related to a “*de facto* democracy” and the strengthening of the democracy as a “value”. At that time, Weffort used the formulations of Carlos Nelson Coutinho, who had developed theories of the importance of democracy for socialism that were inspired by so-called Eurocommunism. This set of considerations was induced and influenced by the failure of Soviet rule and the concern of Brazilian intellectuals with re-democratization process, among other things. Such formulations may be conceived as cause and effect within the historical-political events within the national and international contexts. In addition, Weffort periodically wrote analyses of the political situation, relating democracy to economic, social and cultural politics.

These theories stressed the need to include the working class – previously excluded from the typical oligarchic alliances of the national authoritarian politics – into the political sphere, which was changing due to the process of capitalist modernization since the early 1950s. In other words, according to Marilena Chauí and Marco Aurélio Nogueira, this concern with democracy had its foundation in “... the process of system rearrangement and enlargement, of social integration and incorporation, of democracy expansion and consolidation in a large sense” (Chauí, Nogueira, 2007: 198).

Weffort started to strengthen his role as a political performer when discussing democracy theory in Brazil, trying to give answers to the concrete political challenges. As a PT member (between 1980 and 1994) and general secretary (between 1983 and 1987), he wrote contributions to the Party National Bulletin and articles for major newspapers of the time. In these texts, he addressed several subjects, from the need for structural reforms in the Brazilian institutional politics, to the importance of the National Constituent Assembly for the advance of democracy.

The excerpt below – a contribution by Weffort to the *V Seminar on Latin American studies* that produced the work *Os intelectuais nos processos políticos da América Latina* [Intellectuals role in Latin American political processes] (1984) – shows the political/intellectual paradox experienced by the author. His “change of position” was accomplished with an accurate self-reflection on his place as an intellectual in and out of concrete politics:

We, as intellectuals, with the burden of this History and this tradition, have been engaging in democratic movements in this country; have been practicing the exercise of a democracy, at least one of an elementary nature, but still have not been capable of developing a truly democratic thinking about this country. It is as if we were

Marxism and Democracy: a New Approach to Comprehending the Relationships...

empiricists: empiric, primary and primitive democrats. There is something serious about this; we engaged in democratic processes and so, in fact, assumed given democratic commitments, but we have difficulty to clearly recognizing them and this results in certain misunderstandings. (...) Our contribution to democracy theory and to the deepening of the perspectives of our fight for democracy will take place insofar as we have the ability and courage of breaking off with the aspects of an authoritarian tradition which all of us inherited in any way. The first rupture, which, as I understand it, must take place, is that with the idea that democracy is not only an instrument, but also a value in itself (Weffort, 1984: 237-238).

In other words, integrated into the Workers' Party core and with greater political prominence, Weffort proclaimed the need for democracy as a "general value" that required an improved conceptualization of the concept and a "position taking" by the author in institutional politics. Weffort used the expression "democracy as a general value" in *Por que Democracia?* of 1984 and its sense largely approaches the "democracy as a universal value" concept used by Carlos Nelson Coutinho in an essay of same title published in 1979. Coutinho's text resulted from the influence of the PCI theories studied by the author in the course of his exile in Italy during the 1970's. More details on these theories will be shown in specific chapter on Weffort's formulations on democracy. In other words, although his work contained some criticisms of the alliance-based character of the Brazilian politics, when the toughest phase of the military dictatorship was over, his thoughts turned with more emphasis on the concern with advancing democratization in the country and in Latin America, and with the threats of a possible regression in the process.

This interpretive change by (ex) Marxist intellectuals – previously concerned with contradictions in the capitalist production and conflict between its corresponding classes, with the populism as a political farce, and with the incongruities of nationalist ideas – to arguing the importance of democracy, admits that radical changes "outside the order" were no longer practicable. At this particular time, intellectuals, who in the past had taken more radical positions, proceeded in some cases to change their horizons, their interpretations of political reality and their role as "public intellectuals". These intellectuals (having Weffort as one of the most important examples) started to formulate theories and analyses of the situation in order to have a *de facto* democratic sphere in Brazil that would definitely break with the authoritarian political culture present at the national level at all times.

In *Por que democracia?* (1984) Weffort presented democracy as a general value, endorsing Carlos Nelson Coutinho's idea of democracy as a universal value in his essay of the same title published in 1979. Carlos Nelson Coutinho's text, which in 1979 opened the discussion on the theory of "democratic socialism" in Brazil derived from the Eurocommunist view, was a turning point in the renewal of the Brazilian Communist Party. It had a strong influence on formulations by Weffort, by the research group accompanying him, and on the theoretical formulations of the PT – which he became a member of in 1989, but with which he already had conversations since its foundation ten years earlier. This text is perhaps the high point in representing the dilemma of the intellectuals of the time when thinking about the paradoxical relationship between socialism and democracy. This was a clear expression of the historical and political impasse experienced at that time by intellectuals divided between ideas and politics, searching for responses for the historical and political impasses, and strongly influenced

by these. According to Weffort, democracy differed from a simple instrument of power, used by oligarchic elites from the time of the Old Republic (1889 – 1930). What Weffort tried to explain in this case was the sense that democracy should assume in Brazil in the present. According to him: “A value that belongs to everyone, a space for achievement of human dignity that cannot be given up.” (Weffort, 1984: 61-62) This was a democracy valued in itself that surpassed the any merely instrumental character.

Democracy according to Weffort should be founded on the notion of giving rights and citizen status to individuals in an absolute way. Thus, inequality and economic-social polarization, responsible for excluding the masses from culture, would instead be a spur to their achievement. The existing abyss between elites and the least-privileged groups precludes democracy as a general value. Therefore, in this sense, society would be compelled to overcome these obstacles in order to achieve a new political/social order, which would necessarily be founded on a democratic basis.

In addition to his theoretical efforts, this work consisted of almost an “official document” signed by Weffort – who had taken on the position of general secretary of the PT exactly one year before the publication of the book – arguing for the defense of democracy in Brazil. According to Weffort, “This book is an argument for democracy in Brazil. ... And I hope it fulfills a political function and stimulates discussions on democracy in Brazil.” (Weffort, 1984: 9) In addition to the support and theoretical efforts for democracy, the book addressed subject matter such as the authoritarian tradition in Brazilian politics, the fragility of Brazilian democracy from 1945 to 1964, the dilemmas of post-1964 democratic transition, the ideological and state traditions preceding conservative transitions in Brazil, and the role of the working class in political and social transformations. The text *Por que democracia?* written by Weffort in 1984 was a milestone, a clear attempt to resolve the paradox between democracy and socialism, and therefore a clear demonstration that Weffort – independently of the subject (nationalism, populism or democracy) – had the intention of transforming the field of political practice.

Marxism, post-communism and democracy

By considering these concepts - nationalism, populism and democracy - we are able to trace Weffort’s shifting path in Brazilian political history. He was a motivator of a radical change, following left-wing radical ideas (nationalism and populism) and later after the 1980’s as an intellectual/politician who tried to calm the polarization that occurred when communism fell and democratization appeared on the horizon (with the idea of democracy). Once he perceived the defeat of the armed struggle in Brazil and the consequences of that, he started to encourage – through a rhetorical turn – democratic institutions, instead of a voluntarist orientation in politics.

The uses of nationalism, populism and democracy made by Weffort can be considered an important influence in Brazilian political transformations. If we considering nationalism and populism it is possible to see a Marxist intellectual concerned with radical changes and avoiding any kind of political alliance/conciliation from the perspective of ideas. If we consider democracy then this allows us to understand the political shift in Weffort’s specific case. Weffort implied specific meanings in different vocabularies and managed to act politically though he was outside the institutional political sphere or social movements. Later on, when he joined the Worker’s Party, his ideas of nationalism and populism had already taken hold in workers’ thoughts, which embedded his theories in a movement which assembled intellectuals and workers together for the first time in Brazil.

Marxism and Democracy: a New Approach to Comprehending the Relationships...

These vocabularies were part of a constellation of ideas which justified albeit indirectly the actions of different subjects in politics.

During the last few years of the dictatorship Weffort realized that the “socialist dream” would not be possible and so he reconsidered his position within the panorama of ideas. It seems that though he did not succeed in his “game of words” against the class’s alliances between political and economic oligarchies, he kept fighting, but at this time for a new ideal called democracy. We brought forward some evidence that more than a strict academic intellectual Francisco Weffort was a “political intellectual”, who tried to act from a different field and with different resources in the battlefield of politics.

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Rafael Marchesan Tauil, Terrell Foster Carver

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ORIGINAL PAPER

Democracy in Bosnia and Herzegovina: Moving Beyond Dayton

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Abstract

This article will focus on post-conflict development in Bosnia and Herzegovina and explore the legacy of the Dayton agreement which not only divided the country but also established a perplexing political system and the lasting international supervision. The article will seek to analyze the underlying conditions that hinder Bosnia's political and economic development and the role of internal and external actors in the process of achieving consolidated statehood.

Keywords: *Bosnia and Herzegovina, limited statehood, consociationalism, state-building, Dayton agreement, democracy, international protectorate*

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Introduction

Last year marked the twentieth anniversary of the Dayton agreement that ended the bloodiest conflict in Europe since the World War II. This was an opportunity for scholars and policy makers to reflect on the current political situation in Bosnia and Herzegovina and draw conclusions about the success of the international state-building and democracy promoting engagements in the Western Balkans. Foreign observers as well as local political leaders agree that the Dayton agreement has ran its course and prevents the country from moving forward in implementing necessary and long overdue reforms. Nevertheless any amendment to country's Constitution (which is in fact integral part of the peace agreement) threatens to potentially destabilize the fragile ethno-political balance and trigger a new wave of violence. This article will analyze the political framework established by the 1995 Dayton agreement and examine it in the light of pervasive ethnic divisions, broken consociational democracy and continuous international supervision. It will argue that the long-lasting political gridlock is caused and cemented by the peace agreement itself which continues to impose serious constraints to development and achieving stable and consolidated statehood. The first section will introduce the political setting in BiH that was established by the Dayton agreement and focus on main challenges it poses to democracy and good governance. The following section will provide a brief overview of consociational democratic systems and conditions necessary for its success. The final part will examine possible ways to reform the system and move closer to becoming a sovereign democratic state rather than persisting in its position of a weak and fragmented state under international supervision.

Dayton political system

Dayton is one of the most frequently used words on the evening news. It is a noun, a verb, an adjective – a synonym for inertia, neglect and despair.

J. Berger

After numerous attempts to end the war in BiH that took more than 100.000 lives and destabilized the whole region, the Clinton administration lead by Richard Holbrooke made the final attempt to work out an agreement. The peace agreement that was hammered out in Dayton, Ohio (and officially signed a few weeks later in Paris) was a compromise that left all sides unsatisfied, it *'formally ended the war, but did not address the underpinning conflict. The major conflict lines within Bosnian society thus remain essentially unresolved.'* (Dzihic-Weiser, 2011: 1804). This condemned the citizens to living in a state of continuous tensions, in the absence of war, but never quite at peace (Berger, 2015). The Constitution which is the article IV of the Dayton Agreement was meant to be a temporary solution that would hold the country together until a new, more effective and more democratic constitution would be designed in cooperation with the local parties. Instead, it became a major obstacle to moving forward and a source of continuous instability. The political system that was established in BiH as a result of the Dayton Agreement is one the world's most complicated and least effective political systems. If there is a single feature that captures the essence of the state structure of BiH, it is decentralization in extreme forms (Bose, 2002). The Dayton Agreement divided the country into two entities, the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS), as well as a third, self-governing unit, Brcko District (Brcko District was

Democracy in Bosnia and Herzegovina: Moving Beyond Dayton

established in 1999 as a result of international arbitration. It was decided that it would be shared between RS and FBiH as a condominium. The city is in fact a mini-state possessing its own government, constitution and institutions). The territory was divided almost equally between the entities (RS 49%, FBiH 51 %) and this principle provided legitimacy and international recognition for territorial gains made during the war. Entities were granted extensive competencies that turned them into “states within state” and made the central state government weak and dysfunctional. Entities have almost all features of independent states such as defined territory, population, government, constitution, judiciary, flag, anthem, and right to conclude foreign treaties (called ‘special parallel relationships’). The central government exercises little control over the entities and its competencies are limited to areas of foreign relations, customs and monetary policies (Kasapovic, 2005: 5). Fragmentation of state authority was increased by additionally dividing FBiH into ten cantons that also have their own governments and administration structures. As a result, for the past twenty years the country has been governed by no fewer than 14 governments – one at the state level, two at the entity level, ten at the cantonal level and one for Brčko District (Noutcheva, 2007: 6). Such degree of fragmentation of power makes the political system ineffective, costly and locked in overlapping competencies of various state institutions. Apart from central and entity governments the political system is overseen by the Office of the High Representative whose initial role was to oversee the implementation of the Dayton agreement and ensure peaceful cooperation between ethnic groups. However, his competencies as well as his role in domestic politics gradually grew to the point where he could issue binding decisions, remove democratically elected politicians from office and impose laws (the so called ‘Bonn powers of the High Representative’).

This degree of international supervision seriously undermined state institutions and turned the country into an international protectorate that cannot exercise full sovereignty on its territory. Besides establishing the perplexing political system, the Dayton agreement also divided the country on ethnic lines by creating constitutional categories of ‘constitutive peoples’ which included Bosniaks/Muslims, Serbs/Orthodox and Croats/Catholics and a category of ‘Others’ which comprised of citizens who did not identify themselves with any of the above mentioned ethnic groups (primarily ethnic minorities and citizens of mixed origin). The last population census that was held in 2013 revealed that around 3 % of the total population belonged to the category of ‘Others’ (see Table 1).

Constitutive groups were given political dominance while pushing minority groups to political marginalization and limiting their rights and influence (most notably the case of Sejid-Finci vs. BiH attracted international attention to constitutional discrimination of minorities in BiH; In 2009 the European Court for Human Rights ruled that the Constitution had to be amended in a way that would ensure equal rights to all citizens, regardless of their ethnic and religious background; in the following period the implementation of the ruling became a stumbling block on the country’s path to EU membership and lead to suspension of Stabilization and Association Agreement; the ruling has still not been implemented as political elites fail to agree on necessary reforms of the electoral law). Commenting on the position of minorities in BiH, Bosnian political scientist, Nenad Velikovic, points out that Bosnian citizens continue to “*vote for parties that use threats and fear to maintain the fragile balance of the Dayton iceberg, and by doing so accept to keep their Jewish and Roma neighbors at the level of lower beings in*

the evolution of Bosnia and Herzegovina as a society where hatred is cherished as culture“ (Veličković 2014).

Table 1. Population by national/ethnic affiliation

Population by national/ethnic affiliation, Level of FBiH, RS and BD							
Area	Total	Bosniak	Croat	Serb	Not declared	Other	No answer
BiH	3,531,159	1,769,592	544,780	1,086,733	27,055	96,539	6,460
FBiH	2,219,220	1,562,372	497,883	56,550	18,344	79,838	4,233
RS	1,228,423	171,839	171,839	1,001,299	8,189	15,324	2,127
BD	83,516	35,381	17,252	28,884	522	1,377	100

Source: data according to Agency for Statistics of BiH retrieved from:
<http://www.popis2013.ba/popis2013/doc/Popis2013prvoIzdanje.pdf>

Political dominance of constitutive groups was additionally secured through the introduction of veto rights that were extensively used to block any laws and reforms that were not in line with self-defined national interests of the constitutive peoples. Since Dayton, the entity veto has blocked over 160 legal acts and proposals. The RS has used the entity veto to block 140 of these 160 laws. Due to this blockage, the High Representative has used the Bonn Powers to impose legislation 112 times (Dzihic-Weiser 2011: 1806). The veto right not only led to increasing polarization and hostility in domestic politics but also pushed the state parliament to the margins of decision-making, turning it into a passive observer of negotiations between entities. Every single aspect of life in BiH is hostage to ethno-nationalist discourse that dominates activities of political parties, media and civil society actors. Atajic draws attention to this reality: *“Everything – from the greeting you use to the dialect you speak and the newspaper in your coat pocket – is judged, commented upon and categorized in terms of an omnipresent, mysticised ‘ethnicity’. Under such circumstances, defining oneself as a citizen of the BiH state is tantamount to a betrayal of one’s national identity”* (Atajic, 2002: 118).

Based on this, many scholars (Mujkic, 2007; Dzihic-Wieser, 2011; Gromes, 2007; Solioz and Vogel, 2004; Bieber, 2006; Brljavac, 2011) came to agree that the current Bosnian political system can be identified as ‘ethnocracy’. This type of system gives precedence to ethnicity as the main bearer of political rights and relies on inter-ethnic tensions for gaining political legitimacy: *“In the context of this kind of politics, a preference for collective representation strips the category of citizens of any legitimacy and leads to a situation in which constitutional and institutional discrimination pervades virtually all public life. Such a deeply internalized form of discrimination creates a fertile ground for a deepening of differences, maintaining negative tensions and therefore utilizing ‘ethnicity’ for political purposes”* (Dzihic-Weiser, 2011: 1805).

Considering that national interests of individual groups are diametrically opposed, (e.g. Bosniak’s desire to abolish entities and create a unitary state, separatist ambitions of the Republika Srpska that hopes to achieve independence and Croats’ wish to create a third entity that would ensure their equality and an escape from being dominated by Bosniaks in FBiH) it is extremely difficult to reach a compromise and find solutions that would be acceptable for all parties.

Political parties exercise unchallenged power over reforms and decision-making process and their strong position lead to labeling Bosnia’s political system as partitocracy

Democracy in Bosnia and Herzegovina: Moving Beyond Dayton

– the rule of political parties. Interestingly, the political scene continues to be dominated by the same political parties that led the country to conflict and their power limits the chances of new parties to compete and make any significant impact. Since the introduction of multi-party system three parties have regularly won the elections - the Bosniak's Party of Democratic Action (SDA), the Croat Democratic Union (HDZ BiH) and the Serb Democratic Party (SDS), representing Bosniaks', Croats' and Serbs' interests, respectively (see Table 2).

Table 2. Major political parties in BiH

	Founded	Party Profile	2014 result
SDA (Party of Democratic Action)	1990	Profiled itself as the main representative of Bosniaks, and has regularly won cross-country elections. Defines itself as “the bearer of the political emancipation of the Bosniaks and a key political factor in the defense of the state and legal continuity of BiH.” The party strongly supports the EU integration	18.74 %
SDS (Serb Democratic Party)	1990	Centre-right, conservative party founded by Radovan Karadžić Emphaisizes the importance of historic roots and traditional Serbian political thought and the preservation of traditional national (Serbian) spiritual, cultural, and democratic values Strong connections to the Serbian orthodox church as a basis for spiritual renewal. Supports the EU membership (but stresses the importance of referendum on such issue)	12.97%
SNSD (Alliance of Independent Social Democrats)	1996	Nationalist conservative party representing the interests of Bosnian Serbs and openly advocating independence of Republika Srpska. The party is dominated and inseparable from its leader Milorad Dodik who is also the president of Republika Srpska (preceeded by two terms as a prime minister).Despite the anti-Western rethoric the party supports the EU membership and promotes efforts to fullfil all necessary conditions.	15.64 %
HDZ (Croatian Democratic Party BiH)	1990	Offshoot of the same political party in Croatia. Profiles itsels as a party protecting vital national interest of Croats living in BiH. Keeping close ties to the Catholic church and political leadership in Croatia. Supports the EU integration (as a way of bringing Croats in Bosnia closer to Croatia)	7.54 %

Adisa Avdić-Küsmüş

SDP (Social Democratic Party of Bosnia and Herzegovina)	1991	Offshoot of the League of Communist of Bosnia and Herzegovina. Profiles itself as multi-ethnic party, protecting the interests of allconstitutive nations (despite that it gains limited support from Serbs and Croats). EU membership is a long-term strategic goal	6.66 %
DF (Democratic Front)	2013	Newly formed left oriented party. The party adheres to an absolute equality of all individualities, religions, nationalities, and respect of individual freedom and to the recognition of distinct ethnic identities. Strong support for EU and NATO membership	9.24 %

Source: Author’s own compilation

Foreign observers have noted that when it comes to political parties, the biggest threat to Dayton system is posed by repeated calls for holding a referendum for independence in Republika Srpska that would result in increased tensions and destabilization of the entire region. The leader of SNSD and the current president of Republika Srpska, Milorad Dodik, on many occasions stated that what happens in central institutions or in FBiH is to him foreign policy and does not concern him (Dodik: *Za mene je inostranstvo to sta HDZ i SDA rade u Federaciji BiH*, 2016). On the other hand, Bosniak leaders have referred to Republika Srpska as an entity built on genocide. This type of rhetoric increases inter-ethnic tensions and forces the citizens to choose a side in the never-ending cycle of political quarrels. The complexity of the political system also reflects on the attitude of political leaders who denied responsibility for country’s problems and refuse to reach a compromise even under growing international pressure: *“Bosnia’s political leaders have demonstrated in abundance that they are unwilling to agree to anything that would make the central government more effective. They feel comfortable in a dysfunctional state whose laws and constitution guarantee them the power of patronage and of a never-ending stream of finance from public and semi-public enterprises without any sort of accountability”* (Vogel, 2015). Moreover there is an all-present and increasing frustration among politicians and citizens for being forced to live in a dysfunctional system that was imposed from the outside and could not be reformed for more than two decades.

Challenges to consociationalism in BiH

Building democracy in mixed and divided societies is a difficult task and even more so if a country carries a heavy legacy of genocide and inter-ethnic conflict. BiH remains the most divided country in Europe (Reilly, 2001: 143) and its political culture is dominated by fear, mistrust and suspicion. During the peace agreement negotiations, consociational system of government seemed as the only viable type of democratic system that would accommodate various ethnic interests and enable cooperation and consensus among different groups. According to Kasapovic (2005) opting for consociational type of democratic system in BiH was justified by the fact that the country was ethnically and religiously divided, it had previous experience with some sort of consociational set-up and the fact that national cleavages were territorialized and politically institutionalized in the post-war period Kasapovic, 2005, 8-9). The author mentions previous experience dating “from the millet system in the Ottoman Empire”, and of the “model of political consociationalism based on the principles of proportionality and

Democracy in Bosnia and Herzegovina: Moving Beyond Dayton

parity during the Austro-Hungarian Monarchy, to the “national key” quota system also based on the principles of proportionality or parity in the representation of Muslims, Serbs and Croats in party, government and even social institutions and organizations in the communist Yugoslavia” (Kasapovic, 2005: 7). Nevertheless, the country also faced significant unfavorable factors, most prominently radical nationalism and external threats coming from neighboring countries. According to Arend Lijphart’s classification, consociational model of democracy is built on following grounds: 1. Executive power sharing in broad coalition cabinets; 2. Executive-legislative balance of power without resignation of the government; 3. Multiparty system ; 4. Proportional representation; 5. Interest-group corporatism; 6. Federal and decentralized government. The power is shared between the central (federal) government and the federal units in the composition thereof; 7. Strong bicameralism; 8. Constitutional rigidity; 9. Judicial control (revision); 10. Independence of central bank (Lijphart, 2003: 97-105). The emphasis is put on consensus building on the level of political elites as the key to success and stability of the system. Ideally this type of system should be home grown and not imposed from the outside. Moreover, consociational system should be only transitional and eventually replaced by standard democratic system. Robert Dahl further develops these ideas and stresses that consociationalism requires other favorable conditions (Dahl, 1999: 348). The most essential condition is that political elites are convinced that consociational system is desirable and motivated to make the system work. They should also be aware that other alternatives to this system are likely to lead to conflicts with serious consequences. Political elites should therefore play the role of consensus builders and encourage an atmosphere of cooperation and respect. Sartori (2003) points to the contradictions that are ingrained in this type of system that defines the most important condition for successful functioning of a consociational democracy as *„cooperation between elites which are consistent in their decision to fight against dis-integrative tendencies of their societies; however, this necessary and indeed decisive condition disappears in the definition of consensual democracy“* (Sartori, 1994: 91) He further criticizes the proportionality principle and veto rights for encouraging divisions: *“If you award divisions and the spirit of division (and that is exactly what proportionality and veto right do), the divisions and the spirit of divisions are increased and enhanced. And then the mechanism which Lijphart ultimately recommends can rather cause the termination of consensus than its production“* (Sartori, 1994: 93).

When these principles are applied to BiH it becomes clear that the Dayton political system poses serious constraints to proper functioning of consociationalism. While the main idea was to make all three ethnic groups in BiH feel equally represented in a state that would be built on consociational foundations, important aspects have been overlooked and given scant attention. The first weakness of the system lies in the attitude of political elites. The ruling elites in BiH that are meant to be the guardians of the consociational system and encourage inter-ethnic cooperation and the spirit of unity and reconciliation, are the very actors that cause the fall of the constitutional order. Their persisting ethno-nationalist rhetoric and policies that threaten and undermine positions of other groups are contrary to functioning of the consociational system. The system did not develop naturally and was established with minimum consent of local parties and overwhelming international pressure to end the conflict. This reality compromised the system from the very beginning as the leaders saw other alternatives as potentially better and more fitting to their ambitions (e.g. winning the war and gaining the whole territory or establishing political dominance of their respective ethnic group). BiH therefore faces

a paradoxical situation as the implementation of the Constitution depends on those who are most likely to sabotage it (Belloni, 2006: 338). Another weakness is found in established veto rights that increase ethnic divisions and encourage discrimination of minority groups. Veto rights given to constitutive groups work against consensus-building and allow political leaders to block any reform process. Lijphart imagined consociational system as a temporary set-up that would eventually be replaced by a standard democratic system. In regards to political reality in BiH it is difficult to imagine that the country could be transformed into a standard democratic state in the foreseeable future. The attempt of establishing a consociational state in hopes of later transforming it „represents nothing more than an attempt of a “trade-off” between accepting a weak state or conflict that would result in the state’s collapse“ (Balic-Izmirlija, 2013). The potential success of consociationalism in BiH is further burdened by deteriorating economic situation, high unemployment, wide-spread corruption and low living standards. According to data from Eurostat, in 2015 Bosnia was ranked as the poorest country in Europe measured by GDP per capita, which is only 28 % of the EU average (Eurostat NewsRelease, 2015).

Such conditions lead to alienation of citizens from the state and identification with national leaders who are perceived as the only legitimate representatives. Active involvement of neighboring countries into domestic politics of BiH is another major obstacle to consociationalism as they encourage local political leaders to continue defending their ethno-nationalist positions while rejecting and obstructing the functioning of the central state government. For example, Republika Srpska enjoys significant support from Serbia and maintains close ties with Serbian political leadership while not hiding its ambitions to eventually create a union with Serbia. Similarly, the most popular Croat party in BiH, HDZ is an offshoot of the same party in Croatia. They maintain close relations and define common strategies for improving position of Croats in Bosnia and resolving the so called “Croat question” in BiH (‘Croat question’ in BiH is used to refer to unequal status of Croats among constitutive groups considering that they are the smallest in number and sharing the same entity with more dominant Bosniaks. This situation and the lack of clarity in the electoral law lead to election of Croat member of tripartite state presidency (Zeljko Komsic) by majority of Bosniak votes). All listed factors negatively reflect on possibilities of reforming the constitution and overcoming the complexities of the current system.

Moving beyond Dayton?

In the aftermath of conflict the EU took a more active role in BiH and gradually evolved from being a civilian power to becoming the main normative power that provided both, guidelines and incentives, for implementing reforms that would eventually bring the country closer to EU membership. It was expected that with such level of EU’s commitment, country would quickly move from Dayton era to Brussels era and finally overcome its troublesome past. This was easier said than done as the progress has been painfully slow and challenges seemed to be increasing in number and gravity. In February 2014 the country experienced wide-spread riots and protests that turned into violence against state institutions and government officials. It seemed that the political crisis had reached its peak and citizens were no longer willing to remain silent. The media quickly labeled the protests as “Bosnian Spring” with hopes of getting long over-due reforms back on track. Even though the protests quickly gained momentum, they only lasted for a few weeks and failed to achieve any profound political change. Following the weeks of civil

Democracy in Bosnia and Herzegovina: Moving Beyond Dayton

unrest the country was hit by severe floods that caused serious damage to country's infrastructure and deepened the economic and political crisis. As a result, the EU had initiated a new approach which provided for "the re-sequencing of the conditionalities in order for the country to progress towards the EU and address the outstanding socio-economic challenges it faces" (EC Progress report 2015: 1). The EU adopted a pragmatic approach and reduced some of its immediate demands in hopes of encouraging political leaders to implement more pressing reforms. The responses to EU's policies were mixed considering that the EU membership perspective seemed illusive and standing at the end of a very long and a very dark tunnel. Moreover, the political elites became disillusioned and frustrated with the EU's demeaning attitude towards them. Gerald Knaus captures the essence of this frustration in the following statement: "For more than a decade now European institutions have discriminated against Bosnia, demotivating reformers, disheartening civil servants and undermining progress. The EU has acted like a strict teacher constantly telling her pupils how lucky they are to be allowed into the school canteen despite being corrupt, lazy and generally hopeless; and that every achievement or successful reform is the result of the work of foreigners, while for every failure Bosnians are the only ones to blame" (Brussels – European future of Bosnia and Herzegovina – 20 years after Dayton-Paris Peace Agreement, 2015). Despite the fact that the success of the EU's involvement in BiH has been limited and disproportional to the scope of invested efforts and financial funds, the EU membership perspective remains the country's most optimistic scenario for the future. All other alternatives seem to be far more risky and threaten to turn the Dayton agreement into a mere ceasefire.

A way out of this political gridlock cannot be found in trying to make the EU membership carrot more attractive for the current political leaders but in shifting the focus to educating a new generation that would be able to see beyond the ethno-nationalist narrative. This approach would be the start of the real transformation of the political culture that would no longer perceive compromise as political defeat. Only then the focus can move from counting the dysfunctionalities of the Dayton system to actually reforming it.

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ORIGINAL PAPER

Resolving the Russo-Estonian Border Dispute in the Wake of the Ukrainian Crisis

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Abstract

The current paper investigates lack of the Border Treaty between Russia and Estonia. This issue has been marring the relations between the two former Soviet republics for almost 24 years. The recent (and the third) attempt to put an end to the formal demarcation of the border came on 18 February, 2014, when foreign minister Sergei Lavrov and former foreign minister Urmas Paet put their signatures on the border treaty in Moscow. The timing of when the ratification laws in both countries should be passed and exchanged cannot be more controversial. The crisis that continues to escalate in Ukraine apart from bringing a drastic dip in the relations between Moscow and the West will undoubtedly affect all areas of cooperation between Moscow and Tallinn. This paper starts with an overview of the main causes of the long-standing border dispute and the analysis of why the previous attempts to formalize the border were unsuccessful. Secondly, the paper analyzes the new border treaty and the existing discourses on the border dispute resolution in the aftermath of the Ukrainian crisis on the ratification processes in both countries. The paper concludes with remarks regarding some possible effects of the border treaty implementation and the future of the relations of Russo-Estonian relations.

Keywords : *border dispute, Russia, Estonia, Ukrainian crisis, border treaty, ratification process*

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Introduction

Agreement on the Russo-Estonian border has been seen as a cul-de-sac for almost 24 years. Since the success of the Singing Revolution and the restoration of Estonia's independence, its officials were unable to arrive at a mutual understanding with its former "big brother", Russia, on how the new border should be drawn. There were two major attempts to get the border agreement signed – first in the mid-1990s and the second one in 2005. During the second attempt the border agreement was already signed by the foreign ministers but Russia backed away from the treaty after the Estonian side made some alterations to it during the ratification process. Even the accession of Estonia to the European Union and NATO in 2004 was not able to get the two countries out of the created deadlock. At the same time, Estonia's membership in these organizations moved the problem of the lack of the formalized treaty agreement, to the broader context of the Russia-EU and Russia-NATO relations where it gained greater significance. Indeed, it seems that big regional powers such as the European Union and Russia having mutual interest in further enhancing their already deep cooperation in various fields, would require all borders to be in place. The same goes for relations between NATO and Russia, which despite several major breakthroughs (such as transit cooperation in Afghanistan or the joint fighter jet exercises "Vigilant Skies 2011") are in general, consistently at odds and require a clearly depicted border. Therefore, when in 2013 Tallinn and Moscow decided to re-launch border negotiations and consequently signed the border treaty in February of this year, it gave hope to people on both sides of the border that the third attempt to sign the headache agreement would be successful. After foreign ministers Sergei Lavrov and Urmas Paet put their signatures on the treaty, a standard procedure was necessary in order to make the treaty final. This procedure called for the parliaments of Russia and Estonia to ratify the agreements and exchange the ratification letters.

This phase of the treaty ratification processes in both countries cannot be underestimated due to various reasons. One of these is the fresh memories from 2005 when the border treaty never came to force due to the disagreements over the ratification laws. In addition, the overall timing in which the ratification laws should be agreed on could not be more controversial. Starting as a peaceful demonstration demanding closer EU integration, Euromaidan ultimately turned into the 2014 Ukrainian revolution and one of the major geopolitical disasters Europe has experienced in the 21st century. Russian intervention in the Ukrainian crisis created a drastic divide in the relations between the Kremlin and the West and will undoubtedly have a profound effect on their state for the upcoming decades. The current paper investigates the impact that the events in Ukraine have on the Russo-Estonian border negotiations. The paper proceeds as follows: firstly, it provides a description of the causes of the border disputes with the main focus on the conflicting views regarding the controversial Soviet period in Estonia's history. This aims to show how the different views regarding the nature of the Soviet interventions in Estonia in 1940 came to the forefront after Estonia's independence becoming one of the stumbling blocks for the formation and normalization of the relationship between the two newly emerged countries after the dissolution of the Soviet Union. Furthermore, the paper covers some important aspects of the new border agreement signed in February 2014 as well as its overall assessment in both countries. Thirdly, the paper analyzes the effect of the Ukrainian crisis on the Russo-Estonian relations and its possible influence on the outcomes of the treaty ratification processes in Russia and Estonia. It is important to stress

Resolving the Russo-Estonian Border Dispute in the Wake of the Ukrainian Crisis

from the very beginning that this article's goal is not an in-depth evaluation of the Ukrainian crisis itself but the effect it might have on the conduct of the ratification processes between Russia and Estonia. Rather, it aims to shed more light on the existing discourses on the border treaty implementation in the light of the Ukrainian crisis and its possible development.

Historic context

In order to understand the peculiarities of the border treaty negotiations, one necessarily needs to look at the history of Russo-Estonian relations. Following the diplomatic and military success in its War of Independence (1918 – 1920), the proclamation of independence by the Republic of Estonia was then recognized by Soviet Russia in the Peace Treaty signed in Tartu on 2 February, 1920. According to this agreement, the areas on the eastern bank of the river Narva and in Setumaa (Pechorski rayon) that were inhabited by a predominately Russian-speaking population became recognized as part of Estonia (Tartu Peace Treaty 1920). The new state enjoyed just a brief period of independence as it soon became clear that in the geopolitical realities of the late 1930s Europe, Estonia together with its other Baltic neighbours was doomed to become a pawn in the games of its bigger and more influential neighbours. Defeated in World War I, Germany was aspiring to secure its spheres of interest in Eastern Europe using the Baltic States as satellites while Soviet Russia saw them as a necessary channel of spreading the Socialist revolution to the West. The spheres of interest of the two ambitious European powers were defined in the then secret protocol to the notorious Molotov-Ribbentrop non-aggression pact according to which Estonia was assigned to the Soviet area of control (Halsall, 1997). After the Nazis began their offensive campaign in Poland, the Soviets used it as an excuse to establish its military presence in the Baltic issuing an ultimatum to Estonia to allow the presence of the Red Army troops on its territory. That was followed by the full incorporation of Estonia into the Soviet Union. After a period of Nazi occupation beginning in 1941, Estonia found itself back under the Soviet grip in 1944.

In the last year of World War II the Supreme Soviet of the Soviet Union unilaterally decided to make several “corrections” to the borders in accordance with the “demands of the local people” (Mälksoo, 2005: 146). As a result, around 5% of the Estonian territory was incorporated into the Russian SSFR. Thus vast areas in South-Eastern Estonia joined the Pihkva oblast and areas behind the Narva River were tied to the Leningrad oblast (Mälksoo, 2005: 145). The process of trimming Estonia's territory continued in 1957 “correcting” the South-Eastern border of Estonia and pushing it even more to the East. As a result, Estonia lost 6% of its population and 2300 km² which is about 5% of its pre-World War II territory. It is important to mention that both the Tartu Treaty border and the Soviet-imposed Russian-Estonian border are ethnically purist which resulted in a large number of villages that historically belong to Estonia becoming part of the Russian territories (as it happened with some of the villages of the autochthonous ethnic minority of Seto) (Alekseev, Manakov, 2005) (Setos are ethnic and linguistic minority that inhabit the areas between south-eastern Estonia and north-western Russia. The Majority of Setos practice Orthodox Christianity and speak Seto language which belongs to Finno-Ugrian group of languages).

When Estonians restored their independence they decided to base their new policies on the principle of the uninterrupted continuation of statehood since 1920. On top of that, Article 122 of the new Constitution of the Republic of Estonia adopted on 28 June, 1992 stated that “the land border of the Republic of Estonia shall be determined by the

Tartu Peace Treaty of 2 February, 1920, and other international border treaties” (Mälksoo, 2005). By referring to the Tartu agreements in their Constitution, the new Estonian elites consciously made all future border negotiations extremely complicated. Thus, the idea that Estonia would want to reclaim all the territories that Stalin “corrected” in favour of the Russian SSFR was immediately rejected by the Kremlin (Mälksoo, 2005). The same fate befell the proposal that at least some territories symbolically important to Estonia could be given back to Estonia - Russia was sticking to its firm position that the Tartu Peace Treaty ceased to be legally binding when the Republic of Estonia “voluntarily entered” the USSR (Mälksoo, 2005). The first attempt to sign the treaty was, therefore, unsuccessful and both parties found themselves in a deadlock.

In 1995, Estonia realised the necessity to give up some of its claims in light of the accession negotiations with the EU and started considering other options of how to reach a compromise (One of the requirements that the European Union had for Estonia was the necessity to resolve its border disputes). A possible solution to the existing situation was proposed by the then Prime Minister Andres Tarand and later became known as a “Christmas Initiative”. He regarded Estonia’s position in the negotiations “heroic, yet impractical” and proposed “a civilized way out” – Estonia would have to give up its Tartu-related border claims and to agree on the existing post-Soviet de facto border (Bult, 2013). At the same time, although the new border treaties would implicitly modify the Tartu Peace Treaty, the latter would have continued to be in force (Mälksoo, 2005). That was the official Estonian position during the negotiations that started on 5 March, 1999 although there were Estonians that remained skeptical of such an anti-Constitutional border treaty. The eagerness of Estonia to sign the border agreement was not returned by Moscow. Some analysts argue that the Russian side was deliberately prolonging the negotiations using the border treaty as a trump in its dialogues over some other contested political issues – namely, the treatment of Russian minorities in Estonia. Lack of the border treaty in the end did not become an obstacle for Estonia to join both NATO and the EU in 2004 which in the end enhanced the willingness of the Kremlin to sign the treaty. Finally, on 18 May, 2005 foreign ministers Urmas Paet and Sergei Lavrov signed the agreements on the mutual state borders and within a month it was ratified by the Estonian side (Mälksoo, 2005: 144-149). The outcome law of ratification did not, however, satisfy the Kremlin due to the introductory declaration that was added to the agreement. This declaration, firstly, referred to the legal continuity of the Republic of Estonia proclaimed on 24 February, 1918; secondly, it declared that the new treaty “partially changes the line of the border established in Article III of the Tartu Peace Treaty of 2 February 1920, does not have impact on the rest of the [Tartu Peace] Treaty, and does not determine the treatment of other bilateral questions that are not connected to the border treaty” (Mälksoo, 2005). Moscow condemned the declaration fearing that it might enable Tallinn to present “territorial claims” in the future and on 1 September, 2005, the President of the Russian Federation, Vladimir Putin, ordered the rescission of Russia’s signature from the border treaties (Kremlin official website, 2005).

This second failed attempt to end border disputes revealed the depth of the crisis in the bilateral relations between the two former Soviet republics. These relations showed few signs of improvement with Russia constantly accusing Estonia of its poor treatment of the Russian speaking population in Estonia. The coldness in the dialogue between the countries reached its climax with the Bronze Soldier affair in 2007 when the Estonian government decided to relocate the monument of the fighters against Fascism, from the centre of Tallinn to the military cemetery that caused outrage of those who revere the

Resolving the Russo-Estonian Border Dispute in the Wake of the Ukrainian Crisis

Great Patriotic War both in Estonia and in the world. Next year, in 2008, Estonia together with its post-Soviet neighbors (Latvia, Lithuania and Poland) were among the European Member States that strongly condemned Russia for its aggression against Georgia (Ilves, Zatlers, Adamkus and Kaczyński, 2008). They called upon both the European Union and NATO to take a strong stand against these signs of Russian aggression and were posing for tougher measures to be imposed on Russia.

The introduction of the euro in Estonia definitely rubbed salt in the wound of the long-lasting border dispute. There were claims expressed by the Estonian-Russian community that the country's borders depicted on the coin reflect the prewar map of Estonia and, therefore, include parts of modern Russia's western territories (Osborn, 2011). The ambassador of Estonia, Simmu Tiik, immediately dismissed these accusations saying that the borders on the coin might be "a millimetre out here and there," but still overall reflect the actual de facto border (RiaNovosti, 2011). At the same time, he admitted that this mistake was made at the original sketch design of the coin from 2007 but it was corrected right away (Radio Ekho Moskvyy, 2011). The Russian Ministry of Foreign Affairs found these affirmations unconvincing saying that the whole incident proved that "unfortunately the attempts to revise the de facto borders that were the reason for retracting our signature from the border treaty in 2005 persist"(Official website of the Embassy of the Russian Federation in Estonia). In such context of relations between Tallinn and Moscow the border issue was left unresolved with both sides showing no significant signs of eagerness to resume these negotiations.

2014 Border Treaty: Is the Third Time a Charm?

A glimmer of hope appeared in September 2012 when Russian Foreign Minister Sergei Lavrov stated that Russia is eager and ready to reopen the border treaty negotiations. The foreign affairs committee of the Estonian parliament immediately reacted to these statements proposing to start consultations with Russia. In the next year the governments were approving the border treaty bills and once again discussing the conditions of the new border agreement. There were speculations of where the signing of the treaty should take place. A proposal to sign the treaty in Moscow left some Estonians dissatisfied as they stated that this might give the wrong impression, that Tallinn's interest in the treaty is more significant than Moscow's (At this point negotiations about the further facilitation of the EU-Russia visa agreements were quite active. Therefore, lack of the formalized border was seen to be becoming a bigger concern for Russia than it was for Estonia). Nonetheless, afraid of dragging the signing on into the distant future, the Estonian side agreed to sign the treaty in Moscow and, in exchange, Lavrov made a promise to officially visit Estonia in the second half of 2014 (Salu, 2014). On 17 February, 2014 former foreign minister Urmas Paet and foreign minister Sergei Lavrov put their signatures on the border treaty giving hope that there would finally be an end to the border treaty headache.

When it comes to the comparison of the new agreement to the previous 2005 treaty, some aspects should be noted. Firstly, the preamble now includes the following sentence: "...developing legal basis for solving issues related to Estonian-Russian border treaty and affirming, mutually, the lack of territorial claims" (Ministry of Foreign Affairs of the Republic of Estonia). Secondly, article 9 was extended with the following section: "By this treaty, without any exceptions, only issues related to state border line are being regulated" (Ministry of Foreign Affairs of the Republic of Estonia). In this manner the countries showed their eagerness to compromise and search for some wording of the treaty

that would be acceptable for both parts. Thirdly, some technical alterations were made when it comes to the territories along the current de facto border: Estonia and Russia decided to exchange, on an equal basis, approximately 128,6 hectares of land and 11,4 square kilometers of Lake Peipsi surface (Ministry of Foreign Affairs of the Republic of Estonia). For example, changes concerning the well-known Saatsse Boot – Russia’s 115-hectare enclave surrounded by Estonian territory. As a result, such Estonian villages as Sesniki, Ulitina or Saatsse until recently could only be reached using the motorway that belonged to Russia (Those travelers do not required to have a visa but have to follow some strict rules: you can only travel by car, must not make stops or leave the car when driving along that 900m stretch) It was decided that it would be more practical if the “boot” belonged to Estonia. In Return, Russia would get an equal area - two patches of land in Väraska and Meremäe Parishes (FestForest, 2014). There were also some adjustments made in the area of lake Peipsi that aimed to facilitate travelling for both sides.

The signed agreement was immediately received with great support. Sergei Lavrov emphasized that it will undoubtedly “strengthen the atmosphere of trust and cooperation” (Gutterman, Mardiste and Heavens, 2014). The U.S. State Department mentioned the importance of this treaty for NATO and its concerns about the lack of a clear delimitation of its border with Russia (U.S. Department of State, 2014). Hopes that a new border treaty will bring positive dynamics in the strained bilateral relations between Moscow and Tallinn were, nevertheless, interrupted by the events that started to unfold in Ukraine in the end of February. The rise of the pro-Russian protests in Crimea, the referendum and its outcome, and a treaty of accession of the Republic of Crimea and Sevastopol into the Russian Federation were condemned by the Western community that saw Russia’s actions during the crisis as violating international law. That was followed by criticism of Russian support for the rebels in eastern Ukraine and calls to stop providing them with weapons. At this point, the relationship between the European Union and Russia was probably at its lowest point even when compared to its state during the Russo-Georgian war of 2008 (It is important to mention that at the moment of work on the current paper the situation in Ukraine continues to be unresolved. Despite the Minsk II ceasefire agreement, skirmishes alongside borders of the separatist borders of Donetsk and Luhansk. Latest escalation took place on 8 August 2016 when Russia accused Ukraine of the border infiltration and planned terrorist attack which resulted in a gunfire. International sanctions are kept being imposed on Russian Federation by the EU which it promises to lift only in case Russia fulfils its international obligations related to Minsk II protocol). The Ukrainian crisis will undoubtedly have a profound and deep effect on the state of the bilateral relations between Estonia and Russia in many spheres. What one might question, however, is the nature of this effect on the border treaty ratification. The following two chapters will thus provide some reflection on the existing discourses towards the border treaty negotiations and its ratification in light of the events in Ukraine.

Estonia

The first important aspect of border negotiations on the Estonian side is related to the Tartu Peace Treaty. The significance of this treaty in the history and identity politics of Estonia cannot be underestimated: the second President of Estonia – Lennart Meri – has famously deemed it the “birth certificate of the Republic of Estonia”. On the anniversary of the Tartu Peace Treaty on 2 February, 2014, the then President of the Riigikogu, Ene Ergma, said that the treaty has a deep historical and legal meaning and cannot be more relevant for today’s Estonia (Ergma, 2013). She then defined the Estonian

Resolving the Russo-Estonian Border Dispute in the Wake of the Ukrainian Crisis

people's main objective as "to work and act in the name of making the Tartu Peace Treaty the last treaty we have concluded as one of the warring sides" (Ergma, 2013). The already mentioned Article 122 of Estonia's Constitution that specifically requires the state's border to be determined by the Tartu Peace Treaty provides solid ground for criticism of the Estonian government's stand in the border negotiations.

When it comes to the skeptics of the border treaty inside Estonia, a few must be mentioned. The head of the Estonian Conservative National Party, Martin Helme, has continuously expressed his opinion that giving up the territorial claims in 1994-1995 was a terrible mistake for Estonia as it put Estonia into the position of having to play by the "rules of the other side" that cannot possibly lead to a successful outcome for Estonia (ERR, 2013). Estonia's former Minister of Agriculture and current Vice-Chairman of Riigikogu, Helir-Valdor Seeder, echoed these concerns alleging it is damaging Estonian core national interests. He also stressed the importance of standing firm in these negotiations: "This is a historical moment where we can bargain these terms with Russia, where we can put on the table our practical economic and energy agenda. These are issues that we, unfortunately, will not achieve with the border treaty in its current form" (ERR, 2013). Henn Polluaas - MP from the Conservative People's Party (EKRE) and one of the main critics of the agreement - moved to reject the ratification bill in the first reading. Such attempt did not succeed, though, with thirteen Riigikogu members voting in favor of the motion, 63 -against and one MP abstaining (Baltic course, 2015). Andres Herkel, of Free Party, also brought up lack of the Tartu peace treaty mentioning and concerns about the one-sidedness of the on-going ratification process (Baltic course, 2015).

Regarding the reaction of the Estonian officials to the events in Ukraine, it has two important security dimensions. Firstly, it naturally gave rise to fears inside the country: the percentage of ethnic Russians in the overall population is relatively high (approx. 25%). Moscow has been active in attacking Tallinn's treatment of the Russophones in Estonia claiming that they are regarded as second-class citizens. Moreover, Moscow expressed its concerns about the high number of stateless persons in Estonia referring to the citizenship and language laws in Estonia that are said to be discriminatory to ethnic Russians. These facts naturally explain the start of speculations on whether the Ukrainian crisis might trigger some unrest between the Estonian and Russian communities. In an 2014 interview to *Le Monde* magazine Urmas Paet was asked whether the Estonian Russians support pro-Russian separatists in Crimea. The Foreign Minister's reply was negative and included the following argument: "Part of our population speaks Russian but we also have Ukrainian-speakers (22 000). Everyone obviously has fears regarding Russia" (Gatinois, 2014). This confidence of the Foreign Minister can be challenged however by the response on the Internet portal of the Russian community in Estonia, *Baltija.eu*. It claimed that the words of the Urmas Paet has nothing to do with the reality pointing to the rally that took place in Tallinn on 14 March, 2014 that was attended by approximately 200 people under the "Estonian people support the Independence of Crimea" slogan (*Baltija.EU*, 2014). Nonetheless, there are no official statistics on the actual number of Russian Estonians who support Moscow's actions during the Ukrainian crisis so the situation remains unclear. At the same time, the opinion polls conducted by the Estonian Ministry of Defense in March 2014 showed that within half a year the proportion of those considering a large-scale military attack by a foreign country possible has enlarged (by 16 percentage points) (Ministry of Defence of Estonia, 2014). This shift in attitudes is largely attributed to the events in Ukraine and the Estonian government is very concerned about the possibility of the spillover of the Ukrainian crisis

into the Baltics. Security discourse keeps being dominant in relation to the Ukrainian crisis. In April 2014 the government had asked to raise the number of NATO troops in its territory. As Sven Mikser, Estonia's new defense minister, put it in one of his interviews: "I would like to see more boots on the ground and planes in the sky and I think we will see more" (Mardiste, 2014). Mikser also stated that we can expect more joint military exercises and emphasized NATO's Article 5 – any attack on one alliance member automatically becomes an act of aggression on all NATO members. In August 2016 Estonia shared its plan to build a fence approx. 110 km long along its border with Russia. Official reason for its building is the on-going European crisis with the influx of migrants. As expressed by interior ministry spokesman Toomas Viks, "[the] aim of the construction is to cover the land border with 100%, around-the-clock technical surveillance to create ideal conditions for border guarding and to ensure the security of Estonia and the Schengen area" (BBC, 2015). Nevertheless, the plan had caused concerns on the Russian side where such decision was seen as "ideological" – since Estonia is not facing same refugee challenge as the other EU member states (BBC, 2015). The relations between the two countries got tense once again when on 9 May 2016 Pskov delegation headed to Tartu to commemorate the Victory Day had been detained at the Estonian border for several hours before deciding to turn back (News.Err.eu, 2016). The other dimension of the response of Estonia to the Ukrainian crisis concerns the border treaty itself. Here, the reaction seems to be very beneficial to Russia. None of the major state officials suggested the necessity to stop any negotiations with Russia until the crisis in Ukraine is resolved. On the contrary, Tallinn seems to actively stress that ratification of the Border Treaty should not be affected by the events in Ukraine. The former Prime Minister of Estonia, Andrus Ansip, once said that "when in crisis, regulated relations are much better than unregulated" (Delfi, 2014). Center Party MP Enn Eesmaa which is supported by up to 75% of ethnic non-Estonians agreed with Mr. Ansip's position that the border treaty should be ratified and added that in light of the current political situation the importance to do that is even higher (Kireeva, 2014). Marianne Mikko, the representative of the Social Democratic Party and a current member of the Estonian Parliament has accentuated the urgent need to leave the current unsteady status quo and make the border treaty a legal document (Kireeva, 2014).

The Estonian parliament concluded the first reading of the Bill on the Ratification of the State Border Treaty between the Republic of Estonia and the Russian Federation and the Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation on November 25, 2015. The Head of the *Estonian* National Defense Committee, Mati Raidma, expressed his hopes that no major problems will occur during the ratification process: "We hope that there will be no surprises because this treaty is about borders - not a treaty of friendship. This is a technical agreement. It defines the border. As for today, I do not see any new ideas that would be different to the ideas discussed half a year ago, when both parties have clearly stated their interest in the agreement" (ERR, 2014). At the same time it was decided that the second reading and the final vote will only be undertaken after the ratification process has been launched in Russia (Mihkelson, 2014). This way Estonia expressed its desire to "move towards the final decisions as simultaneously as possible" (Mihkelson, 2014). In June 2014, the Chairman of the Foreign Affairs Committee, Marko Mihkelson, said that now it is time for Vladimir Putin to send the treaty to the State Duma and he expects this to happen in autumn of this year (Sokol, 2014). In light of the EU and NATO's need for a formalized border as well as their interest not to escalate other disputes

Resolving the Russo-Estonian Border Dispute in the Wake of the Ukrainian Crisis

with Russia, Tallinn finds itself under a certain pressure. Fears of being involved in any new debacles between Russia and the Western hemisphere can also urge Estonia to ensure the ratification goes smoothly and the events of the 2005 do not repeat again. Last but not least the Estonian government must realize the whole array of challenges that would come together with “revisionism” and the Tartu Peace treaty border line: it will naturally mean the need to deal with an even bigger number of Russian-speakers that can bolster the internal coherence of the state even more.

Russia

Having looked at how the context of the ratification process of the border treaty has changed in the wake of the crisis in Ukraine, it is time to check whether the same is happening on the other side of the border. Moscow’s stand in the border dispute with Estonia has not changed since the previous border negotiations. Russia might be accepting the historical significance of the Tartu Peace Treaty for Estonia but completely refuses to acknowledge its legal continuity. Any reference to this treaty is regarded by the Russian side as a possible loophole as it gives the Estonian side the right to claim the territories it lost during its Soviet period. The same goes for any mentioning of the fact of “occupation” or the “illegitimacy” of incorporation of Estonia into the USSR as it brings up the question of financial compensation. Having this mentioned on the signed document will indirectly imply that the Russian side admits the fact of the illegality of Estonia’s incorporation in 1940 with all the ensuing consequences. The Kremlin continues to strongly disapprove of any attempts to give a new, negative, interpretation to the Soviet role in the history of Estonia and especially in World War II. The win over fascism by the Red Army continues to be historically symbolic to the Russian people and is pivotal to the country’s identity politics. Russia is one of the first countries to raise concerns about the continuing rise of the neo-Nazi movements and groups in Europe. Practices of annual parades honoring the Waffen-SS veterans in Latvia and Estonia are constantly triggering outrage from the Russian side (Embassy of the Russian Federation in Estonia, 2012).

Putting an end to the border question is important to Russia: since the collapse of the Soviet Union, Moscow has been actively working trying to resolve all the outstanding border disputes it had. As Dmitry Trenin, an expert at the Carnegie Center in Moscow said: “Russia's territorial integrity and its sovereignty on all its territory are President Vladimir Putin's most important values. To obtain such sovereignty and territorial integrity, Russia needs fixed agreements with its neighbors. This is part of Putin's policy to build the state” (Bigg, 2005). In 2004, Russia ended the 300 year border dispute with China and concluded delimitation of the 7,400km long border with Kazakhstan in 2005. In 2008, Russia managed to reach an agreement on the disputed areas in the Barents Sea with Norway. It is possible to say that up until the Ukrainian crisis the only significant Russian border issues was the one it had with Japan – over the Kuril Islands.

The successful ratification of the border treaty will facilitate trade between the countries as around 20 treaties were stalled until the signature of the border treaty (Bigg, 2005). The absence of the border treaty with Estonia has also been hampering the easing of EU visa rules for Russian citizens, which the Kremlin was actively trying to achieve. Until recently, visa-free travel was considered to be a “common goal” as EU officials realized the economic importance of such cooperation with Russia (Stewart, 2012). Although all negotiations over the visa-free regime were frozen due to the Ukrainian crisis, it is evident that some countries have strong interest in resuming these talks in the

nearest future. French Ambassador to Russia, Jean-Maurice Ripert has recently expressed hopes to resume the visa regulations talks with Moscow in the nearest future stressing the importance of bilateral economic cooperation (Ripert, Korzun and Morozova, 2014).

Throughout the Ukrainian crisis, the Kremlin has been constantly denying all the accusations against it – from the legitimacy of the Crimean referendum to the secret supply of weapons to the separatist groups in Eastern Ukraine. Moreover, Sergei Lavrov has continuously complained about the “double standards” and Russia’s “demonization” while the Kremlin, in fact, has no interest in worsening relations with the European Union. As he put it in one of the last briefings for representatives of foreign and Russian mass media Moscow, “Nobody can be happy about the worsening of relations between partners who have a lot of opportunities to develop their mutually beneficial cooperation based on the balance of their interests” (Lavrov, 2014).

Taking into consideration all the above-mentioned factors, lack of progress in Russia when it comes to ratification process is alarming. President Vladimir Putin had submitted the bill to be ratified by Russian Duma on 19 March 2015. Despite the intentions expressed by Sergey Lavrov at the UN General Assembly on the 27th September 2015 to ratify the treaty by September 2016 at the latest, so far the ratification of the treaty had been postponed. Russia claimed that this process is hampered by Estonian counterproductive actions. "We have repeatedly told Estonia's representatives that the ratification of the border treaties requires a suitable atmosphere — namely, that the parties refrain from creating tensions," -stated Russian Ambassador to Estonia Alexander Petrov referring to the detention of the Pskov delegation (Baltic Times, 2016). He also added that Estonia repeats its accusations of Russian violation of Estonian airspace – something that, according to him, never took place (Baltic Times, 2016). Since the ratification process was never concluded in Russia before State Duma’s leaving on vacation in June, ratification process can only be resumed once the new composition of Duma takes the office after the elections on September 18. Although it is hard to say what other factors contribute to the prolongation of the ratification process in Russia, such hampering of the border dispute settlement is dangerous and can naturally enkindle further debates over the Kremlin’s true intentions and geopolitical ambitions in its Near Abroad.

Conclusion

The fact that for more than two decades the officials of Estonia and Russia were unable to get both countries out of the border deadlock might initially seem shocking. However, with a closer look at the intricacy of the Russo-Estonian border dispute it becomes clear why it was extremely hard to reach any sort of compromise in the matter. As it has been shown, the majority of the bilateral problems stem from the conflicting views on the shared history. That includes the ongoing debates over the legitimacy of the incorporation of Estonia into the Soviet Union, legal continuity of Estonia’s independence since 1920 and the Tartu Peace Treaty. Moreover, reference to the Tartu accords in the Constitution of Estonia made all the border negotiations particularly hard both at the national and bilateral levels. After 24 years of negotiations on how to reach a compromise and two failed attempts at sealing the agreement, the countries agreed to give the border treaty a third try when foreign ministers Sergei Lavrov and Urmas Paet signed it on 18 February, 2014 in Moscow. There were high hopes that this time both countries would be able to finalize the ratification laws without any significant troubles.

Nonetheless, rapid deterioration of the relations between Russia and the West due to the events that started to unfold in Ukraine and Crimea in the spring of 2014 had

Resolving the Russo-Estonian Border Dispute in the Wake of the Ukrainian Crisis

undoubtedly changed the overall state of the bilateral relations between Moscow and Tallinn. The current paper aimed to scrutinize the discourses on the border treaty agreement in light of the Ukrainian crisis. Above all, the crisis gave a distinct security dimension to the border negotiations. The depth of the concerns of Tallinn about the Ukrainian crisis is understandable taking into account the existing dispute over the rights of the vast number of Russian-speakers in Estonia. The secession of Crimea gave rise to the fears that Estonia will be next on the list of countries where Russia would have to “intervene to protect” ethnic Russians. For this reason, Estonia is one of the most active countries in condemning Russia’s actions and demanding tougher sanctions on Russia.

Despite this current dip in the Russo-Estonian relations, it also occurs that it is have the potential of having a positive effect on the ratification processes of the treaty in both countries. While insisting on toughening sanctions on Russia and increasing the presence of NATO forces in the Baltics, the majority of Estonian officials still hold the view that the border treaty with Russia should be kept separate from Ukraine and needs to be ratified. In these times of fear and uncertainty about the future geopolitical development in Europe, the legally binding border agreements with Russia are starting to have additional value. For Russia, smooth and rapid ratification of the treaty is important to prove that it has been “demonized” by the West throughout the Ukrainian crisis and has no intentions of further destabilizing the geopolitical situation in Europe. Some skeptics argue that a successful end to the ratification process of the border treaty will not be able to improve the overall dreadful state of Russo-European relations. These relations will continue to be complicated both on the bilateral level and in the wider context of the current deadlock of Russian-Western relations. Nonetheless, the importance of putting an end to the troublesome border agreement cannot be underestimated. Above all it gives hope for the commencement of a “domino effect”: the treaty introduces the possibility that this success will enable better cooperation in other contentious areas of bilateral relations. Furthermore, the formal recognition of this border treaty is unquestionably needed these days both for Russia and the European Union/NATO. The hypothetical negative outcome of the ratification process - especially if hampered by the Kremlin - will be extremely alarming and give rise to numerous concerns about Russia’s true ambitions in Europe as well as the actual depth of the current geopolitical crisis in Europe. In this case, the continued lack of the formalized border agreement might arguably become the least of both Russia’s and Europe’s concerns.

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ORIGINAL PAPER

The Status and Role of Albanians in the Western Balkans during Transition

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Abstract

The Western Balkans has always been in the attention of the world politics due to its geostrategic position, multiethnic and multi-religious composition, and because of the clashes between east and west which left serious consequences. Often these historical contexts have led to the emergence of political crisis with consequences in inter-ethnic and inter-religious relations, which have endangered the existence of the states and the cohesion between nations. In this scientific paper we will treat the status of Albanians in the western Balkans before and after the fall of communism, taking into account their impact on the disintegration of Yugoslavia and the creation of new states in the Western Balkans, especially after the independence of Macedonia and the Europe's newest country, independent Kosovo. Moreover, we will emphasize the role of Albanians in maintaining the stability of the western Balkans, given the recent events on global security, without neglecting the role of Albanian political leaders in certain periods. In order to achieve the desired results in this scientific research, we will use various scientific methods such as comparative method, text and document analysis, as well as content and historic analysis. Through these methods we will try to give a special approach to the role of Albanians in the Western Balkans during these turmoils and the challenges that await them in the future.

Keywords: *Albanians, Balkans, communism, transition, stability*

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The Western Balkans has always been an important geostrategic location, mainly because of the interests of major powers from East and West. It is a place with many religions, nations and heritage, where the clashes from the past have had a negative impact on mutual relations. Until now, many researchers have tried to give their thoughts on the social and political developments as well as their reflection on the modern society and integration processes in the globalization era. Albanians, as one of the oldest nations in the region have been also an object of many studies which put a light over the past and explain the historical moments and developments that had an effect on today's relations and problems among neighbors. Therefore, we think that the status and the role of Albanians in the Balkans should be taken seriously into consideration in order to get the complete picture of the past and nowadays, which can be an important tool to predict and prepare for the future developments that await the region.

Through the history, Balkan regions were divided by different empires and religions. An interesting approach on this matter was published in a study by Galtung, who among other states that "the Balkan integration process within, and the global framework without, are both parts of the story of empires that come, leave deep and bloody faultiness within and without, and then decline and fall" (Galtung, 2013). These divisions have left many marks on relations between different nations in Balkans. Some of these marks still remain and from time to time they create sparks and wars that drastically increase the pressure over the multiethnic and multi-religious countries, like is the case with the majority of the western Balkan countries.

As stated in the 2005 Regional cooperation in the western Balkans European Union publication, "Following the last EU enlargement, the situation in the western Balkan countries, their progress on the road to European integration and their present and future relations with the EU really turned into an immediate concern to the EU itself. When Bulgaria and Romania became EU members, the entire western Balkan region got surrounded by Member States of the European Union. This had important repercussions for both the countries of the region and the EU in a number of areas, in particular where the free circulation of goods, services and persons are concerned" (European Commission, 2006). Since the region is an important route and has a specific position, the interest of the Euro-Atlantic organizations has been to impose their influence by including the Balkan countries under their umbrella. In align to this, some countries did well to conclude their commitments and obligations towards the international structures and joined NATO alliance, such as Croatia and Albania, as well as Montenegro, who is expected to join the alliance during 2016, by establishing the required political stability. However, the other Balkan countries are falling behind and could not reach the minimum of the requirements in order to join these organizations. In this context, we refer to Macedonia, Kosovo, Bosnia, and Serbia.

The many attempts of the European Union diplomacy in the Western Balkans during the last two decades did not give the desired results, mainly because the concerned countries could not forget the past and were not ready to give up their way of governance, which in the majority of cases is characterized by autocratic rule, combined with criminal activities and widespread corruption. As mentioned in a previous research, "the crisis in the system of governance is a signal for existence of state problems, which later reflect international positions and relations. In the case of Macedonia, the consecutive early elections that are repeatedly organized do not produce solutions to the many problems the country faces, nationally and internationally. This "disease" is widespread throughout the region, so now we can see early elections in Kosovo, Serbia, Macedonia, Bulgaria, as well

The Status and Role of Albanians in the Western Balkans during Transition

as in Greece. On the other hand, deterioration of inter-ethnic relations produces extra pressure on finding solutions and reducing tensions” (Abdullai and Tresi, 2014).

Bulgaria and Greece, as European Union members, can count on the aid from other European Union member states and benefit from the union. This is not the case with the other countries, whose governments are struggling in trying to find a way to stay in power and to carry out their commitments in front of the citizens and the international community. What they have really done so far is buying time, in order to use their rule for backing their leading position, as well as playing “big politics” with international community by using peace and stability as their strongest bid. How further can their economies follow their play, it remains to see, but for sure they will not go too far. The region is covered with crisis, such as the negotiation problems between Kosovo and Serbia, the Greek economic collapse, political crisis in Macedonia with international involvement, clashes between opposition and government in Montenegro regarding NATO entrance, etc.

The role of Albanians in maintaining the peace, stability and global security has been very important for the entire region of western Balkans. Albanian leaders continuously have shown willingness for cooperation with the international community regarding issues of global interest. Maybe this is due to the fact that they have benefited most during the last two decades because of NATO intervention in Kosovo and the many EU peace missions conducted in the region for increasing democratic values and standards. Another possibility is that they see the EU and NATO integration processes as the only way to get their dispersed people together, which has been apart for centuries due to the many historical, political and geostrategic injustices that have drawn their fate blank. Since Albanians are part of every western Balkan country, we consider this is a very important issue to be addressed, especially when the instability of the region grows because of further divisions between the political agenda of the great powers and because of the new threats that are erupting throughout the new century.

After the World War II, the Soviet Union expanded its sphere of influence over neighboring East-European countries. The “Iron Curtain” was drawn upon Europe, dividing it into two parts: East and West, and thus starting the Cold War. The Soviet Union reached a major impact on political and economic Eastern European States. The impact was so great that in some cases it has carried out military intervention in each country featuring various liberal movements, as was the case with Czechoslovakia. The division of the European population and the restoration of the borders that existed before the Second World War were only an initial stage of a tensed situation and an outbreak of vigor, popularly called volcano. From the accumulated wrath and displeasure on the years and decades during the communist past, massive riots erupted on the streets of Prague, Sofia, Warsaw, Temishvar, Budapest, and other cities in central and Eastern Europe, and as a result, the displeasure of the population and the mistrust towards the democratic government institutions constantly grew (Abdullai, 2008: 23). With the fall of the Berlin Wall, the fall of communism began, and as a result, many new countries were created in the Balkans, mainly because of the dissolution of ex Yugoslavia. The American historian and diplomat George Kennan initially described “the malignant nationalism” in the introduction of the *Carnegie report* (Kennan, 1993), for the causes and the course of the Balkan wars of the first half of XX century. In the part about the disintegration of Yugoslavia, he says that these nations won and re-gained a lot in a short time and do not know where to stop (Malevska, 2002: 154). “The presence of the U.S. and Russia, as an extended arm for defense and military assistance, economic benefits and social care for

the Balkan countries is actually another attempt to ensure global military and economic supremacy. A region where safety is not affected is an excellent target for further provocations between the U.S. and Russia, in terms of strengthening their military presence, where great powers have an interest” (Veljanoska, Andonov and Shibakovski, 2014).

The situation of Albanians before and after the fall of communism has been very difficult with many uncertainties. Albanians are very specific as a nation, since they have their own language which totally differs from the other languages used in the region, they consist of many religions and they are spread in many countries. Throughout the history, Albanians have always been at risk from their neighbors, and in the same time they remained an interest of major powers for extending their influence through them as allies. After World War II, most of the parts populated with Albanians fell under Yugoslavia. Albania embraced a communist ideology headed by Enver Hoxha. This period in Albanian history is called as the communist dictatorship. Initially, Albania had good relations with Yugoslavia, although, latter any breach of relations between the two countries has made more difficult the life of Albanians under Tito's Yugoslavia, since any violation of these relations between the two countries had an impact over the Albanians in Yugoslavia and filled the Yugoslav prisons with ethnic Albanian political prisoners. The cooperation between the two countries continued to be weak and tensed, until the 1990's when the transition and shifting in government brought different approaches towards the diplomacy and international relations, especially when it comes to Albania. The collapse of communism was seen from Albanians as a historic opportunity to realize their equal rights compared to other nations. The modern Albania managed to become a member of NATO, primarily as a result of a serious and conscientious approach of the politicians of the country, which aided by the western partners, broke away from the communist past and tuned towards democratic values and social development.

Yugoslavia was formed in 1945 after the Second World War with a federal regulation and consisted of six republics and two autonomous provinces, where one was that of Kosovo. Even though it seemed at first that all people were equal in this federation, we can say that the only people most despicable and maltreated were the Albanians. The conference of Bujan was an attempt for unification of the Albanian territories, but the same was annulled by the Yugoslavian authorities. The position of the Albanian population in Yugoslavia began to change positively during 1974, when the new constitution guaranteed the autonomy of Kosovo and Albanians in Republic of Macedonia reached to become constituent nation. But, only short time after, Kosovo's autonomy was removed, and the constitutional changes in 1989 made Albanians in the Republic of Macedonia a minority, even though they consisted a quarter of the total population of the Republic. Later on, what seemed to be a strong and unified country, suddenly collapsed under the rage of nationalism that was hidden deeply inside in the foundations of the country. The question of whether the Yugoslav conflict was an ethnic conflict is closely related to the causes which started it. As stated by Ahrens, “it is obvious that a conflict starts because of economic reasons, but develops further following ethnic lines”, (Ahrens, 2010: 4). The Yugoslavian conflict was one of the bloodiest in the recent history, taking hundreds of thousands of lives and destroying the cohabitation and the mutual cooperation in the region between the different nations for a longer period of time. It also brought into a serious test the unity and the readiness of the international bodies and structures who failed to prevent and to stop the bloodshed between parts in the conflict. Albanians were a part of this conflict too, mainly as victims during the Kosovo conflict.

The Status and Role of Albanians in the Western Balkans during Transition

Montenegro was the smallest republic in Yugoslavia. The Albanians there generally populate the border area, and even though they had been there for many centuries, again, they were not treated as equal citizens in their country in the past. Yet again, Albanians were one of the main factors for the success of the referendum for independence of Montenegro (Nohlen and Stöver, 2010) from Yugoslavia, which was held on 21 May 2006, and which was approved by 55,5% of the voters. This did not change a lot in reaching equal rights, but it started to have positive effects towards democratization and normalization of the relations within the country. Moreover, the independent Montenegro started to build more relaxed relations with Kosovo and Albania, thus leaving aside the past and the differences. But, despite the fact that the protections of national minorities has been a high-profile item on the agendas of international organizations, NGOs, and national governments, progress in many cases has been incremental at best. Albanians in Montenegro, for example, have seen much political change in the Western Balkans over the past two decades but little improvement in their own group's situation. They are worse off in certain aspects than they were during the communist regime in former Yugoslavia. This situation is best described by Boga and Wolf, where they stated that "having been subjected to discrimination for almost a century in the various incarnations of Yugoslavia, Albanians welcomed the democratization process and hoped it would usher in a new dawn. They expected to work with Montenegrins and other communities as partners in building a new democratic and multi-ethnic state, and thus voted overwhelmingly for their nation's independence. The reality of what has since transpired has fallen far short of their expectations; most Albanians now find themselves disillusioned about their future" (Boga and Wolff, 2011).

This throws a different perspective on the status of the Albanians in Montenegro, and proves to be aligning with our paper regarding the status of the Albanians in the region. Again, if Montenegro turns toward the politics of good neighboring and improves the status of other ethnicities in the country, including the status of Albanians, it will result positively for Montenegro, which is soon expected to become a NATO member and will be committed to a full partnership with other NATO members, including neighboring Albania. In this regard comes and the speech of NATO Secretary General, Jens Stoltenberg, given in December 2015, who publicly thanked the role of Albania in keeping peace and fulfilling mutual obligations for stability in the Western Balkans, for the open-door policy, and for the decision to invite Montenegro to become member of the Alliance.

Kosovo became a formal part of the territory of the Federal Republic of Yugoslavia (FRY) in 1918. Constitutionally, it is considered a constituent province of Serbia, one of the six republics that made up the original Yugoslav federation along with Croatia, Bosnia-Herzegovina, Macedonia, Montenegro and Slovenia. It had its own administrative autonomy, but it was taken away after a while. The best days within the autonomous period, were from 1974 up to 1989.

But with the rise of Slobodan Milosevic, a previously obscure Communist party official who skillfully manipulated the nationalist symbols to assume leadership in Serbia in the late 1980s, Kosovo's autonomy came to an end. "Under Milosevic's direction, the provincial assembly in the regional capital, Prishtina, was dissolved and power returned to the Serbian parliament in Belgrade" (Peake, Heenan and Fitzduff, 2004).

After the abrogation of the constitution, there were protests that started on March 1981, with the request for Kosovo to become a republic (Buxhovi, 2014: 227) and its citizens to enjoy all the rights that other nations had in Yugoslavia. This resentment was suppressed with violence and police terror, mass dismissals from work and prosecution of

Albanians for anti-state behavior. This serious situation further continued and culminated with the armed resistance of the Albanians in 1997-98 and the intervention of the North Atlantic Alliance (NATO) in 1999 for ending the Serbian repression. Since then, Kosovo has been apart from Serbia, even though officially has declared its independence in 2008. Moreover, Kosovo signed a Stabilization and Association Agreement with the EU in October, a first step towards membership. The agreement was contingent on normalizing relations between Kosovo and Serbia, following an EU-brokered deal between the two in 2013. The agreement also paved the way for Serbia becoming an official candidate for EU membership, negotiations for which began in December.

The status of the Albanians in Kosovo was closely followed by Albanians in the entire region, including the Albanians in Macedonia. As mentioned in a study conducted by Pierre, the Kosovo conflict traumatized Macedonia. "Politically it led to a deep division. The Albanians of Macedonia fully supported NATO and the air strikes. They gave guarded support to the KLA and the aim of independence for Kosovo; wisely, however, they also took care to restrict KLA recruitment and activities in Macedonia itself so as not to destabilize the country. The Slavic Macedonians, on the other hand, were much less supportive of NATO and were generally cool if not directly opposed to the air strikes" (Pierre, 1999). This study shows that the efforts of ethnic Albanians in Macedonia were towards helping their fellows in Kosovo and not causing troubles in their country.

Macedonia as a relatively new country got its independence from the former Yugoslavia in 1991. Macedonia was long regarded as an oasis of peace, because until 2001 it was the only country emerging from the former Yugoslav Federation that did not suffer directly from the war, persecution and civilian casualties. On the other hand, since the collapse of socialism and the establishment of an independent Republic of Macedonia, religion had become an increasingly important social factor. This was particularly true of the two major religious communities. Slavic Macedonians regarded the Orthodox Church as a symbol of their nationhood, which they saw threatened by Albanian insurrectionists. "The Albanian population was predominantly Muslim and frequently expressed itself by means of Islamic traditions" (Mojzes, 2006).

Till 2001, the Macedonian political elite behaved as if there were no internal problems other than those of economic and social nature and it was thus presented in the White Book of the Ministry of Defence, which emphasized that the biggest threat to the Macedonian stability was external, coming from the western borders (Albania) (Ruzhin, 2013). The adopted Constitution, even today is contested by the ethnic Albanian population, mainly due to the fact that up to 1989, Albanians were constitutive part of the state, while the new constitution of 1991 made them minority, which they never truly acknowledged. The many attempts for advancing the rights of Albanians by their political representatives did not yield results, due to the fact that the other side did not show readiness to hear the real demands of the Albanians and refused any request or initiative for constitutional amendments in terms of freedom and ethnic rights of Albanians in Macedonia. "The period between 1991 and 2001, had not resulted in any substantial inclusion of the Albanians in public administration, and the country acted mainly as a national state of the majority community" (Abdullai and Bajrami, 2012: 159).

Moreover, calling the Albanians land colonizers in Macedonia, heavily insults national feelings of all Albanians. The Macedonian historiography has permanently falsified historical facts, to the extent of naming the origin of Skanderbeg, Nobel Prize laureate Mother Teresa, as well as Alexander the Great as Macedonians (Stavileci, 2009: 14). Macedonian leaders have reluctantly set about implementing the Framework

The Status and Role of Albanians in the Western Balkans during Transition

Agreement. They grudgingly accept the tenets of the peace accord but have no real desire to reward the Albanians for bringing their country to the brink of war. "Most Macedonian officials harbor two principal fears: first, that the Albanians' appetites for more political and economic advantages will never be satisfied, despite the concessions made under the Framework Agreement; and second, that the real goal of the Albanians is federalization of the country, essentially partitioning Macedonia between the overwhelmingly ethnic Albanian region in the west and the rest of the country. Most government officials have no confidence that such a scheme, would lead to the enduring preservation of Macedonia as a unitary state. Not all ethnic Albanians want to see Macedonia divided into ethnic enclaves through federalization. Some of the country's political leaders on both sides of the ethnic divide sincerely believe that complete implementation of the 2001 Ohrid Framework Agreement will bring lasting peace and preserve the territorial integrity of the state" (Perason, 2002).

These opinions are not so productive having in mind the nature and the complexity of the country itself. Ichak Adizes, who in the beginning of 90's served as a consultant of Macedonian government, in one of his books states that he doubts that Macedonia can survive long on this basis, whilst the number of Albanian population is constantly growing, and who do not even feel to be Macedonian. Furthermore, he states that if Macedonia does not join NATO and the EU, it will be in serious threat, both economically and politically. The financial crisis only can worsen the problems that were serious since the very beginning (Adizhes, 2012: 135). The view of Adizhes again highlights the importance of Euro-Atlantic integration processes for Macedonia and the other countries of Western Balkans, as the only way for heading towards the stability and economic development of the region, opinion that we addressed earlier in this paper.

Maybe one of the most illustrative views on the fate of Balkan countries is the one given by Bugajski who thinks that any further deterioration in Kosovo, Macedonia, and Serbia will have a destabilizing effect throughout the west Balkans. While the worst-case-scenario is a spreading war, a more likely scenario is "insipid destabilization" characterized by deepening political instability, economic retardation, a freeze on foreign investment, and the further growth of illicit business and international criminal networks. "This will estrange the Balkans from the European process and the trans-Atlantic structures. It will also guarantee a costly and permanent security headache for the Alliance that can become a bounty for Russian interests, international criminals, rogue states, fundamentalist extremists, and other anti-NATO and anti-European elements." (Bugajski, 2002).

These predictions regarding the political and socioeconomic status of the Western Balkan countries have come to reality nowadays. The permanent regional crisis, the failure of European diplomacy in enforcing political stability and economic prosperity for the Western Balkan countries, and the infinite negotiation processes, have had a negative impact on the integration of the Western Balkan. Moreover, the imposed deals from the European diplomats for overcoming the political crises, such as the case in Macedonia, the prolonged negotiations and the permanent changes due to the lack of political culture and responsibility, have created "invincible" political leaders in the country that are putting the entire diplomacy on a totally different level.

It is very important to emphasize that the Euro integration process is incredibly essential for the stability of the entire region, especially when the entire Europe is facing the global refugee crisis and religious extremism. These processes can be supported and led only by responsible politicians who can take the role of a regional political leadership.

Having in mind that the Albanians are focused in maintaining the stability of the region, in building regional partnerships and cooperation, and their unique mixture of religions, we can expect Albanian politicians and leaders to be promoters of the new positive changes of the region. If we refer to Smock who says that religion in many parts of the world is contributing to violent conflict, although exaggerated in many cases. "This is well documented and broadly accepted. Usually disregarded, however, are opportunities to employ the assets of religious leaders and religious institutions to promote peace. Traditional diplomacy has been particularly remiss in its neglect of the religious approach to peacemaking" (Smock, 2006).

In this regard, Albanians can become a connection among bordering countries and can be seen as a model of interfaith coexistence. In numerous appearances, Albanian political and religious leaders have shown to the world their support they give to the interfaith harmony and the mutual understanding between religions. This shows a courage and determination to stand in front of the new challenges that are occupying the modern policymaking.

Additionally, referring to the political crisis in Macedonia, the country should seek more seriously true and essential participation of the Albanians political leaders in the policymaking for finding solutions for the many problems the country faces, starting from the political crisis, economic stagnation and international pressure for reaching the requirements for European integration processes. Also, it has to be mentioned that Albanians in Macedonia did not contribute at all in creating the latest political crisis that lasts for several years now, which predominantly erupted among Macedonian governing party and main Macedonian opposition party, regarding the work of secret service agency and phone tapping scandal. Besides, for many years Albanians in Macedonia have been also victims of illegal persecution by the government agencies for what there is a need for further investigation from experts and the international community engaged in the country. Any different approach towards the problem, without involving the Albanian political factor in Macedonia, will not give credible and lasting results for the future of the country.

Finally, Albanians in the Balkans should be in the focus of the European politics and should be seen as a partner for overcoming the difficulties the region faces regarding the integration processes and the increased threat of extremism. As stated by Bugajski, "the Albanian population in the Balkans is overwhelmingly young and growing faster than that of any other ethnic group, even given the high rates of emigration. It is a dynamic population whose energies must be channelled toward constructive and productive causes such as economic development, entrepreneurship, education, political responsibility, and international integration. Otherwise, frustration and shrinking opportunities could encourage the growth of radical and armed groups or feed the scourge of organized criminality" (Bugajski, 2002).

The engagement and the determination of the European diplomacy in facilitating and guiding Albanian leaders can result with great political achievements in future towards integration and stability. This will also give a strong sign to any side that prefers nondemocratic means for reaching certain goals to retreat and to give up the politics of division and instability. It will also give a sign that the issue of "Great Albania" is just an imagination promoted by the opponents of Albanians in the region. In addition to this, as stated in an earlier paper (Vinca, 1992: 117), we will not have anymore an overall solution to the problem of the Albanians in the Balkans, but there will be partial solutions of the Albanian issue in the republics that will come out of Yugoslavia.

The Status and Role of Albanians in the Western Balkans during Transition

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ORIGINAL PAPER

Power Networks in Romania during the Reign of Charles I: Family, Political and Economic Ties

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Abstract

Promoting the Western model by the political elite led ineluctably to the gradual modernization of the various levels of Romanian society. During the reign of Charles I, a visible antagonism sketched around the two currents was noted, being gradually organized into two modern political parties, the National Liberal Party and the Conservative Party, which dominated the political life of the country between 1866-1914. Networks of power in the Romanian political system have been built along time and they were tightly connected with: the process of political parties establishment, the relationship between government and opposition, the electoral competition, parliamentary life and government activity. After 1866, a new political regime was established and this allowed for clear directions of evolution both in the domestic life of the country and in its foreign affairs. Thus, the existence of a new regime, supported by the 1866 Constitution, allowed for the consolidation of both the liberal and the conservative political groups, which eventually led to the establishment of modern political parties throughout time: the National Liberal Party (1875) and the Conservative Party (1880). The alternation of government in different stages of Charles I's reign gradually led to the strengthening of the networks of power, which had important consequences at all levels of society: on both relationships within the families and on political and economic relationships. Power networks established at the political, economic and social level enabled the consolidation of the fledgling Romanian state.

Keywords: *Charles I, conservatives, liberals, political elite, power networks*

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The present article intends to analyse a particular feature of the Romanian political life during the reign of Charles I. It is a scholarly attempt to study the importance of the networks of power during the reign of Charles I on three levels by actually pursuing the establishment and operation of different types of relationships: within families, in political life and, last but not least, in the economic sector. Through our study, we intend to use analysis and comparison as research methods that would help us better illustrate the networks of power within the Romanian political regime.

The process of creating the political elite was achieved gradually, since the 19th century. The construction of the Romanian political elite was, chronologically, a well-defined process that intersected with the events which succeeded domestically in both Principalities, in the context of certain external influences visible at the time. Thus, the elite can be defined as a concept that “*encompasses the finest elements of a community, whose superiority should not be only relative but also absolute, representing a sum of human qualities*” (Manoilescu, f.a.: 61).

At that time, the elite emerged as an essential tool, manifesting itself as a power network, generating, in time, networks of families with political, economic and social implications, causing that nearly all members dispose of influence being in relationship with other members. The opinions, ideas and political beliefs were naturally adopted in a gradual manner, in order to articulate a different kind of political, social, cultural but also economic conduct, according to the European model. In this perspective, « depuis le début du XIXe siècle, l’Occident et sa pensée politique, de même que la politique et les pratiques occidentales, constituent la référence et la source d’inspiration pour les auteurs et les hommes politiques roumains » (Marton, 2009: 30). Today, it is obvious that, for the history of political ideas, “the political life of the nineteenth century was dominated by the idea of reform; in their great majority, the members of the political class in the Old Kingdom were educated people in the West, its rulers were mostly people of culture, scholars, whose politics were following a precise goal: modernizing the country according to the Western model, the only one in which they believed and wished to see introduced in Romania” (Georgescu, 1992: 151).

The Western influences on the first Romanian modernity were not foreign to contemporaries either. Radu Rosetti was of the opinion that: “*The French Revolution and the Napoleonic epic aroused the public interest in our country as well*” (Rosetti, 2011: 79), given that “*the number of foreigners coming to the country and remaining there since the end of the Napoleonic wars onwards had greatly increased; among those foreigners, the fortunated class had acquired complex information on the Western way of living, information to which the news brought by those boyars who had travelled to the West and had even spent months in Paris, Vienna and Berlin added up*” (Rosetti, 2011: 174). And for Nicolae Iorga: “*sending young people to the West passed through several phases in our country. After the first one, at the end of the Phanariote era or at the beginning of the indigenous reign, when very few crept abroad and had plenty of choice in terms of learning sources, as evidenced by the tremendous influence which the contact with the West had on Poenaru, on Eufrosiu Poteca, on Simion Marcovici, on Constantion Brăiloiu, from whom so well-behaved letters were preserved during studies in Geneva, young people crowded Paris and brought back from there what was needed to make the revolution in Bucharest in 1848, with Filaret’s speeches, with proclamations to the people*” (Iorga, 1937: 9). Later, “*some who went back to the West, a West around 1870 and, especially, one following the year of the great conflict between German and French*”

Power Networks in Romania during the Reign of Charles I: Family, Political ...

(Iorga, 1937: 11). Political leaders were using the correspondence, as it was the "primary means of information and communication /.../ the revolutionary struggle increased the role of correspondence, because it was through it that personal ties maintain and ideas continue spreading" (Zane, 1975: 273). The French influence manifested linguistically at the beginning. The boyars wanted to adopt the style of French civilization: "to be civilized, one really needs to know French /.../ in their homes, the number of preceptors and French ministers increases. French becomes the language of salons /.../ in many families, the language spoken daily" (Eliade, 2006: 279). In the high society of the Principalities, ideas of French culture are being imposed, beneficiaries of these influences being, initially, children of noblemen, who had French teachers and who, later, wanted to study in France. Through the French teachers and consuls, the relations with France intensified, and the results soon became visible. The French influence was thus achieved on several levels: psychological, social, cultural, political and economic. In the 30s and 40s, most Romanian politicians who would compose the elite of the year 1866, studied abroad, in France or in the German space, adopting ideas, opinions, political beliefs, which were later found in their vision about how the Romanian state had to be organized on different plans: cultural, social, economic, and especially political.

The modernization process was generated by this political elite, who "had made their university studies in the West and fervently desired to change the state of affairs in the country according to what they had seen" (Rădulescu, 1998: 11). The major change initially occurred in the lifestyle, subsequently politically, socially and economically. The political elite militated for a more profound change at the level of mentalities. Some politicians wanted this change to be a slower process, others wanted it radical, fast. However, the common point proved to be the transformation of the Romanian society at all levels and creating a modern and strong State. In the period in question, we can join the vision which expresses that: "of all areas of the Romanian society – national, economic, social, political, spiritual etc. – subject to turning into the modern society, most difficult and costly proved to be the economic and social field" (Axenciuc, 1997: 40).

The role of the political elite was essential in this respect: "*proud of their Latin blood, of French influence, and friendships made in school days spent in Paris, they are intensely Western in ideas and mode of life and are as removed and different from their neighbors in Russia, Serbia and Bulgaria as if the whole width of Europe divided them*" (Gordon, 1918: 37-38). It is well known that political leaders who had studied abroad, promoted an innovative behavior on several levels - political, social, cultural, economic, both on the political scene and in the Romanian society. The achievement of national objectives was a landmark in the life of young people who had studied abroad and who, arriving in the Romanian Principalities, tried and managed in time to ensure that useful transformation at the level of mentalities, by which the European lifestyle became a model. "In all areas of modernization /.../ "the generation of 1848 manifest itself", people from the high nobility (Filipești, Crețulești, Golești, Ion Ghica, Ion Câmpineanu, Ion Bălăceanu, C. Grădiștanu, C. A. Rosetti) or from the "low nobility", as called by C. D. Aricescu (as well as Brătianu brothers, Chr. Tell, Magheru, Heliade Rădulescu, Bălcescu), educated in the West, updated with the modern development of Europe and whose main concern was to bring Europe on the banks of the Danube" (Bulei, 2011: 46).

In the specialized literature, generally speaking, *power* can be defined as "the way the government and the state in opposition to society are sometimes designated. But power is /.../ a relationship between two groups or two individuals, relationship which is asymmetrical" (Colas, 2003: 248). We can apply this perspective in case of liberal and

conservative groups, which were structured in power networks, first locally and after 1866, at the modern state level.

Creating a new political regime in 1866 allowed the elite to impose a wide range of power networks, useful in the Romanian political life. The objectives and interests of this elite intersected with the requirements of the different social groups in society, bringing benefits to both parties. The political elite had to initiate a comprehensive process of measures, norms, laws in order to strengthen the Romanian state, creating thus a relationship between governors - governed, even if incipient, consistent with the political culture of the Romanian society.

The political mechanism that functioned in Romania was based on the alternation in ruling between liberals and conservatives, supported by Charles I, who often claimed its utility. Between 1866-1914, the governance represented the mean through which the Romanian political elite created and consolidated such social networks. The two political trends, liberal and conservative, built useful power networks, in order to achieve the desired results with a view to meeting their objectives: the union, the autonomy, foreign prince, constitutional government, totaling the four essential points voted in the Ad-hoc Divans in 1857 (Mamina, 2004, p. 15); they were supplemented by other desiderates: obtaining and recognizing the country's independence (1877, 1878 respectively), the proclamation of Romania as a Kingdom (1881) etc. Also, by strengthening the political regime, the political elite sought to modernize the Romanian state institutions by initiating various reforms in: education, army, health, social welfare, agriculture, industry, trade etc. The reality of those times detected a visible gap between the European states and Romania in all fields. "In the West, the modern institutional and legal system – of the market economy - was formed within a few centuries; in the mid-19th century, it was fully formed and matured"; instead "in Romania, the institutions and the new social and economic legislation were developed as a part of the overall process of modern institutionalization, of creation of the rule of law, at the foundation of which was the basic law – the Constitution of 1866 – and the whole range of institutions and civil modern legislation" (Axenciuc, 1997: 45).

The power networks were built both in the conservative spectrum and in the liberal one, acquiring, in time, almost similar features. On the one hand, liberal leaders as Ion and Dumitru Brătianu, Nicolae and Constantin Krețulescu, Constantin Rosetti were in Paris, at that time, and intensely enjoyed the manifestations of that cultural, social, economic space etc. On the other hand, conservative leaders such as Manolache C. Epureanu, Petre Carp, George Manu and Theodor Rosetti chose the German space, which marked their life along their political careers (Parusheva, 2011: 144). Their influence was crucial in the Romanian political life, imposing gradually, after 1866, another style of political practice, more consistent and more elegant. The transformation occurred mainly at the level of mentalities and the political elite, with its qualities and limits, tried and succeeded, in time, to initiate a process of political education, at the society level (public manifestations, street demonstrations, electoral campaigns etc.).

In the Romanian case as well, *family networks* with a great influence in the political life were built. In this case, Romania "*unlike the neighboring states of Serbia, Greece and Bulgaria, is the only one which has preserved an aristocracy. The boyars or nobles were the great feudal landlords of the past and through their property and rights have been greatly curtailed they still survive, a fairly powerful class /.../ Some of them are disfigured by devoting themselves to a ceaseless pursuit of pleasure, an existence given up to luxury, living out of their country and spending their fortunes in a luxurious life at*

Power Networks in Romania during the Reign of Charles I: Family, Political ...

Monte Carlo and Paris. Others happily with a higher sense of national duty have taken up the interests of their estates and tenants, and aided by their natural gifts as a Latin race, have proved themselves patriots of marked political ability, as well as diplomats of acknowledged ability and acumen" (Gordon, 1918: 35).

Dobrinka Parusheva analyzed this politico-social phenomenon, identifying two types of family networks: "intra-family and inter-family. Intra-family relations lead to a certain extent to a delimitation of which families 'produce' the political elite in one country. Inter-family networks, in their turn, connect the elite members horizontally: marriage relations among politicians take place beyond their political orientations and contribute to the creation of homogenous political elite" (Parusheva, 2011: 155). In the construction of the Romanian political elite, strong family networks with major impact in the Romanian state developed, based on well-defined values, on rules imposed and on a series of objectives. Such networks built both within the liberal spectrum and the conservatory one, proved to be at that time, indissoluble, as long as there were objectives and political and economic family interests. Within the network, sympathies and important cooperation functioned. The politicians' objectives and interests intersected on the family, political and economic plan, there often existing a mixture between the three levels: "the strong liberal network in Romania /.../ in terms of business relations, was backed up by family relations too - not only by intra-family ones but also by the new marital relationships" (Parusheva, 2011: 158).

The competition that resulted on the political scene between the two parties led to a certain antagonism. There were moments, however, when the competition also worked between different liberal or conservative groups, with divergent reasons and interests. However, it was proved that "in the Romanian case the liberals, it seems, created a larger web" (Parusheva, 2011: 165). A reasonable explanation shows that the liberal party was based on a better organization, respecting the party hierarchy, the party discipline, a marked solidarity among its members and a strong leadership network. Instead the conservatives, forming a party of notable people, generated tensions which proved, long term, harmful in their construction. Later, infighting even induced the inability to survive politically. The disunity constantly represented a political rift, and the internal struggle between different political leaders as P. P. Carp, Take Ionescu, Alexandru Lahovari, and so on, generated a permanent instability, which indirectly favored the consolidation in the political life of the Liberals in the period between 1866 and 1914. This also continued in the interwar period, thanks to the way the party managed to adapt to the political and social reality of the time. The liberals understood and implemented better than the conservatives the primary objective of a political party, namely to come to power, but as a united party, not a divided one: "the relationship between "bonding" and "power" has consequences on the life of the party, since it means that a divided party is often regarded as not being effective" (Blondel, 2009: 140-141).

In the Romanian political life, the presence of leaders proved to be particularly important, especially after 1866, when, gradually, the political groups, liberal and conservative coagulated, forming thereafter, the two major historical parties, the National-Liberal Party (1875) and the Conservative Party (1880). In the case of the liberal group, Brătianu family asserted consistently, having Ion C. Brătianu – and later Ionel Brătianu as a landmark and practice model, political experience and prestige. Other important liberal leaders also stood out on the political stage, namely: D. A. Sturdza, Eugeniu Carada etc. On the other side of the Romanian political spectrum, in the case of the Conservative group, we meet Lascăr Catargiu, recognized as a leader, who united the Conservative

groups in the difficult times of the Romanian political life (for example, in 1871); we can also refer to other prominent conservative leaders: Take Ionescu, P. P. Carp, Titu Maiorescu etc.

The political leaders, both liberals and conservatives, created power networks around them and had experience, knowledge and political skills (studies abroad, governmental experience etc.), in order to influence and persuade others in favor of their political construction. They gradually imposed as leaders and set up patterns and landmarks in the Romanian political life, since that period up to present. Such political figures, as well as those mentioned above, enjoyed a remarkable reputation within the network, but also beyond it. Although they were constantly attacked in the struggle for political power, the prestige that they acquired, the experience gained in Government and the holding of information, offered them the opportunity to keep alternating in power during 1866 - 1914. The power network exceeded the political boundaries and strongly manifested socially and economically, at the level of whole families of that time: the Brătianu family, Costinescu, Sturdza, Krețulescu, Câmpineanu etc. On the conservative side, the economic and business network prevailed in the Cantacuzino, Ionescu, Marghiloman, Maiorescu families etc. (Parusheva, 2011: 167). Relying on these power networks, the Romanian political elite, formed in the early 30s and 40s had the opportunity to maintain and strengthen after 1866, under the new political regime. The continuity of the Romanian elites was also asserted by Edda Binder - Iijima: "in Romania - unlike the other Balkan countries, where a new elite had to be established after the formation of the new states - the same elite had preserved its political role since the establishment of the principalities in the Middle Ages /.../ Romanian elite, represented in the boyars" (Binder-Iijima, 2011: 180).

Structuring the political elite occurred mostly after 1866, at the political level in the context of operation of the alternation in power between liberals and conservatives. Many politicians, either from the liberal spectrum or the conservative spectrum came to power. The foreign policy constituted a special place, determining that "the diplomatic elite of the Old Kingdom, like most other European elites, has a predominantly aristocratic profile" (Dinu, 2014: 191). From this perspective, "members of Ghica, Lahovari, Mavrodi, Cantacuzino, Manu, Catargi, Mavrocordat, Rosetti-Solescu families etc. ensured "the shining surface" of all Romanian legations" (Dinu, 2014: 192). In an open society, with a well-defined political scene, a certain movement of the political elites was needed in order to ensure the mobility of debates and solutions: *"since the disappearance of the great Romanians, who founded modern Romania - Barbu Catargiu, the Golești brothers, the Brătianu brothers, of Mihail Kogălniceanu, Nicolae Krețulescu, Ion Ghica, Vasile Boerescu, C. A. Rosetti, Manolache Costache, Lascăr Catargiu etc. /.../ the political parties /.../ ceased to be fields of free thoughts and collective exertions in the field of national prosperity. They became true soldierly regimentations placed at the disposal of a chief. In each of them soldiers and hierarchical leaders can be distinguished"* (Brătianu, 1908: 51-52).

For C. I. Brătianu, politicians from the 1948 generation were unitary attached to the ideal of fulfilling the national aspirations. However, once these goals achieved, the two political groups demonstrated pragmatic and rational, in the sense of building two powerful parties in the Romanian state. Both political parties adopted, in time, the characteristics of modern political parties, related to organization, hierarchy and discipline of the party, in order to create a normal competition space, following the model of the other European states of that time. Charles I "discretely and openly engaged in the act of

Power Networks in Romania during the Reign of Charles I: Family, Political ...

governance, but also played the role of mediator according to the maturity of the Romanian political life and the two ruling parties, the National-Liberal Party and the Conservative Party” (Damean *et. al.*, 2014: 54).

Consequently, the government allowed the creation of power networks at the family level. Close relationships at the economic level were also formed, beneficiaries being both the two major political parties, liberal and conservative, and the Romanian society. In these circumstances, ”the Romanian capitalism being definitely parallel and conditioned by the development of communication lines, of credit institutions etc., but, at the same time, being also a creation of state intervention through industrial incentive laws, customs laws, investment policy in the field of transportation, banking system, urban system etc.” (Bulei, 2011: 43). This gap between the West and Romania prompted the Romanian political elite to impose a rapid process of modernization: ”along with the onset of hasty modernization, recovery /.../ the import of techniques, technologies, means of labor, organizational methods, capital and even capitalists, organizers and specialized workers for non-agricultural sectors - transport, industry, trade, credit etc.” (Axenciuc, 1997: 74).

In this sense, the political elite created power networks in different fields of activity: industrial-commercial, banking etc. Thus, after 1866, Romania initiated an industrialization process, creating trade relations with the European countries. Thus, “the adoption of a policy to encourage the industrial development after 1885” (Murgescu, 2010: 141) is noted. At the same time, the desire of the political elite to take over the Western model stood out in all areas. ”From a strict economic standpoint, adopting the Western model primarily meant increasing imports” (Murgescu, 2010: 113). Even though there was a strong desire for modernization, “the Romanian society of the mid-19th century, the social behavior of the population, both of the dominant classes – boyars, aristocracy etc., and the producing masses – freely working peasantry etc., with all the cash economic penetration in certain this layers of small and medium-sized nobility, was far from meeting, in large proportion, the modern qualities of traders” (Axenciuc, 1997: 72-73). At the same time, an effective and strong banking system was gradually limned, supported by the National Bank of Romania “(Discount and Circulation Bank), established by law on 17th April, 1880, “which started its activity on 1st December 1880” (Țurlea, 2011: 23). Moreover, the financial-banking system consolidated in time by creating other major banks, credit institutions and insurance companies, leading ineluctably to the modernization of the Romanian state (Țurlea, 2011: 36-100). Also, “the NBR, since 1880, introduced /.../ the national currency”, observing how “the purchasing power of the Romanian currency was high until 1916” (Axenciuc, 1997: 154-155). The Romanian banking system represented a central pillar of the Romanian state modernization. In this framework, “apart from the commercial banks and the insurance companies, all other credit institutions – The National Bank, Land Loans, Popular Banks, Deposit and saving banks, consumer cooperatives etc., had either a state equity participation, or their operations were guaranteed by the state”; thus, “also in the credit area as well as in the industry field, the state encouraged and stimulated the specific economic activity” (Axenciuc, 1997: 161).

Another modernization factor is represented by the development of the railway network. From this point of view, "railways were directed towards Western Europe, as was the entire Romanian society in its start towards modernization” (Bulei, 2011: 74). The reality of that time points out that “in the late 19th century, had a density of the railway network larger than Bulgaria’s and Serbia’s, but noticeably less than that of Hungary”

(Murgescu, 2010: 146). In addition, trade was a boost for the economy, namely: “between 1880 and 1914 Romania exported 80 million tons of grains, being among the first grain exporters (even in the first place in maize, surpassing USA). For Romania, the active balance of trade was a vital issue. The annuities (installments) of public debt, raising costs for the country, all were paid by foreign trade, the costs for raising the country, all were paid by the foreign trade” (Bulei, 2011: 77). Another economic and financial aspect is determined by the consolidation of ports. In this respect, the link between Romania and the other countries did not manifest only culturally, but also economically and financially, especially after 1866. The policy makers sought to consolidate the industry, especially after 1885, by adopting laws to encourage this sector necessary to the economic and social development of the country. At the same time, “funding the modern Romanian industry, equipping it with modern technology and funds could not be achieved without the participation of foreign capital; they had a large positive contribution in starting the process of industrialization; the national economic cost was, however, considerably high; but a new way could not be foreseen” (Axenciuc, 1997: 67). Creating power networks focused on political connections, family ties or simply on economic and financial reasoning generated both advantages and disadvantages. Thus, we may remark some limitations of the political regime of the time. A limit resides in the inability of policy makers to resolve the existing gap between social classes. In that period, there was a real gap between the village and the town. In these circumstances, “the capture of the most agricultural income by thousands of families of important landowners contributed not only to the social misery of the peasants, but also the deterioration of their ability to invest in the modernization of their economic activity /.../ The social structure of the rural world thus proved an economic and social blocking factor” (Murgescu, 2010: 129). Another limitation refers to the degree of illiteracy of the population that hindered thus the development of the Romanian society: “In 1899, the lettered represented only 22% of the population, the illiterate 78%” (Colescu, 1915: 12). Even so, the political actors took steps in the field of education. Agriculture occupied an important place in the Romanian state during the reign of Charles I, representing the “main source of production and the material economy of the country, of the national income; it assured the alimentation of the whole population and an amount, almost equal, of goods to be exported; agriculture produced most of the raw materials needed for industry development: food, building materials, textiles, leather etc.- but especially, for the domestic and craft industry: meat, dairy, skins and furs, fat, wool, vegetable fibers – flax, hemp /.../ tobacco etc.” (Axenciuc, 1997: 121). The modernization process had gradual effects in the Romanian society, but “the most active sectors proved to be those of the industrial, commercial and banking economy” (Axenciuc, 1997: 121). Policy makers, regardless of the political color, encouraged different areas of society. “Creating an institutionalized legal legislative system with economic character, organizing public finances and the credit system on modern basis, responding to the needs of objective nature, strongly boosted and accelerated the development process of the Romanian society in a capitalist way” (Platon, 1985: 284).

The power networks in the reign of Carol I were naturally created and proved useful within the political regime, but also on the economic and financial realm, both in terms of developing the Romanian society and consolidating the political elite. It is true that the collective effort of the political class regarding the social field did not unravel all the requirements of a significant part of the Romanian society – the peasantry –, however, in the short and medium term, the measures of the political elite represented a dressing, having as main objective diminishing the existing disparities between the social layers in

Power Networks in Romania during the Reign of Charles I: Family, Political ...

Romania. With all these shortcomings and disappointments of the Romanian state, the political, family and economic connections existed and created the premises of the consolidation of the Romanian state, allowing starting a quick modernization process necessary for the Romanian society at that time.

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ORIGINAL PAPER

Principles and regulations stipulated in the Constitution from 1923

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Abstract

The Constitution-which is the fundamental law of a state-contains norms and principles that legitimate the exercising of the political power, establishes the constituting and the functioning of the power structures, fixes the general frame of the juridical regulations regarding the social relationships, mechanisms and bodies that protect the social order. In the Constitution from 1923 had been more clearly formulated the national sovereignty principle, by declaring the state national unitary and indivisible, with inalienable territory, with the specification that the political power belongs to the nation that exercised it throughout its representatives elected through universal, direct, equal, compulsory and secret suffrage.

Keywords: *Constitution, constitutional thinking, 1923, principles regulations*

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The establishment of Great Romania in 1918, along with the mutations that took place in the Romanian society after 1866, were demanding the union of the state and the legislation, to contribute to the progress of the Romanian society. The documents and the decisions, voted at Ia Chişinău, Cernăuţi and Alba-Iulia in 1918, demonstrated the attitude of the Romanian nation towards a process that was encompassing a wide area from Europe, starting from the Baltic Sea, to the Aegean Sea (Banciu, 1988: 26; Iordache, 2001: 136). The adopting of a new constitutional institution became a major preoccupation for the members of the political groups and parties, along with the personalities of the juridical and cultural life, from that period of time. The opinions and recommendations that were referring to the dispositions that needed to be inserted in the new fundamental document, were expressed in the press, in the parliamentary debates, in the platforms of some political parties, or in the organised studies clubs that they had founded.

As an example, the Romanian Social Institute, led by Professor Dimitrie Gusti, organised, between the 18th of December 1921 and June 1922, a number of 23 lectures, delivered by significant personalities of those times, for rising the public interest for the new Constitution, and to make a poll, before the elections, on the constitutional bills elaborated by the political parties and groups. Among the allocutions presented by Dimitrie Gusti, Nicolae Iorga, Mircea Djuvara, V. Madgearu, Vintilă I. Brătianu, I. Nistor, C. Bacalbaşa, we mention the ones that refer to the way in which the Chambers were supposed to be organised, the role of the legal power, the use of the direct appeal to the nation, through referendum. There were designed contradictory solutions, whose justification explained the time interval between the Constitution from 1866 and the age of 1922-1923. There was as well criticised the bicameral system and the process that was encouraging the classical parliament.

The sociologist Dimitrie Gusti, in his opening speech of the public lectures said that: “A Constitution cannot be borrowed or the work of an inspired legislator, because it ought not to be created or invented, but only formulated politically and legally, in a solemn manner, with reference to the social psychology, the economic condition, the aspirations of the social justice and the ethical aspirations of the nation” (Gusti, 1922: 21).

N. Iorga was underlining that the sources for a Constitution were “our past, which is the verified human experience”, thus, “there are no hypocritical forms, but a reality that is profitable and useful for everybody” (Iorga, 1922: 24). For Mircea Djuvara, the system of delegation, which was enabling the exercise of sovereignty, could not be supported through the instituting of a second electoral body, accessible due to the referendums. There was not recommended the cohabitation between the representative regime, simplified to the precedence of the assemblies and moderated by the involvement of the state leader, and the presumed resort to nation, through referendum. Thus, there could appear conflicts, both juridical and political. The classical constitutionalism did not provisioned the idea of the plea unmediated by the nation, encompassing the institution of delegation and the solution of the parliamentary regime, even if this regime was a dualist one (Djuvara, 1922: 153). According the opinion of Virgil Madgearu, the option of the poll was indissolubly related to the unicameral one (Madgearu, 1922: 181). The direct appeal to the nation was constituting a correction whose result was, on one side, the protection of the political minority against the illegal actions during the regulation, and, on the other side, the discovering of the real will of the electorate, “susceptible in expressing itself on addressing the problems of national relevance” (Stanomir, 2005: 89).

Principles and regulations stipulated in the Constitution from 1923

The Constitution from 1923 was preceded by four anterior bills, the most representative one being that of the National Peasants' Party, drafted by C. Stere. The first bill was that drafted by the Centre of Studies within the Liberal National Party, which subjected it to the debates of the public opinion in March 1921. Published by D. Ioanițescu, that Constitutional bill included the neo-liberal doctrine principles, along with the platform of the National Liberal Party. A remarkable contribution for the elaboration of these principles had also Vintilă Brătianu. The liberals considered that the new constitutional establishment had to outline the political-juridical background, necessary for the consolidation of the national unification, and the ordinary laws, later adopted, legitimated this reality (Ioanițescu, 1921: 6-25). There was also stipulated the unitary character of the Romanian state, and there were included some provisions mentioned in *The Declaration of Unification from Alba-Iulia*, which was referring to political and confessional rights and liberties of the conational people. The Romanian state was supposed to become an active instrument for the guidance and coordination of the entire cultural, economic and social life (Zeletin, 1927: 11). It was stipulated: the nationalisation of the resources of the subsoil and the regime of waters; the defending of the right to property, which was holding a "social function", the labour "being the rightful collaborator to all the benefits of the undertakings, and the just requests being necessary to be accomplished" (Zeletin, 1927: 8). For eliminating the administrative abuses, there was stipulated the material liability of the ministers and civil servants. There was also established the creation of a new Council, charged with the elaboration of the laws. The new Constitution was designed to have general principles and norms, and the ordinary laws, later adopted, were regulating each area.

In the summer of the same year, there was published at Cluj the bill elaborated by the professor of Constitutional Law, Romul Boilă. It was drew up under the influence of the Romanian National Party, and, later, this party prepared another bill, based on the already mentioned bill (Boilă, 1921). There was provisioned: the elaboration of a new Constitution on democratic principles; the participation of the entire nation to the elaboration of the decisions on addressing the organisation of the Romanian state; the observing of the supremacy of the law; the paying of fees and the fulfilling of public duties; the fulfilling of the military service.

The form of government of the Romanian state was the Kingdom. The laws were elaborated by the King and the National Representation, the latter one being made of the Deputies Assembly and the Senate. The Government was representing the executive power. The Council of Ministers, made of the ministers appointed by the King, was led by a president. As referring to the person designated by the King to constitute the government, there were two interdictions: to be a Romanian citizen and to not be a member of the royal family. The civil courts, which were sentencing the suits and the trials, were: the courts, the tribunals, the Law Courts and the Court of Cassation. The administrative courts, which were sentencing the administrative suits, were: the county chief's court, the county court and the administrative court. There were instituted Court of juries in all the criminal matters, in political and press offences, except those provisioned in art. 33. The judgements were sentenced in the name of the King, by special instituted bodies. The judges were irremovable. As regarding the organisation of the state power, there was provisioned the replacing of powers separation with that of its unity and indivisibility.

The point of view of the Peasants' Party was presented in the bill drew up by the department for studies of the party, presenting ideas of the Constitutional Law professor C. Stere, and adopted at the first Congress, held in November 1921. It was provisioned:

equality before law; freedom to communicate the ideas and opinions, in speech, writing and press; freedom of conscience, education; the right to meeting and association. There were guaranteed the inviolability of the domicile, along with the secret of mail. There was provisioned the granting of a wide local autonomy. The existence of commune and county councils was considered fictive, because there were delimited the attributions of citizenship auto-administration. The fundament of the administrative organisation had to be the local autonomy. The autonomous councils were responsible for abuse and negligence before the courts that were under the jurisdiction of the administrative courts. As regarding the administrative-territorial organisation, there was provisioned the creation of a new structure, “the province”, which represented by a Council, chosen through general polling. The regionalisation, in the case of provinces, was doubled through the extension of the local representation, in case of counties, rural and urban communes, and the admission, in case of the rural communities with maximum 500 people, of the local administration led by a Peasants’ Assembly, “called the Village Community” (Stere, 1922: 163).

In the new regions, the Province Council had established the meeting of a deliberative body, made of a deputy and a county senator, two county councillors, delegated by their councils, four delegates from the province’s Chamber of Commerce, a trader, an industrialist, an industrial worker and a craftsman, two delegates of the communal councils of the cities that had a population higher than 50.000 dwellers, two delegates of the technical council within the C.F. and the Public Works departments. There were considered rightful members: the officiating general directors; the metropolitan or the bishop of the diocese from the capital of the province; the mayor of the capital city; the rectors of the Universities and a delegate chosen among the managing board of each superior schools from the province. There was provisioned the providing of free elections, through the instituting of a permanent commission of the Deputies Assembly, with the purpose to have control over the Government, between the sessions. The guarantee of the citizen’s freedoms, the local autonomy and the free elections were considered by C. Stere the fundament of the public law, in the civilised states (Stere, 1922: 49).

The bill drafted by C. Stere could be also remarked due to the merging of two elements, unspecific for the constitutional norms after 1866: the one-chamber organisation and the semi-direct democracy (Stanomir, 2005: 96). There could be noticed the evolution towards a monist parliamentarianism, with a corrective of the popular legislative initiative and the abrogative referendum. The owners of the legislative initiative were the citizens, with the request to meet a minimum number of signatures. Thus, there was instituted an Assembly that had the role of the professional representation, created on geographical criteria, “for obtaining a faithful image of the interests that could appear in the economic and social space of Great Romania” (Stanomir, 2005: 96).

For the elaboration of the bills, from the economic and social fields, there was proposed the constituting of a consultative body, the *Superior Economic Council*, made of the representatives of the workers, peasants, employers and professional organisations, equal in number, with attributions of Legislative Council. Therefore, the *Superior Economic Council* became an institution that reunited both the delegates of the employers and those of the industrial or agricultural workers, and had the mission to give assistance for the legislating activity. There was also constituted, along the *Legislating Committee*, which had the responsibility of a department of the constitutive professional assembly, with the role to coordinate the drawing up of the texts, the legislative initiatives that the Council was forwarding to the Deputies Assembly, on addressing “the social and

Principles and regulations stipulated in the Constitution from 1923

economic policy". *Superior Economic Council* and the *Legislating Committee* were meeting in the *Legislative Council of the Kingdom*, whose consulting was mandatory for all the bills, excepting those concerning the budget (Stere, 1922: 66-70).

The bills, voted by the Deputies Assembly, had to be approved through plebiscite, organised either of the initiative of the king or the Deputies Assembly and, in exceptional cases, of the people's initiative. According to the provisions of art. 71, the laws voted by the Deputies Assembly could be subjected to electoral consulting, which could confirm or abrogate them. The sovereign and the deputies had the power to start the procedures for the referendum. The citizens had the right to interfere directly, by supporting the initiative coming from the members of the Assembly.

The last Constitution bill was drawn-up by C. Berariu, expressing the point of view of the people from Bucovina (Berariu, 1922). Having as a basis the anterior bills, the author formulated the principles that he considered to be appropriate for the organisation of the state, most of them being provisioned in the liberal bill. There were stipulated: the unitary and indivisible character of the Romanian state; equality of all Romanians before the law; individual freedom; inviolability of domicile; freedom of education; freedom of speech, writing and press. As regarding the organisation of the power in state, there was mentioned that: "The public power was only one and indivisible in the Romanian state; it proceeds from the nation" (art. 54). The person of the king was declared inviolable, the Deputies Assembly was made of deputies elected by the Romanian citizens, aged 21, "through universal, equal, direct, obligatory, secret and proportionally represented vote" (art. 89). In order to be elected, they had to be: Romanian citizens, of 25 years old; to have capacity of exercise; the domicile in Romania; to be educated. The Senate was made of rightful members and elected members. Any bill was firstly examined by the commissions chosen by each Assembly, among their members. The initiative of laws belonged to the King and the Legislative Bodies. As regarding the administrative organisation of the country, there was adopted the view from the bill initiated by C. Stere, which provisioned the administrative decentralisation and the emerging of a new regime, founded on self-administration. There was guaranteed the private property, being stipulated the principle regarding the nationalisation of the subsoil resources. On addressing the judicial power, there was stipulated that the civil courts were: the law courts, the tribunals, the Court of Appeal and the High Court of Cassation and Justice.

The beginning of a new period in the evolution of the efforts for the elaboration and the adopting of a new Constitution marked the arriving at the governing, on the 19th of January 1922, of the National-Liberal Party. In the report that the Government gave to the king, on the 21st of January 1922, there were noted down the reasons for the dissolving of the Parliament: the organising of new elections and the specification, in the decree that was convoking the Electoral Body, that the new assemblies were to be called National Assemblies, with the attribution of the Constituent power. The liberals were stating that Romanian was the last of the national states, created after World War I, that had not elaborated a new Constitution so far, whose dispositions to be in accordance with the request of those times. On the 3rd of March 1922, there were to be elections for Senate in the Old Kingdom, Basarabia and Bucovina, and those for the Deputies Assembly, were on the 5th, 6th and 7th of March 1922 (Crăciunoiu, 1995: 27). Moreover, on the 6th and 7th of March 1922, there were established the elections for the deputies in Transylvania, Banat, Crișana, Sătmar and Maramureș, whereas the ones for senators were on the 9th and 10th of March 1922 (Crăciunoiu, 1995: 27). For these reasons, the Government dissolved the Parliament based on the royal decree from the 22nd of January 1922, and convoked the

Electoral Body “for electing national assemblies, with the attributions of a constituent assembly”. The same day, the parties from opposition published an official statement, through which there was acknowledged the offensive against the liberals, their dissatisfaction being related not only to the creation of just a single-vision party, but also the organisation, under its supervision, of new elections, along with the intention to confer the new Legislative Bodies the attribution of Constituent Assembly. Although the opposing parties were not against the principle that stated the adopting of a new Constitution, they considered that a government could not convoke a Constituent Assembly, in favour for its party.

At the parliamentary general elections from March 1922, the National-Liberal Party got a high number of votes, which assured its dominant position in the Legislative Chambers. On the 26th of March 1922, the Ministers Council approved the text for the inauguration of the Parliament in its definitive form, specifying the maintaining of the character of Constituent Assembly. The next day, at the ceremony for the reading of the King’s Message from the inauguration of the new Legislative Bodies, the parties from opposition missed. In the King’s Message, there was specified that the Constituent Assemblies had as main task “to consolidate the work for the national union”, having as landmark the democratic constitutional ground. There was also mandatory the forming of the parliamentary commissions, which, along with the Government, were to analyse the Constitutional bills, the fiscal administrative reform, and other social-economic issues, imposed by the necessity of internal consolidation. The second day, on the 28th of March, when the proceedings began, the representatives of the opposing parties read the protest declarations, against the Chambers and the Government. In the meeting of the Parliament from the 12th of April 1922, the both Legislative Bodies designated each a Constitutional Commission, which, as regarding the Chamber, was initially made of 37 members (A.N.I.C., fund Parliament, file 1972/1922, ff. 389-390), and had 42 members, for the Senate. Most of the members from the Commissions were representatives of the governing party and the ones that had agreed to collaborate with it. The two Commissions formed the Mixed Constitutional Commission or, as it was also called, “The Great Parliamentary Commission”, whose mission was to prepare immediately the necessary materials for the drafting of the Constitutional bill.

Summoned on the 21st of June 1922, shortly after the inauguration of the extraordinary session of the Parliament, the Joint Constitutional Commission had M. Pherekyde as a president, who was also the president of the Senate, and as spokesperson for the bill, was appointed C. G. Dissescu. Ion I. C. Brătianu made the proposition that, for the simplification as regarding the studying of different aspects, to be chosen among the members of the Joint Constitutional Commission, a delegation that would elaborate the Constitution bill (A.N.I.C., fund Parliament, file 1972/1922, 390). The proposal was approved and it was hence formed the “Delegation of the Constitutional Commission”, made of 15 members (A.N.I.C., fund Parliament, file 1972/1922, 390). In order to carry on the works for the elaboration of the Constitution bill properly, there was made a proposition that the members of this Commission to be divided in 10 sub-commissions, grouped according to the issues that were going to be debated. There was also decided that members of the Government to attend these works too. The debates from the Delegation of the Constitutional Commission were focused mainly on three aspects, which could not be solved without the agreement of the Government: art. 7 from the Constitution, the issue on the introduction of death penalty and the establishment of the policy on addressing the subsoil property (Popescu, 1983: 112).

Principles and regulations stipulated in the Constitution from 1923

On the 14th of July 1922, during the last meeting of the preliminary debates, there was made the decision that the spokesperson C. G. Dissescu to draft the Constitution bill (A.N.I.C., fund Parliament, file 2010/1923, 92), and at the beginning of September to be revised by the Government and subjected to discussions by the joint parliamentary sub-commissions, convoked in plenary meeting. Therefore, there was drafted the Constitution bill, which included the modifications specified in the articles. On the 2nd of November 1922, the Government convoked the Constitutional Commission Delegation, for discussing certain constitutional dispositions and to give the text drafted by C. G. Dissescu the final form, before being subjected to the Plenary Commission (Popescu, 1983: 121). The works of the Delegation of the Constitutional Commission took place between 2nd and 23rd of November 1922, during eleven meetings. There were debated all the articles of the bill, some being modified and others abrogated (A.N.I.C., fund Parliament, file 2010/1923, 319-322). In the first months of 1923, the Constitution bill was brought before a joint committee of the legislative forum, and on the 4th of March 1923, C. G. Dissescu drafted the report, which contained the modifications specified by the Committee of delegates for the sections of the Senate (Ilin-Grozoiu, 2009: 290). On the 5th of March 1923, the bill itself, along with the reports made by the presidents of the committees of delegates for each section, was put on the desks of the Legislative Bodies. At the Chamber, the debates on the articles of the Constitution bill started on the 20th of March 1923, and at the Senate on the 17th of March 1923 (Ilin-Grozoiu, 2009: 291). There were subjected to the debates in the Senate the articles that the deputies had disagreed on. Both the Chamber and the Senate, the articles were slightly modified. In the Senate, most of them were voted successively. The amendments proposed by the Deputies Assembly were ignored.

Sixteen days after the debates, the Constitution bill was entirely subjected to voting. In the Chamber, the vote for the Constitution took place on the 26th of March 1923, through nominal voting. In the Senate, the voting of the constitution was done on the 27th of March 1923, in the presence of the members of the Government and the president, M. Pherekyde. After the promulgation, the Constitution from 1923 was published in the "Official Gazette", no.282, from the 29th of March 1923. The new Constitution was similar to that from 1866, both as regarding the external form and the fundamental principle. It was made of 138 articles, in which there were included the titles VII and VIII referring to the revision of the fundamental law and the transitory and supplementary dispositions, which gathered 10 articles, unlike that from 1866, which had 133 articles, from which the last 5 were the articles of the two final titles. There had been revised 21 articles, and 20 had been excluded, there had been inserted 24 new articles, 87 remaining unchanged, or had been feebly modified, which also conferred a certain individuality and originality.

The Constitution from 1923 formulated more clearly and much better the principle of national sovereignty, by declaring the Romanian state a national, unitary and indivisible state, whose territory was inalienable, through the interdiction to colonise the national territory with foreign populations or ethnic groups, through the declaration that the political power belongs to the nation, which exercise it through representatives, elected by the electoral body through universal, direct, equal, obligatory and secret suffrage.

By following the structure of the anterior Constitution, the electoral establishment from 1923 included normative provisions that were referring to the organisation and carrying out of the social relations between citizens, social groups and categories, along with the position and the status of the individual within the society. There were stipulated the rights and the freedoms of the citizens, the characteristics of a democratic state: "The

Romanians, regardless their ethnic origin, language or religion, enjoy the freedom of conscience, freedom of education, of press, meetings, freedom of association, and all the freedoms and rights established by the laws” (art. 5). Moreover, there was provisioned: “The difference between the religious beliefs and confessions, of ethnic origin and language, does not constitute, in Romania, an impediment for obtaining civil and political rights, and to exercise them” (art.7). In the same context, there was introduced art. 126, which stipulated that: “Romanian language is the official language of the Romanian state”, an inadequate provision in 1866. As regarding the civil right of the women, there was mentioned that they would be establish, based on the full equality between the two genders and that the special laws, “voted with a majority of two thirds, shall determine the conditions in which women can enjoy the right to exercise political rights”. The freedom to communicate and publish the ideas and the opinions orally, in writing and in press, was still maintained in the anterior formulations, with the introduction of new sections or by revising others that referred especially to the liability of press and the trials of the crimes from this field. There were guaranteed the citizens’ rights and freedoms: the individual freedom, the inviolability of the domicile, the freedom of work, the freedom of education, the privacy of letters, telegrams, and phone calls.

Further on, by guaranteeing not only the right to any type of property, but also the debts to the state, in the new Constitution, there was provisioned that “a special law shall determine the cases of public use, the procedures and the way in which is done the expropriation”. Thus, besides the three cases of expropriation for the public use – “communication, public health and the defence works” – provisioned in the Constitution from 1866, in that from 1923, there were added: “cultural interest works, and those imposed by the direct general interests of the state and the public administrations”, stating that “the other cases of public use shall be established through laws voted with a majority of three thirds”. An article with several sections proclaimed, for the first time, that “ore deposits, along with any type of subsoil resources, are the property of the state” (art.19) and that “a special law of the mines shall determine the norms and conditions for the valuing of these assets”.

After 1918, as a consequence after the introduction of the universal vote, there appeared significant changes as regarding the way in which the members of the Parliament were elected. According to the provisions from this Constitution, the legislative power was being exercised collectively, by the King and the National Representation. The National Representation was made of the Senate and the Deputies Assembly. There was stated that “the members of the Assemblies represent the nation” (art. 42), which conferred them the quality of exponents of the powers in state. The Deputies Assembly was made of deputies elected by the major Romanian citizen, through universal, equal, direct, obligatory and secret vote, based on the representation of the minorities. According to the dispositions from art. 66 of the Constitution from 1923, in order to be considered eligible in the Deputies Assembly, any person had to meet the following requests: to be a Romanian citizen; they have the right to exercise the civil and political rights; to reach the age of 25 years old and to have the domicile in Romania.

The Senate was made of elected senators and legitimate senators. The first category was elected by the Romanian citizens of 40 years old, along with the members of the county, communal and urban councils (one for each county), and by the members of the Commerce, Industry, Labour and Agriculture Chambers (one for each circumscription and for each category), and, moreover, by each University (a senator for each university, elected through the vote of the professors). The Constitution from 1923

Principles and regulations stipulated in the Constitution from 1923

extended and clarified the juridical policy of the legitimate senators. Thus, there was made a distinction between the two categories of legitimate senators, distinction based on the nature of their political position, due to which there was awarded the quality of legitimate senator (Negulescu, Alexianu, 1942: 105). There were, on one side, legitimate senators owing to the position they were holding, their quality of senators ceasing when the mandate on the position ended. The presence in the Senate was due to the representativeness conferred to the physical person by the quality they had: heir of the throne, starting with the age of 18, with deliberative vote from 25 years old; the metropolitan of the country; the diocesan bishops of the Romanian orthodox churches and the Greco-catholic ones, designated in accordance to the laws of the country; the heads of the confessions recognised by the state; the president of the Romanian Academy. In the second category, there were the legitimate senators, who had a mandate due to their personal qualities. The Constitution from 1923 gave them a mandate for life, whose exercising did not depend on the reconfirmation of their position.

In the period between the wars, the Senate transformed itself into a representative instance, for the parliamentary recognition of those who held or had a certain public post of honour, or were representing certain areas (*Istoria Românilor*, 2003: 186). Consequently, the electoral fight was carried out for the obtaining of a higher number of places in the Deputies Assembly. The duration of a mandate for the senators and deputies was of four years. By adopting the Electoral Law from the 27th of March 1926 (Mamina, 2000: 62-68), the number of the legitimate senators increased, also including the president of the Ruling Council from Ardeal, a Council founded according to the decision from Alba-Iulia, from December 1918.

The legislative initiative belonged to the executive and the parliamentarians. The bill was being debated upon in the specialised commission, then in the reunited commissions, being then handed in the plenum. There, it was decided whether the bill needed to be taken into account, then it was debated upon and voted the articles. The debate was finalised through the general voting, which could be done by standing up or sitting down, orally (nominally) or through secret voting (blackballing). The right to control the executive power was given to the Parliament. According to the provisions of the Constitution from 1923, each member of the Assembly had the right to ask the ministers questions, to interpellate, to which the ministers had to answer. Each Assembly had the right to send the ministers the petitions from the citizens, the ministers having the obligation to give explanation about the petitions. In case the parliamentarians did not agree with the activity of government or certain ministers, they could file censor motions.

The members of the National Representation were protected by immunity, for two complementary directions, political irresponsibility and inviolability. There were provisioned guarantees that protected the institution of the Assemblies, as a department, such was the interdiction to be surrounded by armed forces, without the agreement of the assembly, and the exclusive competence of the assemblies to manage with the internal order, due to the position of their presidents, by resorting to the orderly guard.

The leadership of current works from the state was assured by the Government, which was representing the executive power. The mandate to form the government was given, by the king, to a person, and he was drawing up the list with the ministers, which was subsequently handed in to the sovereign, for approving it through a decree (Scurtu, I. 2003: 189). The judicial power was exercised by the competent bodies. Their judgements were sentenced according to the law and exercised in the name of the King. There was one Court of Cassation and Justice, which was sentencing the constitutionality of the laws

and was declaring inapplicable those that proved to be against the constitutional norms. After the Great Union from 1918, Romania continued to be a state with a monarchic-constitutional regime. In the political life, the king was occupying a central place. The continuity with the political regime from 1866 was evidenced by the presence of several attributions, exemplified by art. 88: the appointing and the dismissing of the ministers, the right to political amnesty; the appointing or the confirmation in the public positions, sets of rules for the applying of the laws, without the modification or the suspension of the laws. The King was the head of the armed power and the holder of the executive power, which he was exercising through his ministers, according to the constitutional provisions. At the beginning of each parliamentary session, the king delivered a message, in which it was evidenced the legislative action programme that his cabinet had to develop further. For the assuring of the strict applying of the dispositions provisioned in the Constitution from 1923, there was introduced both the preventive control for the constitutionality of the laws, by founding both the Legislative Council and the repressive control, through the Court of Cassation and Justice. The Court of Cassation and Justice was the only body that, in joint sections, had the right to judge the constitutionality of the laws, and to declare inapplicable the ones that infringed the Constitution (Mamina, 2000: 39).

The adopting of the Constitution from the 29th of March 1923 constituted a first stage for the institutional-legislative uniformity of the Great Romania. The constitutional establishment from 1923 had a wide-range character, representing, after all, the Constitution of the Union, which led to the affirmation of an institutional political system of Great Romania. Although, during the debates that were referring to its adopting, the political opposition contested vehemently, the Constitution was finally accepted unanimously and applied by all the political factors, because they did not contest the content, but the procedure for adopting that might have not guaranteed the representation of the free will, for all the Romanian citizens. The Constitution from 1923 maintained the free spirit of the fundamental law from the 1st of July 1866, through a superior form as regarding the legislative technique, and a rather modernised and specialised language. Under these circumstances, there was passed the decisive threshold towards the unification of the electoral legislation in Romania.

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ORIGINAL PAPER

The Political Press in Oltenia of the Interwar Period

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Abstract

The inter-war period generated an unprecedented development of the press in our country, most of the newspapers, gazettes and magazines depicting the political life. This situation was due, on one side to the economic progress, registered after World War I, and, on the other side to the stabilisation of the democratic institutions. Stimulated by official institutions or the initiative of some enthusiastic intellectuals, the press in Oltenia gained, in the mentioned period, a remarkable position in forming the public opinion, a part that the politicians noticed and became interested in. Thus, there were issued plenty of newspapers and magazines, with an unequal value on addressing their content, with different types of reactions coming from advertisements etc., which were adhering to *the modern newspaper ideal*.

Keywords: *Oltenia, political press, the modern newspaper, politicians, political parties*

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The Political Press in Oltenia of the Interwar Period

It is well-known the fact that the history, either political, economic, social, cultural, military or financial and banking one, cannot be written unless we consider the archive documents and the press from that specific period. Therefore, in order to rewrite the true history and the way a people used to live at some point, the appeal to the primary sources has to be considered unavoidable and, sometimes, even mandatory. Starting from this assertion, we have tried, on this opportunity, without pretending completeness, a review of the most significant periodical publications with political character from Oltenia, for the time interval 1918-1940. We have made an attempt at studying this period because, after World War I, the press in general, and the political one, in particular, diversified a lot. There appeared a great number of political newspapers, journals, magazines due to “the increasing in number of the political parties...and the diversification of cultural areas and social environments in which the means of information could be spread” (Apostol, 2009: 22), and the pressman “even having a grounded intellectual training... had to study thoroughly for extended knowledge in history, political law, political economy, international law, in order to answer back for the purpose of the press as source of information and guide of the public opinion” (Șeicaru, 2007: 170).

From the total number of the periodical publications that we were able to identify, and which were issued in Oltenia, in the mentioned interval of time (1918-1940), 98 can be catalogued as political press, or as press that published preponderantly subjects belonging to the political field. In the present article, we are going to refer especially to some papers that we considered representative, the other publications, more or less important, being mentioned in the annexes from the end of the work. We drew up the annexes according to their chronological order, the moment the periodicals appeared, for each county of Oltenia.

By studying the interwar local press we found out that *the official organs, the papers or the journals* of the political groups from Oltenia, represented, in specific periods of time, “the only type of regional publications” and they were appreciated in the cities and “even more valued in the villages”, where “the heads of the parties” led an intense propaganda, commenting the political articles and explaining them (Arhivele Olteniei, 1923: 55). This type of press, brought amongst the villages *the persistence* of the political fight and developed the spirit of combat, or the slandering of the political opponents. “In the middle of the villages, any cultural magazine is way less interesting than the most insignificant political newspapers, written by using the language specific to a pamphlet. The city does not place itself on a higher position, from this point of view, but here, there are seldom issued cultural manifestations” (Arhivele Olteniei, 1923: 55).

A first important publication, from the period we are studying, was *Craiova*, a paper of the Conservative Party that was printed in two issues, during the electoral campaign from 1918. In the columns of the periodical, there were published articles in which there were presented the candidates for all the constituencies, and in which there were praised the accomplishments of the government led by Marghiloman. Owing to this periodical, the Conservative Party announced its intention to “regenerate the country morally, to improve the situation of the poor, the peasants and the people from towns, who did their duty thoroughly, defending Romania” (Redacția, 1918: 1). The publication was printed at Samitca Printing House from Craiova. The weekly publication *Craiova* had a

Georgeta Ghionea

format of 48/33 cm, it cost 10 bani an issue (Petcu, 2012: 349), being accessible to a large number of readers, especially those from the rural environment.

Democrația olteană, despite its temporal life (15th of March-15th of November 1919), was an important bimonthly magazine, led by Constantin Neamțu, a banker from Craiova, who filled the position of director, and the lawyer Dem. S. Stoenescu, editor-in-chief. Headed “social, economic and political magazine” (*Democrația olteană*, 1919: 1), was one of the landmark publications of the press from Oltenia, in the interwar period, which published materials gathered in the next rubrics: journalistic morals and manners, economic news, chronicles of different magazines etc. In the editorial staff, there were the following lawyers from Oltenia: Ștefan Boțoiu, Raliu Georman, Gh. Stănescu, (Craiova), I. G. Mihail, Marius Vorvoreanu (Turnu Severin), Vasile Arjoceanu, Ion Micodin (Tg. Jiu), C. Mustață, Ion C. Popescu (Caracal), D. Steriopol (Corabia), economic and political [personalities, who also signed the main articles from the magazine (Romanian periodical publications: newspapers, journals, magazines. Alphabetic catalogue: 1919-1924, 1987: 261). *Democrația olteană* was printed at Samitca Printing House from Craiova, with a format of 32/23, and an annual price of the subscription of 25 lei, and of the issue of 1 leu (Marian Petcu, 2012: 365).

Tribuna, official newspaper of the Conservative Party, was issued in Craiova on the 1st of January 1919 (Rădulescu, 2005: 278-279), under the supervision of the *Conservative Club*, with a format of 46/31 cm, an annual subscription of 50 lei, and 25 bani for an issue. The journal was printed weekly at Sache Pavloviți Bookshop and the Printing House from Craiova. Running over its pages, we can find: information referring to the general assemblies of the Conservatory Party, the statuses of the party, the appointing of the county organisation president, the visits of Take Ionescu at Craiova, the discussions related to the changing of name, from the Conservatory Party, into the Nationalist-Conservative Party, the electoral platforms, the results of the local elections, bibliographic information, announcements, advertisements etc. Starting with 1919, Mihail Oromolu, member of the party, governor of the National Bank of Romania between 1922-1926, had the initiative to found, at Craiova, a Studies Club of the party, where the interested members could hold general interest, political, social and economic themes conferences, and which were published in *Tribuna* official newspaper. Thus, in the issues of the periodical, from 1922, a reader can discover various information related to: the Romanian primary education, after World War I (Rădulescu, 1919: 2), the importance of education (Călin, 1919: 1), general appreciations about politics, culture or economy, and articles in which there was militating in favour of state powers decentralisation (Constantinescu, 1919: 1). From the 29th of March 1922, *Tribuna* appeared with the subtitle: Organ of the Democratic Party, and on the 14th of December 1922, the editorial staff replaced the word Democratic, with Romanian-National (Romanian periodical publications: newspapers, journals, magazines. Alphabetic catalogue: 1919-1924, 1987: 963). We do not have any information, regarding this periodical, after 1925.

In the interwar period, in Vâlcea County, the peaceful life was “troubled only by the emerging of the papers of different political groups, and that was rarely happening” (Arhivele Olteniei, 1923: 63). Among the political groups that existed in the county, the democratic nationalist movement tried, according to its platform, “a cultural policy” (Arhivele Olteniei, 1923: 63). Owing to this conception, there was an almost uninterrupted publication of the periodical *Cuvântul românesc*, “either as a magazine, or as a bimonthly newspaper” (Arhivele Olteniei, 1923: 63). The first issue of the publication came off the presses on the 21st of December 1919, at Rm. Vâlcea. A weekly publication, *Cuvântul*

The Political Press in Oltenia of the Interwar Period

românesc, was a *tribune*, in which there were published electoral platforms, economic advice, documents and letters from the past, editorial articles, poems, speeches, advertisements etc. From the 27th of January, to the 1st of July 1920, the periodical appeared with the subtitle the *Magazine of the Democrats-Nationalists and Peasants*, and from December 1920, to January 1922, with the subtitle *Magazine of national culture*. During 1922, on the front side of the newspaper, there were mentioned the editorial staff, among which: C. Daniilescu (institutor), Priest Gr. Rădoescu, Prof. C. G. Mihăilescu and Prof. I. Nisipeanu, and the subtitle was: *Paper of the Democratic-Nationalist Party from Vâlcea*. (Petcu, 2012: 419). *Cuvântul românesc* was printed at the Printing Houses Bazarul Vâlcea and Dumitru Apreotesei and Virgil Gabrowski, both from Rm. Vâlcea, with a format of 24/16 cm, an annual price of the subscription of 25 lei, and of 50 bani for an issue. (Romanian periodical publications: newspapers, journals, magazines. Alphabetic catalogue: 1919-1924, 1987: 246). The last issue of this periodical was printed in 1926.

In the studied period of time, the National Liberal Party was supported by lots of publications, printed with the help of its county organisations, which represented instruments of propaganda amongst the electors. From the platform articles of these publications, we find that they were especially directed to the voters from the countryside, which were more numerous, but also more devoted to the Peasants National Party, the eternal rival of the liberals, on the Romanian political scene. The central organ of the National Liberal Party was the newspaper *Viitorul*. The newspapers of the National Liberal Party from the country that appeared in the interwar period, added, to the initial title *Viitorul*, a name that would indicate the county organisation that had founded it. Thus, in Oltenia, in the period that we study, there were printed the following journals: *Viitorul Gorjului*, *Viitorul Mehedințului*, *Viitorul Romanașului*, all emerging from 1921. (Romanian periodical publications: newspapers, journals, magazines. Alphabetic catalogue: 1919-1924, 1987: 1036-1041).

However, none of the liberal publication resisted as long as the newspaper *Viitorul Vâlcei*, which would be printed, with short periods of interruption, during 1920-1940. The director of the journal was appointed I. G. Duca, “a redoubtable publicist since his college years”, who in the platform-article was asserting that: “The purpose of this newspaper is to spread, among the peasants from Vâlcea, the beliefs of the National Liberal Party... The insults, regardless their origin, shall be treated with contempt... Moreover, *Viitorul Vâlcei* shall advise the peasants on addressing the agriculture, cattle raising, along with advice for a better hygiene. A political life can emerge only from a strongly organised, from the economic and physical point of view, peasantry... It will desire to improve the feelings of the peasants, through the strengthening of the schools and church prestige” (Duca, 1920: 1). Therefore, we notice that the editorial staff were confessing, since the very beginning, their affiliation to the National Liberal Party, and proposed a firm platform, with an orientation towards the problems of the political, economic and educational problems.

The first issue of the newspaper, subtitled “Paper for the people, of the National Liberal Party from Vâlcea County”, was printed at Rm. Vâlcea “on a Sunday, the 10th of October 1920”, with an enlarged format of 48/32 cm, 4 pages (Nestorescu-Bălcești, 1971: 161-162; Petria, 2001: 221-222). In 1929, the periodical appeared with the subtitle “Journal of the National Liberal Party from Vâlcea County”, and in 1932 the editorial staff decided to replace the word *journal*, with *organ*. Although it was initially conceived as a weekly newspaper, starting with the 8th of January 1927, the periodical became a bimonthly one, and from July 1929, on the front side of it, there were printed the dates

when it was issued: “the 1st and the 15th of each month” (Poenaru, 2014b: 8). The newspaper was printed at Viitorul Vâlcei Printing House, one issue, no. 3/1929, being printed at Gutenberg Printing House (Poenaru, 2014b: 8). *Viitorul Vâlcei* was addressing to the population from the villages, especially to priests and primary school teachers (Constantin Poenaru, 2014b: 10). The pages of this periodical hosted with generosity materials signed by: I. G. Duca, N. Angelescu, Eugen M. Băcescu, Nicolae Budurescu, George Călinescu, Teodor Geantă, C. Mărgineanu, Victor Medrea, Tr. Mihăilescu, I. Mottescu, I. Nicolaescu, Marin Pană, I. Popescu-Zătreni, Gr. Procopiu, Toma St. Rădulescu, Emil Răuț, Mitică Simian, Tică Ștefănescu, Ion Tomescu, D. Tomescu-Putna. Skimming through the summary of the publication, one can be surprised by the variety of the approached themes, among which we mention the next: the agrarian reform, the *public voting*, the monarchy, the democracy, the social order and harmony, health, economic and agricultural advice. Further, “having a dull pagination, lacking imagination, and printed on fragile paper, under difficult technical conditions, with old apparatus and worn-out letters due to the extensive use, *Viitorul Vâlcei*” could not compete with the great journals from Bucharest (Constantin Poenaru, 2014c: 5-7). We looked through the publicistic modalities in which the newspaper was made, the used language and style in editing it. Thus, the use language was Romanian, without regionalisms, but with few particularities, specific to the age. The style was an abstemious one, without colloquial language. As publicistic genres, the most widely used were: the news, the article, the letters from the readers, the feature report. Very rarely we discover the interview, the investigation, the feature-report-investigation, the caricature, the drawing or the photography (Poenaru, 2014c: 5-7). *Viitorul Vâlcei* was one of the longer living newspapers from Oltenia, appearing in almost the entire interwar period. Printed by the liberal I. G. Duca, on the 10th of October 1920, it tried, according to the editorial signed by its founder, to spread “the truth and light amongst the peasants from Vâlcea” (Mitrana, 2001: 19).

Amongst the liberal publications from the interwar Oltenia, it is worth mentioned the one called *Viitorul Romanașului*, which appeared between the years 1921-1922, at Cooperativa Printing House from Caracal, under the leadership of a committee, with a format of 47/32 cm, 50 bani an issue. When the first issue was published, on the 16th of October 1921 (Memoria Oltului, 2012: 5), the editorial staff were motivating the necessity to print a new journal, in this way: “Our journal is not published considering the further elections... We consider necessary that the county of Romanași to have a periodical paper...that would voice our county’s needs, to show both the mistakes of the leading people, and the straightening and the guidance required” (*Viitorul Romanașului*, 1921: 1). *Viitorul Romanașului* was the press organ of the National Liberal Party from Caracal, its publication being supervised by the editorship assistant T. T. Oroveanu, deputy and former prefect. In December 1921, it appeared with the subtitle the *Journal of the National Liberal Party from Romanași County*, and during 1922, on the front side of the newspaper, there was placed the subtitle the *Newspaper of the National Liberal Party* (Romanian periodical publications: newspapers, journals, magazines. Alphabetic catalogue: 1919-1924, 1987: 1040).

In the interwar period of time, the political press from Caracal offered “interesting and exciting” information (Dincă, Grigorescu and Popovici, 2007: 227-228). The delay to sewer the stream, the pavement of the streets, the granting of public lighting, the restoring of the Administrative Palace, the construction of the county hospital, or the planning of the central park, were just few of the subjects and themes that led to disputes between the representatives of the political parties. The economic crises, the commerce and the

The Political Press in Oltenia of the Interwar Period

education were often approached in the following liberal publications too: *Voința poporului*, *Liberalul* or *Sfatul țăranilor*, all printed in Caracal. The rivalries between the political parties, in their fight for power, the major accomplishments of the liberals from the periods when they had the leadership, the agrarian reform and the electoral one, the torments within the county liberal organisations, along with the internal fights for the taking the charge of the organisations, were few of the subjects debated in the following liberal periodical publications, from Dolj County, too: *Straja*, *Nădejdea*, *Libertatea*, *Mișcarea Olteniei* and *Drum Nou*. The same subjects were also approached by *one of the best liberal publications* from Gorj County, called *Voința*. It was printed starting with February 1919, at Tg. Jiu, having a format of 48/38 cm, 4 pages, and a price per issue of 25 bani. Along its publication period, it was led by a committee and it was edited at Nicu D. Miloșescu Printing House from Tg. Jiu. Skimming through the pages of the periodical, we discover, among its collaborators, the next: Gh. Tătărescu, N. Hasnaș, V. Arjoceanu, P. Pănoiu (Petcu, 2012: 364) etc.

In 1928, it was printed at Rm. Vâlcea the first issue of the newspaper *Naționalul Vâlcei*, an interesting publication, both through the evolution of its platform and aspect, and through the established purpose. The periodical appeared with the subtitle the *paper of the National Party*, and the intention of the editorial staff was to be an exclusively political publication, although, from the first year, it shows wider, economic and cultural, preoccupations. In 1929, *Naționalul Vâlcei* appeared with the subtitle: *Cultural-political paper of the National Party, presided by Professor N. Iorga*, in 1923 it appeared as *Political and Cultural Paper of the Democratic-Nationalist Party, Vâlcea County organisation*, in 1934, the subtitle became: *Magazine for the people*, and from 1936 – *Encyclopaedic Cultural Magazine* (Petcu, 2012: 480). With a monthly issuing, the publication was a tribune, in which there were published political, economic and social information, and that, “unlike many others, conferred wider spaces to the cultural aspects of the county” (Corneliu Tamaș, 1994: 190). Considered one of the best publications from Vâlcea, in the interwar period, *Naționalul Vâlcei* was printed at Matei Basarab (1928-1930) and Gutenberg (1930-1937) Printing Houses, with a format of 47/32 cm, respectively 22/15 cm (4, 8 pages) and an annual price of the subscription of 40 lei (Marian Petcu, 2012: 480). The variety of the material that appeared in this periodical, the widening of the themes, from year to year, the thorough selection of the published material, implied also permanent *concern*, coming from Constantin Daniilescu, the one who took a great responsibility, as a director and administrator. Institutor at Rm. Vâlcea, publicist, translator, folklorist and palaeographer, Constantin Daniilescu also signed most of the articles that appeared in *Naționalul Vâlcei* (Daniilescu, 1928: 2-3). Along him, we find the signature of Gheorghe Bobei, who was a collaborator with poems. The last issue of the newspaper was printed in December 1937 (Poenaru, 2014a: 8).

From the interwar period, *Mehedințul economic, politic și social* represents, in our opinion, the most valuable periodical from Turnu Severin, whose content can be used to easily reconstruct a history of Mehedinți County. The periodical appeared on the 1st of October 1931, and it was published, without an interruption, until 1945, as a bimonthly publication, under the administration of D. Ghinoiu, who had a peasants-national orientation, and a committee. Among the most faithful collaborators of the publication, we meet George Mătăsaru, Vania Răutu, D. Bunescu and Vasile Militaru (Marian Petcu, 2012: 523).

Most of the newspapers, journals and political magazines from the interwar Oltenia, were instruments of propaganda, having an important part, especially during the

electoral campaigns. There were few independent newspapers. All the political forces: the liberals, the peasants, the supporters of Averescu, the iron-guardists, the moderates etc. Had their own publications, *through which they led duels with the political opponents*.

The newspaper printed by the supporters of Averescu, *Glasul Poporului*, the conservative one, *Unirea*, the peasants one, *Soarele*, all from Rm. Vâlcea, were sustaining the parties that sponsored them, publishing articles where they praised them, or electoral manifestos, the good results obtained by People's League or the Peasants Party, owing to the manner in which there was made the electoral propaganda, through their publications. Generally, in platform-articles, there is often found the information "that they were especially addressing to the voters from the villages, the more numerous ones". Thus, the editorial staff had established "to educate and to inform" the people from the villages, as in the case of the periodicals printed for the People's Party: *Steaua poporului din Gorj*, *Steaua din Caracal* (Cuvânt înainte, 1932: 1), *Steaua Vâlcei* and *Steaua*, both from Rm. Vâlcea (Corneliu Tamaș, 1994: 199-200).

The most debated subjects were, as expected, the ones belonging to the political field. Consequently, it was noticed the emerging of a new party, the political adversaries were being criticised, there was electoral advice, there were accusations and personal attacks, methods to fight against the public enemies etc. An extremely rich sector was that in which there were presented the congresses of the political parties, the results of the elections, the change of the party's name, or the appointing of the president, within a county organisation. The economic articles had a well-deserved place in the political press of that time. The information on land cultivation, the field works specific to the seasons, trees growing, viticulture, beekeeping, along with the advantages offered by the modern economy, are the most approached subjects in the studied journals. A special notice was taken to the problems that education was facing, also maybe due to the fact that the editors and the managers of periodicals were teachers or professors. Then, we meet morals, ethnography articles, along with demographic or urbanistic works, all important in the representing of the quotidian life. We find news about the new-published books, magazines, and the way in which they could be purchased. The format of the periodical publications from the interwar period was, generally, a large one. Most of them had 4 pages, but, under special circumstances – parliamentary elections, congresses of the party – their number doubled. As regarding the rhythmicity of their publishing, most of them were published twice a month, specifying "on the 1st and 15th each month", or every week. We rarely meet cases in which the newspaper is printed "daily", as in the case of *Cuvântul Olteniei*, from Craiova, or "as often as necessary", as in the case of the newspaper *Democrația sau puterea poporului* from Mehedinți. There were plenty of editorial projects with random printing dates, which often stopped their life just after few issues, on one hand due to the economic circumstances, on the other hand, due to the political ones. It is true that the political periodicals from Oltenia did not play the part of the important publications from the country, as *Adevărul*, *Dimineața*, *Universul*, *Curentul* or *Cuvântul*, but they managed to join the circuit of the Romanian publications, preserving their specificity.

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The Political Press in Oltenia of the Interwar Period

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Appendix

Annex 1. Table 1. Newspapers from Dolj County, in the interwar period

No	Name	Years of publication	Periodicity	Political orientation/ locality
1.	<i>Dacia</i>	18 th of November 1918 – March 1920	randomly	organ of the National-Democratic Party, Craiova
2.	<i>Flamura</i>	October – December 1920	weekly	organ of the National-Democratic Party from Oltenia, Craiova
3.	<i>Lumina satelor</i>	1920	randomly	Organ of the Nationalists-Democratic Federation from Oltenia, Craiova
4.	<i>Democratul</i>	December 1918-1919 (27 issues)	randomly	Paper of the Democratic party, Craiova
5.	<i>Straja</i>	1919-1932	randomly	National-liberal organ, Craiova
6.	<i>Coasa</i>	1920-1921	weekly	organ of the National-Democratic Party, Craiova
7.	<i>Gazeta Poporului</i>	1920-1934	bimonthly	political organ of the People's Party, Craiova
8.	<i>Sorcova</i>	January 1921	single issue	Political magazine issued at New Orthodox Year
9.	<i>Crucea</i>	15 th of December 1921-February 1922	weekly	Newspaper of the National-Liberal Party, Craiova
10.	<i>Zorile Biruinței</i>	1922	random	Paper of the Peasant's Party, Craiova
11.	<i>Apărarea Națională</i>	1st of February - 1 st of April 1922	bimonthly	organ of the National-Democratic Party, Craiova
12.	<i>Vremea Nouă</i>	12 th of September 1921- 1 st of June 1927	random	Paper of the National-Peasants Party, Craiova
13.	<i>Ciocanele</i>	1922	bimonthly	Organ of the Social-Democratic and rural and urban workers Party from Oltenia, Craiova
14.	<i>Roata</i>	21 st of August 1922 -14 th of January 1923	weekly	organ of the Peasant's Party, Craiova
15.	<i>Steaua Olteniei</i>	1922-1924	hebdomadary	Conservative-national organ, Craiova
16.	<i>Ordinea</i>	February 1922-April 1924	random	organ of the People's Party, Craiova

The Political Press in Oltenia of the Interwar Period

17.	<i>Izbânda</i>	1926-1933	bimonthly „1 st -15 th each month”	Paper of the National- Peasants Party from Dolj, Craiova
18.	<i>Doljiul</i>	1924; 1932-1935	randomly	Official organ of the People’s Party, Craiova
19.	<i>Voința Poporului Român</i>	16 th of November 1925- 1926	randomly	Independent political newspaper
20.	<i>Unirea</i>	1 st of October 1925-31 st of July 1927	randomly	Nationalist newspaper, organ of „Liga Apărării Naționale Creștine”, Craiova
21.	<i>Olteanul</i>	1 st of March – 1 st of June 1926	weekly	Independent national political, cultural, commercial and industrial newspaper, Craiova
22.	<i>Izbânda</i>	1926-1933	bimonthly „1 st -15 th each month”	Paper of the National- Peasants Party from Dolj, Craiova
23.	<i>Credința</i>	20 th of June – 4 th of August 1927	-	organ of the National Party, Craiova
24.	<i>Glasul Olteniei</i>	1 December 1928	-	political and cultural organ, Craiova
25.	<i>Neamul</i>	9 th of February – 26 June 1928	weekly	Organ of the National Party led by professor N. Iorga, county organisation of Dolj, Craiova
26.	<i>Nădejdea</i>	1930	-	organ of the National- Liberal Party Dolj, led by Gheorghe Brăileanu, Craiova
27.	<i>Epoca Craiovei</i>	1932	-	organ of the Conservative Party, Craiova
28.	<i>Cotidianul</i>	1932	-	political independent organ, Craiova
29.	<i>Garda Jiului</i>	1932	bimonthly	organ of Corneliu Zelea Codreanu political group, organisation of Oltenia, Craiova
30.	<i>Libertatea</i>	1934	-	Newspaper of the National- Liberal Party from Dolj, Craiova
31.	<i>Brazda</i>	1 st of August 1934-May 1935	-	Paper of the national- peasants youngsters from Dolj, Craiova

Georgeta Ghionea

32.	<i>Mișcarea Olteniei</i>	1935	randomly	organ of the National-Liberal Party from Dolj, Craiova
32.	<i>Flacăra</i>	12 th of January 1936 - 23 rd of February 1936	weekly	Paper of political action and organisation of Frontul Românesc from Dolj, Craiova
33.	<i>Drum Nou</i>	31 st of October - 15 November 1937	randomly	organ of the National-Liberal Party from Dolj, Craiova

Annex 2. Table 2. Newspapers from Gorj County, in the interwar period

No	Name*	Years of publication	Periodicity	Political orientation/ locality
1.	<i>Glasul Țărănimii</i>	1922-1926 (37 issues) 1933-1937 (10 issues)	randomly	Peasants Party from Tg. Jiu
2.	<i>Coasa</i>	1923-1926 (4 issues)	randomly	National Party, Tg. Jiu
	<i>Steaua poporului din Gorj</i>	1923-1926	weekly	Paper of the People's Party, Tg. Jiu
3.	<i>Lupta Jiului</i>	1924	randomly	Paper of the Romanian-National Party from Gorj, Tg. Jiu
4.	<i>Gorjul antisemit</i>	1925	randomly	Liga Apărării Naționale Creștine, Tg. Jiu
5.	<i>Vremea Nouă</i>	1930 (6 issues)	randomly	National-Liberal Party presided by George Brătianu, Tg. Jiu
6.	<i>Îndrumarea Nouă</i>	1931-1932	bimonthly	organ Paper of the National-Peasants Party from Gorj, Tg. Jiu
7.	<i>Îndrumarea Nouă</i>	1932-1937	bimonthly	organ Paper of the Radical Peasants Party from Gorj, Tg. Jiu
8.	<i>Credința</i>	1932	bimonthly	Propaganda paper of the National Party, led by Professor N. Iorga, Tg. Jiu

The Political Press in Oltenia of the Interwar Period

Annex 3. Table 3. Newspapers from Mehedinți County, in the interwar period

No	Name	Years of publication	Periodicity	Political orientation/ locality
1.	<i>Drapelul</i>	1919	randomly	organ of the National-Liberal Party, Turnu Severin
2.	<i>Cuvântul socialist</i>	1919	weekly	organ of the socialist movement from Mehedinți, Turnu Severin
3.	<i>Democrația sau puterea poporului</i>	1919-1924	„whenever it is necessary”	organ of the People’s Party from Balta, Mehedinți County
4.	<i>Ordine și progres</i>	1 st of September - 1 st of November 1919	weekly	organ of the Progressive Conservative Party, Turnu Severin
5.	<i>Plugul</i>	May 1919-1920	randomly	political and economic organ for peasants, Turnu Severin
6.	<i>Unirea poporului</i>	1920	weekly „on Thursdays”	Semi-official organ of „Liga Poporului” presided by General Averescu, Turnu Severin
7.	<i>Secera</i>	1919-1924	bimonthly	Journal of the Peasants’ and Workers’ Party from Mehedinți County, Turnu Severin
8.	<i>Gazeta poporului</i>	1922-1936	weekly	organ of the People’s Party, Turnu Severin
9.	<i>Țăranul</i>	1923-1935	bimonthly	national peasants paper, Turnu Severin
10.	<i>Mehedințul</i>	1923- 1924	bimonthly	Paper of the Romanian National Party from, Turnu Severin
11.	<i>Secera Mehedințului</i>	1926-1932	bimonthly	organ of the National Peasants Party, Turnu Severin
12.	<i>Vremea Nouă</i>	1928-1929	bimonthly	Paper of the young peasant organisation from Mehedinți County, Turnu Severin

Georgeta Ghionea

13.	<i>Voința</i>	1 st of May - December 1929	weekly	organ of the National- Liberal Party, Turnu Severin
14.	<i>Alarma Olte niei</i>	1932-1938	randomly	organ of the „Iron Guard”, Turnu Severin
15.	<i>Aurora Mehedințului</i>	1933	weekly	Semi-official organ of the Peasants’ Party led by N. Lupu from Mehedinți, Turnu Severin
16.	<i>Țara nouă</i>	1934-1945	bimonthly	organ of the National Peasants Party from Mehedinți, Turnu Severin
17.	<i>Frontul Românesc mehedințean</i>	1935-1937	bimonthly	Paper of Frontul Românesc Party, Turnu Severin
18.	<i>Mișcarea Mehedințului</i>	1935-1940	bimonthly	organ of the National- Liberal Party, presided by Gh. Brătianu, Turnu Severin

Annex 4. Table 4. Newspapers from Romanați County, in the interwar period

No	Name	Years of publication	Periodicity	Political orientation/ locality
1.	<i>Conservatorul de Romanați</i>	25 th of October-15 th of December 1919	weekly	organ of the Conservative Party, led by Prince Basarab Brâncoveanu, Caracal
2.	<i>Voința poporului</i>	1919-1922	weekly	Newspaper of the National- Liberal Party Romanați County, Caracal
3.	<i>Vot și pământ</i>	February 1919 – October 1919	weekly	Newspaper of the Progressive Conservative Party, Romanați County, Caracal
4.	<i>Conservatorul</i>	November - December 1919	randomly	organ of the Conservative Party from Romanați, Caracal
5.	<i>Secera</i>	1 st of January 1920-1923	-	newspaper of the Peasants’ Party from Romanați, Caracal
6.	<i>Sfatul țăranilor</i>	1920	weekly	Journal of the National- Liberal Party, Caracal
7.	<i>Snopul de grâu</i>	1920	weekly	organ of the Democratic Party from Romanați, Caracal

The Political Press in Oltenia of the Interwar Period

8.	<i>Coasa</i>	1923	-	organ of the National-Democratic Party from Romanați, Caracal
9.	<i>Olteanul</i>	1922- 1926	weekly	organ of the People's Party, Romanați County, Caracal
10.	<i>Liberalul</i>	1932-1936	bimonthly	Newspaper of the National-Liberal Party Romanați County, Caracal
11.	<i>Steaua</i>	1932-1934	-	newspaper of the People's Party, Romanați County, Caracal
12.	<i>Aurora Romanațului</i>	1933-1938	bimonthly	organ of the Peasants' Party - Dr. Nicolae Lupu, Caracal
13.	<i>Inelul</i>	1933	bimonthly	organ of the National Peasants Party from Romanați, Caracal
14.	<i>Stindardul</i>	1933	weekly	organ of the National Agrarian - Romanați Organisation, Caracal
15.	<i>Chemarea nouă</i>	1933-1936	randomly	political, economic, social newspaper of the Radical Peasants' Party, led by Gr. Iunian, Caracal
16.	<i>Brazda Romanațului</i>	1934-1935	monthly	Political paper, Caracal

Annex 5. Table 5. Newspapers from Vâlcea County, in the interwar period

No	Name	Years of publication	Periodicity	Political orientation/ locality
1.	<i>Democrația Vâlcei</i>	1918-1919	weekly	liberal press organ, Rm. Vâlcea
2.	<i>Unirea</i>	1919	weekly	Newspaper of the Conservative Party Vâlcea County, Rm. Vâlcea
3.	<i>Gazeta Drăgășanilor</i>	1919	weekly	Liberal newspaper, Drăgășani Vâlcea County
4.	<i>Glasul poporului</i>	1919-1924	randomly	organ of the People's Party from Vâlcea County, Rm. Vâlcea
5.	<i>Domnia Legilor</i>	15 th of April-15 th of August 1921	monthly	Nationalist-peasants organ, Rm. Vâlcea
6.	<i>Cuvântul românesc</i>	1922-1923	weekly	Paper of the National-Democratic Party, Rm. Vâlcea

Georgeta Ghionea

7.	<i>Unirea Națională</i>	1923-1925	weekly	organ of the National Party, Vâlcea
8.	<i>Steaua</i>	1923-1926	weekly	organ of the People's Party from Vâlcea County, Rm. Vâlcea
9.	<i>Vocea Națională</i>	12 th of April – 1 st of December 1924	randomly	organ of the Romanian National Party Vâlcea, Rm. Vâlcea
10.	<i>Cercul</i>	1927-1944	Bimonthly until 1932/ monthly until 1944	Paper of the National Peasants Party from Vâlcea, Rm. Vâlcea
11.	<i>Steaua Vâlcii</i>	1931 (3 issues)	monthly	organ of the People's Party from Vâlcea County, Rm. Vâlcea
12.	<i>Viața Nouă</i>	1931-1937	weekly	organ of the <i>Georgist</i> National-Liberal Party, Rm. Vâlcea
12.	<i>Țărănismul vâlcean</i>	1932	weekly	organ of the national-peasants democracy from Vâlcea County, Rm. Vâlcea
13.	<i>Agrarul vâlcean</i>	June-September 1932	weekly	organ of the Agrarian National Party from, Rm. Vâlcea
14.	<i>Vremea Nouă</i>	1932-1937	-	organ of the „peasants' movement led by Gr. Junian”, Rm. Vâlcea
15.	<i>Izbânda</i>	1 st of March -15 th of April 1933	bimonthly	organ of the National-Liberal Party Drăgășani Vâlcea County
16.	<i>Uniunea Agrară</i>	1933	-	organ of the Agrarian Union Party from al Vâlcea and Argeș, Rm. Vâlcea
17.	<i>Aurora Vâlcei</i>	9 th - 16 th of April 1933-?	randomly	political organ of the Peasants Party, led by Lupu, Drăgășani

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ORIGINAL PAPER

Aspects regarding the oppression of the religious cults during the communist regime in the files of the Romanian Securitate

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Abstract

The relationship between the State and the religious cults in Romania during the communist regime is a new subject among the preoccupations of the historians and it is still a controversial subject from the perspective of the complex realities that have determined the coordinates of this relationship. The problem is insufficiently investigated, but with the opening access to the documents in the archives of C.N.S.A.S., the study of the files reveals new problematic aspects of the matter. The state control over the activity of the cults and over the religious behavior was based on a new legislation, with the help of the cult inspectors, employees of the Ministry of Cults, in charge with the surveillance of every cult administrative unit, from parish to Patriarchy. In addition to that, there was an unofficial control exercised through a web of informers and collaborators of the institution named Securitate, founded by Decree no. 221/ August, 30, 1948. After the 6th of March 1945, beginning with the first months after its installation, the new govern led by Petru Groza, ordered numerous arrests among the clergy of all confessions. Although many of them were released the same year, some remained suspects and some of them, probably under the constant threat, accepted later the collaboration with the Securitate. The political views of the suspects before August, 23, 1944 were the main reason, but also a pretext for the repression against some outstanding representatives of the cults. Using as research method the analysis of documents in the files of C.N.S.A.S. archives, this study reveals the means of repression of the communist authorities against the cults, the state's approach of the spiritual and religious life as a constant threat to the regime, and the mechanisms through which some personalities as Mina Dobzeu, Iuliu Hîrțea, Dumitru Bejan and Mihaly Godo were surveilled, condemned and prosecuted, and others, such as Gheorghe Moisescu collaborated with the Securitate.

Keywords: *communism, Securitate, political police, religious cults, oppression*

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Premises

The relationship between the state and the religious cults in the Romanian communist regime involves the state's hostile attitude towards religion reflected in an atheist public discourse that promoted the scientific materialism as unique perspective on reality. Nevertheless, the Romanian people's history, in which an important role had been played by religiosity, and the lack of legitimacy of the new regime imposed from abroad, have determined at least in the beginning of the communist era, a moderate approach compared to the harsh oppression in the Soviet Union. Thus, the expressions of religiosity had to be gradually restricted by repressive means, both officially, through new legal measures, and unofficially, through a strict control over the activity of the cults, with the aid of an informative system with numerous ramifications, of the former Securitate. Under the apparent freedom of conscience and religion, stated by the Constitution in 1948, in fact the new government was only restricting these legal rights. Only 14 religious cults were recognized as legal; among the abolished was the Greek-Catholic or United with Rome Church, with a tradition of over two centuries, under the accusation of having served the imperialism and having fought against the new social order, against the people itself thus. The abolishment was instituted through the Decree 358 in December, 1st, 1948 (Cârstea, 2012: 474).

Generally, all the cults have suffered under the communist government. The arrests, the condemnations and the tracking of many personalities of the religious life considered leaders of opinion with the power to influence the believers, took place irrespective of religious affiliation, especially under the pretext of the former political orientation. What differ are the period in which the oppression was harsher and the degree of repression in terms of consequences on the activity of every cult. Pedro Ramet, an author specialized in the study of the relationship state-Church in the communist regimes, identifies six major factors that explain the different treatment on the religious cults in communist Romania: "the number of adepts of the religious organization, its willingness to be subordinated to the demands of the political authorities and the possibility to be infiltrated and controlled by the political police, the problem of dependence to a foreign authority, the loyalty or lack of loyalty during the World War II, the ethnical configuration of the state and the dominant political culture" (apud Tismăneanu, 2006: 471). Based on these arguments, we can explain why the oppression was harsher on the main cults in terms of number of adepts, with the difference that the Catholic Churches represented a more serious threat because they were subordinated to the Vatican, having thus relationships with the West, considered bourgeois and capitalist, with elements who could take action from abroad against the construction of the socialist society.

Methodology

The research method used in this article is the document analysis. From the files of C.N.S.A.S. archive I have studied five representative cases for the relationship between the state and the religious cults in the communist period and for the role of the institution called Securitate in the cults' oppression in general and in the lives of some personalities of the religious life such as Mina Dobzeu, Iuliu Hîrțea, Dumitru Bejan, Mihai Godo and Gheorghe Moisescu, in particular. Using the bibliographical study, I have completed and put into a larger context the information acquired from the files.

Case studies

Mina Dobzeu is a well-known personality of the orthodox spirituality prosecuted during the communist era because he repeatedly criticised the government's anti-religious policy. He remained in the Romanian people's memory as the monk who converted to the Orthodox faith, his comrade in prison, the Jew Nicolae Steinhardt, on March, 15, 1960. After he wrote the manuscript called "Adevărul" (The Truth) using a chemical pencil, multiplied and spread it in the village Brădicești, Dolhești commune, Fălciu County, where the hermitage he was living in from 1948 was settled, the priest Mina Dobzeu becomes a target for the local Securitate. According to the case investigators, the manifesto had an "anti-Marxist, anti-Leninist, anti-Stalinist and anti-democratic" character, as it is written in a reference signed by an officer of the Securitate, on April, 25, 1949 (A.C.N.S.A.S., Penal fund, dossier P21363/ vol. 1: 1). At the examinations, he declared he was not against the communist regime, but he was "ready to endure anything for his religion" (A.C.N.S.A.S., Penal fund, dossier P21363/ vol. 1: 1). By the Sentence no. 733/1949, Mina Dobzeu was found guilty for the crime of public agitation, according to art. 327 al. III Cod penal combined with D.L. no. 856/1938 and condemned to 3 months correctional imprisonment (A.C.N.S.A.S., Penal fund, dossier P21363/ vol. 1: 50). After the execution of the sentence, he would remain in the attention of the authorities. In 1959 he is charged again in a penal lawsuit with the crime of machination against the social order, according to art. 209 (A.C.N.S.A.S., Penal fund, dossier P 126777, vol. 1: 1). In May 1959, he wrote "a letter with mystical character and hostility directed against the state social order in P.R.R." (A.C.N.S.A.S., Penal fund, dossier P 126777, vol. 1: 1), multiplied it in 13 copies and sent it to the leaders of the Romanian Orthodox Church and to the professors of the Theological Institute in Bucharest. From 1969, priest Mina served in the Monastery of Saints Peter and Paul in Hussy; he was the abbot of the monastery between 1978 and 1988. In 1988 was arrested again for sending President Nicolae Ceausescu seven letters regarding the morality of the Romanian people and atheism, asking the president to respect the Romanian orthodox calendar, to respect the people and its Christian morality, its traditions and to not impose on the people an improper atheist conviction (Voicu, 2015).

Iuliu Hîrțea was priest and professor at The Greek-Catholic Theological Academy in Oradea. On October, 28, 1947 he was abusively arrested and imprisoned in Oradea Penitentiary, without being informed about the reasons of this action, as shown in a file request submitted by Hîrțea on February, 5, 1948 (A.C.N.S.A.S., Informative fund, dossier I 3569: 00001). According to a note on his file, he got into the Securitate's attention for "hostile manifestations" (A.C.N.S.A.S., Informative fund, dossier I 3569: I) and his characterization made by the investigators states that he was "a sympathizer of Iuliu Maniu", but "he had never worked on the surface" (A.C.N.S.A.S., Informative fund, dossier I 3569: 00002). The reasons stated in the files are unconvincing and legally unfounded. One of them concerns the publishing of some brochures and religious almanacs, a position that was suppose to give Hîrțea the opportunity to organize and lead, together with priest dr. Maxim Virgil, "the ideological struggle of the reaction, which has lately become the Church's fight against communism" (A.C.N.S.A.S., Informative fund, dossier I 3569: 00002). He was released on February, 1949, after 15 months of detention in which he was held without being tried and convicted. He was actually strategically kept in detention and released after the Romanian United Church had already been put into illegality by Decree no. 358 in December 1948. This illegal status of the Church did not stop the Greek-Catholic clergy to clandestinely consecrate Hîrțea as bishop, on July, 28,

1949 by Papal Nuncio O'Hara (A.C.N.S.A.S., Penal fund, dossier P000378, vol. 1: 1). It was a difficult position to be in charge of administering a disbanded diocese of Oradea and help the families of the priests forced to convert to Orthodoxy. The Securitate files of Iuliu Hîrțea give many clues of the oppression's dimensions of the Greek-Catholic Church in the communist regime. The incriminating documents stated that almost all the people who have contacted or communicated with the bishop of Oradea were either arrested or detained (Gavril Stan), or condemned for high treason (the clandestine bishops Dragomir and Ioan Ploscaru, the Franciscan monk Mihail Rotaru, or interned at labour camp (bishop Frențiu) (A.C.N.S.A.S., Penal fund, dossier P000378, vol. 1: 2). In addition to that, the penal file to incriminate Hîrțea contains other seven names that appear in the trial sentence of people condemned for high treason, complicity to high treason, instigation, omission of denouncement: Vasile Andercău, who was appointed by Hîrțea in the autumn of 1950 general vicar of Oradea (A.C.N.S.A.S., Penal fund, dossier P000378, vol. 1: 7), Vasile Hosu, also consecrated vicar by Hîrțea in the summer of 1950; Dumitru Pascal, a Franciscan monk who urged the congregation not to comply with the obligation to move to Orthodoxy; Gavril Stan, priest, professor at the Theological Academy in Oradea, rector between 1939-1945); Elisabeta Sălăjean, a believer who intermediated the money transfer from the Vatican to the clandestine bishopric of Oradea; Augustin Olah, a priest who initially signed the adherence to Orthodoxy, then he retracted his declaration in front of the clandestine vicar Magyar Augustin; Virgil Maxim, a priest who continued to serve in clandestinity (A.C.N.S.A.S., Penal fund, dossier P000378, vol. 1: 7-13). By the penal sentence no. 429/1953 of the Military Territorial Court in Oradea, on July, 6, 1953, Iuliu Hîrțea was condemned to 12 years labour and 5 years civic degradation for the crime of high treason, according to art. 190-191 Cod penal (A.C.N.S.A.S., Penal fund, dossier P000378, vol. 1: 316-325).

Dumitru Bejan was a military priest when he was taken prisoner by the Russian army in 1942, along with 1200 other Romanian officers. In a classified note about the reasons for Bejan's arrest and condemnation, the description of those over one thousand Romanian officers was related to the fact that the regime was considering them as divided into two camps: Volunteers (democrats, that means friendly to the regime) and Reactionaries (adepts of the old traditional political parties) (A.C.N.S.A.S., Penal fund, dossier P 051127, vol. 1: 5). According to the same document, the priest was included in the Reactionaries camp and he was part of the legionary group led by Nicolae Chivulescu among the prisoners in Oranki interment camp (A.C.N.S.A.S., Penal fund, dossier P 051127, vol. 1: 6). He was very close to get executed in Moscow, condemned by a military court, because the Russian authorities found a manuscript Bejan had written on birch bark, in which he stated that Basarabia and Bucovina were Romanian territories (Marinescu, 1996: 281). He was released and sent back to Romania in August, 18, 1948. The troubles for the ex-prisoner would not cease in his own country. He was arrested on April, 1949, by the Security organs and sent to trial at the Military Territorial Court in Bucharest for maintaining contact with the old comrades in the Russian detention. By the sentence no. 77/1950, he was condemned to 8 years correctional prison, period calculated from the arrest date, in fact seven years from the date of the sentence (A.C.N.S.A.S., Penal fund, dossier P 051127, vol. 1: 5-6). That means he had already spent a whole year in arrest until the prosecution file was completed. After he finished his sentence, he was forced to settle in the village Răchitoasa, Fetești rayon, Constanța region, and also he was forced to work as day labourer between 1958 and 1963 (A.C.N.S.A.S., Penal fund, dossier P 051127, vol. 1: 7-8, 36). The relationships with the other prisoners from Oranki interment camp were

Aspects Regarding the Oppression of the Religious Cults during the Communist ...

again the reason for a new investigation and condemnation to 25 years hard labour and 10 years civic degradation by the sentence no. 349/1959 given by the Military Court in Constanța, for machination against the social order, a crime stated in art. 209 Cod penal. In addition, his properties were confiscated. Bejan was released in 1964, but he would constantly remain in the attention of the Securitate.

The Securitate's investigations in the early 70's show that there was communication between the former prisoners in U.S.S.R., Oranki interment camp, but as the files reveal, the "legionary activity" itself had a religious expression; the bond between the former comrades in suffering was a very profound friendship, with long discussions and letters about theological and missionary themes, exegeses of the Apostle and the Gospel, with interpretations according to the contemporary realities. The entire "conspiracy" had as an objective a biblical dictionary Bejan was working on and the help he was asking from his friends to multiply the manuscript (A.C.N.S.A.S., Informative fund, dossier I 210832, vol. 2: 9).

A large number of pages in the files are dedicated to the surveillance measures, to the establishment of intelligence objectives for the Securitate's agents, although there weren't any concrete evidence to demonstrate Bejan's hostile activity towards the regime. Perseverance and suspicion are the key words that define the communist government's attitude towards the former political detainees. As the jurisprudence in the communist regime shows, in many cases the faults in the political past of the convicts were forcibly assigned. The lack of evidence was not perceived as a sign of a clean social activity, but as a deficiency in the activity of the agents and informers of the former Securitate, as shown in an analysis note of The Internal Affairs Ministry in February, 16, 1976 (A.C.N.S.A.S., Informative fund, dossier I 210832, vol. 2: 32).

Hundreds of pages of informative notes record common aspects of a day-to-day life of a man whose rights were constantly violated, whose ideas, words and movements were constantly interpreted. The informative surveillance file is periodically reopened for the same reasons related to Bejan's „legionary" past and the maintenance of the relationship with the former prisoners in the Soviet internment camp. Bejan was prematurely retired from the religious service, betrayed by his own brothers in service of Christ's altar and was constantly surveilled until 1989.

Mihai Godo was a catholic priest of Hungarian origin, member of the Jesuit monastic order. He was condemned in 1953, by the Military Court in Cluj, sentence no. 234/1953, to 10 years prison for complicity in the crime of high treason, for "incitement to action of Catholic priests and faithful against the Church recognized by the state, for multiplying and disseminating a circular with spiteful content" (A.C.N.S.A.S, Informative fund, dossier 38731: 1). In fact, he crossed the border illegally, went to Budapest, where he met with the superior of the Jesuits, whom he presented a report about the activity of the Jesuit order in Romania. According to the accusations, he came back and conducted "hostile activities" based on the instructions received from bishops Aron Marton and Augustin Pacha, against the Orthodox Church and the measures taken by the Ministry of Religious Affairs, spreading hostile messages and also initiating "subversive organizations" (A.C.N.S.A.S, Informative fund, dossier 38731: 4).

He was released in November, 15, 1962 (A.C.N.S.A.S, Informative fund, dossier 38731: 1). After leaving prison, in 1964 he had to settle for an obligatory residence in Gherla. After the ban was lifted, he moved to Herculane, where he is suspected by the Securitate for his connections with people from R.F.G. The threat he represented for the regime is shown in the following report fragment: "The investigations established that the

objective poses as a martyr of religion and that in the religious services and the preaches to the believers he shows that he suffered a lot for religion, that was even sentenced to many years in prison because he didn't betray his believers, and the way he was treated is illustrative for the manner in which faith is seen today. He also leads an intense propaganda of faith and shows evidence of religious fanaticism" (A.C.N.S.A.S, Informative fund, dossier 38731: 4).

Important aspects in the activity of the Catholic Church in Romania can be found in the former Securitate's files. One of these concerns the material support the Catholics in Romania were receiving from Germany. Godo confessed to one of the Securitate's undercover sources that an automobile was sent to him, but he refused to take it because of the amount of duty taxes. He received a motorcycle instead and paid lower taxes for it (A.C.N.S.A.S, Informative fund, dossier 38731: 4). Other aspects in the informative notes reveal that he had relatives in Vienna, he accommodated and had various connections with Austrian, Hungarian and German tourists and those relationships had put him in touch with Catholic organisations who supported him with cult objects, books, vestments and even an electric shaver (A.C.N.S.A.S, Informative fund, dossier 38731: 64).

Godo's activity was suspected for espionage for R.F.G., but they proved to be unfounded and no evidence was found. Nevertheless, the informative surveillance continued for hostile activity against the regime (A.C.N.S.A.S, Informative fund, dossier 38731: 6).

Gheorghe Moisescu is one of the cases in which the past, in particular the editorial activity in the religious press, became an instrument of blackmail for collaboration with the Securitate. In 1956, the priest of the Romanian orthodox community in Vienna, Leonida Popescu, with the codename "Dănilă" is called back to the country and replaced by priest Gheorghe Moisescu, an erudite, with university studies abroad in Athens, Warsaw and Lvov, doctor in theology, professor at the Theological Institute in Bucharest, aged 50 years, with the codename "Zamfir Pană" (A.C.N.S.A.S., SIE fund, dossier I 3569: 12, 16-17), later changed to „Ionatan" (A.C.N.S.A.S., SIE fund, dossier I 3569: 74, 76 and others). Between 1936 and 1949 he was a secretary of the Holy Synod of the B.O.R. and editor in chief of „Biserica Ortodoxă Română", the official publication of the Patriarchy; at the time he moved to Vienna he was the editor of „Mitropolia Olteniei". The new agent had as objectives: „to strengthen the Romanian colony in Austria, so the influence of the fugitives on that community would diminish and to draw the Romanians in Vienna and the Austrians born in Romania to the communist cause" and "to counteract the hostile activity against our country carried out by the fugitives organisations, especially «The Christian Association of Romanians», «The Cultural Association» and the Catholic mission" (A.C.N.S.A.S., SIE fund, dossier I 3569: 14-15).

The political past of Gheorghe Moisescu was limited to writing anti-Soviet and anti-communist articles during the Second World War and hosting the Iron Guard leader Liviu Stan, who was director general at the Ministry of Religious Affairs, during the legionary government. But the last aspect wasn't incriminatory because he declared himself as being a convinced partisan of Nicolae Iorga, his former professor, and could not agree with the legionary methods that led to the assassination of his professor (A.C.N.S.A.S., SIE fund, dossier I 3569: 17-18).

The compromising material, consisting of anti-Soviet and anti-communist articles, was the reason to constrain him to collaborate with the Securitate, starting with May, 22, 1949. The collaboration proved to be prolific, as he was directed to "hostile elements in the orthodox clergy in Bucharest (the Patriarchy and the Theological

Aspects Regarding the Oppression of the Religious Cults during the Communist ...

Institute)” (I A.C.N.S.A.S., SIE fund, dossier I 3569: 18).

The essay characterizing the agent records that he wrote notes about “legionnaires” Tit Simedrea, former metropolitan of Bukovina, Liviu Stan, Nicolae Popescu, Efrem Enăchescu, about metropolitans Iustin, Firmilian Marin etc. (A.C.N.S.A.S., SIE fund, dossier I 3569: 18) and that he provided information on his own initiative about the existence in Bucharest of a “subversive group consisting of hostile clergy, headed by the legionnaire monk Benedict Ghiuș”, information that led to the opening of an group tracking information action, in which Gheorghe Moisescu took part, to arrest those involved (A.C.N.S.A.S., SIE fund, dossier I 3569: 18-19).

At the moment he was sent to Vienna, Moisescu had his family in Romania, a wife and three children, all students (A.C.N.S.A.S., SIE fund, dossier I 3569: 76), who remained in the country. He was seeing his family periodically, on which occasion the agent Ionatan was instructed by the Securitate’s agents to accomplish the informative objectives (A.C.N.S.A.S., SIE fund, dossier I 3569: 167). The objectives of the conspirative action established by the Securitate include both positive actions for the religious life of the Romanian orthodox community in Vienna, as strengthen links between its members, organizing concerts of Christmas carols and Romanian folk music, revival of service and liturgical sermons, editing a magazine and an almanac of the Romanian Orthodox community, and also activities of informative surveillance of some personalities of the religious life who had illegally crossed the borders and settled in the West, such as Andrei Scrima (A.C.N.S.A.S., SIE fund, dossier I 3569: 377-380). Moisescu’s experience, his large theological knowledge, together with the appreciation he had from the Romanian Orthodox Church clergy would be used in international conferences with theological themes. In that context he would get in contact with several persons the communist regime was interested in.

Discussion

In the study of the former Securitate’s files, there is an undeniable fact: all the religious cults have suffered, with no exception. But the reasons for the oppression were different for each cult.

The Romanian Orthodox Church, with an impressive congregation of over 13 million believers, an institution with autonomy and tradition in the history of the Romanian people, was a very important actor in the society and thus it was seen since the beginning of the communist regime as a potential contributor to the efforts of reconstructing the society. In the people’s perception, the Orthodox Church was a spiritual and national institution connected to the very essence of their national identity (Hitchins, 1975: 315). In these conditions, the Popular Republic establishes on December, 30, 1947 recognised the Church as a social institution that, correctly administrated and guided, could have a great potential to promote the state’s ideology among the people. But its popularity had also disadvantages, the people’s piety around some spirituality centers such as monasteries and the development of the orthodox theology around faculties and seminaries had to be broken in order to have the clergy willing to participate at the construction of socialism. A series of arrests and condemnation followed starting with 1945. From these moments on, a constant negotiation started: for the elementary liberties of the cult, for the conservation of the old rites in terms of organisation, on one hand; and on the other hand, to transform the Church into an institution subordinated to the state, as

a social agitator who would participate in the construction of a new society. Ironically, the new regime did not favour religion, but it needed the religious institutions.

By far, the hardest situation after the establishment of the communist regime was that of the Greek-Catholic Church, suppressed in December 1948. Months before, there had been pressures on the united clergy to change their affiliation to the Orthodox Church, according to the Soviet model applied in Ukraine. Part of them accepted, another part refused, an act of courage that was not left unpunished: the superior clergy of the Greek-Catholic Church was arrested, together with a large number of priests who had either refused to pass to Orthodoxy, or they had initially signed but retracted their subscriptions afterwards (Tismăneanu, 2006: 464). The new government had seen a danger in the Romanian Church United with Rome since the early days of its establishment and the proof are the arrests of some of the clergy considered dangerous either because of their political views before August, 23, 1944, either because they were subordinated to the Vatican, according to their status, and thus they had connections to the democratic West. The arrests of the Greek-Catholic bishops and priests in October, 1948 were not followed by penal files; they were simply imprisoned and sent to Sighet without lawsuits or condemnations (Cosmovici, 2015: 172). All together, the Greek-Catholic Church did not cease its existence all along the communist period, “going down to the catacombs”, as Marius Oprea states (apud Vasile, 2003: 5).

The Roman-Catholic Church, few months after the Decree 358, which had suppressed the Greek Catholic Church, would gain new believers from the Greek Catholics who refused to become orthodox and also new ministers, who would secretly adopt the Latin rite, officiating the service in the catholic churches. This aspect was one of the reasons the members of this cult were persecuted, arrested or forced to settle where the authorities decided. The problem of the support given to the members of the United Church along with the inherent relationships with the West and the Papacy had led to accusations of high treason and espionage. These accusations were formulated against clerics, hierarchs and monks and the sum of all the sanctions represents hundreds of years of detention (Chivu-Duță, 2007: 17). In 1948 the oppression of the Catholic Church started by the denouncing of the Concordate with the Vatican in July 1948, followed by legal measures that permitted the abolition of denominational schools, confiscation of buildings and the suppression of most of the dioceses (Bodeanu, 2015: 420).

In a report of the General Direction of the Police, in September, 12, 1946, we can discover the considerations of the political system on the threat represented by the activity of the Catholic Church: “The Pontiff Sovereign has at his disposal a whole army of well-trained, disciplined and, above all, obedient priests, as they are not bound to any family or fortune. Each priest is at the same time a perfect intelligence agent of the Pope of Rome who can transmit through the hierarchic levels information of political, social, economical and religious nature that he gathers from his congregation” (apud Vasile, 2013: 20).

The control of the cults' activity and of the religious expressions was officially established through „the cult inspectors”, employees of the Ministry of Religious Affairs, later the Department of Cults, who had as attribution the surveillance of all the administrative cult units, from parish to Patriarchy. The Ministry of Religious Affairs represented the laic institution in charge with organising and conducting the religious cults' life in Romania and also had the obligation to inform the leading state structures regarding the religious activity (Vasile, 2015: 15). In the first years of the communist regime, the relationship between the cult's inspectors and the Securitate was deficient, but from late '50s the Securitate got involved in the appointment of territorial cult inspectors;

Aspects Regarding the Oppression of the Religious Cults during the Communist ...

some of the appointed inspectors were former officers of the intelligence structures. “The trade was mutually beneficial; one party received information about the positions of the various hostile clergy and faithful, and the other had comprehensive data on the activity of various cults and sects” (Vasile, 2015: 16).

The official control was doubled by an unofficial control, through a web of informers and collaborators of the Securitate (Security), established by Decree no. 221 of 30 August 1948. The Securitate’s surveillance was gradual and took different forms, with individuals or groups as targets: general informative surveillance (S.I.G., in original) or priority informative surveillance (S.I.P.), verification map (M.V.), individual surveillance files (D.U.I., in original), target file (about an institute, a hospital, a school or a company), or problem file (about former political detainees, former legionaries, cults) (Mareş, 2005). As seen in the files, the Securitate was in fact an instrument of the regime against its own citizens, because it was “the eyes and the ears” of the communist government surveilling the people (Mareş, 2005).

Conclusions

The files in the archive of the former Securitate unveil the existence of an undissimulated hostility against the religious element in society, and also a strategic approach of the state for the oppression of the cults, in order to diminish their influence in the masses, up to their disappearance.

The files analysed above are relevant for the attitude of the regime towards any possible threat to its ideology. Either it was only a protest against the anti-religious policy of the state, as in the case of Mina Dobzeu, or a refuse to embrace the new doctrine, the re-education, as in the case of Dumitru Bejan, or a clandestine cult activity as in the case of Iuliu Hîrţea, or a normal subordination to the cult leaders abroad, as in the case of Mihai Godo, the facts were rated as highly infractional. There is a significant disproportionally between the nature of the crimes and the manner they were legally qualified and the real threat to the political system, which was almost always exaggerated. The legal qualifications in the four cases analysed are the most common for the political detainees of the communist regime: *public agitation* for Mina Dobzeu – art. 327 Cod penal; *high treason* for Iuliu Hîrţea – art. 190, 191 Cod penal (an exaggerated qualification, as the crime in the Penal Code refers to transmitting information of national implication to a foreign power; *machination against the social order* for Dumitru Bejan – art. art. 209 pct. 1 Cod penal (another exaggerated qualification, because the finality of the actions of the former prisoners in the Soviet Union had not been proved and it had to do with their previous activity in the Soviet internment camp); and *complicity to high treason* for Mihaly Godo, as he had followed the instructions of the superior catholic clergy. Some other frequent legal qualifications were: *setting up a broadband or a group*, *espionage*, *sabotage*, *diversion*, *hostile attitude*, *public instigation*, *distribution of forbidden publications*, *aiding a criminal*, *failure to denounce* and *illegal border passing* (Rusan).

A compromising political past was a stigmat and the person had to carry through all his/her life and to bear the constant surveillance. Each personal file of those investigated and condemned had two distinctive sections: “The political activity before August, 23, 1944” and “The political activity after August, 23, 1944”. We can often find in the political activity before August, 23, 1944 the mention that the person was a member or a sympathizer of the Legionary Movement. As the files prove it, in some of the cases the accusations were simply invented (Enache, 2005: 300) or different aspects were

interpreted as legionary activity, as in the case of Bejan, whose friendship with the former prisoners in the Soviet Union's encampment was considered hostile towards the regime his entire life. In fact, some religious and mystical elements in the ideology of the Legionary Movement drew sympathies in the intellectual attitude from some priest and hostile activity against communist that had also a religious aspect was suspected by the new government to be legionary activity. As Enache considers, "If some of them have assumed the legionary creed all the way and have suffered for it, other approached the legionnaires through intellectual attitudes, avoiding an effective and profound implication in the Movement" (Enache, 2005: 301). Still, they were condemned to many years in prison and considered a permanent threat to the regime. In an analysis of the communist gulag in Romania, Petcu draws the same conclusion of arbitrariness when it comes to the relationship between religion and the legionary movement: "Not infrequently, religious aspects of the Romanian gulag literature were confiscated in an essentially political register, with the consequence of subordinating the religious sequence to the ideological space" (Petcu, 2015: 215).

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ORIGINAL PAPER

Normative Administrative Act

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Abstract

Current legal reality indicates growing tendencies of the Romanian administration in adopting legal administrative instruments with the purpose of regulating different areas of both local and central interest, such as organizing institutions, establishing local taxes, fiscal competences and internal procedures, with the consequence of limiting some rights or protecting the others. These trends are determined, on one hand, by the slow and difficult process of adopting the laws by the Parliament and, on the other hand, by the administration's tendency to clarify, explain or interpret the gaps or inaccuracies of laws or to "adjust" the laws in its own interest. From the perspective of the state of law, the administration can act only through the adoption of secondary law-making acts, respectively only upon specific legislative ability and cannot act against the law. The rule of law requires that the normative administrative act should be in accordance with the law. This stage in the normative hierarchy refers to several aspects. Normative administrative act can be adopted only according to the law. It is subsequent to the law. This means that it cannot intervene unless it puts a law into force. It cannot, on the other hand, add anything to the law. Any administrative provision which tends to regulate primary and not subsidiary to the law is devoid of legal efficiency. The content of the normative administrative act must be in accordance with the law which is authorizing it. The law and doctrine state that a normative administrative act is adopted only in the organization and enforcement of the law. Public authorities can only interpret the law in the organization and enforcement of which they shall issue normative administrative acts. This interpretation is not authentic, nor mandatory for the courts, which have jurisdictional control over these acts. Seen as a source of law, normative administrative act is the only one which can be censored by ordinary courts of justice, giving it a special status within the constitutional order.

Keywords: *law, normative, administrative, act, courts, public power*

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Normative Administrative Act

The concept of normative administrative act

Defined in the interwar period (Negulescu, 1925: 344) as "an act done by a clerk, from the administrative branch, pertaining to an administrative matter, which fall within the prerogatives of that clerk", is presented in recent doctrine as "the main form of public administration bodies activity, which consists of a unilateral and express manifestation of willingness to create, modify or extinguish rights and obligations, in achieving public power, under the main control of legality of the courts" (Iorgovan, 2005: 25). If during the interwar period, the concept was used in a purely formal sense, the current doctrine puts emphasizes not only the formal-material aspect, but also the functional-legal side of the administrative act, referring both to the authority and to the applicable legal regime. Law no. 554/2004 published in the Official Monitor no. 1.154 from 7 December 2004, does not give an explicit definition to the normative administrative act, but only to the administrative act in general, which is, according to art. 2 para. 1 letter c), the unilateral act with individual or normative nature issued by a public authority, in exercising a public power, to organize law enforcement or to enforce the law itself in concrete, which creates, modifies or extinguishes legal relations. Although the text of the law does not specifically mention, the administrative act can be defined as being an administrative act, only if its effects create, modify or extinguish relations of administrative law. A legal act cannot be defined as an administrative law, unless its effects regulate specific standards of administrative law. Related to this aspect, we must emphasize that a normative administrative act it shouldn't be confused with the specific rules of administrative law. Usually, these rules are published through administrative regulations, but may also be subject to other higher legal acts, laws or ordinances. On the other hand, an administrative act must not contain only rules of administrative law, as it may also include rules of civil law, labor law, etc. The doctrine during the communist period was also highlighting the need for social relations particular to administrative law, namely "a normative act (...) can regulate different categories of social relations, hence it belongs to administrative law only if and to the extent that it regulates social relations subject to administrative law" (Ionescu, 1970: 26). The first observation arising from the definition given by Administrative Court Proceedings Act is that the normative administrative act is adopted unilaterally by a public authority. The unilateral nature exists also in the case of acts which need the consent of several people who are part of the collective structure of a public authority, for example a local council. The mechanism of decision within the issuing public authority and the procedure for adopting it (a certain quorum required by law) does not remove the unilateral character, because all individuals involved in the adoption of the act (civil servants, politicians, local and county councilors) contribute to the achievement of the competence of the administrative body, ultimately resulting in a single legal will, that of the issuing authority. Regarding the normative administrative act, the question is whether it is possible for a single individual to be competent to issue such an act or this power should be given to the sole responsibility of public authorities, which requires collective management bodies.

In this case, in my opinion, the only answer can be the one which requires the adoption of the normative administrative act by collective public authorities. Being, in essence, a smaller law, both in terms of legal strength, and also regarding the level of the body which adopts it, the normative administrative act must respect, wherever possible, the principles for adopting the laws, in terms of acts adopted by the legislative power. Recent jurisprudence demonstrated, in many occasions, that normative administrative acts

issued by the holders of single-person position bodies, are illegal, because they are issued by abuse of power, mainly by expanding the boundaries of competence required by law, and also by breaking the rights and freedoms of citizens. (E.g. the order of the President of Health Insurance House, which named the issuing body of the tax decision for social health contributions). The distinction between individual or normative, from the text of the law refers to the extent of the effects of the administrative act. Normative administrative acts include compulsory regulations of principle, formulated in abstract, in order to be applied to an indeterminate number of persons, and individual acts are expressions of will which create, modify, abolish rights and obligations for one or more persons established in advance.

The features and particularities of normative administrative act

The normative character

Viewed from the functional perspective, the law) is a normative act which regulates a primary domain (Dănișor, 2008: 146. This is the central normative act in the legal system, being developed by the representative supreme legislative body of the state power, according to pre-established constitutional procedures, which includes general legal norms with compulsory and permanent character, under the sanction of the coercion force of the state. The law is issued in exercise of legislative functions conferred to the Parliament by the Constitution, while the administrative act is adopted in exercising the administration function to organize and enforce the law. The normative feature of the law, borrowed by the normative administrative act, requires that it contains general, abstract, regulations with mandatory character for an undetermined number of legal subjects or situations. The normative administrative act requires certain behaviors or establishes conducts, namely it imposes actions or inactions, establishing rights and obligations for the subjects of the administrative law. We can say that the normative administrative act is impersonal because it does not address to a specific topic or determined persons, predetermined and identified as such. This impersonal character does not mean that any administrative act applies to absolutely everyone. Some acts target all citizens, others target certain categories of subjects, such as taxpayers, drivers, civil servants, etc.

Source of law

Creating general and impersonal rules of conduct applicable to undetermined subjects, which can be enforced, if necessary through the coercive force of the state, only the normative administrative act has the character of a source of law (Dănișor, 2008: 155). These acts have an inferior judicial power than the other sources of law (constitution, laws, and ordinances), which means that the legal regulations they cover must be in accordance with the laws and other sources of higher law. As a rule, normative administrative acts include general rules derived from the law that organizes or puts it into enforcement. These are such acts, the ones issued by the Government and specialized public administration or by other central or local public institutions, only if they contain specific rules of administrative law.

Amongst these acts we can observe two categories. The first category refers to organizational administrative acts which regulate the organization and operation of a public authority or a public service. They are such acts, rules of internal procedures, rules of organization and functioning. These acts are adopted following the principle of legality and autonomy of will of the authorities, which gives them the right to organize their internal structures according to the specific of each separate administration. Such acts

Normative Administrative Act

were also called acts of internal administration (Negoiță 1977: 44). The second category, functional administrative acts are those which relate to the activity of an authority, the relationship between the authority and subjects, in the process of law enforcement. For example, local council decision for approving the amount for local taxes and contributions.

For these acts, specialization of each authority in relation to the different areas of activity where they operate on the basis and organization of the law, determines the reason of these rules. The administrative act may also regulate primarily, only in case of special and concrete delegation by law. In this situation, normative administrative act contains regulations derived directly from the Constitution. Thus, it was emphasized in the doctrine that "when there is a reserved legislative area, the general regulator power being given to the Executory, meaning that it can regulate by normative administrative act any area which is not expressly given to the competence of the Legislative, normative administrative act is subsequent directly to the constitution" (Dănișor, 2006: 200). As we shall see, courts of justice and the Constitutional Court have limited regulatory jurisdiction by normative administrative act, being excluded the area of organic laws, and also certain situations in which it was violated the principle of legality of administrative acts. It should also be noted that, during the communist period, it was allowed that the public authorities could issue normative regulations. In this regard it is stated that "the state administration represents a legal environment, because it is the expression of the legal rules governing its organization and activity and is also the instrument of legal norm that it enforces and also issues" (Negoiță 1977:41). A controversy in the doctrine was referring to the decrees of the President of Romania, with reference to the normative character and, implicitly, to the character of the source of law. Thus, it is accepted that presidential decrees can be a source of administrative law to the extent that they have normative character and are regulating in the area of Government competence (Deleanu, 2001: 362).

It argues that, according to the provisions of art. 93 of the Constitution, which establishes that the President of Romania institute, according to the law, state of siege or state of emergency throughout the country or in some territorial-administrative units and request the Parliament approval of the adopted measure, within 5 days of taking it, the decree of the President, based on those provisions, regulate the relations in the sphere of the executive in extraordinary situations and represent a source of administrative law. On the other hand, it is argued that it cannot be established, as a rule, that the decrees adopted by the President of Romania have normative character (Iorgovan, 2005: 132). In my opinion, in view of the nature of the presidential function, as it is regulated by the current Constitution, the President of Romania has the right to issue normative decrees. Only as an exception, in totally extraordinary situations, in its duty as commander of the armed forces, namely in the situation of rejecting the aggression, a task governed by the provisions of art. 92 par. 3 from the Constitution of Romania, we can say that the act has a normative character, and is implicitly a source of law. Regarding other constitutional prerogatives, the President cannot take fundamental decisions for the fate of the country unless he leads the Supreme Council of National Defense, as its President, its decrees acting only to make incident the collective judgments of the Supreme Council of National Defense, and in fact, to trigger the application of the legal framework in that area. Therefore, presidential decrees, issued in exercising of his constitutional powers, can only be individual administrative acts and may not constitute sources of administrative law.

Issuing in the achievement of the public power

This specific feature of the administrative act, generally, was forgotten by the Parliament at the time of the initial adoption of Law no. 554/2004 on administrative court proceedings. In spite of the important and defining character of this feature for the nature of the administrative act, the legislator needed three years to complete the contentious law, so that by Law no. 262/2007 amending and supplementing Law of administrative contentious no. 554/2004, published in the Official Monitor no. 510 of 30 July 2007, modified the content of the definition of administrative act from art. 2 par. 1 letter c, by adding the exercise of the public power when issuing an administrative act. The error of the legislator, whether or not intentional, is inexplicable because, in addition to the fact that the public power defines the administrative law and distinguishes this branch of public law from private law, the subject has been the object of debate in the Romanian doctrine, following the French branch, but also in foreign legal doctrine in general. Adding the feature of being adopted in a public power regime of the administrative act seems to be the legislator's option on doctrinal contradictions regarding the characterization of public law to be dominated by the theory of public power to the disadvantage of the public service feature. Or it can be a random choice on the concept made only in order to separate the administrative acts from other acts of the administration, which don't have administrative nature (e.g. provision of a mayor to hire a driver or contractual staff for his institution). This, while the Administrative Contentious Law does not define the term of public power, but only the term of public service.

Publicity

The moment from where the administrative act starts to take effect is its publication, as opposed to individual administrative act which is brought to the attention of the subject or determined subjects, to which it is intended to, through direct communication. It is necessary to bring the normative administrative act to the attention, by publicizing it in the Official Monitor of Romania or in county official monitors or of Bucharest city, respectively, or by other methods of advertising specific to each act, for example directly to public authorities. Normative administrative acts, such as orders with normative character, instructions and other acts of head of ministries and other bodies of central public administration, are published in the Official Monitor of Romania, Part I, to be known and opposable *erga omnes* due to their normative character. In accordance with the doctrine (Soare, 2006: 132). I consider that, given that the publication condition is not fulfilled, such acts don't come into force, because they don't have legal force. They can be considered, possibly, as a draft law.

Not being made public, a normative administrative act does not have legal effects and does not bind the subjects to which it is addressed to execute it, because they don't know the content of the act and they are unable to comply with it.

Regarding normative administrative acts issued by local authorities, these may, in relation to their nature, be published in official monitors of counties or may be subject to publication in accordance with art. 83 of Law no. 24/2000 regarding the norms of legislative technique for elaborating laws, according to which, in order to make them come into force, the normative acts adopted by local public authorities are made public, under Law no. 215/2001, republished, as amended and supplemented, by display in authorized locations and through publication in a local newspaper of wide circulation.

Normative Administrative Act

Recently, due to the digitization of media, the publication also takes place on the web-site of the institution. Addressing to a generic and indeterminable number of people, individual communication is not possible. For this reason, the Contentious Administrative Law established in accordance with art. 23 that, in case of cancellation of a normative administrative act, final and irrevocable court decisions which have cancelled in whole or in part an administrative act with normative character are generally binding and effective only for the future. They shall be published, after motivating them, at the request of courts, in the Official Monitor of Romania, Part I, or, where appropriate, in the official monitors of the counties or of Bucharest city, being exempted from paying fees for publication. If the time when the individual act is communicated is linked to the possibility of the person to start the judicial supervision procedure, by a prior complaint followed by a possible legal action in court, the moment of publicizing the normative administrative act is not linked to any sort of obligation for the subjects. This is because the administrative act is in effect until the moment of revocation by the issuing authority, and throughout this period, the interested person may fill in a prior complaint at any time.

Besides, in my opinion, this complaint can also be made after the revocation of the normative administrative act, even if the normative administrative act is no longer into force. In this situation of revocation of the act, any possible action, following the prior complaint, cannot be devoid of purpose, because, in the event of revocation, the normative administrative act produced legal effects throughout its existence, and where these effects were unlawful and caused violations of rights and legitimate interests of certain people they must be removed. In this sense was also rendered the decision of the High Court of Cassation and Justice no. 3585 dated September 27, 2007 unpublished, which, ruling on the exception of illegality of a repealed normative administrative act, stated that the repeal of the act during the proceedings does not render the object to appeal, because, on one hand, the administrative act with normative character targeted by the exception of illegality produced legal effects during the period when it was in force, and on the other hand, the legality of the act is analyzed in relation to the regulations in force at the date of issue and adoption. An additional argument is also the decision of the Constitutional Court regarding the possibility of declaring unconstitutional a law repealed, applicable for the same reasons to the normative administrative acts after they cease to be in force.

By the decision no. 766 dated 15.06.2011, regarding the exception of unconstitutionality of art. 29 par. (1) and Article 31 par. (1) and (3) of Law No.47 / 1992 on the organization and functioning of the Constitutional Court, it was decided that the collocation 'force' in the above mentioned, is constitutional as far as it is interpreted that the laws or ordinances, or the provisions from laws or ordinances whose legal effects continue to be produced also after they cease to be in force are also subject to constitutionality control. The decision marked a change in the practice of the Constitutional Court, the previous solution being rightfully appreciated as restrictive regarding the a posteriori role carried by the Court. In this regard it was emphasized in the literature that (Dănișor, 2014:206) "this manner of proceeding is not responding to the fulfilment of the other finality of the control: effective protection of rights and freedoms because they have been possibly affected by the law as long as it was in force".

Linked to the moment when the normative administrative act entered into force, in doctrine (Nedelcu, 2009: 133) it is stated that normative administrative acts should enter into force in accordance with art. 78 of the Constitution of Romania, namely three days after publication, if there is no other special term regulated inside the normative act. I agree with this opinion, but only regarding the recipients to whom the normative

administrative act is addressed to, who need time to comply with the regulated provisions. We cannot hold that, for the issuing authority, the act enters into force within three days from publication, because, as a result of the principle of legality in public administration activity, the act creates for the issuing body rights and obligations from the adoption date, namely it should be brought to the attention, to carry out its assumed obligations, to organize the regulated procedures and it cannot be revoked anymore, but only according to the law. Therefore, for the issuing body, the administrative act shall take effect from the time of its existence, namely from the time when the manifestation of will was produced, made under the procedural conditions provided by law. For this reason, the conditions for legality are analyzed in relation to the date of issue, and not only in terms of when that legal effect entered into force. Unlike normative administrative act, the individual one does not have to be published, but only communicated to the stakeholders. In this regard, it was adopted a solution of principle during the meeting of judges Section of H.C.C.J. from 22 October 2012, which established that the acts issued by the heads of central public authorities approving, for example, organizational structure, number of positions or the rules of organization and functioning of the institution, are acts of an individual nature being issued under delegation assigned to the issuer by Government decision, for enforcement and practical application of legal provisions with higher legal force, which makes their publication in the official Monitor not to be compulsory.

The role and place of the normative administrative act in the hierarchy of the internal rules in a state of law

Like any administrative act, the normative act benefits of the presumption of legality, the presumption of authenticity and the presumption of truthfulness, features that give it the legal force to be mandatory executed. Legality is the essential feature which characterizes the legal regime of administrative acts. This means that administrative acts must comply with the Constitution, with the laws passed by the Parliament, and also with other administrative acts with a greater legal force. This presumption of legality determines the strength of administrative acts, as acts of authority, which implies their execution by default, the requirement to observe them being part of the execution of the law.

On the other hand, diversified administrative practices, which have often been contradictory and the diversity of actions specific to public administration, causes a peculiar dynamism and mobility to administrative acts. These acts are replaced or changed quite quickly after their adoption, phenomenon that creates a real legislative inflation. Because of the specific of the administrative activity and of the fast transformations taking place in the administration, administrative law norms are more mobile than the norms of private law. Therefore, it was stated in the doctrine that administrative judicial norms have a wider legislative dispersion, leading to lack of coding which characterized the administrative law (Nedelcu, 2009: 148). The mobility specific to the norms of administrative law, characterized by constant adaptation to both the laws and ordinances that must be implemented, and also to the rules that govern the organization or the competence of the public authorities, leads to the fact that normative administrative acts will take more or less legal forms, depending on the means of action used, on the "interest" of the administration, especially local administration, interest which, depending on the colour of the political party, is different from the interest of the central administration or from the interest of the legislative authority. It should be reminded that, this mobility of administrative acts, despite being more hardened in the communist period, was specific to

Normative Administrative Act

the interwar period as well. In this respect (Negulescu 1925: 8), it was pointed out that "it is a stated fact (...) that public services are growing considerably, despite all criticisms that are made and despite the bad administration, which does not meet public needs and the high costs, brought by these services and yet new governments find necessary to bring other services, keeping also the ones criticized."

The above-described facts give a special role to the normative administrative act within the constitutional order, largely due to administration's attempts to primary regulate areas where this thing is prohibited or in other areas by breaking superior judicial norms. The question is whether the central or local administration can regulate in certain areas which are constitutionally reserved to certain normative acts. The answer can only be a negative one. Just as the area reserved to organic laws, as required by the Constitution in the provisions of art. 73 par. 3, having regard to the exceptional nature of those rules, cannot be covered even by an ordinary law, even more so a normative administrative act cannot regulate such relations. In this respect, the Constitutional Court ruled in a recent decision (https://www.ccr.ro/files/products/Decizie_172_2016.pdf), that the provisions of art. 18 of Law no. 360/2002 on the Statute policemen are unconstitutional, because they are contrary to article 1 par. (4) of the Constitution, regarding the principle of separation and balance of state powers (by delegation of one competence that belongs exclusively to the legislator to a member of the Government), and also art .1 par. (5) of the Constitution, in its structure regarding the predictability of law.

Those provisions established that, in the situations and conditions provided by the order of the minister of interior, the management positions can be occupied by exam or contest, as appropriate. The Court assumes that the legal regime of the policemen, civil public servant, with special status, is regulated by organic law according to Article 73 par. (3) let. j) of the Constitution, respectively Law No. 360/2002 and, therefore, essential aspects of employment on management positions of policemen must be regulated by organic law. Consequently, rules relating to the conclusion, performance, modification, suspension and termination of legal relation of employment, implicitly the ones regarding employment on management positions are related to the manner of execution of work relations. Legal provisions criticized not only because they don't regulate the employment procedure of policemen in management positions, but delegates the regulation of these important aspects to the ministry of resort who is empowered to adopt orders. Since, according to article 73 par. (3) let. j) of the Constitution, the status of civil servants is regulated by organic law and, taking into account that the essential aspects on employing on management positions aim at a change of work reports, the Court held that the issues in question should be regulated by an organic law, following that the specific rules of the procedure for employing on management positions should be explained and detailed by order of the minister of resort. Consequently, the criticized provisions of law, which establish the regulation of these issues through administrative acts, are contrary to Article 73 par. (3) let. j) of the Constitution.

Also, the Court holds that, according to the criticized provisions of the law, it brings us the situation that an essential aspect which targets the execution of working reports will be governed by an administrative act. Or, the norms which regulate the employment on management positions must meet certain requirements of stability and predictability. Thus, delegation of attribution to establish this norm to a member of the Government, by issuing acts of administrative nature which have an infralegal character, determines a state of legal uncertainty, such acts having usually a high degree of successive changes over time. So, on the background of legislative gaps highlighted

above, the Court also holds that the legislative solution provided by Article 18 of Law No.360 / 2002 is contrary to the norms of legislative technique, since, according to the Law no. 24/2000 on norms of legislative technique to develop normative acts, republished in the Official Monitor of Romania, Part I, no.260 of 21 April 2010, as amended and supplemented, normative orders are issued only on the basis and enforcement of the law, and they should be strictly limited to the framework established by the basic acts and for which execution were issued, without letting them to fill in the law, as it was done by the Order Vice prime minister, the Minister of Administration and Interior, no.69 /2009.

The Court, therefore, concludes that, for removing the flaw of unconstitutionality, essential aspects of employing on management positions should be regulated by an organic law, following that the rules specific to this procedure to be explained and detailed by order of the Minister of Administration and Interior. More observations can be deducted from the decision of the Court. First, as emphasized, the normative administrative act, which is an act with inferior legal force, cannot regulate the area of organic laws. The opposed solution would determine the violation of the principle of legality, because the administrative acts with normative character are issued only on the basis and in execution of the law and must be strictly limited to the framework set up by the acts on the basis and in execution of which they have been issued. The Court also explicitly underlines that mobility of the norms of administrative law and their frequent and unpredictably change would lead to a state of legal uncertainty, being contrary to the nature of organic laws and to the principle of security of judicial reports. Such an act does not meet the stability, predictability and clarity requirements. Not least, although it has not detailed the argumentation, the Court notes that by a normative administrative act the law cannot be completed. This observation is important because the current administrative activity that is the main form in which public administration is trying to elude the legal provisions with higher legal force. For example, administration's excess power, by widening regulatory competence in contradiction with the law, was considered when issuing the sentence no. 835 dated 08.02.2012 in case no. 9.914/2/2014 of Bucharest Court of Appeal - Section VIII Fiscal and Administrative Contentious. By the provisions of art. 35 par. (1) from the Order of the president of National Health Insurance House no. 617/2007, it was established that in accordance with art. 215 par. (3) of the law and art. 81 of the Code of Fiscal Procedure, for the individual persons' obligation to pay the taxes to the fund, who are insured through a contract of insurance, other than those for which revenue collection is done by ANAF, the debt is constituted, where appropriate, by the declaration referred to at art. 32 par. (4), tax decision issued by the competent authority of CAS, and also judgments on debts owed to the fund. According to the Court, it was held that the provisions from above violate art. 86 par. (1) of the Government Ordinance no. 92/2003, according to which the tax decision is issued by the competent fiscal body, and according to art. 17 par. (5) of the same law, the tax bodies are the National Agency for Fiscal Administration and its subordinate units, and also the specialized departments of local administration authorities. As a result, the organs of the National Health Insurance House are not tax bodies and, therefore, cannot issue tax decisions. The tax decision is a document which establishes the taxes (covered by Title VI of the Fiscal Procedure Code) and not an act of enforced execution. As a result, tax decision should not be confused with the enforcement title, while the latter is issued separately in accordance with art. 141 par. (4). Consequently, the power to issue enforcement titles does not include the one to issue tax decisions, these competencies being established by the legislator separately.

Normative Administrative Act

In conclusion, we emphasize that an administrative act must obey the constitutional principle of legality which dominates public law norms, so that, the administration will have to avoid regulations where the domain is specifically reserved to certain normative acts of a higher legal force and also excess of power by acquiring some illegal competences. A normative administrative act must meet the following characteristics: to be in accordance with the Constitution and the laws of the legislature body and to contain provisions contrary to them; to observe the principle of hierarchy of superior judicial norms in relation to the lower ones; to fall within the limits of territorial and material jurisdiction of the issuing public authority and not to be issued by excess of power; it cannot primary regulate in areas where regulation is provided for legally binding normative acts; to be issued in the form and respecting the procedure for each separate document.

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ORIGINAL PAPER

Employment in health and social assistance sector in European Union

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Abstract

The European Union is currently facing an increased need for social and health care services, considering the ageing phenomenon and the shortage of skilled labour force. Health and social assistance sector gains importance not only at national, but also at European levels. Demographic and economic changes generate consequences in the allotment of financial resources for social and health care services, but also on the recruitment and retention of staff working in public and private organizations. Various studies conducted at European and national levels show that health and social assistance sector is characterized by poor working conditions and low wages, with direct consequences on the ability of providers to attract and to retain highly qualified workforce. In the last years, health and social assistance sector proved to be one of the economic sectors with the highest growth in the European Union (EU). In 2011, about 10% of the total workforce at European level was employed in this sector. Starting from these realities, the present article aims to highlight the importance of health and social assistance activities in the European economy. The second objective is to determine the effects of the economic crisis on the overall employment in this sector at European level. The analysis is based on statistical analysis of Eurostat data and also on latest national and international reports. The final part of the article will allow formulating conclusions regarding the trends in employment at European level.

Keywords: *labour force, health and social assistance sector, employment, economic crisis*

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Introduction

Most of European countries are facing a need for more social and health care services, while there is a shortage of labour force. Health and social care and the sustainability of health care systems (due to the high level of costs associated with health and social care in older age) are essential and the European documents acknowledge that demographic changes create the need for fostering innovation, collaboration between stakeholders, and active involvement of individuals in research. (European Commission, 2012a: 5-6). According to the Statistical Classification of Economic Activities in the European Community (2008), the sector of health and social assistance (HSA) activities comprises human health activities, residential activities and all the social activities that don't imply accommodation. Although the labour market statistics, as well as the contribution of this economic sector to the general European and national outputs, are available for both health and social activities (either residential or not), the development remains unbalanced between activities that pertain to health care and those belonging to social care. Health care services cover the risk of becoming ill, while social services are designed to reduce the social inequalities or to promote social cohesion and inclusion for different types of persons in need. The sector is considered to be very important from the perspective of the European employment goals for 2020, as it concerns the overall health status of the labour workforce, enabling the people to remain economically active and productive. The health and social care services are also generating an important part of the number of jobs in the European economy and in the context of ageing process, these services contribute to the wellbeing of older people. In this article we intend to present the main features of the employment in health and social assistance sector at European level, aiming to identify the main factors that drive the trends in employment in this sector. The article is organised on two parts. In the first part of this article we identify the factors with potential to shape the employment in health and social assistance sector. The second part represents an analysis of the employment in this sector at European level. For the second part, statistical analysis is based on data provided by Eurostat.

Current factors affecting employment in health and social care activities at European level

In an ageing society, health and social care sector becomes increasingly important in Europe. This phenomenon generates consequences in the terms of funds 'spreading for social and health care services, but as well upon the recruitment and retention of staff working in organizations in this area. (Weber and Nevala, 2011:10). Not only the demographic change challenges the employment and the shape of health and social assistance sector, but also the social (changing in family patterns, increased labour participation of women) and the political factors (the ideological orientation of governments, the legislative changes), the economic impact of climate changes, the innovation and the technological development (lead to longer life expectancy with differences between men and women and increased the costs of care in old age), the end-user expectations (better informed users and higher quality of services expected). (Crepaldi, De Rosa and Pesce, 2012: 64-67; Toth, 2012: 164-166; Schulmann and Leichsenring, 2014: 12-14; Howat, Lawrie and Sutton, 2015: 12-15). A number of non-demographic factors (economic and financial crisis, government funding for social services and social care) have influenced the dynamics of this economic sector according to Schulz (2013: 1-2). Labour force migration and the internationalisation of social work

Employment in Health and Social Assistance Sector in European Union

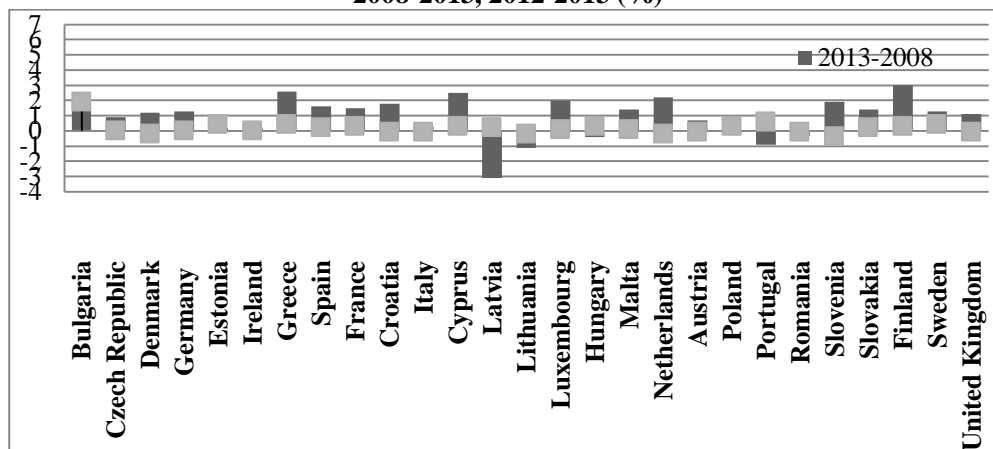
and health care activities have a strong impact on European economies, as they create negative social effects on family (Sănduleasa, Matei, 2015: 197), a shortage of available labour force in sending countries (Schulmann and Leichsenring, 2014: 9), as well as a major loss of investments in education in the countries of origin for migrants (Tilea, Vasile and Tilea, 2013: 31). The internationalisation of social work activities has a recognised potential to generate both economic development and new social problems that requires the intervention of state in different forms. (Grey, Fook, 2004: 630-631) With regards to social care activities, Dominelli (2010a: 4-7, 130; 2010b) appreciates that the globalisation generates changes in the management of social services and human resources, new means of communication, and new social needs and types of beneficiaries. Despite an increase of the labour force, various studies conducted at European and national level show that this economic sector is defined by poor working conditions and low wages, with consequences upon the ability of organizations to attract workforce with high skills and qualifications, especially for the social assistance part. The growing number of the elderly population, the low level of related expenses and the labour force migration stand among the factors with an impact on the employment in health and social assistance sector. In some of the Central and Eastern European (CEE) countries, there is an increased interest in developing models to allow the forecast of skills and qualifications needed in different economic activities (Tudose, Țoțan and Cristache, 2013: 114, 116). A number of recent studies highlight the difficulty to forecast the employment demand in this sector. These difficulties are related to the many factors that affect the health status of the population: on the one hand we consider factors such as the distribution of the population according to age and the average levels of population health status, the disposable income and the accessibility of social and health care services; on the other hand, these matters pertain to technological change and existing infrastructure. (Radvanský and Doválová, 2013: 1-2). A new approach of health and social care services is needed to tackle the demographic and non-demographic challenges and to maximise the use and effectiveness of human, financial and technological resources in this sector. Structural changes in CEE countries are the result of demographic changes, but also of the international division of labor, and could lead to labour market dysfunctionalities. (Tudose, Țoțan and Cristache, 2013: 117). Concerns about the health and the wellbeing of European citizens are not only important in the context of health care policies, since there are other European policies (regional policy, environmental policy, research policy and innovation policy, health and safety at work policy, social security, pensions policy) that integrate these concerns and actions.

Contribution of health and social assistance activities to the economic growth

The contribution of HSA in European economies is represented not only by the potential to generate new jobs, but also by the contribution to the new value created in the process of production. Health and social care organizations are important employers in the national economies of European states (see next sections). The share of gross value added in activities of public administration and defense, education, and HSA was around 20% in 2008. Even in the first year of economic crisis the contribution of the above activities to the total economic output exceeded the EU average (18.2%) in Belgium (21.1%), Denmark (22.5%), France (21.4%) and Sweden (23%). The lowest contribution was recorded in Slovakia (12.1%), while Romania ranked immediately before this country, with 12.2% of the total gross value added resulting from public administration and defense, education, HSA. (Eurostat, 2016e) The gross value added does fluctuate not only from country to country, but also from one year to another. Compared with 2008, the

largest growth recorded in 2013 characterised countries such as Finland, the Netherlands, Belgium, Greece, and Cyprus. For the same period, Lithuania recorded the biggest downfall in the gross value added, of 3.1 pp. (Figure 1).

Figure 1. Gross value added in public administration, defence, education and HSA, 2008-2013, 2012-2013 (%)



Source: Eurostat, online data code: [nama_nace10_c].

The contribution to the output of the European economy is even more significant if we look at the financing and expenditure of health care services. Across the European countries, the financing of health care services depends on the public policy. The total allocation of health care expenditure as a percentage of GDP is an indicator of the level of resources that a country is willing to allocate on the provision of health care services, in direct relation with the economic position and significant for the overall functioning of the health care system (Wendt, 2009: 434).

In the European countries, the value of the total health care expenditure as a percentage of GDP decreased in 2011 compared with 2008 only in countries like Estonia, Poland, and Slovakia. The overall decrease from these group of countries is to be found either in the reduction of the government expenditure (the case of Poland), either in the reduction of private investments in health care (Estonia and Slovakia). In 2011 the total amount of spending on health care varied significantly across European states. The share of expenditures allocated to this sector exceeded 10% of gross domestic product (GDP) in countries like Netherlands, Denmark, France, Austria, Germany, and Belgium. The second group of countries comprises states with a medium allocation of spending for health care sector: of six up to nine percentage of GDP. This group is more heterogeneous and includes mostly CEE countries. Romania and Latvia make the third group of countries, with the most modest allocation of spending as percentage of GDP dedicated to health care activities. (Eurostat, 2016h) In terms of total health care expenditure per capita, the lowest level is recorded in Romania and Latvia, while at the opposite are countries like Luxembourg and Belgium. Wendt (2009: 438-439) clustered the European countries in three groups based on both the level of public spending and the health care expenditure. The first group consists of Austria, Belgium, France, Germany and Luxembourg – countries with high level of total health expenditure, a high share of public funding, and moderate private out-of-pocket funding. The second group covers Denmark, United

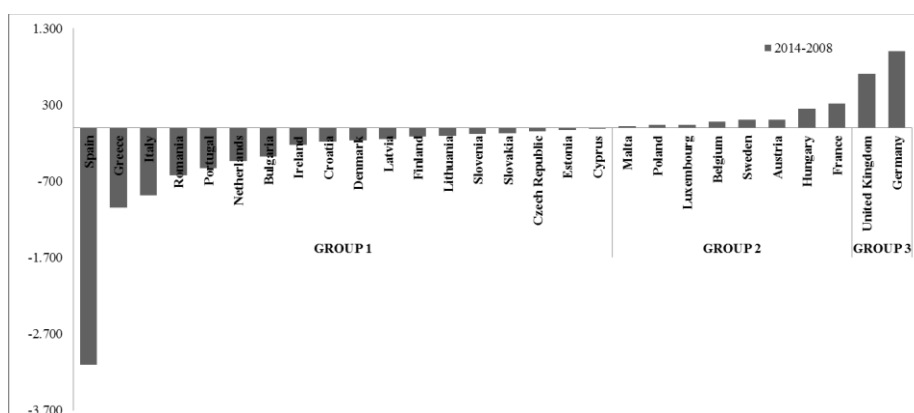
Employment in Health and Social Assistance Sector in European Union

Kingdom (UK), and Sweden – countries with a medium level of total health expenditure, a high share of public health funding, and a moderate private out-of-pocket funding; and the third group includes Portugal, Spain, and Finland with low level of total health expenditure and private out-of-pocket payments. The level of spending on long-term care services (as a percentage of GDP) continued to grow between 2008 and 2012, but the rates were reduced. Across the European countries, the highest increase was recorded in Netherlands with almost 0.7 pp increase in 2012 compared to 2008. Looking at the statistics for 2012, we could observe that cost-cutting didn't affect the sector of long-term care (with the exception of France and Romania that recorded a decrease of 0.02 pp, each). However the increases between 2008 and 2012 were very modest (below 0.2 pp) in most of the European countries (Eurostat, 2016i).

Description of employment in the health and social assistance sector

Significant differences between European countries characterize the sector for the last five years. Since the beginning of the economic crisis, the total population (15-64 years) employed in all economic activities decreased in 2014 compared to 2008, both at EU level (a decrease of 5550.1 thousands persons) as well as in most of the member states. In Figure 2 we depicted the European countries in three groups, based on changes in total employment, between 2008 and 2014: the first group comprises countries with decrease in total employment, the second group consists in countries with small to moderate increases of employed persons, and the third group includes only countries with high increases of total employment. For the first group of countries, the most significant decreases were recorded in Spain (3,106 thousands), Greece (1,043 thousands), Italy (889,100 persons) and Romania (627,800 persons). A small group of European countries recorded modest rises in employment: France (317,700 persons), Hungary (251.9 thousands), Austria (105,500 persons), Sweden (103,700 persons). Germany and UK ranked on the first position among the EU countries recording a growth of employment of 1005.4 thousands, respectively 703,500 persons (Eurostat, 2016a).

Figure 2. Population employed in EU, 2008-2014 (thousands persons)



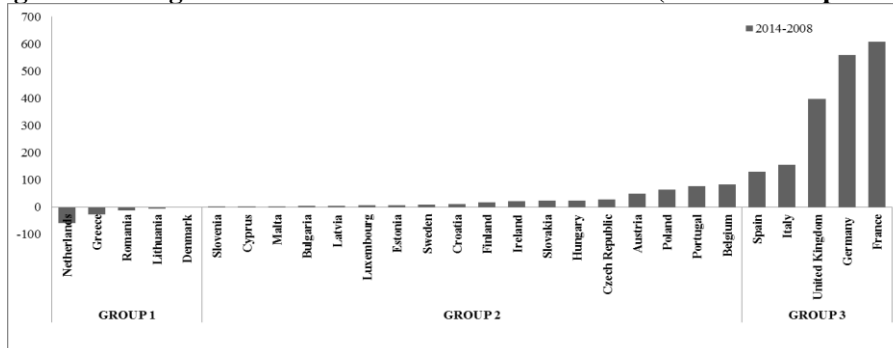
Source: Eurostat, online data code: [lfsa_egan].

These developments were not uniform and an analysis of the employment (15-64) by economic activity does reveal the fact that health and social care activities have achieved the most significant increases, in most of the EU Member States. In 2008, the

employment in health and social assistance activities in the EU28 as a whole represents 9.6%. Six years after, the employment in this sector has increased by 1.3 pp and has reached 10.9% in 2014. Unlike the rest of EU's economic activities, employment in this sector continued its growth throughout the general economic downturn. Similarly to the total employed persons, we can identify three groups of countries. Most of the European countries recorded decreases or modest rises of population employed in HSA activities – Group 1 and 2 of countries depicted in Figure 3. Among the countries with decline of employment in such economic activities, Netherlands recorded 58,800 persons, followed by Greece (26.9 thousands) and Romania (11.6 thousands). France (609,000 persons), Germany (560,500 people), and United Kingdom (397,400 persons) are to be found among the group of countries with no decreases of employment between 2008-2014, but as well among the countries with higher employment in HSA between 2008-2014. (Eurostat, 2016b). In 2008, the highest percentages of total employed population in health care and social assistance activities (HSA) were recorded in Denmark (17.7%), the Netherlands (15.8%), Sweden (15.6%), and Finland (15.2%). The lowest shares for employment in HSA activities were recorded in CEE countries such as Romania (4.3%), Latvia (4.4%), and Bulgaria (4.7%). During 2008-2014, the most significant growths of the proportion of people employed in HSA characterised Portugal (2.6 pp), Ireland (2.6 pp), France (2.2 pp), and Belgium (1.6 pp). Romania registered a small growth of 0.2 pp in 2014, compared to 2008. The main determinants for these increases have been the socio-demographic changes that have boosted the development of social and health care services. In 2014, the share of employed persons in HSA reached the highest values in Denmark (18.8%), Finland (16.6%), the Netherlands (16%) and Sweden (15.5%). Romania has recorded the lowest share of employment in health care and social assistance activities – 4.4%. (Eurostat, 2016b).

Employment growth in Western European countries is balanced by average decreases in CEE countries. 2014 marked an increase of all economic activities and even a stronger one in HSA: 2.6 million jobs were created in all economic activity while 510.2 thousands jobs were created in HSA, compared to the previous year (2013). (Figure 3) A return does occur to the situation recorded in 2008/2009 when 581,300 new jobs had been created in 2009 compared to the previous year. The employment trend in 2014 compared to 2013 was less significant, but was still high in Germany and France. CEE countries (e.g. Romania and Lithuania) have shown signs of employment revival in this sector.

Figure 3. Changes in health and social assistance sector (thousands of persons)

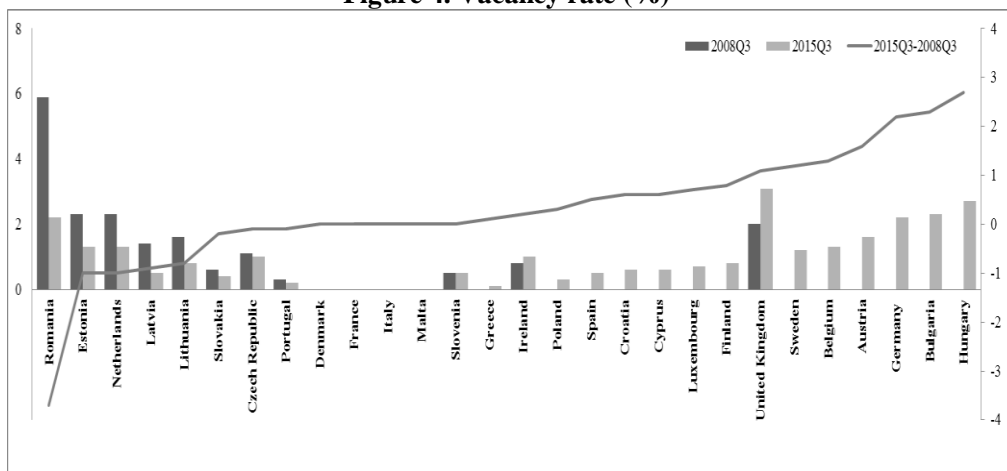


Source: Eurostat, online data code: [lfsa_egan2].

Employment in Health and Social Assistance Sector in European Union

In some EU member states employment in HSA is mainly concentrated in human health services: Romania figures among the member states with a significant share of employment in such activities (over 80% in 2015), together with Lithuania, Cyprus and Greece. Among the CEE countries, Hungary and Slovakia have a more balanced distribution of employment between human health, residential activities and all the social activities without accommodation. Countries with high share of employment in human health activities have a potential to enhance the employment in social work activities, and this represents an opportunity that should be exploited in the next years. For the same year, Western European countries as Luxembourg, Denmark, and France have recorded the highest shares of total employed persons in social work activities without accommodation (values over a third of the total employment in HSA for each country). Part of the increase in employment recorded in 2014 compared with 2008 in France and Luxembourg was in social work activities without accommodation, as the increase of employment for this part of HSA activities was of 3.8 pp in France, respectively of 5.1% in Luxembourg. (Eurostat, 2016c). The evolution of shortage in health and social care sector vary from one country to another. Countries with high share of older persons (65 years and over) and important number of migrants (e.g. Germany) or those with reforms in public health and social care sectors (e.g. Romania where employment in public health care and social care activities was blocked as a response to the economic crisis) are among those with the highest values of vacancy rates in 2015. According to Eurostat (2016d), during the 3rd quarter of 2008, the vacancy rate in HSA reached the highest value in Romania (5.9%) and the lowest ones in Portugal (0.3%) and Slovenia (0.5%). For the same quarter of 2015, the employment rate was reduced to zero in Belgium, Denmark, France, Greece, Spain, Croatia, Italy, Hungary, Malta and Slovenia (Figure 4).

Figure 4. Vacancy rate (%)



Source: Eurostat, online data code: [jvs_q_nace2]
 Note: neither seasonally adjusted nor calendar adjusted data.

Taking into account the present and future need of personnel in the health and social care services, strategies to increase the employment should be developed considering the ageing process and the migration flows from CEE countries to Western European countries and between CEE countries.

Characteristics of employment in HSA

The European Commission reports (2012b: 3; 2014: 7) highlighted that between 2008 and 2013 the employment in HSA was represented mostly by women (78%) and that 81% of the new jobs were filled in by women.

The health and social assistance sector is facing challenges in prevalence of the women employment and large wage differences between men and women employed in such activities (European Commission, 2014: 7). Changes in the population structure by age, changes in the family structure and households do generally affect employment growth in HSA and especially in the services of long-term care (Schulz, 2013: 1; Schulman and Leichsenring, 2014: 9, 47).

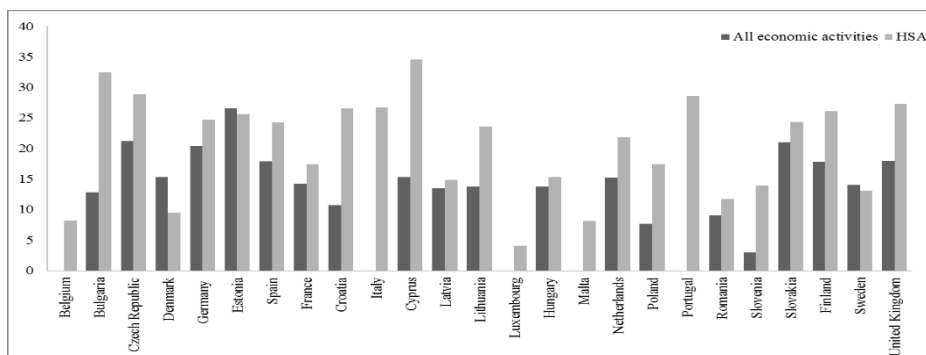
The number of women employed in HSA activities has gradually increased from 2008 to 2014, in the entire EU member states with 1,744.1 thousands persons (from 16,474 thousands in 2008 to 18,218 thousands women in 2014).

The dynamics of employment among women for 2008-2014 period shows significant increases in those countries where the total employment in HSA activities grew during the same period: France (up 21.5% - 542.1 thousands women), Germany (an increase of women employment by 459,200 persons), and UK (307.8 thousands persons). Italy and Spain recorded increases of approximately 100,000 women. Central and Eastern European countries recorded decreases in women's employment amid migration female labour force towards Western European countries (Austria, Germany) or towards countries characterized by the prevalence of family care regime, namely Italy or Spain (Eurostat, 2016b; Sănduleasa, 2014: 34; Rubin, Rendall, Rabinovich, Tsang, van Orange-Nassau and Janta, 2008: 2, 17, 43; Schulmann and Leichsenring, 2014: 9, 12).

Thus, in countries such as Romania and Lithuania, the women's employment has declined in 2014, compared with 2008. In 2014, an analysis of the gender pay gap in HSA showed that, in most of the member states, the pay gap between men and women is above the levels registered for the rest of the economic activities. The lower average earnings could be explained by the higher number of migrants and gender. (EASPD, 2010: 3-4) Denmark and Sweden are countries where wage gaps in HSA are lower than the ones recorded for other economic activities. The highest pay gaps are to be seen in some of the CEE countries (e.g. Bulgaria - 32.4%, Czech Republic - 28.8% or Croatia - 26.5%), emphasizing a more pronounced discrimination and inequalities in the labour market. The differences are around a third between men and women in these countries. Even in the Western European countries we can find some examples of high values of gender pay gaps: Germany -24.7%, UK - 27.3%, Portugal - 28.6%. (Eurostat, 2016f) The percentages reveal the dimension of the inequalities in HSA activities and require policy interventions to better recognize the work of women in health and social care (Figure 5).

Employment in Health and Social Assistance Sector in European Union

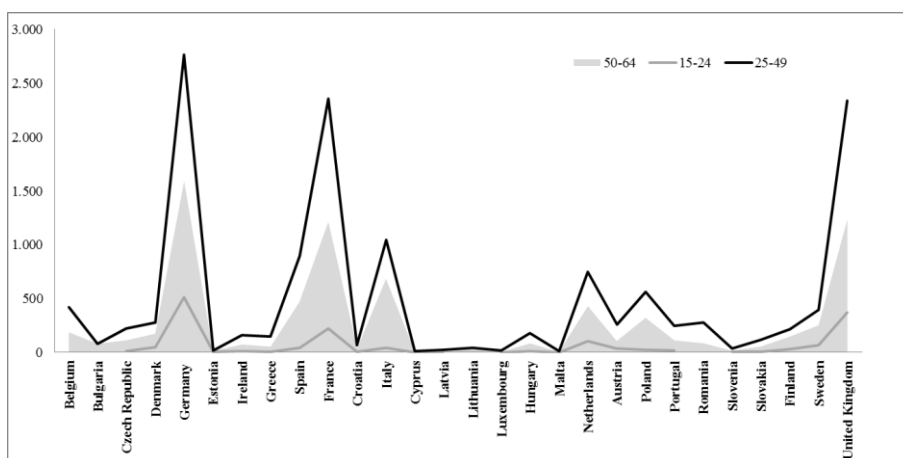
Figure 5. Gender pay gap in HSA vs. all economic activities, 2014 (%)



Source: Eurostat, online data code: [earn_gr_gpgr2].

In 2014, most of the persons employed in HSA at EU level, did belong to the 25-49 age group. Among the European countries, Italy, UK, Germany, and France attracted the highest numbers of young and middle aged professionals in HSA. They represents almost twice the number of professionals aged 50-64 years old in HSA in the same countries. The differences are even more important if we compare the employment for persons aged 25-49 years in these countries with the number of persons aged 15-24 years old. Employment in health and social assistance sector is less attractive among the young employed persons from Luxembourg (only 2.1% of total employed persons in this sector are between 15 and 24 years old), Malta (1.9%), Cyprus (0.8%), Estonia (2.2%) and Slovenia (2.5%). As an overall remark, the distribution of persons employed in health and social care activities is unbalanced between young and older workers, exception being made by Bulgaria with insignificant differences between the persons belonging to the 25-49 age group (76,800 people) and the ones over 50 years old (79,700 persons) (Figure 6).

Figure 6. Employment in HSA, by age, 2014 (thousands of persons)



Source: Eurostat, online data code: [lfsa_egan2].

The dynamics of employment by age groups (2008-2014) does show that countries with employment decreases for the 25-49 age group have high levels of employment among the 50-64 age group. Analyzing the Eurostat data (2016b), it becomes visible that the decline in the young population employed in HSA is more pronounced in Central and Eastern Europe: Czech Republic, Poland, Slovenia, Croatia, Romania and Slovakia, followed by Western European countries: Spain and the Netherlands.

Part-time employment and temporary contracts represents a current practice within the organizations of the HSA sector, especially for the social care organizations (due to the limited number of formal and informal carers). After 2008, the number of part-time workers has increased in almost all of the EU countries. The number of part-time workers in HSA was above the number of part-time workers in total economic activities for the majority of European countries (2014). The countries with the highest share of part-time worker in HSA activities are Netherlands (almost 80 percent in 2014) and Sweden (44.5 percent in 2014). Exceptions were recorded in Slovakia, Slovenia, Hungary, Croatia, Latvia (CEE countries). (Eurostat, 2016g) Female part-time employment in the HSA represented the majority, regardless of the year of analysis, 2008 or 2014. Part-time employment is associated with a large number of women employed, because caring responsibilities for dependents (children, elderly) within the family is still considered a task that should assigned to women. In this conditions, the reconciliation between work and family life remains a challenge for women providing children or elderly care and they tend to involve in part-time jobs (Schutz, 2013: 15; Schulmann, Leichsenring, 2014: 23) The number of temporary contracts in Germany, Spain, and France maintained at the highest level before and after the economic crisis, with decreases in 2014 compared to 2008. In case of some CEE countries the lack of data make difficult to appreciate to what extent we can appreciate that the working conditions in HSA are being precarious.

Quality of employment in health and social care sector

Reports of the European Commission (2014: 11) emphasize that in most of the European countries, workers in the health and social assistance sector have a higher level of qualification than the average of qualification required for other sectors, exception made of Luxembourg and France. Difference of qualifications could be observed between the health care and social care parts. While health care activities are characterized by high level of qualifications, for the social care part additional training is needed (EASPD, 2010: 4; Pîrciog et al., 2013). Difficulties in the provision of health and social care services are related with the lack of qualified personal. Lifelong learning facilitates the adjustments of workers to the labour market requirements (Paşnicu, Tudose, 2012: 1-2) The low level of wages, the significant level of stress and not at least the insufficient recognition of the profession contribute to the shortage of personnel in HSA, in some of the CEE countries (e.g. Romania). The need for continuous training of health and social care staff is acknowledged also in Bulgaria and Latvia. (Pîrciog et al., 2013) A series of studies identified a close connection between the skills and behaviors of the care staff and the quality of the care provided to patients (Dawson, 2009: 13-14; West, Dawson, 2012: 20).

Conclusion

The increase demand for health and social care is a consequence of the ageing of populations and the health status of older people. The health and social care sector has a fundamental role in promoting social inclusion and in reducing the risk of poverty and

Employment in Health and Social Assistance Sector in European Union

social inequality. For the European economy, this economic sector is an actual and future source of new jobs and do have important contributions to the overall economic output. The economic crisis has brought many challenges in terms of budgetary cuts and of employment, as in many European countries the health and social care services depends on the public policy. Among the health care expenditure, the level of long-term care services (as a percentage of GDP) continued to grow between 2008 and 2012, even the rates were reduced. The employment in HSA continued the positive trend from 2008 throughout the general economic downturn. However, the employment growth in Western European countries was balanced by average decreases in CEE countries. Regarding the distribution of employment between main activities comprised in HSA, Romania, Lithuania, Cyprus and Greece are countries with a significant share of employment in human health activities, while other states (Luxembourg, Denmark, and France) record the highest shares of employed persons in social work activities. The vacancy rate remained high in countries with reforms in public health and social care sector. The sector continuous to be defined by gender differences in wage levels and by precarious work conditions, the major challenges will be reflected in the difficulties related to an adequate response towards the demand for health and social services, due to the population ageing. Policy changes should convince the young workers to enter the sector. In the same time more protection and stability should be provided to women involved in health and social care activities. Part-time employment is a common practice within the organizations of the HSA sector, especially for the social care organizations. The number of part-time workers has increased in almost all of the EU countries after 2008 and the female part-time employment in the HSA represented the majority, regardless of the year of analysis: 2008 or 2014. The labour force migration from CEE countries to Western Europe, reveal a gap between the areas of economic activity important at European level and those considered a strategic option at national level. The high demand for these types of services, the structural mutations occurring in the configuration of family and in the access to the labour market of men and women are expected to bring positive effects, to be reflected in employment growth of the sector. However considering the prevalence of part-time employment and the number of working hours in this sector, the limited prospects for career development (especially for the social care part) and the low levels of payments are features that characterize employment in HSA.

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ORIGINAL PAPER

Gender Role Attitudes and Implications on the Ability to Negotiate the Balance between Work and Family Life

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Abstract

Although Romanian women express egalitarian opinions regarding their engagement on labour market and in child caregiving, data show that parenthood has a different impact on women and men's employment. The gender gap in employment increases as the number of children in the family grows. Children's age also has an impact. Thus, the gender gap in employment reduces by almost half for adults with children older than 12 years (13.5 percentage points in Romania in 2014), compared with adults having children younger than 6 years of age (23.2 points percentage). Women continue to assume the bulk of the nurturing and caregiving responsibilities in their household. This article uses a sociological approach regarding the impact of parenthood on employment with special focus on women's gender role attitudes and their implications on the ability to negotiate the balance between work and family life. The paper is based on a quantitative analysis using data from the European Labour Force Survey (EU LFS) completed by qualitative research findings from two focus groups developed in Bucharest among working mothers.

Keywords: *gender role attitudes, work-life balance, gender gap in parental employment, working mothers*

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Introduction

Europe 2020, the European Union's ten-year economic growth Strategy, was launched in 2010 aiming to create the conditions for *smart* (through more effective investments in education, research and innovation), *sustainable* (through a move towards a low-carbon economy) and *inclusive* (with a strong emphasis on job creation and poverty reduction) *growth*. To measure progress in meeting the Europe 2020 goals, 5 headline targets have been agreed for European Union as a whole, rendered into national targets reflecting the diversity of Member States' situations and circumstances (European Commission, 2010). *Employment* represents one of the 5 objectives for which a target was set: 75% of the 20-64 year-olds to be employed by 2020 in European Union. Given the high gender gap in employment, in order to achieve the EU's target of 75% of men and women in employment in 2020, coordinated efforts are required to close the gender gap and to facilitate women's labour-market participation. Such coordinated efforts involve making it easier to balance caring and professional responsibilities, and also a more equal sharing of time spent on care and household activities (European Commission, 2015).

According to the Romanian target regarding employment, as set out in the National Reform Programme (NRP) in April 2014, 70% of the 20-64 year-olds should be employed by 2020 (Romanian Government, 2015). Romania has one of the lowest targets in EU regarding the employment rate. As an eastern ex-communist European country, Romania experienced a smaller gender employment gap during communism when the State encouraged women's participation on labour market. Yet, the Romanian communist regime enhanced the traditional cultural models regarding gender roles, maintaining hierarchies and gender disparities in society. The post-socialist picture is very different with regards to women's participation on labour market, with ascending trends regarding the gender employment gap, especially after the global economic crisis started in 2008.

The ex and post-communist image of the Romanian society conducts to the idea that the evolution of the gender gap in employment reflects the variety of political and economic factors, but also the influence of socio-cultural factors such as the hegemonic cultural beliefs shaped or enforced by different institutions (Sănduleasa, 2015). Public policies may promote, reproduce or even deepen the traditional cultural model with regards to gender roles, but governments may also decide, at some point, to promote policies aiming to change the cultural model, in which point special attention should be paid on the risk of failure. Studies of public policies' failure typically assess the effectiveness, efficiency, and/or performance, but a special attention should also be paid to the policy legitimacy. Legitimacy refers to the public participation in the implementation of government strategies used for enacting policy change. In light of the need to increase female participation rates on the labour market, housework became an important theme of the academic international studies. Although many scholars argue that the behaviour of women between paid work and family life can be explained by the effects of welfare state policies such as public childcare provision, *cultural values* also contribute to the explanation of the behaviour of women between family and employment, as culture interacts with welfare state policies (Pfau-Effinger, 2004).

Researches show that the division of household labour in the family reproduces gender as a social category (Lewin-Epstein, Stier and Braun 2006; Greenstein, 2000). Ridgeway and Correll (2004) argue that gender is "*an institutionalized system of social practices for constituting people as two significantly different categories, men and women,*

and organizing social relations of inequality on the basis of that difference”. During social interaction, the category of sex receives social validation, which means that gender is a social phenomenon. So, the fact that individuals categorize themselves as men or women and as similar or different from others with regards to gender is not a natural process, but *socially constructed based on cultural beliefs*. The attitudes and behaviours that society expects men and women to adopt in public and private life are called in sociology *gender roles*. The construction of gender roles is subject to change from one historical period to another and from one society to another, under the influence of economic and political factors. Research studies describe three historical stages regarding the construction of gender roles: *Traditional gender role ideology*: women prioritize their family responsibilities by fulfilling roles as mothers, wives and housewives, while men prioritize work-related responsibilities by acting as the main income earner in the household; *Egalitarian gender role ideology*: values gender roles equally divided between men and women both in the private and the public sphere of life; a family with egalitarian values is the opposite of a family with traditional patriarchal values; *Neotraditional gender role ideology*: coexistence of alternative traditional and egalitarian gender role beliefs; in a Neotraditional family both partners actively participate on the labour market and in activities within the household, but a rather unequal division of labour remains since both spouses are engaged in paid employment, but the majority of unpaid work within the household is carried out by women.

The transition from traditional to the egalitarian gender role attitudes happened faster for women than for men, women being the ones who benefit most from the account of gender equality (Thornton and Young-DeMarco, 2001; Ridgeway, 1997; Ciabattari, 2001). Although women’s participation on labour market increased in many societies, this was not translated into greater involvement of men in housework (housekeeping, caring for children). Analysing the division of household tasks and childcare between partners is a good method to measure the egalitarianism of a family, as men usually solve the conflict between work and family responsibilities in favour of the work, while women solve this conflict in favour of the family (Tereškinas, 2010). While in terms of promoting gender equality outside the family it is easier to promote specific measures and policies, the state cannot interfere in the negotiation process of gender roles between the spouses, this being a private matter.

Hegemonic cultural beliefs related to gender roles act as guidelines for the gender system, and the basic structure of these beliefs is not easily eroded despite the changes occurring in terms of socio-economic conditions and despite the promotion of policies supporting gender equality (Ridgeway and Correll, 2004). Cultural aspects remain a determining factor in the negotiation of gender roles within the family, but also in the workplace, and in society in general. Under the influence of cultural factors, spouses negotiate the division of domestic labour by adopting one of the following behavioural patterns: *Complementary-traditional gender roles model*: wife participates in a lesser extent in paid economic activities, involving itself more in unpaid activities within the household while the husband is dedicated especially to labour market participation; *Women's “double burden” model*: the wife works to earn money, but she is also responsible for significant amounts of unpaid domestic labour; *Shared gender roles model*: husband and wife equally participate in domestic labour.

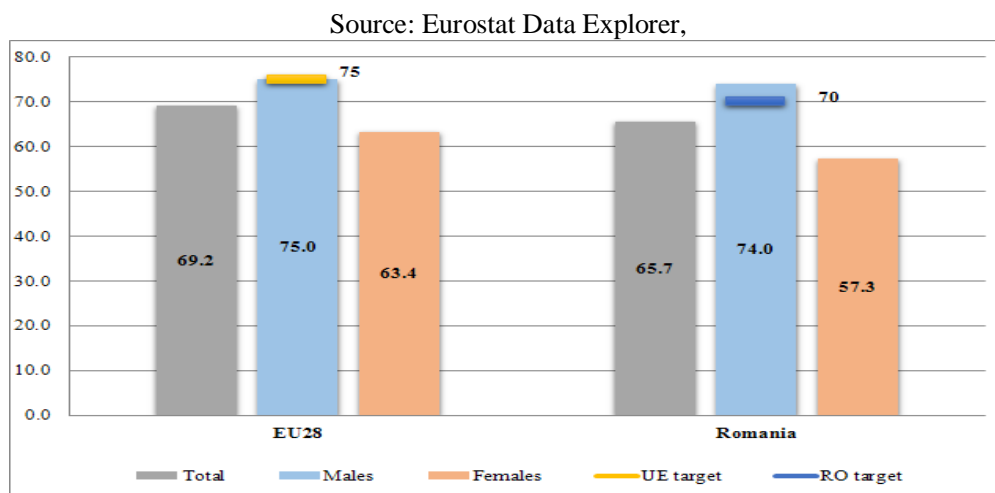
Data and Method

This paper uses analysis of official statistics from the European Labour Force Survey (EU LFS) regarding the impact of parenthood on employment in Romania and at EU28 level. The quantitative data from official statistics are complemented by qualitative data collected through two focus groups developed in Bucharest in 2015 among 16 working married women, with stable jobs (working under a full-time or part-time contract, with at least one year of continuous employment experience) and taking care of at least one dependent person from the family (child or elderly person). Before participating in focus groups, all women were asked to answer to a questionnaire developed on the basis of the index of sex-role orientation (ISRO)*. With the aid of the questionnaire, *traditional/non-traditional attitudes* regarding the gendered division of housework and female participation on labour market were measured. The two focus groups measured *behaviours* regarding the implications of gender role attitudes on the ability to negotiate the balance between work and family life, by asking participating women to motivate their answers to the ISRO based questionnaire.

Europe 2020 targets in employment

According to EU LFS, one could say that Romania already met the national target if looking at the employment rate of male population aged 20 to 64 in 2014. Yet, the gender gap in employment is high, thus the total employment rate of population aged 20 to 64 being lowered by the reduced value of the indicator in the case of female population (only 57.3%).

Figure 1. Employment rate (20-64 age group) 2014, Europe 2020 headline target and RO target



online data code: [lfsa_ergan].

Note: Employment rate represents employed persons as a percentage of same age total population.

* The index of sex-role orientation was developed by Dreyer, Woods and James (1981) and consists of 16 attitude statements, each attitude statement accompanied by a 5-point response scale ranging from 1 = strongly disagree to 5 = strongly agree.

The impact of parenthood on employment

Female employment rates (FER) generally decrease, while men’s increase, as the number of children in family is growing. As a consequence, the gender gap in employment widens significantly as the number of children in family increases. So, parenthood is one of factors underlying the gender employment gap. In 2014, the average gender employment gap in EU28 was of only 1.8 percentage points for childless adults aged between 20 and 49*, as against of 29.8 percentage points for persons with three or more children. In Romania’s case, the average gender employment gap was of 8.6 percentage points for childless adults and of 23.3 percentage points for adults with three or more children (Table 1).

Table 1. Female employment rates (FER) and gender employment gap (GEG) by presence of children, age cohort 20-49, EU28 and RO, 2014

	No children		1 child		2 children		3 children or more	
	FER	GEG	FER	GEG	FER	GEG	FER	GEG
EU28	74.9	1.8	70.8	14.2	69.8	19.4	54.8	29.8
Romania	70.1	8.6	71.5	16.1	67.2	20.2	52.9	23.3

Source: Eurostat Data Explorer - Labour Force Survey, online data code: [lfst_hheredch].

Note: Gender employment gap represents percentage point difference between the employment rates for men and for women.

What really increases the gender employment gap is the age of the youngest child. Both in Romania and at EU28 level, the gender gap reduces as the age of the youngest child increases, which means that mothers are still the ones who generally take the leave after a child is born. Still, there are some differences between Romania and the European average. Thus, in the case of adults with the youngest child aged less than 6, the gender employment gap in EU28 is higher as compared to Romania, while in the case of adults with the youngest child aged 12 years or over, the situation reverses (Table 2).

Table 2 - Female employment rates (FER) and gender employment gap (GEG) by the age of youngest child, age cohort 20-49, EU28 and RO, 2014

	Less than 6 years		From 6 to 11 years		12 years or over	
	FER	GEG	FER	GEG	FER	GEG
EU28	61.7	26.5	72.0	16.3	73.9	8.5
Romania	61.8	23.2	67.9	19.3	72.8	13.5

Source: Eurostat Data Explorer - Labour Force Survey, online data code: [lfst_hheredch].

Note: Gender employment gap represents percentage point difference between the employment rates for men and for women.

* The upper limit of 49 years was used for the age cohort, given the fact that conventional international statistical usage for the calculation of fertility rates is the age group 15-49.

Gender Role Attitudes and Implications on the Ability to Negotiate the Balance ...

On the other hand, analysing the gender employment gap in relation to parent's educational level, it is observed the fact that there is a relation between employment, education, parenthood and gender both in Romania and at EU28 level. Gender employment gap reduces in the case of adults with higher education, regardless the age of the youngest child. The highest gender gap in employment is registered in case of adults with low educational levels, regardless the age of the youngest child, both in Romania and at EU28 level (Table 3).

Table 3 - Gender employment gap by parent's educational level and age of youngest child, age cohort 20-49, EU28 and RO, 2014

Age of youngest child	Education	EU28	Romania
Less than 6 years	ISCED 0-2	39	31.5
	ISCED 3-4	30.1	26.6
	ISCED 5-8	17.9	7.8
From 6 to 11 years	ISCED 0-2	27.5	23.6
	ISCED 3-4	16.2	19.3
	ISCED 5-8	9.6	7.5
12 years or over	ISCED 0-2	17.2	19.7
	ISCED 3-4	7.7	13.5
	ISCED 5-8	3.3	2.3

Source: Eurostat Data Explorer - Labour Force Survey, online data code: [lfst_hheredch].

Note: Gender employment gap represents percentage point difference between the employment rates for men and for women.

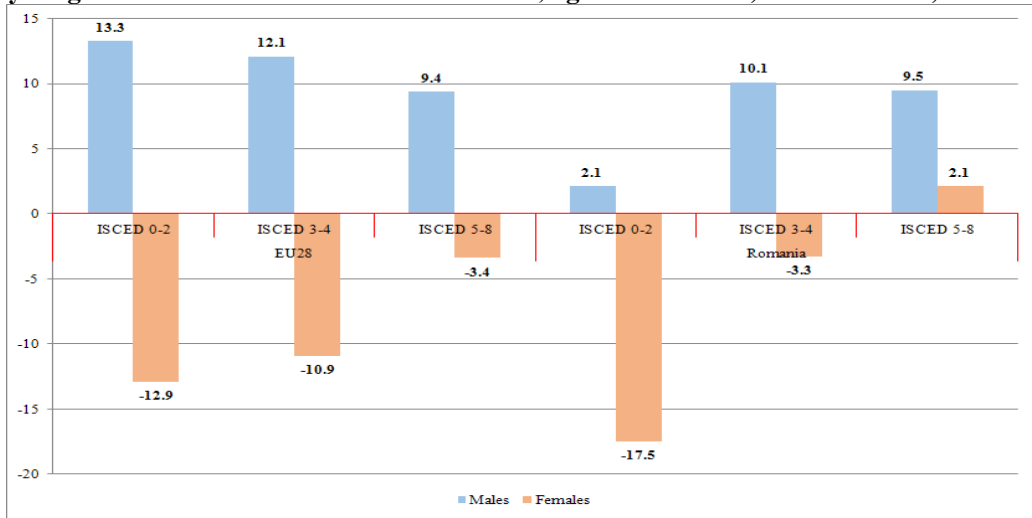
A special attention should be paid to the analysis of the gender gap in employment by comparing the employment rates of adults with and without children, within each gender category separately, women and men respectively.

The presence of a child younger than 6 increases labour market participation of the male population aged between 20 and 49 year old, while the participation of women on labour market is negatively influenced by the presence of a child younger than 6.

In Romania, the employment rate of women with a child younger than 6 was 2,6 percentage points lower than that of women without children, whereas the employment rate of males with a child younger than 6 was 9.4 percentage points higher than that of men without children, in 2014.

When included the level of education into analysis, it is observed that in Romania the participation of women on labour market is negatively influenced by the presence of a child younger than 6 in the case of mothers with lower educational levels (ISCED 0-4), but not in the case of mothers with tertiary education (Figure 2).

Figure 2. Employment gap by gender depending on the presence of a child younger than 6 and adult's educational level, age cohort 20-49, EU28 and RO, 2014



Source: Eurostat Data Explorer - Labour Force Survey, online data code: [lfst_hheredch].

Note: Employment gap represents percentage point difference between the employment rates of the ones without children and the ones with a child under 6 years old, per gender.

Factors generating work-life conflict among families with children

Empirical data from qualitative research conducted by INCSMPS team in 2015 measured behaviours regarding the implications of gender role attitudes on the ability to negotiate the balance between work and family life. As mentioned above, before participating in group discussions, women selected for the qualitative study were asked to answer to a questionnaire containing several attitude statements, each accompanied by a 5-point response scale ranging from “strongly disagree” to “strongly agree”. During group discussions, women were asked additional opened questions, in order to find out the motivations of their answers to the ISRO based questionnaire and to identify the behavioural patterns with regards to the division of domestic labour and the participation on labour market.

Almost all women strongly disagreed with the statement “*Except in special cases, the wife should do the cooking and house cleaning, and the husband should provide the family with money*”, which means, on one hand, that they support women’s participation on the labour market and, on the other hand, that the husbands should also involve in household chores. Yet, only 56% of the women participating to the study strongly disagreed with the statement “*Women should be concerned with their duties of child rearing and house tending rather than with their careers*”, while 25% of them nor agreed nor disagreed and 19% agreed strongly or partially. Even all of them supported the idea of equality between spouses and said they received help from their husbands with household chores, women participating in the study acknowledged that they are the ones who do most of the housework and, in their family, husband and wife do not equally participate in domestic labour. So, even if they consider themselves as being part of

Gender Role Attitudes and Implications on the Ability to Negotiate the Balance ...

egalitarian families, women participating in group discussions are primarily responsible for the family and home, despite being involved in the paid work also.

According to the subjects of the study, men are less willing to participate in domestic work and women have an important role in changing men's conservative attitudes with regards to gender roles. In the absence of ECEC services (early childhood education and care), the support received from husband is important for the mother when she returns to work from parental leave.

"I cannot say that we share housework equally, but, for example, when I am at work and he is home, he takes care of the children, he goes in park with them. But he doesn't do homework, I am the only one helping children with their homework. The other housework activities we share as much as we can." (F, age 39, secondary education)

"I feel superior for being able to do all these things. [...] If I saw him [the husband] sitting on the chair and not doing anything and not helping me around the house and not getting involved at all, perhaps frustration would appear and I'd say <Man, am I lower or what?>, but as long as he helps me with something around the house..." (F, age 48, higher education)

"After 2 years of staying home [parental leave], it is hard to come back to work. Things have evolved, you have to retrieve and in order to catch up you need your husband's help...you and your husband need to take turns...the effort is huge." (F, age 45, secondary education)

"The wife has a very important role in husband's participation in housework. They [men] never say: <Let me do that!>, it is you [the women] saying <Could you help me with...?>, and he says <Yeah, sure, okay.>I think there are very few men who take the initiative to do domestic work..." (F, age 45, higher education)

"As the woman learns, a man can learn also [to do housework and take care of children]" (F, age 45, secondary education)

Opinions regarding the statement *"I could not respect a man if he decided to stay at home and take care of his children while his wife worked"* were divided between strongly disagreement, nor agreement nor disagreement, and strongly agreement. The same situation was registered with regards to the statement *"I approve of a woman providing the financial support for the family while the husband does the household chores"*. Women participating in the study motivated their opinions by saying that both the husband and wife should have paid jobs, and that they would accept their husbands' decision to stay home and take care of the children and house only temporarily and only if there is a crisis situation within the family that inquires one of the spouses to stay home (for example, the wife earns more money, therefore it is more convenient that the husband stay home so that family's budget be less affected).

"If both spouses agree, and it is for a limited period of time, in certain situations...then there is no question of losing respect..." (F, age 45, higher education)

"I have colleagues who stayed home with their new born children because the wife earned more money at her job" (F, age 48, higher education)

“This is how things are done in Romania, in general. But it doesn’t necessarily have to be like that. Maybe family members could talk and decide that who earns more money goes to work and the other stays home [...].” (F, age 37, secondary education)

Balancing work with family life is not easy for Romanian women, especially when preschool children are involved. Presently, public ECEC services are insufficiently developed in Romania, as the access to these services gradually deteriorated after the fall of communist regime. In big cities, the lack of public services is partially covered by the private sector, but only a small group of parents can afford to pay for private nurseries or kindergartens, or even for a nanny. Most working parents have to find alternative solutions such as asking for grandparents’ help.

“It’s a constant stress. I wake up at 6 in the morning, then run the nursery, go to work, come back from work...” (F, age 35, higher education)
“It was terrible with the nursery. Public nurseries are too few. Private nurseries...you go to work and still don’t have enough money to pay for them...” (F, age 45, secondary education)

Having a part-time job is not an option in Romania, given the low wages relative to daily expenses, especially in the case of families with children. On the other hand, parents hit a wall when trying to negotiate flexible working arrangements with their employers. Women are even more affected by the lack of interest from employers to offer working conditions designed to help people balance work and family life (flexible work schedules, support for breastfeeding in the workplace, etc.). Since they hardly receive support from their husbands or from their employers, women feel that they have to adjust their professional life to their family requirements, thus prioritizing family and not professional life.

“He [employer] called me when the child was 11 months and told me <If you’re not coming back to work on Monday, you are not coming back at all. I know you have the right to stay home, but ...> And I had to go back to work.” (F, age 45, secondary education)
“[Family responsibilities] can be an obstacle because I think the reasoning is: <I do not aspire to a management position because I know that maybe tomorrow one of my family members might get sick and need my help...>” (F, age 48, higher education)

Only one half of women participating in the group discussions agreed with the statement *“A woman should not let bearing and rearing children stand in the way of a career if she wants it”*. On one hand, most women said that it is important for a child to stay close to his mother in his early years, and, on the other hand, respondents said they did not want to be put in the position to choose between career and children, they would like to receive support so that they could take care of family and career as well. Women should learn to better negotiate their working arrangements and fight harder for equal rights, according to one of the participants in group discussions.

“I personally would never have given up. I have 3 children, three boys, and I raised them with difficulty. But I would never have given up my career...even if someone would have paid me 7 times my wage to give up. Because I felt the need for fulfilment and development. I did not want that everything I learned and planted in me since I was little to end in staying home. I wanted to develop myself intellectually, mentally, spiritually.” (F, age 58, higher education)

“From my point of view, we [women] should not give up. As Romanian citizen, I have rights, and you, as employer are obligated, on the territory of the Romanian state, to respect the rules and laws from here. Absolutely!” (F, age 45, higher education)

Conclusions

In the context of Europe 2020 Strategy, Romania is below the national target regarding labour market participation of women and men aged 20 to 64. Although families with both spouses working are widespread in Romania, the gender gap in employment is higher compared to other European countries and women carry the biggest load of housework and childcare.

There is a relation between employment, education, parenthood and gender both in Romania and at EU28 level. In Romania, the gender employment gap is significantly higher in the case of parents with lower educational levels (ISCED 0-2) compared to parents with higher education (ISCED 5-8), especially in the case of adults with preschool children. The gender gap in employment is higher in Romania than the European average also in the case of people without children, meaning that the presence of children is not the only variable influencing women's participation on the labour market in Romania.

Women today perform less housework than previous generations, and men perform more household chores than their predecessors. However, results of the qualitative study confirm that the division of domestic work is still unequal in Romania, although the dual-breadwinner model exists for several decades, intensively promoted by the communist regime. The egalitarian gender role model is the ideal to aspire rather than a tangible practice. The wife continues to be responsible for significant amounts of unpaid domestic labour in Romanian families, but since there is evidence of husbands' participation in childcare and housework, we might argue that, at least in large urban areas where there is the largest share of people with higher education, a new model of family is shaping: the neotraditional family model.

Yet, the Romanian social system is still underdeveloped in terms of finding the best solutions to reconcile work and family life. Cultural values can act as barriers to defining gender roles in the family and in society based on equity, as the distribution of gender roles within the family is invariably reflected outside the family. Since a large share of the Romanian population lives in rural areas (46% according to the 2011 Census), a special attention should be paid to people living in these areas, as they tend to have more conservative beliefs and practices with regards to gender roles.

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ORIGINAL PAPER

Discharging Civil Obligations by Payment as Provided by the Romanian Civil Code

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Abstract

Payment is the main way of discharging civil obligations. The Romanian Civil Code regulates in detail all these aspects: the notion of payment, the subjects of the payment, the terms and conditions of payment, the proof of payment, payment imputation, the formal notice to the creditor. The payment has the effect of extinguishing the legal relation of obligations as a result of the performance of the object of the legal relation in question. It involves the voluntary performance of the object of the obligation. So that the obligation can be discharged by payment, the debtor must perform exactly the obligation he owes.

Keywords: *payment, discharge of obligation, performance of obligation, object of obligation, ways of discharging obligations*

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Preliminary issues

The civil obligation is defined in the 2009 Romanian Civil Code as a legal relation on the basis of which one party, called a debtor, is bound to perform a promise (either positive or negative) for the other party, called a creditor, and the latter is entitled to receive the benefit of the promise (art. 1164 of the Civil Code). One may notice that the new Civil Code has defined the concept of civil obligation in its broader sense, as the legal relation between the creditor and the debtor, a relation comprising two inseparable elements: the active element (the creditor's right of claim) and the passive element (the duty incumbent on the debtor); the term civil obligation is also used in the Civil Code with the limited meaning of duty of the debtor to give, to do or not to do something. Referring to the way in which the legislature defined civil obligations, the legal doctrine has criticized the fact that the legislature took into account the obligations assumed by the parties and not the rights acquired by them as a result of creating a relation of obligation (Dogaru, Drăghici, 2014: 9-10). Professor L. Pop was critical as to the definition of civil obligations, as the Romanian legislature highlighted the passive aspect of the obligation, based on the need of the legislature for consistency as to how the law or doctrine defined patrimony or real rights. Thus, patrimony is defined by its active aspect and only correlatively by its passive one. On the other hand, real rights "are defined (...) by the attributes they give to their holder and only correlatively by the general duty of abstention" (Pop, Popa and Vidu, 2012: 12).

Referring to the "sources of obligations", the legislature mentions that they are: the contract, the unilateral legal act, the management of affairs, unjust enrichment, undue payment, torts, as well as any other act or fact to which the law relates the creation of an obligation. Given this provision, the doctrine divided the sources of obligations into two categories: civil legal acts (the contract and the unilateral legal act) and civil legal facts, divided in turn into legal facts as human conduct which may be lawful (the management of affairs, unjust enrichment, undue payment) and unlawful, and legal facts as non-human conduct (earthquakes, floods, lightning, landslides, explosion of a boiler, derailment of a train, defects of the products marketed, scare of an animal, ruin of a building, etc.) (Pop, Popa and Vidu, 2012: 12). Particular attention is given by the legislature and doctrine to the classification of civil obligations, using for this purpose the criterion of the object of obligations, the criterion of the sanction of obligations, of the enforceability of obligations, of the subjects of the civil relation of obligation, of the modalities of obligations (Pop, 2006: 48-54; Stătescu, Bîrsan, 2008: 11-13).

Considering the object of the obligation, a distinction is made between the obligations to give, obligations to do and obligations not to do; the obligation to give means that the debtor transfers or creates a real right in the patrimony of the creditor (sales contract, mortgage contract, etc.); the obligation to do is the obligation of a debtor of a legal relation to perform a positive promise, which may consist in performing an action, a work or a service (Popescu and Anca, 1968: 11); obligations to do are the following: the contractor's obligation to build a building, the depositary's obligation to return the property received in deposit, the tenant's obligation to pay rent, the doctor's duty to provide medical services, the carrier's obligation to make a transport, etc.; the obligation not to do is the obligation consisting of the debtor's duty not to perform a certain act that he would have been entitled to perform if he had not undertaken such a duty; it therefore involves the abstention of the debtor (Costin, Costin, 2007: 689); obligations not to do are

Discharging Civil Obligations by Payment as Provided by the Romanian Civil Code

the following: the depository's obligation not to use the deposited asset, the obligation of the owner of the servient tenement to do whatever is likely to prevent the exercise of the servitude created for the benefit of the dominant tenement, etc.

The obligations to do are divided into two categories: obligations of result (or determined obligations) and obligations of means (or duty of care). Art. 1481 of the Civil Code provides that in the case of obligations of result, the debtor has the duty to obtain the promised result for the creditor (for example, to carry some goods to a destination) and in the case of obligations of means, the debtor undertakes to use all necessary means to achieve the result promised to the creditor (e.g. an obligation of a lawyer to provide legal assistance to his client). To determine whether an obligation is of result or of means, the legislature provides in art. 1481(3) of the Civil Code several guiding criteria: a) the way in which the obligation is stipulated in the contract; b) the existence and nature of the consideration and the other elements of the contract; c) the degree of risk involved by the achievement of the result; d) the influence that the other party has on the performance of the obligation. Determining the nature of the obligation (of means or of result) is important in order to know whether the performance of the debtor led to the discharge of his obligation, since the debtor's failure to obtain the result, for the obligations of result, means presuming his guilt (art. 1548 of the Civil Code), while, for the obligations of care, the creditor must prove that the debtor did not use "all necessary means to achieve the promised result" (art. 1548 of the Civil Code).

According to legal sanctions, the doctrine divides civil obligations into two categories: perfect civil obligations and natural obligations. In the case of civil obligations, the creditor may resort to the coercive power of the state to achieve his right of claim, if the debtor does not voluntarily perform the obligation correlative to the creditor's claim right; in the case of natural obligations, if the debtor did not pay voluntarily, the creditor cannot resort to the coercive power of the state to make the debtor perform his obligation. According to the persons against which they are enforceable, obligations are classified as follows: ordinary civil obligations; obligations enforceable against third parties; real obligations. The ordinary civil obligation is incumbent upon the debtor against which it was created. The obligation enforceable against third parties is characterized by the fact that it is closely related to the possession of a thing and the creditor can achieve his right only if the current possessor of that thing is obliged to respect that right, although he did not take part in the formation of the relation of obligation ((Stătescu and Bîrsan, 2008: 9); for example, the lessor's obligation to ensure the use of the leased property to the lessee; if the item of property is alienated before the expiration of the lease, the new owner has the obligation to respect the rights of the tenant, even if he was not a party to the contract. Real obligations lie with the holder of a thing for reasons such as: the protection of things of national importance, judicious exploitation or preservation of certain qualities of some important things, the existence of good neighbourhood relations, etc.; for example, the legal obligation of the holder of agricultural land to cultivate and protect the soil. Depending on the number of subjects of the legal relation assuming obligations, the latter are classified into unilateral obligations and bilateral obligations. As for the classification of civil obligations according to their modalities, one should mention that the 2009 Civil Code regulated the modalities of obligations as distinct from complex obligations; under the name "modalities of obligations" the legislature regulated the time limit and the condition, considered the modalities of obligations, and under the name "complex obligations" it regulated plural obligations, i.e. obligations having a plurality of subjects and/or a plurality of objects. The doctrine has accepted the solution of the legislature to

delimitate the obligations affected by modalities from complex obligations, arguing that both types of obligations may be affected by modalities (Uluitu In Baias, Chelaru, Constantinovici, Macovei (coord.), 2012: 1474). With regard to the discharge of civil obligations, one should note, as a preliminary point, the following aspect: in Book V (“On obligations”), there are two titles approaching the issue of payment: Title V (entitled “Performance of obligations”) and Title VII (entitled “Discharge of obligations”).

Regulation of payment

In the “general provisions” referring to the discharge of obligations, the legislature states that the following are ways of discharging obligations correlative to claim rights: payment, compensation, confusion, remission of debt, fortuitous impossibility of performance and other means expressly provided by law (art. 1615 of the Civil Code). The phrase “other means expressly provided by law” is used by the legislature to refer to ways of discharging obligations that are regulated in legal texts other than those contained in the title for the discharge of obligations. In the opinion of Professor I. F. Popa, the following are part of this category: enforcement in kind, equivalent performance, rescission or cancellation of the contract, novation, nullity, fulfilment of the resolutive condition, prescription of the right to action, loss of rights. In such cases there is no longer need to perform the obligation (as these legal operations result in termination or extinction of the relation of obligation) and therefore it may be considered discharged (Pop, Popa and Vidu, 2012: 702). Other authors have criticized the inclusion of such operations in the category of modalities of discharging obligations; thus, professor Bîrsan brings the following arguments against the view above: novation is a way of transforming obligations; nullity and rescission are not means of discharging obligations because they abolish the relation of obligation retroactively, so they cannot discharge the obligation of a legal relation which does not exist; the extinctive prescription is rather a way of transforming obligations, for it leads only to the extinction of the right to action in the material sense, the claim right continues to exist and the correlative obligation degenerates from a civil obligation into a natural obligation, lacking the right to legal action (Stătescu and Bîrsan, 2008: 377). Noting the provisions of art. 1615 of the Civil Code, the doctrine has found that, although it lists payment together with other ways of discharging obligations, the legislature does not regulate it in the title on the discharge of obligations, but in the one on the performance of obligations, considering that prevalence should be given in this case not to the effect caused by the operation of payment, but to the way of discharging the obligation (performance of the promise) (Zamșa In Baias, Chelaru, Constantinovici, Macovei (coord.), 2012: 1558). In accordance with the 1864 Civil Code, obligations could be discharged by payment, novation, voluntary remission, compensation, confusion, fortuitous loss of the thing, cancellation or rescission, effect of the resolutive condition, and prescription (art. 1091); one should note that the legislature also enumerated in the texts on the discharge of obligations operations leading to discharge regulated in other parts of the code referring to other legal institutions, omitting important ways of discharging obligations, such as caducity, enforcement in kind or equivalent performance (Pop, Popa and Vidu, 2012: 701).

The notion of payment

In accordance with art. 1469(1) of the Civil Code, payment is the voluntary performance of a promise making the object of the obligation. Complementing the idea that the debtor must perform the obligation he has undertaken, not an equivalent benefit,

Discharging Civil Obligations by Payment as Provided by the Romanian Civil Code

art. 1516(1) of the Civil Code provides that “The creditor is entitled to full and accurate performance of the obligation in due time”, thus consecrating the creditor’s right to performance in kind of the obligation; similarly, to enshrine the principle of performance in kind of the obligation, art. 1527(1) of the Civil Code provides that in the matter of both contractual and non-contractual obligations, “The creditor may always request that the debtor be constrained to perform the obligation in kind, except where such performance is impossible”.

In ordinary language, payment means “the act of paying a due sum of money” (Definition available at: <https://dexonline.ro/definitie/plata>). The legal meaning of the term payment is richer; in this respect, art. 1469(2) of the Civil Code provides that payment consists not only in transferring an amount of money, but also in voluntarily performing the benefit of a promise that the debtor owes, regardless of its object; therefore, the act of giving, doing or not doing may make the object of payment. In synallagmatic legal relations, the performance of either party to the legal relation of obligation makes a payment; payment is made by both the seller transferring ownership of property, and the buyer paying the price of the item of property, both the carrier shipping the merchandise to the destination and the sender/ receiver paying the transportation; both the mechanic fixing a car and the client paying the price of the repair, etc.

Subjects of the payment

Under this title, the legislature regulates issues relating to the person that can make the payment and the person that can receive the payment of the obligation. As for the person that can make the payment, the Civil Code establishes the rule according to which the payment of the obligation can be made by any person, even if that person is a third party in relation to that obligation (art. 1472 of the Civil Code.). But the payment made by the third party cannot be made in his own name but, to be valid, it must be made on behalf of the debtor (art. 1474 (3) thesis one of the Civil Code). The legislature also states that the third party, even if he makes a valid payment, cannot be subrogated to the creditor’s rights except as provided by law (the existence of a convention, subrogation consented to by the creditor, subrogation consented to by the debtor, subrogation operating under the law) .

From the rule that the payment of the obligation can be made by any person, even if a third party in relation to that obligation, the law provides the following exceptions (art. 1474 of the Civil Code): a) the creditor is obliged to refuse payment offered by a third party if the debtor previously notified him that he opposed this payment; b) the creditor may refuse payment by a third party if the nature of the obligation requires that the obligation be performed only by the debtor; c) the creditor may refuse payment by a third party if the agreement of the parties requires that the obligation be performed only by the debtor.

If we accept the idea that payment is a legal act similar to a contract (the debtor is the one that makes the offer of payment and the creditor is the one that accepts payment), it means that full or limited capacity to exercise rights is necessary for the validity of the payment, as an answer to the question whether payment is an act of administration or an act of disposal. In this sense, the doctrine has argued that payment is an act of administration when the one that pays discharges his own obligation, such payment being validly made by a person with limited legal capacity, and it is a legal act of disposal when the one that pays discharges a debt of another; to be valid, such payment must be made by a third party with full legal capacity to exercise rights (Pop, 2006: 451).

Art. 1475 of the Civil Code lists a limited number of persons to whom payment can be validly made: a) the creditor; b) his legal or conventional representative; c) the person indicated by the creditor; d) the person authorized by the court to receive it (for instance, the creditor that confiscates). All other persons have the status of third parties.

From the rule that payment made to third parties does not discharge the obligation, so it does not release the debtor, art. 1477 and 1478 of the Civil Code provide the following exceptions, where the payment made to a third party, i.e. to a person other than those having a legal right to receive it, is valid: a) payment ratified by the creditor (which thus loses the right to invoke the relative nullity of the payment); b) payment made to a person other than the person legally entitled to receive it, but which later becomes the holder of the claim (for instance, the third party which received the payment later becomes the heir of the creditor); c) payment made to a person which claimed payment under a releasing receipt signed by the creditor (for instance, in the case of conventional subrogation agreed to by the creditor, when a third party makes the payment to the original creditor and then acts against the debtor) (Vasilescu, 2012: 72); d) payment made to a third party under conditions other than those referred to in art. 1477(1) of the Civil Code discharges the obligation only to the extent that it benefits the creditor (for example, if the debtor pays a creditor of his creditor, the payment is valid because it benefits the creditor, since it discharges the obligation which the latter had against the creditor of the paying debtor) (Stătescu, Bîrsan, 2008: 313); e) payment made in good faith to an apparent creditor is valid, even if it is subsequently determined that this was not the real creditor (art. 1478(1) of the Civil Code), for example, if an heir apparent acquired claims of the inheritance and he was subsequently removed by the heir entitled to collect the inheritance, the payment made to him is valid and therefore it releases the debtor. However, the apparent creditor is bound to return the received payment to the real creditor, in accordance with the rules established for the restitution of performance (these rules distinguish between the good and bad faith of the debtor).

Aiming to protect the interests of the creditor who lacks capacity to exercise rights, the law has provided that the payment made to a creditor who is unable to receive it, is valid insofar as it benefits the creditor (art. 1476 of the Civil Code). So payment made to an incapacitated creditor does not release the debtor unless he proves that the payment fully benefited the creditor. If the payment benefited him only partially, the payment is only partially valid (In this sense, see also art. 47 of the Civil Code, in accordance with which “The person lacking capacity to exercise rights or having limited legal capacity shall only be obliged to restitution within the limit of the benefit achieved”).

Conditions of payment

They refer to the aspects relating to the duty of care required from the debtor in the performance of the obligation, the object of payment, indivisibility of payment, place and date of payment, expenses for payment. As for the duty of care required for the performance of obligations, the Civil Code distinguishes between the duty of care of non-professionals and that required in professional activities, the demands being higher for professionals; a) as a matter of principle, the unprofessional debtor is bound to perform his obligations with the care of a good owner who administers his property (art. 1480(1) of the Civil Code); b) in the case of obligations inherent to a professional activity, the care is assessed by taking into account the nature of the activity, the specific standards for each activity (art. 1480(2) of the Civil Code).

Discharging Civil Obligations by Payment as Provided by the Romanian Civil Code

Assuming that the debtor cannot release himself by performing an obligation other than the one he owes, even if the value of the performance offered was equal or higher (art. 1492 of the Civil Code), the legislature impliedly establishes that the object of the obligation is the benefit owed by the debtor. And, since that way in which the payment is made varies from one type of obligation to another, one must determine the nature of the obligation in order to know whether the performance of the obligation by the debtor came to extinguish his obligation; thus, in the case of the obligation of result, the debtor is bound to provide the promised result for the creditor (art. 1481(1) of the Civil Code), while in the case of the obligation of means, the debtor is bound to use all necessary means to achieve the promised result (art. 1481(2) of the Civil Code), the legislature enumerating the main criteria that must be considered in order to determine whether an obligation is of means or of result.

The legislature also establishes rules on: the performance of the obligation to move the property (art. 1483(1) of the Civil Code), the performance of the obligation to lodge a security (art. 1487 of the Civil Code), the performance of the obligation to deliver an individually determined asset (art. 1482(1) of the Civil Code), the performance of the obligation to deliver goods of the kind (art. 1486 of the Civil Code), the performance of the obligation to give a sum of money (art. 1488 of the Civil Code), the performance of the obligation to pay interest on amounts owed (art. 1489(1) of the Civil Code), the performance of the obligation to do (art. 1474(2) of the Civil Code). As for frozen assets, the applicable rule is that the payment is not valid if made in disregard of seizure, attachment or an opposition brought under the law in order to stop payment by the debtor; the creditors that have obtained such measures may again request payment and the debtor retains the right of recourse against the creditor that received the invalid payment (art. 1479 of the Civil Code).

The principle of indivisibility of payment, according to which the obligation of the debtor can only be discharged if he performs the obligation at one time, even when the performance was divisible (art. 1490 of the Civil Code), is consecrated by complementary rules, so the debtor is released if the creditor accepts, either expressly or impliedly, a partial payment.

As for the place of payment, the Civil Code provides that the will of the parties to the legal relation prevails; they may establish the place of payment, i.e. of the performance of the obligation, to be the domicile of the debtor, the domicile of the creditor or elsewhere (for example, where the asset is located at the time of concluding the contract); unless the parties expressly agree upon the place, it may be determined by taking into account, accordingly: the nature of the performance, contract terms, practices established between the parties or usages in the matter (art. 1494(1) of the Civil Code).

If the parties have not expressly agreed on the place of payment and it cannot be determined by the jurisdictional body on the basis of the criteria listed by the legislature, the place of payment will be determined by taking into account the following rules provided by law, one being general in nature and the other two (with a view to the object of the obligation) having a special character; a) the general rule is that the obligation is performed at the domicile or headquarters of the debtor on the date of concluding the contract; b) the first special rule is that financial obligations must be performed at the domicile or headquarters of the creditor on the date of payment and the second special rule is that the obligation to deliver an individually determined asset must be performed in the place where the asset was on the date of concluding the contract.

And in order to determine the date of payment, the legislature considers first of all the will of the parties to the obligation relation, which may be express or implied. In the absence of express contractual terms, the payment date may be determined based on the interpretation of all the contractual clauses in accordance with the practices established between the parties or the usage; if the payment date cannot be determined in this way, the debtor's obligation must be performed "right away", i.e. the time of concluding the contract (art. 1495(1) of the Civil Code). If the nature of the performance or the place where payment is to be made requires the establishment of a time limit for the performance and it has not been set by the parties, nor can it be determined based on the criteria laid down by law, the court may set a judicial deadline for the payment (art. 1495(2) of the Civil Code).

If payment is made by bank transfer, the law establishes the rule that the payment date is when the account of the creditor was funded with the amount of money which made the object of the payment (art. 1497 of the Civil Code); the law does not grant legal value to the time when the debtor gave the payment order to his bank, but if he fulfilled his obligation within a reasonable time so that the bank transfer was in due time, and yet the discharge of the obligation was delayed for reasons attributable to his bank, the debtor may be forced to pay moratory damages to the creditor (the basis of his liability being guilt in eligendo), but this can be remedied in an action for damages against the culpable bank. Regarding anticipated discharge of the obligation, art. 1496(1) of the Civil Code establishes the rule that the debtor is free to perform his obligation even before due date of payment; this provision of the law is supported by art. 1413 of the Civil Code, in accordance with which the suspensive time limit is provided for the benefit of the debtor, except the case where by law, out of the will of the parties or the circumstances, it results that the suspensive time limit was stipulated in favour of the creditor or of both parties (art. 1413 of the Civil Code). If the debtor performs his obligation in advance, the additional expenses caused to the creditor lie with the debtor (art. 1496(3) of the Civil Code). From the rule that the debtor is free to perform his obligation even before it is due, art. 1496(1) thesis II of the Civil Code provides a few exceptions, justified by the parties' agreement, the nature of the contract or the circumstances in which the contract was concluded and the legitimate interest of the creditor that the payment be made on due date. For situations where the parties have not stipulated who covers the expenses of payment, the legislature has established the general rule that the expenses covering the payment lie with the debtor (art. 1498 of the Civil Code).

Proof of payment

With regard to the means of proof that can be used for proving the payment, the Civil Code provides that the proof of payment is by any means (art. 1499 of the Civil Code). The debtor who makes the payment is entitled to a receipt releasing him of all obligation (the expenses covering this receipt lie with the debtor), and if the creditor unjustifiedly refuses to issue the receipt, the debtor has the right to suspend or refuse payment (art. 1500 of the Civil Code).

To facilitate the proof of payment by the debtor, co-debtor or fidejussor, the Civil Code has established the following payment presumptions: a) the receipt acknowledging the performance of the main obligation leads to the relative presumption that accessory obligations have also been performed (art. 1501 of the Civil Code); b) the receipt issued for one periodical obligation that has been performed creates the relative presumption that all previous periodical obligations have been performed (art. 1502 of the Civil Code); c)

Discharging Civil Obligations by Payment as Provided by the Romanian Civil Code

the voluntary submission of the original document acknowledging the debt, issued as a document under private signature, made by the creditor to the debtor, one of the co-debtors or fidejussor, creates the presumption of the discharge of obligation by payment. The contrary proof lies with the one concerned to prove the discharge of the obligation in some other way (art. 1503(1) of the Civil Code); d) the voluntary submission of the original document acknowledging the debt issued as a deed, creates the presumption of discharging the obligation by payment, but the creditor has the right to prove that the submission was made for a reason other than the discharge of the obligation (art. 1503(2) of the Civil Code); e) the debtor, co-debtor or fidejussor's taking possession of the original document acknowledging the debt creates a presumption that the person concerned has acquired it through a voluntary remission on the part of the creditor (art. 1503(3) of the Civil Code); f) when payment is made by bank transfer and the payment order is signed by the debtor and by the paying credit institution, there is a relative presumption of payment; g) when payment is made by bank transfer if the debtor has obtained from the creditor's credit institution an acknowledgement, in writing, of the payment made by bank transfer, there is absolute proof of payment (art. 1504 of the Civil Code). As the consequence of performing the obligation is the discharge of all guarantees, the creditor that received the payment must agree to release the property affected by real securities constituted to satisfy his claim, and to return the property that the debtor gave as a guarantee entailing dispossession, if applicable; the parties may agree that the guarantees ensure the performance of another obligation (art. 1505 of the Civil Code).

Imputation of payment

If a debtor has towards the same creditor several debts dealing with goods of the same kind and the payment does not suffice to discharge all debts, it is necessary to establish how to determine the order of payment of debts; this operation was regulated by the legislature as the "imputation of payment" (art. 1506 of the Civil Code).

The order of the persons called to make the imputation of payment is the following: the parties to the legal relation, the debtor, the creditor; in the absence of the parties' agreement and an option expressed by the debtor or the creditor, the imputation of payment shall be made by the effect of the law. Imputation made by the agreement of the parties is characterized by the fact that it enables them to establish rules of extinguishing obligations other than those provided by law by complementary rules (for example, they may agree to the payment of the capital before the interest). If the parties' agreement on the imputation of debts defraud the interests of third creditors, it may be cancelled by a revocatory action (art. 1562 et seq. of the Civil Code). If the debtor makes the imputation of payment (because there is no agreement of the parties on the matter), he must observe the following rules laid down by art. 1507 of the Civil Code) (with regard to the limits of the exercise of the debtor's right to impute the payment, see Pop, 2006: 486): a) the payment is first imputed with regard to expenses, then the interest and, finally, the capital; b) the debtor cannot impute payment as to a debt that is not due yet in preference to a debt that is due, unless the creditor consents to that effect and if provided for in the agreement that the debtor may prepay; the debtor has the duty to notify the creditor on the debts that he intends to discharge by the payment he makes, and when payment is made by bank transfer, the debtor indicates the debt that he paid by the mentions he made on the payment order.

If the debtor has not exercised his right to make the imputation of payment, it may be made by the creditor under art. 1508 of the Civil Code, i.e. if the creditor gives the

debtor a receipt releasing him of all obligation, he has the duty to specify in that receipt which debt is extinguished by the payment to the debtor; if the creditor fails to send such a receipt to the debtor, the creditor may, within a reasonable time after receiving the payment, indicate the debt on which it will be imputed. The reasonable time referred to by the law, is estimated from one case to another, depending on the nature of the contract, the history of the relations of the parties, the circumstances under which payment was made etc. (Zamșa In Baias, Chelaru, Constantinovici, Macovei (coord.), 2012: 1590); if the creditor does not exercise his right within a reasonable time, he will lose the right to make the imputation of payment and the rules provided by law for legal imputation are applicable in this case.

Legal imputation is made according to the following rules (art. 1509 of the Civil Code.): a) payment is primarily imputed on debts falling due, if all debts are not due; b) if all debts are due, the unsecured debts or those for which the creditor has the least security shall be deemed discharged first; c) if all debts are equally due and equally guaranteed, imputation shall be first on the debts that are more onerous for the debtor; d) if all debts are equally due, and equally guaranteed and onerous, old debts shall be discharged first; e) if all debts are equally due, and equally guaranteed and onerous and have the same length, imputation shall be proportional to the amount of debt; f) regardless of the rules on the legal imputation of payment, the payment shall always be imputed first as to court and enforcement costs, then instalments, interest and penalties, in chronological order of their payment date, and finally, as to capital, unless the parties otherwise agree.

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ORIGINAL PAPER

The New Reproductive Technology and Parent-Child Relationship

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Abstract

The use of new methods of family planning, especially for the human reproduction remains one of the most controversial topics both by academic circles, medical deontology and political circles when adopting the legal regulations for this domain. Although the development of medical science and technology in the application of methods of human reproduction is considered as an advancement, however, there are divergences in terms of understanding this phenomenon, since doctors see it as a professional issue, patients see it as the right to realization of fertilization and reproduction, and especially the religious opinion and feminists as an interference with the law of nature and violation of privacy. Particularly controversial is the issue of post-human reproduction, because in this case occur the conceiving and the birth of a child after parent's death and questionable remain the rights and obligations to be established between parents and children, those of personal character as well as those involving the property. Family planning helps women and couples to plan the time of conception of the child and their increasing number of quality measures to take during pregnancy and after the moment of birth, because only in this way the desired children will be born.

Keywords: *parent-child relationships, reproductive methods, planned pregnancies, fertilization*

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Understanding the parental relationship

Parental relationship is a special kind of relationship that is created within the framework of family relationships and that has to do with the relationship between parents and children (Omari, 2011: 97). The relationship that is created between mother and child is known as motherhood, and the relationship created between the father and the child known as fatherhood. This relationship is based mainly on the blood connection that exists between these people established as a result of the natural process of birth. Submission of birth as a legal fact determines relationship of birth parents. However, the reality today on the occasion of the conception of these relations has intervened in this sphere "exclusively private" so far the absolute, in terms of human reproduction. Therefore, giving the meaning of parental relationship by legal science and legislation can not be treated as separate from the development of medical science and technology to them.

Parental relationships in terms of rights and obligations between the parties have evolved continuously making progress in the modern era. Kids has consistently gained more rights and commitment by parents today, compared with older times when the parent had absolute power over children (Podvorica, 2006: 163-175). The establishment of parent-child relationship did not depend only from the fact of the birth of a child but also depended from the will of the parent as well. This case was especially in the ancient Roman times when there was a birth in the family by the wife of the paterfamilias or any of his sons wife's the parent-child legal relationship would happen only after the paterfamilias consent (Puhan, 1980: 192). Today's law and practice despite the expression "parent's rights" use also the phrase "children's rights", after the child as a subject of parental relations, being not fully able to take care of his rights and obligations, the government and the law have placed him in the spotlight aiming the protection of child's life, health and interests. All this undoubtedly is influenced by the United Nations Convention on the Rights of the Child which has been ratified by Macedonia in 1989, where in article 3 is provided that: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".

For creating national policies on family issues an important role was played by International Conventions, protocols and Recommendations of International Organizations such as the United Nations, Council of Europe and the World Health Organization. Therefore, not only acts of domestic normative is the international principle of protection of the child, central focus started from the United Nations "Convention on the Rights of the Child" (UNCRC) in 1992, "Convention on the prohibition and elimination of the worst forms of child labour", "The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse" and others.

Given that the way of the establishment, exercise and termination of parental relationships, we see that the nature of the provisions governing these relations has an imperative character (Austin, 1832: 145). This is best observed on the issue of autonomy of the will of the parents who in addition to early case of the decision to the conception of a child, continued further after his birth is limited in terms of rights and duties provided with legal norm.

However, due to the operation of the laws of nature should be noted that, when the child is a minor, has less obligations to parents, which means that parents have more obligations towards children (Austin, 2013). And when children grow up or parents are unable to care for them then duties of children towards their parents grow symmetrically

The New Reproductive Technology and Parent-Child Relationship

in relation to their age (Salili, Hoosain, 2001: 198). Therefore, to have a coexistence between parents and children is not enough normative regulation of these issues, but harmony and mutual respect is needed in the parent-child relationship. If the parents are careful and more responsible towards their kids, the happier and more responsible they will become, and if that's the case then also the parents will be happier as well.

The conception of parental relationships and ways of assisted reproduction Biomedical

Parental relationship between parents and children is born since the birth of the child. For the mother of the child shall be considered the woman who gave birth to a child (Begovic, 1961: 139), a fact that is easily identified since the pregnancy of his mother and a third person. But the father of the child shall be deemed spouse of the child's mother born in term of continuity of the marriage or within 300 days from the dissolution of marriage (Mandro-Balili, Mecaj, Zaka, Fullani, 2006: 514). Regarding the child's father illegitimate children shall be deemed the person who will accept the child as his own. All this factual situation will be in full effect only after the moment of formal registration of the child in the birth register office. This model that originates from Roman law, now is represented and by the Macedonian legislation. However, as a result of the development of science technology and medicine traditional model of conceiving a child through natural relation of sex it is not the only one, because today there is a possibility of canceling the genetic part of the human body and the same can be recombined in laboratory and it comes to the conception and the birth of the child. Therefore, the issue of parental relationship should be seen in the dynamics of scientific discoveries which imposes dimensions of these concepts.

The right to reproduce has been and remains one of the main permanent functions of human beings, and one of the rights of any individual or a couple to decide freely and responsibly the number, frequency and time at which they want to have children, the right to access to information, education, communication and instruments which will enable their decisions to be based on evidence (article 2, paragraph 4 of the Law on Reproductive Health of the Republic of Albania and paragraph 4 and 5 of article 2 of The Law on Reproductive Health of the Republic of Kosova). Feeling reproduction stems from human nature itself and without the implementation of this function will not demerit the reproduction and continuation of life on earth. All this function starts from the moment of conception of the child for couples who are fertile, but for couples or people who are infertile or have reduced fertility and can not remain pregnant in the usual way this feature is implemented in alternative ways. Presentation of the need for biomedical assisted fertilization comes to expression primarily in cases where previous treatment for infertility treatment is unsuccessful or other methods are impossible or in cases where there is a reasonable risk of transmission of severe hereditary diseases in children (article 3 of the Law on Biomedical Assisted Fertilization, Official Gazette no. 37/2008). Biomedical assisted fertilization techniques represents medical application that allows merging male and female cells with the aim of achieving a pregnancy outside the natural process of common sexual relationship.

As doctrine, the legislation of different countries tend to use different terminology for the same institute of family law, and the same sense encountered expressions reproduction artificial, biomedical assisted fertilization, artificial insemination, assisted reproduction, artificial fertilization etc. All these legal terms are synonymous and used for the same situation to conceive a child with the intervention of "third person" applying

medical and technical methods that will enable a situation that was previously impossible to be realized without this intervention.

It concerns the conception of the child unlike natural way and will only couple found that in Roman times which was termed "ventrem locore", according to which the pater familias had the right to "borrow" his wife a couple in which the wife it was sterile, while maintaining the right to retake his wife after the birth (Omari, 2007: 331). Therefore, the conception of a child with a foreign wife or a foreign husband at the root of what is now known as artificial conception of the child. These methods were effectively implemented after the 40s of last century, experimenting initially their effect in animals and then in humans to those couples that even against the wishes were not able to have children from a relationship regular sex. In this process the important role of medicine which helps in the conception of the child being separated from the sexual act carried out and decided by the couple.

Unlike earlier, thanks to recent decade and progress of science has achieved the evolution of the practical modalities. Upon application of biomedical techniques for assisted fertilization remains questionable the legitimacy of the use of these methods, special care must be taken not to violate human rights which are guaranteed by national and international acts of maintaining health, dignity and privacy of the persons of which whom performed these medical procedures. The right to life and health represents one of the universal rights of humans, so any intervention that affects the area of reproductive health and human health should be done very carefully. Health meaning the entire physical, mental and social well being, and not merely absence of disease and for all what is related to the normal functioning of the health system. While the National Strategy for Sexual and Reproductive Health developed by the Ministry of Health of Macedonia says that health reproductive concerns the ability of people to have happy sex life and safe and the possibility of reproduction, and the freedom for decision making for when and how often to do it.

For that matter Ministry of Health in Macedonia in cooperation with the Institute of Public Health and UNFPA (United Nations Fund for Population) in order to define the priorities for sexual and reproductive health has drafted a National Strategy for reproductive and sexual health (2010-2020). This strategy aims to plan, mobilize and coordinates resources for effective action necessary based on four fundamental principles: human rights, gender equality, multisectoral approach and community involvement (according to WHO Regional Strategy On Sexual And Reproductive Health, 2001). All this strategy is based on institutional policies and strategies that are consistent with the trends of contemporary development.

Because not all couples have the same problems related to infertility, medical practice has developed specific methods related to artificial insemination, starting from the simplest ones who know the science of biology to the most sophisticated that are enabled as a result of the development of the science of genetics and technical. Problems with infertility can occur in women as well as men. Women infertility may be caused as a result of problems with the ovaries, problems with fallopian tube and problems related to disorders of hormonal, whereas men infertility is mainly caused as a result of the reduced number or lack of sperm morphological good, tumor in the testes and men who are under the influence of certain therapies such as chemotherapy and radiotherapy. To say that a couple is infertile or has reduced fertility must have had at least one year of unprotected sexual intercourse and without the use of contraceptives and not come to pregnancy.

The New Reproductive Technology and Parent-Child Relationship

Although there are situations where pregnancy is not held until the moment of birth but this is about another kind of infertility.

Besides the above mentioned requirements that may person to use the right of biomedical assisted reproduction by Macedonian legislation it should be a macedonian citizen and must be of legal adulthood and fully capable to take action, despite were husband marital or extramarital if it is able to practice parental rights. The most important types of artificial insemination can include: IVF (In Vitro Fertilization); ICSI (Intracytoplasmic Spermatozoa Injection); GIFT (Gametes Intrafallopian Transfer); ZIFT and TET (Zygote Intrafallopian Transfer); Ectogenesis (is the growth of embryo in an foreign body, presents the technique of replacing the biological mother with a surrogate mother) (Braho, 2015: 1) considering as follows IVF - in vitro fertilization and embryo transfer represents egg cell outside the woman's body, in order to fertilize the same with sperm in the embryo epruvet and then restore to the latter; ICSI - injection of sperm and introcitoplasmatica is a common method that involves injecting sperm inside the egg cytoplasm and is mainly done when it can not be achieved in any other way (Van, Nagy, Joris *et al.*, 1995). Technique represents the most frequent and most successful applied in cases of severe damage spermogram; GIFT - gamete intra fallopian transfer showcases for promoting fertility so that egg cells from the ovaries of the female removed and placed in tubes uterine together with the sperm of her husband. Although this successful method is used less because of the way the intervention and the need for more healthy uterine tubes; ZIFT and TET - this method is applied when the fallopian tube created a barrier that prevents the penetration of the sperm into the egg cell and a similar procedure as in vitro fertilization and embryo transfer, but the difference is that the egg and sperm in the initial phase for 24 hours placed in the fallopian tube instead of the uterus until fertilized.

According to the Law on assisted fertilization biomedical Macedonia recognized:

- a) autologous fertilization - under which priority is given to its use of sex cells, embryos respectively couple to marital and extramarital who performed the procedure;
- b) allogeneic fertilization - applies if the procedure for biomedical assisted fertilization could not use its cells sex couples marital and extramarital respectively if these can not be used in order to prevent the transmission of serious diseases inheritable to the child, it can be used donated sperm, eggs or embryos cells from other people. Both of the above methods are implemented through medical procedures as follows:

1. Corporal Fertilization Interior, which includes:
 - a) intra-uterine insemination sperm, which is done in cases of male infertility and involves the introduction of sperm from the sperm previously selected in the woman's uterus (Edwards, Steptoe, 2011);
 - b) the establishment of an egg cell together with sperm in the woman's uterus;
2. Fertilization performed outside the female body and includes:
 - a) union in order fertilization of an egg with sperm outside the body of the man, and then placing the same in the woman's uterus;
 - b) the introduction of embryos into the woman's uterus.

Which of the methods will be applied to a particular case will depend on the nature of the problem that hinders the process of conception and childbirth. For more than 37 years since the first birth in 1978, through this technique they have arisen and continue to arise millions of children in those countries where the application of these methods allowed. According to statistics published Richard Kennedy of the International Federation of Fertility Association for maintaining reportedly from 1978 to 2007, we have over five million births by the use of assisted reproduction techniques. (Innes, 2013). The possibility of joining the egg cell with sperm in a test tube, outside of the woman's body and then placing the embryo in the same or any other woman, has ruled out the need for sexual intercourse, where the division of reproductive process from sexual intercourse.

But in this case there is a need of intervention of "third parties" who may be medical quality staff, sperm donor, an egg donor or grantor to "rent" the uterus. This way human reproduction at the beginning initially encountered resistance from religious organizations and later by organizations dealing with the protection of human rights. This has surprised and perhaps shes parents and scientists in the field of justice, because of the meaning they had about fatherhood and motherhood in particular.

The rights of parents to artificial reproduction

The establishment of parental relationship through biomedical assisted reproduction became its own initiative spouses or persons who are out of wedlock. Preliminary procedure requires that the doctor explains and advises them respectively couple wife for all the details about the repercussions arising after the application of these methods in relation to the rights and obligations during pregnancy and after childbirth moment (Gracia, Woodruff, 2012: 158). For the progress of any procedure for biomedical assisted fertilization statement required to be given to the parties consent in writing. Consent for the implementation of those procedures has legal significance as it serves as a declaration of acceptance of paternity, maternity respectively after childbirth (Paragraph 2 of Article 12 of the Law on Biomedical Assisted Fertilization). Spouses, respectively husband or wife shall be entitled to withdraw the statement to allow the application of methods of reproduction artificial to the stage of placing sperm cells, the egg cell or embryo in a woman's body, because thereafter a statement this would be without legal effect (Higdon, 2011: 27-30). The doctor until the establishment of sperm or egg cell or embryo in a woman's body should carefully check whether someone has not submitted a request for withdrawal of the declaration granting consent in writing. This is of particular importance in case of any eventual dispute, then no one has the right to refuse paternity mother, with the written consent of her husband, is impregnated through artificial insemination (Article 62 of The Family Law of The Republic of Macedonia).

Donor and procedure donations of genetic material

All these procedures can not be realized without having a person who would have the quality of the donor genetic material. The quality of donor egg cell, sperm and embryo can appear only persons who are adults and ability to act. Additionally required and consent donor gives a like such and should be subject to prior asked about his health condition and history of disease was possible to do with the health consequences for the woman or the child to be born. The cells of the sperm can be donated by a man whose consent to their use for the fertilization of a woman who is not his wife nor has the community living with, and the eggs cell can be donated by a woman who with her consent has agreed that the same use for the fertilization of another woman. Also there is the possibility of the appearance of donor embryos that can be husband and wife who renounce the use of their embryos so that the same used by other marital or extramarital couple for their needs. Important is that donors have no right or duty in relation to the child that will be born in terms of paternity or maternity or with his parents. Also donors after informed in detail about the effects of their action are required to provide a written statement before a notary in connection with their consent to donating, which proved that the action in question have been on the basis of their free will and without any influence from any external circumstance that would violate free will. Identification of donors in Macedonia made in the special register called the State Register of donor sperm, egg cells and embryos. Unlike users of this material, donors can make a statement to withdraw

The New Reproductive Technology and Parent-Child Relationship

consent for the use of their genetic material, even after the issuance of this material, but at the latest until the beginning of the procedure for biomedical assisted fertilization. Health institutions involved in this procedure are required to retain all records relating to personal secrecy, medical and genetic donor. The entire procedure is performed without any donation is done for donor compensation.

The relationship of parents with children born by surrogate mother

Surrogate motherhood means leaving available or "rent" her body respectively uterus or reproductive capacity with the aim of establishing foreign embryo to carry and birth, and postpartum no claim foresee any baby born. In some cases, the surrogate mother need to give only her womb and in some cases giving even need its egg cell. This method of childbirth in Macedonia was initially prohibited by the provisions under the Law on Biomedical Assisted Fertilization (2008), and later with additions and changes that followed in 2014 by following and trended international development of this institute, the same was allowed. On the basis of these changes are foreseen and conditions who may be a surrogate mother, and the other asked: surrogate mother to be aged 25-50 years old, having been the mother of at least one child and be healthy in terms of mental and physical health, be in good condition physical, not removed or limited ability to act, the parental right not to be removed or limited, or sanctioned for criminal offense not exceeding more than 6 months, not to be addicted to drugs and other narcotic substances, not to be dependent on alcohol and not suffering from any contagious incurable diseases. Provisions of the law regulating this issue for mothers gestational used expression surrogate mother, to be closer terminology used most European countries (gestational mother). That can marital couple or extramarital couple pull one such right should be presented specific reasons, including: the wife of the married couple have been born with the absence of the uterus or deficiencies in the uterus which can not be remedied with the procedure modern surgery, be damaged uterus from a previous surgery or similar.

In terms of compensation for service on a global level, there are two forms of surrogate mothers, surrogate mother surrogate mother altruistic and commercial (Hatzis, 2003: 415). Macedonia recognizes only form of maternal surrogate altruistic service performs simple motifs charitable, and surrogate mothers to effect commercial is prohibited and it qualifies as a criminal offense under the Criminal Code provisions, which shall be punishable with imprisonment from six months to five years for each person who will require such compensation (Paragraph 3 Article 27 The Law on Biomedical Assisted Fertilization) However, around the world there are countries that perform this service for certain compensation

The exercise of parental rights

With the exercise of parental rights means undertaking all actions that fulfill all the rights and obligations of parents towards minor children or to those whose parental right is extended. The exercise of parental rights is considered personal and exclusive right of his parents when those same exercise within the legal authorizations and agreements. The law puts on equal footing in terms of rights and obligations as well as his father, mother, and no one is entitled to any of the exclusive rights with the exception of natural rights. If one parent is deprived of the ability to act or is deprived of parental authority, he is deceased or unknown then the other parent will exercise the parental rights (authority) over the children. Also, these rights and obligations in the modern era are also divided between the parents and the various state institutions, because the state referring to the

principle of protecting the best interests of the child interferes in different ways for their protection. Also in undeveloped societies more and more efforts are being made to raise awareness regarding the rights of children that they not be regarded as "property" of their parents, although some still believe that the law allows them to i'u children behave tyrannical (Macedo, Young, 2003: 2).

Children have the same rights in relation to their parents no matter what methods are used to capture and their coming to life, whether natural or artificial. In fact the only difference to children born from artificial insemination is not allowed here is that the authentication procedure or rejection of fatherhood and motherhood, because in this case the parents make a statement before a notary where they agree in advance that the child to be born is accepted for own.

Conclusions and Recommendations

The application of new methods of medical and technical human reproduction is intervening in the most intimate marital relations and the fact of the child's conception depends not only on the willingness of the spouses but interaction is required and third persons. Most couples who for various reasons consider themselves infertile and unable the right to become parents only in natural way, have the potential to find an adequate solution to their problem through the use of medical assistance. Application of these methods sometimes creates the impression that when biomedical science can not find solutions for diseases or defects healthy little heavier for infertility, ended healthy desire to become a parent at all costs and that is variant surrogate mothers. Due to the increased interest of infertile people to apply these methods through the US National Institutes of Health (National Institute of Health) makes investments in medical science and biotechnology twice more than for all other searches taken together cancer, AIDS, diseases and diabetes neuropathological. We finally recommend: 1. to amend the concept of motherhood and fatherhood in doctrine and under positive legislations conform and adapt to new situations that are created when a child can be born by surrogate mother, after the provision of the law says: "mother of the child shall be deemed wife who was born child." Now, in the case of the mother surrogate have women whose GM is the child and the other woman who bears the burden and gives birth, according to The Law on Biomedical Assisted Fertilization child belongs to the first woman, and by The Law on Family of the Republic of Macedonia child must meet wife second, where it presented and collision of laws; 2. due to the influence of external factors more, state institutions, media and NGOs should develop campaigns to sensitize the public about the possibility of resolving infertility, because the lack of understanding for these solutions by the parties often that renounce the realization of this desire; 3. because of the psychological impact that could have on his wife, or for the issue of reproductive human couple, should by the legal norm or any other legal act to regulate the psycho-physical treatments and emotive treatments particularly women before and after moment of childbirth, in order to maintain sound relations between partners.

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CEPOS NEW CALL FOR PAPERS 2017

7TH INTERNATIONAL CONFERENCE AFTER COMMUNISM. EAST AND WEST UNDER SCRUTINY Craiova (Romania), House of the University, 24-25 March 2017

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, 24-25 March 2017. 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 2017 Conferences and Events Series

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- 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;
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- 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;
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- Media, communication and politics;
- Discourse, language and social encounters;
- Bioethics and transition challenges;

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DEAD-LINE FOR SUBMITTING A PROPOSAL: **20 FEBRUARY 2017**

Proposals must be submitted until 20 February 2017 at the following addresses:
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<http://www.socmag.net/?p=1562>

- African Journal of Political Sciences

http://www.maspolitiques.com/mas/index.php?option=com_content&view=article&id=450:-securiteee-&catid=2:2010-12-09-22-47-00&Itemid=4#.VjUI5PnhCUk

- Researchgate

https://www.researchgate.net/publication/283151988_Call_for_Papers_6TH_International_Conference_After_Communism_East_and_West_under_Scrutiny_8-9_April_2016_Craiova_Romania

- World Conference Alerts

<http://www.worldconferencealerts.com/ConferenceDetail.php?EVENT=WLD1442>

- Edu events

<http://eduevents.eu/listings/6th-international-conference-after-communism-east-and-west-under-scrutiny/>

- Esocsci.org

<http://www.esocsci.org.nz/events/list/>

- Sciencedz.net

<http://www.sciencedz.net/index.php?topic=events&page=53>

- Sceince-community.org

<http://www.science-community.org/ru/node/164404/?did=070216>

CEPOS NEW CALL FOR PAPERS 2017

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>;

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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 7th International Conference "After communism. East and West under Scrutiny" (2017) will be held in Craiova, a city located in the South-Western part of Romania, at about 250 km from Bucharest, the national capital.

The airport of Craiova (<http://en.aeroportcraiova.ro/>) has flights to Timisoara, Dusseldorf, Munchen, Ancone, Rome, Venezia, London, Bergamo etc.

Other airports, such as Bucharest (Romania) (<http://www.aeroportul-otopeni.info/>) is located at distances less than 240 km from Craiova and accommodate international flights.

Train schedule to Craiova can be consulted at InterRegio CFR (<http://www.infofer.ro/>) and SOFTRANS (<http://softrans.ro/mersul-trenurilor.html>).

ACCOMMODATION

Rooms can 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 2017 FEES AND REGISTRATION REGISTRATION DESK

The Conference Registration Desk will be opened from Friday, 24th of March 2017 (from 08.00 a.m. to 18.00 p.m.) until Saturday 25th of March 2017 (from 08.00 a.m. until 14.00 p.m.), for registration and delivery of conference bag with documents to participants.

The Conference Registration Desk is located in the lobby of the University House Club, 1st Floor.

REGISTRATION FEES

90 euros/paper can be paid directly via bank transfer on CEPOS Bank account as follows:

Details for online payment

Banca Romana pentru Dezvoltare (BRD)

Owner: ASOCIATIA CENTRUL DE STUDII POLITICE POSTCOMUNISTE

Reference to be mentioned: CV taxa participare si publicare CEPOS

Account Number: RO64BRDE170SV96030911700 (RON)

MEALS AND OTHER ORGANIZING DETAILS

The registration fee covers:

* Conference attendance to all common sessions, individual and special panels

CEPOS NEW CALL FOR PAPERS 2017

- * Conference materials (including a printed version of the Book of Abstracts of the Conference)
- * Conference special bag - 1 for every single fee paid, no matter the number of authors/paper
- * Coffee Breaks-March 24, 2017 – March 25, 2017. During the two days conference, 4 coffee breaks are offered.
- * Welcome reception (March 24, 2017)
- * Lunch (March 24, 2017) offered in the University House Mihai Eminescu Gala Room
- * A Festive Gala Dinner and Cocktail (March 24, 2017) 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 (March 25, 2017)
- * Certificate of attendance (offered at the end of the conference March 25, 2017)
- * Publication of the Conference Papers in the International Indexed Journal Revista de Stiinte Politice. Revue des Sciences Politiques (previous publication of the 2016 Conference papers is available at <http://cis01.central.ucv.ro/revistadestiintepolitice/acces.php> (RSP issues/ 2016)
- * 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 videoprojector 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 2017

- * Participants in CEPOS CONFERENCE 2017 have free acces to the Social and Cultural Program of the Seventh Edition of the International Conference After Communism. East and West under Scrutiny, Craiova, 24-25 March 2017: 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, March 25, 2017

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 April 3, 2017

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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).

See the full text (free acces) at the following address:

<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).

See the full text (free acces) at the following address:

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

- Fifth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 24-25 April 2015) were published in no. 45, 46 (pending publication -47 and 48/ 2015 of the Revista de Stiinte Politice. Revues des Sciences Politiques (RSP).

- Sixth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 8-9 April 2016) are published in no. 49, 50, 51, 52/ 2016 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>.

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

Revista de Stiinte Politice/Revue des Sciences Politiques is an International Indexed

Journal by:

ProQuest

ERIH PLUS

ProQuest Political Sciences

EBSCO

KVK

Gale Cengage Learning

Index Copernicus

Georgetown University Library

Elektronische Zeitschriftenbibliothek EZB

Journal Seek

Intute Social Sciences.

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

Google Scholar

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

ProQuest 5000 International

<http://tls.proquest.com/tls/servlet/ProductSearch?platformID=1&externalID=770&vdID=614505/PMID99909>

Birmingham Public Library, United Kingdom

<http://www.bplonline.org/virtual/databases/journals.as/px?q=R&p=36>

Harold B. Lee Library, Brigham Young University

http://sfx.lib.byu.edu/sfxlcl3?url_ver=Z39.88-2004&url_ctx_fmt=info:ofi/fmt:kev:mtx:ctx&ctx_enc=info:ofi/enc:UTF-8&ctx_ver=Z39.88-2004&rft_id=info:sid/sfxit.com:azlist&sfx.ignore_date_threshold=1&rft.object_id=100000000726583&rft.object_portfolio_id=&svc.holdings=yes&svc.fulltext=yes

Miami University Oxford, Ohio, USA

<http://www.lib.miamioh.edu/multifacet/record/az-9ce56f97d1be33af92690283c0903908>

German National Library of Science and Technology

<https://getinfo.de/app/Revista-de-%C5%9Ftiin%C5%A3e-politice-Revue-des-sciences/id/TIBKAT%3A590280090>

Bibliotek Hamburg

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

Sabre Libraries of University of Sussex, University of Brighton and Brighton and Sussex NHS

<http://sabre.sussex.ac.uk/vufindsmu/Record/1584224X/Details>

University of Southern Denmark

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

Edith Cowan Australia

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

University College Cork, Ireland

<http://cufts2.lib.sfu.ca/CJDB4/CCUC/journal/375867>

Region Hovedstaden Denmark

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<http://forskning.regionh.dk/en/journals/revista-de-stinte-politice%2811468a3a-a8be-4502-b8d6-718255c47677%29.html>

WorldCat

<https://www.library.yorku.ca/find/Record/muler82857>

York University Library, Toronto, Ontario, Canada

<https://www.library.yorku.ca/find/Record/muler82857>

The University of Chicago, USA

https://catalog.lib.uchicago.edu/vufind/Record/sfx_1000000000726583

Wellcome Library, London, United Kingdom

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

The University of Kansas KUMC Libraries Catalogue

<http://voyagercatalog.kumc.edu/Record/143742/Description>

University of Saskatchewan, SK

<http://library.usask.ca/find/ejournals/view.php?i>

Academic Journals Database

<http://discover.library.georgetown.edu/iii/encore/record/C%7CRb3747335%7CSREVIS TA+DE+STIINTE%7COrightresult?lang=eng&suite=def>

Journal Seek

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

Sherpa

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

University of New Brunswick, Canada

<https://www.lib.unb.ca/eresources/index.php?letter=R&sub=all&start=2401>

State Library New South Wales, Sidney, Australia,

<http://library.sl.nsw.gov.au/search~S1?i1583-9583/i15839583/-3,-1,0,B/browse>

Electronic Journal Library

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

Jourlib

<http://www.jourlib.org/journal/8530/#.VSU7CPmsVSk>

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Cheng Library Catalog

<https://chengfind.wpunj.edu/Record/416615/Details>

Open University Malaysia

<http://library.oum.edu.my/oumlib/content/catalog/778733>

Wayne State University Libraries

<http://elibrary.wayne.edu/record=4203588>

Kun Shan University Library

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

Western Theological Seminar

<http://cook.westernsem.edu/CJDB4/EXS/browse/tags?q=public+law>

NYU Health Sciences Library

<http://hsl.med.nyu.edu/resource/details/175011>

Swansea University Prifysgol Abertawe

<https://ifind.swan.ac.uk/discover/Record/579714#.VSU9SPmsVSk>

Vanderbilt Library

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

Wissenschaftszentrum Berlin für Sozial

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

Keystone Library Network

<https://vf-clarion.klnpa.org/vufind/Record/clarion.474063/Details>

Quality Open Access Market

<https://zaandam.hosting.ru.nl/oamarket-acc/score?page=4&Language=21&Sort=Ascending&SortBy=BaseScore>

Elektronische Zeitschriftenbibliothek EZB (Electronic Journals Library)

http://rzblx1.uni-regensburg.de/ezeit/searchres.phtml?bibid=AAAAA&colors=7&lang=de&jq_type1=KT&jq_term1=REVISTA+DE+STIINTE+POLITICE

Harley E. French Library of the Health sciences

<http://undmedlibrary.org/Resources/list/record/129818>

Open Access Articles

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

Vrije Universiteit Brussel

<http://biblio.vub.ac.be/vlink/VlinkMenu.CSP?genre=journal&eissn=&issn=1584->

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224X&title=Revista%20de%20Stiinte%20Politice

The Hong Kong University

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

Biblioteca Universitaria di Lugano

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

Olomuc Research Library, Czech Republic

http://aleph.vkol.cz/F?func=find-c&ccl_term=sys=000070018&con_lng=eng&local_base=svk07

California State University Monterey Bay University

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

University of the West

<http://library.uwest.edu/booksab.asp?OCLCNo=9999110967>

Elektronische Zeitschriften der Universität zu Köln

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

Biblioteca Electronica de Ciencia y Tecnologia

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

University of Huddersfield UK

<http://library.hud.ac.uk/summon/360list.html>

Saarlandische Universitäts- und Landesbibliothek Germany

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

OHSU Library

<http://www.ohsu.edu/library/ejournals/staticpages/ejnlr.shtml>

Valley City State University

<http://www.ohsu.edu/library/ejournals/staticpages/ejnlr.shtml>

Centro de Investigaciones Sociológicas, Spain

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[http://www.cis.es/cis/export/sites/default/-](http://www.cis.es/cis/export/sites/default/)

Archivos/Revistas_de_libre_acceso_xseptiembre_2010x.pdf

Drexel Libraries

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

Impact Factor Poland

<http://impactfactor.pl/czasopisma/21722-revista-de-stiinte-politice-revue-des-sciences-politiques>

Pol-index

<http://catalogue.univ-angers.fr/OPD01/86/61/40/00/OPD01.000458661.html>

ILAN University Library

http://muse.niu.edu.tw:8080/1cate/?rft_val_fmt=publisher&pubid=ucvpress&set.user.locale=en_US

Dowling College Library

<http://wwwx.dowling.edu/library/journaldb/keyword4.asp?jname=revista>

Universite Laval

http://sfx.bibl.ulaval.ca:9003/sfx_local?url_ver=Z39.88-2004&url_ctx_fmt=info:ofi/fmt:kev:mtx:ctx&ctx_enc=info:ofi/enc:UTF-8&ctx_ver=Z39.88-2004&rft_id=info:sid/sfxit.com:azlist&sfx.ignore_date_threshold=1&rft.object_id=100000000726583&rft.object_portfolio_id=&svc.fulltext=yes

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

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



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GUIDELINES FOR PUBLICATION

REVISTA DE ȘTIINȚE POLITICE. REVUE DES SCIENCES POLITIQUES (RSP)

Email: Manuscripts should be submitted online at rsp.editassist@gmail.com, cepos2013@yahoo.com and cepos2013@gmail.com with the following settings:

Page setup: B5 JIS

Paper title: For the title use Times New Roman 16 Bold, Center.

Author(s): For the Name and Surname of the author(s) use Times New Roman 14 Bold, Center. About the author(s): After each name insert a footnote (preceded by the symbol *) containing the author's professional title, didactic position, institutional affiliation, contact information, and email address.

E.g.: Anca Parmena Olimid*, Cătălina Maria Georgescu**, Cosmin Lucian Gherghe***

* Associate Professor, PhD, University of Craiova, Faculty of Law and Social Sciences, Political Sciences specialization, Phone: 00407*****, Email: parmena2002@yahoo.com. (Use Times New Roman 9, Justified)

** Lecturer, PhD, University of Craiova, Faculty of Law and Social Sciences, Political Sciences specialization, Phone: 00407*****, Email: cata.georgescu@yahoo.com. (Use Times New Roman 9, Justified)

*** Lecturer, PhD, University of Craiova, Faculty of Law and Social Sciences, Political Sciences specialization, Phone: 00407*****, Email: avcosmingherghe@yahoo.com. (Use Times New Roman 9, Justified)

Author(s) are fully responsible for the copyright, authenticity and contents of their papers. Author(s) assume full responsibility that their paper is not under review for any refereed journal or conference proceedings.

Abstract

The abstract must provide the aims, objectives, methodology, results and main conclusions of the paper (please submit the papers by providing all these information in

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the abstract). It must be submitted in English and the length must not exceed 300 words. Use Times New Roman 10,5, Justify.

Keywords

Submit 5-6 keywords representative to the thematic approached in the paper. Use Times New Roman 10,5, Italic. After the keywords introduce three blank lines, before passing to the Article text.

Text Font: Times New Roman: 10,5

Reference citations within the text Please cite within the text. Use authors' last names, with the year of publication.

E.g.: (Olimid, 2009: 14; Olimid and Georgescu, 2012: 14-15; Olimid, Georgescu and Gherghe, 2013: 20-23).

On first citation of references with more than three authors, give all names in full. On the next citation of references with more than three authors give the name of the first author followed by “et al.”.

To cite one Article by the same author(s) in the same year use the letters a, b, c, etc., after the year.

E.g.: (Olimid, 2009a:14) (Olimid, 2009b: 25-26).

References: The references cited in the Article are listed at the end of the paper in alphabetical order of authors' names.

References of the same author are listed chronologically.

For books

Olimid, A. P., (2009a). *Viața politică și spirituală în România modernă. Un model românesc al relațiilor dintre Stat și Biserică*, Craiova: Aius Publishing.

Olimid, A. P., (2009b). *Politica românească după 1989*, Craiova: Aius Publishing.

For chapters in edited books

Goodin, R. E. (2011). The State of the Discipline, the Discipline of the State. In Goodin, R. E. (editor), *The Oxford Handbook of Political Science*, Oxford: Oxford University Press, pp. 19-39.

For journal Articles

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

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

Tables and Figures

Tables and figures are introduced in the text. The title appears above each table.

E.g.: Table 1. The results of the parliamentary elections (May 2014)

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Proposed papers: Text of the Article should be between 4500-5000 words, single spaced, Font: Times New Roman 10,5, written in English, submitted as a single file that includes all tables and figures in Word2003 or Word2007 for Windows.
All submissions will be double-blind reviewed by at least two reviewers.



Errata, Corrigenda and Retractions

Erratum: Bulent Sarper AGIR, Baris GURSOY, Murat NECIP ARMAN (2015). European Perspective of Human Security and the Western Balkans, *Revista de Științe Politice. Revue des Sciences Politiques*, 50, 41-54. Retrieved from: http://cis01.central.ucv.ro/revistadestiintepolitice/files/numarul50_2016/4.pdf

On the authors' personal demand, the authors' affiliation is changed as follows (correction page 41):

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