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MEDIA STUDIES

NEW BOOKS & IDEAS

Romanian education system and national minorities in the interwar period

Aurel PIŢURCĂ

Abstract: *The article is structured into two parts: in the first part the author makes some theoretical conceptual specification on minorities, ethnical minority, minority of language, race and religion and national minority. In the second part the author highlights and analyzes some of the issues of the relation between the Romanian education system during the interwar period and national minorities from Transylvania.*

Keywords: *national minorities, inter-ethnic relations, education system, confessional education, Romanianization, Hungarianization.*

Minorities' issues, no matter their nature or historical period, have constituted a theme with a large audience and public debate, with multiple implications for the political life and social practice. One can discuss on the presence of ethnic, linguistic, religious minority groups even from the antiquity, perpetuating till the present moment. Since the establishment of the national state, during the modern period, national minorities have been appeared, fact which would amplify and tense the communities' social life, both internally and internationally. Today one can speak of a great diversity of minorities, cultural, sexual, racial groups, immigrants or the Roma.

In one form or another, ethnic and national minorities have been present during the whole history, representing important components of any social community, including the present type of human development.

Most of the dictionaries, studies, papers define the minority as the smallest number or part from a collectivity[1]. In relation to the majority, the minority group is in a position of numeric inferiority and from this its social, political, cultural, of statute and social role. The determining, discriminating element is of a quantitative, numeric nature, and in no instance of qualitative nature or value.

In the sociologic sense, the majority is a segment of the population which exceeds all the other segments[2].

The notions of "ethnic minority", "language, race and identity minority", and "national minority" were used having the same meaning and value for a very long time, their meaning not being completely cleared up even today. Understanding the issue of national minorities in the

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contemporary period requires some theoretical, conceptual specifications. Ethnic minority is a notion characterising the pre-national period, its members being united through a commune descendant given by the same language, way of living, traditions, behaviour, religious belief, culture. This concept highlights the cultural components which render the group the feeling of belonging and that of being different from the majority, which determines them to make social, political, cultural claims that would make them equal to the majority, or to benefit from a special treatment based on the recognition of the autonomy, and, in extreme cases, on separation.

The concept of "language, racial and religious minority" was used during the writing of the Peace Treaties of Paris, during 1919-1920, and was also adopted by the League of Nations. An attempt to define the concept was made by Helmes Rosting, who defined it as "those groups of persons who differ through race, religion or language from the majority of a country's inhabitants"[3]. The respective definition does not accomplish a new and consistent approach of the concept of minority, the latter being imposed rather form political necessities, necessary in order to draw up the peace treaties. Moreover, even from 1922, Jacques Duparc, referring to the definition of the concept of minority, appreciated that it is "an abstract notion which does not imply the existence of determinant features, but a juridical relation, whose meanings varied… within a certain époque and within a certain geographical area"[4].

Rasting's definition, although it does not have in view elements belonging to national minorities as imposed by the national state, has the merit of including the notions of language, race and religion, ancient elements of distinction and exemplification of ethnic groups and whom all local communities took into account, as well as the states and political officials of the time.

The concept of "national minority" was used for the first time by C. A. Macartney in the interwar period. He tried to apply this concept to the new state-nation realities which were constituted in Europe after the First World War. National minorities were circumscribed both to the state and to majority nations.

During the post-war period of the 1970s Francesco Copatari would try to define "national minorities", viewed by him as "a numerically inferior group to the rest of a state's population, in a non-dominant position, whose state-obedient members share, from an ethnic, religious or linguistic point of view, characteristics which differentiate it from the rest of the population and who manifest, in an implicit manner, a feeling of solidarity which allows it to keep its culture, tradition, religion or language"[5].

More clearly, complete definitions and which apply to the new contemporary realities of national minorities are found in the documents of the Council of Europe. National minorities are conceived as: groups of persons from a state who own the state's citizenship, have and use the language of the majority in a certain manner, have their own cultural, linguistic, religious identity, which they conserve, take part to the political life of the respective state through their own organizations and bodies, but also through the organizations and bodies of the state they belong to, trying to promote, through dialogue, political way, and, in extreme situations, through other means, their own interests, aspirations, which, in most of the situations, coincide to those of the majority; are integrated and loyal to the state they belong to; share the same rights and freedoms with the majority population.

A radically changed, special situation of the relation between majority and national minorities exists in the European Union. It

mostly blurred the tensions and conflicts between majority and minorities through the newly created framework and gave a highly different meaning to the relations between them, determined by a series of measures: the abolition of national borders, free movement of persons, the possibility to work and establish the place of residence in any part of the EU, to participate in the social-political life of the residing community, to be represented, single currency, common Community institutions. The European Union turned motherlands of EU states into the motherland of the states. Many of the causes which generated and fuelled conflicts, tensions between the majorities and minorities have vanished or do not find their place within the new reality and social-political organization. Through the creation of the European citizenship the differences between majority and minority tend to wipe out and the possible harshness between them tends to disappear. Under no circumstance are they perceived anymore, or understood according to their ancient meanings. On the contrary, in some EU Member States, minority groups tend to get a different meaning, that is of immigrant groups which are constituted of Community non-citizens, distinct both from the majority and from national minorities, and have as purpose to acquire the status of Community citizen and all that the latter implies and devolves upon somebody.

For the first time, ethnic minorities of language, race and religion have become a social and political issue, transferring also in the field of international relations, since the signing of the Peace Treaties of Paris (1919-1920). The Peace Conference should have found the answer and solutions for the new political reality which appeared following the First World War through the disappearance of two empires and the establishment of new national states or the perfection of national unity by others,

among which Romania and the issue of national minority existing before the war or appeared following the drawing of the new European political map. From humanitarian, democratic principles, in order to solve the new European political reality, to prevent the possible conflicts, abuses of the majority against the minority, to obviate the arguments among the states which had national minorities and the latter's mother-states, the political and diplomatic world of the great European powers tried to offer protection to national minorities through international treaties, putting them under the League of Nations' guarantee. The independence of the states succeeding the Austrian-Hungarian Empire, among which was Romania, was conditioned, along with the signing of the Peace Treaty, by the signing of a Treaty of the Minorities through which they bound themselves to ensure minorities equal treatment to that of the majority. Such a measure lead to different reactions among the succeeding states which were forced to sign it, Romania having the most visible reaction of opposition to it. Prime-Minister Ionel Brătianu claimed that, as regards Romania, the minorities issue was solved as the latter had equal rights to the majority. Being pre-occupied with rendering full independence and sovereignty to Romania, of stating equal principles and applicable to all Member States of the League of Nations, the Romanian prime-minister highlighted: "Romania would not admit a special treatment that does not apply to all other sovereign states no matter their size and position, as in such matters there are no great and small states, states that would subject to the first… we understand to have here… within the kingdom, as much freedom and independence as in any other great sovereign authority"[6].

Ionel Brătianu was against the encroachment of other states, including the League of Nations, in solving the national

minorities issues as "such interference is to the prejudice of the minority itself, because it can cause problems in their relations to the majority of citizens of the respective state when internal laws equally justify all citizens, both minorities and majority, they recognize the state which they belong to as their natural protector, their unique support"[7] with such conviction and for "these serious motives we cannot admit a treaty that would impose control from abroad and which would invite some Romanian citizens to go against their state and which would put us in an inferior international situation, in a situation incompatible to the dignity we claim for our state"[8] the Romanian prime-minister argued referring to the signing of the Treaty of the Minorities.

The great powers of the time, Great Britain, France, the United States reacted harshly to such a position and, by coming to threats and blackmail, would determine Ionel Brătianu to leave the Peace Conference proclaiming the "resistance policy". Such a situation was viewed and interpreted differently by the Romanian political class, the opposition accusing him of lack of political and diplomatic tact, of putting in danger the relations with the great powers, with his own allies and supporters of the Great Union. In such a situation, Ionel Brătianu quit. Encouraged by the attitude of some successor states of the empire such as Poland, which on July 26th, 1919 signed with no reserves the Treaty of the Minorities, the League's Supreme Council, which managed the minorities issue, without taking into account any proposition and promoting its own politics, decided to sign the Treaty on September 10th, 1919, putting Romania and other successor states before the completed fact. The new government led by Alexandru Vaida Voievod made a simple formality by signing the Treaty on December 9th, 1919, thus assuming the

documents referring to race, language and religion minorities.

The minorities issue is linked to inter-ethnical relations which are one of the most delicate and sensitive spheres of the social life, especially in the situation characterising Romania following the Great Union.

The relation between national minorities of Romania during the interwar period and the education system, understood both as a general process and as language of un-folding, held an especially important place in the social life. The education system, the principles, values and language in which it unfolded can have a contradictory action in relation to minorities. On the one hand, education in the maternal language constituted a component, an essential means in preser-ving its national identity, in individualising them. In return, the absolutization of edu-cation in the minorities' maternal language can give birth to a discrimination process, of social inequality with the majority, can lead to their isolation and marginalization, to the impossibility of their participating to the social life, to the promotion of their own aspirations and ideals, to showing their own human fund to advantage. Such a policy can lead to the appearance of tensions and animosities between majority and minorities, to the annulment of dialogue and communication, to social and ethnic conflicts.

In the field of education, a multitude of problems stood before the united Romania. Romanian authorities wished to make out of education an element of unity, of liaison of the newly established state, of dialogue and communication with all its citizens, of putting the latter in state of equality in all the domains of social life. To such a policy one opposed that of the German minority's leaders, but especially the Hungarians. Putting education under the control of Romanian authorities and

imposing the Romanian language meant reducing their influence over a great mass of minorities, including the Hungarianized Romanians before 1918, limiting or even removing some privileges at the level of the local administration, subjecting to the new legislation and regulations, removing some common law of the Hungarian aristocracy, limiting and controlling the irredentist politics promoted by Hungary with the support of Hungarian Transylvanian leaders.

The entire politics in the domain of national minorities promoted by Romania during the interwar period, including in the field of education, was based on the respect of the adopted programs during the unity meetings with Romania, of the Treaty of the Minorities signed in December 1919. All national minorities were ensured primary, secondary, private, confessional or public education in their maternal language, thus having the possibility to conserve their identity, cultural, linguistic, religious traditions. In order to put national minorities in a state of equality with the majority and to ensure the dialogue and communication with all their citizens, to remove any possibility of isolation, marginalization one ensured the study of the Romanian language at all education cycles and forms, still an aspect which gave birth to disputes and controversies in the relations to the German and Hungarian minorities.

Following the accomplishment of the Great Union, along with the other problems of the social life, education raised a multitude of problems within the united provinces:

1. A first problem constituted in the creation of a unitary, laic, scientific, democratic education system, under the control and coordination of the state. Such a measure was absolutely necessary as, following 1919, in the United Romania existed four systems of education from Austria, Hungary, Russia and the Ancient kingdom.

The process of the unification of the education system unfolded with difficulty due to many causes:
- prior to 1923, there was no fundamental act, a Constitution according to which one accomplished a unitary, legitimate policy in the education system and which allowed the adoption of the new laws and regulations. The Constitution of 1866, in use, was completely obsolete, had no stipulations which would respond to the new changes appeared in Romania's life after 1918;
- the powerful opposition to changes and innovations sustained by the German minority leaders and especially Hungarian who did not recognize the union and wished to turn education into an element of opposition, of counterpoint towards the Romanian authorities;
- the political instability until 1924 had ended since the beginning of the liberal governance.

As a consequence, until the adoption of the Constitution of 1923 and of the education laws of 1924, there was a period of transition, of cohabitation of the education systems form the Ancient Kingdom with the ones from the united provinces.

The unification of the education system on the entire territory of Romania was a necessary process, a condition for strengthening and consolidating national unity, a proof of imposing Romanian authority, the beginning of the creation of modern education, destined to progress, a right which originated in its independence and sovereignty.

2. A second problem was the diminish in the percentage of confessional education and the growth of the public, laic education, being under the state's control and coordination.

Mostly, education in Transylvania was laic, as the Hungarian state used it in the de-nationalization politics carried against

national minorities, of Hungarianization, of forming national consciousness.

Besides public education, in Transylvania there was also a powerful confessional (catholic, reformed, Unitarian) education, with a large autonomy, including in conferring diplomas. As a reaction to the fact that public education passed under the control of the Romanian state authority, German minorities, but mostly the Hungarian ones, in their opposition and resistance towards the union act, in order to exit the control and get rid of the new requests, would pass to the establishment of numerous confessional schools.

During the period 1919-1920 the number of confessional schools increased from 438 to 895. The numeric growth of confessional schools was determined by other motives such as: the elusion of the use of the Romanian language which was not mandatory in confessional education; attracting pupils from other minorities, including of the Hungarianized Romanians; the association of education and religious freedom could be a motive of the clerics in their protests both internally and internationally, religious freedom being a very sensitive element and with high audience to the public opinion; the use of confessional schools as centres of propaganda and anti-Romanian agitation, in the accomplishment of Hungary's irredentist policies. Because of these, the Hungarian minority, mostly, lead its children towards confessional education, turning roundabout the public one, the Romanian state reacted towards the increase in the number of confessional schools through a series of measures: the inclusion of confessional schools under the control of the education legislation adopted after 1924; the interdiction of subscribing to these institutions of pupils of a different religion and confession than that of the ethnic group that created and supported them; the obligation of the use of the Romanian language in the study of some disciplines such as the Constitution, the country's history and geography, the study of the Romanian language, its knowledge by the didactic personnel and taking all the examinations of certification and promotion in the Romanian language, not financing state confessional schools etc.

The measures taken by the authorities from Bucharest reached their purpose, the number of confessional schools decreased, confessional education entered under the control and coordination of the authorities, it increased its scientific, laic content in the detriment of the religious confessional one.

3. A third problem was represented by the imposition of the Romanian language in the entire education system, no matter its form, level, proportion of minorities, province. This objective gave birth to a strong controversy, opposition, protests among the leaders of the German and Hungarian minority and the Romanian state. For the two minorities from Transylvania, the Germans and the Hungarians, the purposes and objectives followed through the opposition towards the imposition of the Romanian language were different: the German minority wished to keep its cultural, religious, national identity. In return, the leaders of the Hungarian minority conferred it strong political connotations, turning it into a permanent motif of internal protest, but mostly international. This is why the Hungarian leaders spoke of the "Romanian cultural offensive of de-nationalization", "the peril of minorities' disappearance", "Romania-nization" etc.

The Romanian state, through the ministers of education of the time, P.P. Negulescu (1920-1921), but mostly C. Angelescu (1922-1928, 1933-1937), considered that the imposition, knowledge and use of the Romanian language in this important field of the social life had as purpose the following: the consolidation of the Romanian

national identity; the increase in the cohesion of the Romanian people and of the act of union; the unification and functioning of education at the level of the entire country; ensuring equality and possibilities of affirmation of all its citizens, no matter the nationality, means of dialogue, communication and participation in the social life of all Romanian citizens; the diminish in the possibilities of using propaganda materials having irredentist purposes coming from Hungary and having access to the great mass of Hungarians; ceasing the process of Hungarianization of Romanians from the areas in which they were minorities and bringing them back to the Romanian nation.

There were multiple and diverse protests, such as: the refusal to subscribe their children to public education; protests addressed to local, county, central authorities, including the Parliament and the League of Nations; postponing within the Parliament the adoption of the education laws, by the minorities' representatives, and also their application, demanding for longer terms for the learning of the Romanian language or for its use in education and administration.

4. The fourth issue, in close connection to the imposition of the Romanian language was the de-politicization of education.

During the whole period of dualism, the Hungarian kingdom had as main objective towards minorities their de-nationalization, their Hungarianization. In this sense, it used politics and implemented it in all domains of the social life, including in that of education. No matter its nature, either public, private or confessional, education was used as a means in the policy of de-nationalization especially of the Romanians from Transylvania, as they formed the majority, also being its first and oldest inhabitants, but also of the Szecklers, Swabians, Saxons of Transylvania. That is how we could explain their support

and agreement regarding the union with Romania in 1918. Minorities' assimilation has become state politics during the governments of Tisza Kălănean, Banffy Dezso and Tisza Istvan. School and its institutions were politicized, especially during Minister Albert Apponyi, having as purpose the creation of the Hungarian unitary nation, of Hungarian conscience and identity which were based on the idea of Hungarian citizenship according to which all individuals, no matter their ethnicity, compulsorily belong as citizens to the unitary Hungarian nation.

Following the union, under the circumstances in which public education entered under the control and administration of Romanian authorities, the opposition of the Hungarian leaders used confessional education as a means of political struggle, of propagating the revisionist and irredentist politics of Hungary, and anti-Romanian politics.

Under the protection of religious freedom, confessional schools turned into propaganda centres and anti-Romanian subversive actions, of stocking and spreading iredentist materials coming from Hungary, of avoiding the control by and contacts with Romanian authorities and their policies, of civic and political insubordination.

Through the education laws created starting with 1924, the law of public, private, confessional education, of the school-leaving examination, the Bucharest authorities have been preoccupied with eliminating politics from the education system, with maintaining it outside its perimeter of action, as it had been established through the Peace Treaty of Paris and the Treaty of the Minorities.

The problem of the education system from Great Romania and national minorities, especially the Hungarian one from Ardeal during the interwar period has given birth to acute disputes, protests,

tensions and crises, mostly determined by the political opposition of the Transylvanian Hungarian leaders who did not recognized the union, by the revisionist irredentist politics fuelled and supported by Hungary, but also by some subjective and objective causes which were linked to the Romanian politics itself towards minorities, such as:

- the lack of experience as regards minorities politics of the governance from Bucharest which had not encountered such an issue within the Ancient Kingdom;
- the tensed situation between Romania and Hungary during 1919 and 1920 which generated and fuelled the opposition of Transylvanian Hungarian leaders towards Romanian authorities;
- the contradiction between the policy of centralisation promoted by the liberal governance, adept of a centralised, strong and unitary state and the policy of local, regional autonomy wished and promoted by minorities, especially the German and Hungarian ones, whose interests and privileges were directly affected by the centralised policy;
- the lack of unity of the Romanian political class towards the policy that would be applied as regards the united provinces. For instance, the leaders of the National Peasant Party, especially the Transylvanian group, were adepts of the policy of local autonomy, which was also promoted by the minorities. Such a policy had its reasons in their state of opposition to the liberals, in their desire to keep Transylvania and its provinces within their political-electoral pool. Local autonomy, many times understood as a culture, would bring both Transylvanian political leaders and those of national minorities the maintenance of old privileges, economic and political interests;

- the lack of efficient communication between central and local authorities determined by the lack of qualified personnel, of administrative experience and science, by the opposition of the leaders of the Hungarian minority and even Romanian;
- psychological, moral factors which acted not only with the minorities, especially the Hungarian one, but also with the Romanian nation. Temporally, psychically, morally, but especially politically, the Transylvanian Hungarian minority did not wish, nor was it able to accept the new social-political situation. From a dominant, all-ruling nation, following the union, it woke up as a minority, turned into equal to those whom it had exploited and despised. Through their leaders, the Transylvanian Hungarians considered themselves to be the successors of the Hungarian state, thus wishing to preserve its old political, social and economic status, they considered themselves to be a governing party, at least equal to the Romanian state. Placed before the new political reality, they refused to accept it, it became opposed with or without motives, being manoeuvred by Hungary in its revisionist policies.

To this was added the presence and action of strong international laic, political, ecclesiastic centres of Hungarian ethnicity that encouraged and financed the opposition and secessionist tendencies of the Hungarians within the area, including from Ardeal.

One must also have in view the psychic and moral pressures that the Romanian central and local authorities were subjected to from the part of an important segment of the public opinion, of the Transylvanian Romanians who demanded satisfaction as they had been underestimated, offended, de-nationalized for ages, politics which in many areas continued to be performed

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towards them. Thus they demanded a firm, more authoritarian behaviour towards the politics of insubordination and that of not-recognizing the union promoted by the Hungarian leaders and Hungary's revisionist politics.

Furthermore, one must not neglect the pressure exerted by the League of Nations which had assumed the role as warrant of representing minorities' rights. During the interwar period Romanian authorities had to accept negotiations, suggestions from the part of the commissioners of the League on the problems of minorities, including compromises in the drawing up of certain laws regarding minorities.

In spite of all the burdens and the opposition with which they came against, in spite of the existing imperfections, politics in the field of education and instruction, in general, and the one related to minorities, in particular, had many and significant accomplishments: education in the entire Great Romania was unified and made uniform; a modern, laic, scientific, de-politicized education was created, laid under the control and guidance of the state; numerous schools were created, and also cultural establishments and institutions which have contributed to reducing analphabetism, to restoring the possibility that de-natio-nalized Romanians could re-gain their national language; through the introduction of the compulsoriness of the Romanian language one created equal possibilities for representation and participation to the social-political life of the country to all citizens no matter the ethnicity, race or nation. Moreover, one also created the means of dialogue, communication between minorities and Romanian authorities, minorities and the Romanian people. In spite of all the shortcomings, the un-fulfilments, loopholes, Romania's policy in the field of national minorities during the interwar period was considered as one of the most

realist, balanced, lacking excessive nation-nalism, chauvinism, or with revanchist objectives.

Notes
[1] *Dicţionar politic*, Editura politică, Bucureşti, 1975, p. 362.
[2] Anthony Giddens, *Sociologie*, Bucureşti, Editura Bic All, 1997, p. 197.
[3] Helmes Rasting, *Protection of the minorities of the League of Nations* in „The American Journal of International Law", vol. 17, 1923, p. 641.
[4] *Apud* Adrian Ivan, *Stat, majoritate, minoritate naţională în România (1918-1939)*, Editura Eikon, Cluj-Napoca, p. 86.
[5] *Apud* A. Ivan, op. cit., p. 95.
[6] Sabin Cantacuzino, *Din viaţa familiei Brătianu*, Editura Albatros, Bucureşti, 1993, p. 212.
[7] *Ibidem*, p. 213.
[8] *Ibidem*, p. 215.

Romanian Kings' official visits to London

Marusia CÎRSTEA

Abstract: *Within the interwar period, the Romanian diplomacy has always followed the consolidation of the relationships with the great European powers. In this context, a series of Romanian diplomats – Nicolae Titulescu, Take Ionescu, Grigore Gafencu, Victor Antonescu – have tried to intensify the diplomatic, economic and military relations with Great Britain. Moreover, during 1924, 1936, 1938, the Romanian sovereigns – Ferdinand and Charles II – have paid official visits that contributed to a better knowledge of the two parties as regards the bilateral and also international relations. One must reveal that the press of the time has highlighted in highly-praised terms the relations between the two monarchies noticing the importance of the discussions between the delegations of the two countries.*

Keywords: *monarchy, international relations, economic interests, official visit, diplomatic instruments.*

After the First World War, Romanian diplomacy considered three directions: strengthening ties with the Great Powers that had been allied during the war, maintaining good relations with neighbours, and developing relations with all countries, both neuter and hostile[1].

When World War I finished, Great Britain, advocate of an isolationist policy, ceased to maintain any engagement of political or military support for Romania. That's why the Romanian diplomats' efforts – Take Ionescu, Nicolae Titulescu, Grigore Gafencu, Victor Antonescu and others – were directed towards amplifying diplomatic, economic and military relations with Great Britain[2]. Nicolae Titulescu, accredited minister in London (December 1921 – July 1927 and August 1928 – October 1932) brought his contribution to strengthening bilateral English-Romanian relation[3]. From the very beginning, Nicolae Titulescu and Take Ionescu's support, who spotted, among the first, the importance Great Britain played in international relations evolution, thinking that "London is a first rank outpost"[4]. Titulescu's activity in Great Britain's capital was unanimously appreciated in British diplomatic circles. His first attempts in his diplomatic activity there show he was prove to set as a basic for the future cooperation, the feeling of complete trust. Consequently he stated that "the only thing I can do to please the English people is to

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tell the truth", reserving himself, at the same time, the right of asking to be told "only the truth" about Romania[5].

Nicolae Titulescu was preoccupied with two great problems: the former was about settling the economic and financial relation within a normal frame, by solving litigations coming from previous times, such as: war debts, compensations for destroying the oil fields, concluding a new trade treaty that might better respond to the changes in international economic life and better protect bilateral interests; the latter was observing the Peace treaties which established the Romanian Great Union in 1918.

An important role in developing bilateral relations was played by the visit of the Romanian king to London in 1924. Prepared by Nicolae Titulescu, King Ferdinand's presence, accompanied by the foreign affairs minister I. Gh. Duca, brought about many contacts which were a "total success", a point of view unanimously shared by the British press[6]. On this occasion, the British officials re-affirmed their support for Romania's territorial integrity and dealt with the commercial and financial relations of the two countries that were topical at the time. Unfortunately, the British government did not keep up the same attitude of unconditional support for Romania. An obvious example is the Locarno Treaty in 1925, which referred exclusively to the borders between France and Belgium on the one hand, and Germany, on the other hand.

The treaty did not stipulate any British guarantees for the eastern borders. Thus, Neville Chamberlain was declaring in the House of Commons: "Any new commitment contracted by His Majesty's Government must be specific and limit itself to maintaining the existing territorial statute on the western border of Germany. His Majesty's Government is not willing to assume new obligations". Nicolae Titulescu was to promptly criticize this attitude: this way, Britain "exposed all the borders of Eastern and Central Europe by saying it did not guarantee them"[7]. In the year to come, though political relations between Great Britain and Romania were not very close, the two countries established many contacts and ties, at several levels, due to their participation in debating and attempting to solving the problems of international life in the year of the world economic crash, facing similar problems[8].

Towards the end of the fourth decade international relations were influenced by: the aggressive policy of fascist countries, which encouraged revisionism, aimed at the territorial integrity, political independence and national sovereignty of certain states; a deepening of contradictions between the Great Powers which exerted a strong pressure on the international life as a whole; a policy of concession and compromise of the occidental powers with the aggressors[9].

King Carol II, together with Nicolae Titulescu, Army General Paul Angelescu, the army minister, and Alexandru Lapedatu, the minister of arts and worship, visited London at the beginning of 1936, on the occasion of the funerals of King George V. It was then that Nicolae Titulescu was received in audience by King Edward of Great Britain and had meetings with Baldwin and Austen Chamberlain, while King Carol received in audience Vansittart, Foreign Office vice-secretary, Lord Tyrerr, ex-ambassador of Great Britain in Paris, and invited to dine their excellencies Eden, the Foreign Affairs minister, Neville Chamberlain, the Exchequer, Baldwin, the Prime Minister, and Austin Chamberlain, ex Foreign Affairs minister. One of the problems they tackled was the return of the Habsburgs on Austria's throne. Nicolae Titulescu explained to the King of Great Britain the reasons why the Little

Entente was against the Habsburgs' return, succeeding to convince the British leaders to suggest it to Prince Starhemberg, who was then in London[10].

The relations between Great Britain and Romania were very close between 1936-1937. Victor Antonescu, Nicolae Titulescu's successor, met Sir Anthony Eden, Secretary of State on the Foreign Office in Geneva on September 26th, 1936, in order to assure him he would continue Nicolae Titulescu's policy but "not so brilliantly or passionately", although, he continued, "his country's foreign policy would be based on the friendship with France and Great Britain"[11].

In the following months, Victor Antonescu approached the problem of relations with Great Britain, insisting that "they continue to be excellent"[12].

In 1937 the Romanian officials re-affirmed Bucharest's wish to create a new framework for the relations with Great Britain. This was confirmed by Victor Antonescu in his talks with Eden at Geneva and London in January and April 1937. In his turn, Carol II thrice repeated his wish of amplifying British-Romanian relations.

In 1938, between the 15th and 18th of November, Carol II paid a visit to Great Britain, accompanied by Ernest Urdăreanu, I.V. Stîrcea, marshall C. Flondor, General G. Mihail, N. Petrescu, C. Cesianu, I. Radu and M. Mihăilescu.

King Carol II, together with Prince Mihai and his suite, left the country on November 13th 1938. On November 15th, Carol II was welcomed by King George VI and his brother the Duke of Gloucester, by Neville Chamberlain, Lord Halifax and others.

The media of the time largely rendered both the preparation and the visit of Carol II to Great Britain, pointing out the importance of the talks between the two delegations. So, the newspaper "Gazeta Polska" underlined in November 13th 1938 that "Romania, which in September and October [1938] was more of a witness to events happening on its western border, comes out of its reserve consciously imposed. The position of passive observer consequently preserved lately by Bucharest, was the result of the conviction that Bucharest cannot exert a real influence on changes in Central Europe, even if they concerned directly the Romanian interests. That happened because the only diplomatic instrument which could be practically used, the Little Entente, had been useless for a long time, and its futility became obvious the moment we knew England and France had no intention of engaging in the Czeck matter… Only now Romania chooses the diplomatic action which we defined as an assembly of elements for the future action"[13], and, in this context, "king Carol's visit to London would favour political talks whose aim, from a Romanian view-point, would certainly be the examining whether and how much Britain wished to actively imply itself in the Balkans in the near future.

If London did not show any enthusiasm in this direction, the tendencies of getting closer to Germany, especially economically, would automatically grow"[14]. During the talks between Carol II and Chamberlain, the latter said that Romania's geo-political position seemed inevitably closer to Germany from an economic point of view, but that it did not mean that the British Government was not interested in any commercial possibilities that could be effected, and assured him that the rumour, spread in German circles, about his agreeing in Munich that Hitler could treat Central and South-Eastern Europe as a space reserved for the German monopoly, was not true.

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The English press also underlined the fact that, following the visit, "Romania will receive financial aid from England, which will enable her to oppose to the growing German expansion. It will be a new English attempt aiming at maintaining its influence in South-Eastern Europe"[15]. Other newspapers and magazines of the time emphasized the main discussion themes between Great Britain and Romania. The Polish newspaper "Coniec Warszawski", on November 15th 1938, considered that "the visit of King Carol II to London will contribute a great deal to clarifying the state of the Danube basin.

After Czechoslovakia's division, after weakening the French influence and disappearance of the Little Entente, after Hungary's enlargement and strengthening of the German, Italian and Polish influence, the state of the Danube basin has not yet crystallized. Until now, we do not know what political factors, will prevail and what the Danube states' orientation will be. Added to all these, is the problem of sub-Carpathian Russia, which interests not only Hungary, Poland and Czechoslovakia but also Romania. Most certainly these problems will constitute the object of the British-Romanian talks. In fact, the English invested great capitals in Romania and it is impossible that they are not interested in the Romanian problems"[16].

Concluding the talks, King Carol II reviewed the main economic proposals made by the Romanian government to the British government: the nautical base on Lake Tasaul; developing the commercial navy on the Danube; lumber and silos. Chamberlain promised that the British government would examine the Romanian suggestions as presented by the king and declared that he would be very content if, following the examination, they would come to the conclusion that it was possible to undertake some action on the proposed

lines; he remarked that the British government had already shown that it was interested in an economic co-operation with Romania, by the act that it had purchased 200,000 t of Romanian wheat. King Carol's talks with Prime Minister Chamberlain, no doubt contributed to a better knowledge of the two sides' position in the tackled problems, showing that, due to its Munich policy, the British Government evaded widening the British Romanian collaboration.

But, the two governments avoided making any commitment, which meant, in fact, that Romania could not count on the support of Great Britain or France. Even though the visits were practically a failure, the media in the country presented them as successes. They were broadcast live on the radio, and the press could not find the right words to praise Carol II, a great political man of Europe, respected both by the visited peoples and by their leaders. All the papers in Bucharest commented in eulogistic terms Carol's visit. For instance, "Îndreptarea"[17] newspaper marked the importance of the meetings in London and stated that they "will create a cordial British-Romanian Convention, that Great Britain's interest in Romania increased, so that an English character could say that "the border of English Indies lie on the Carpathians", while "Universul" emphasized "the enthusiasm of the British people opinion" and showed that the visit "is more meaningful than thought, Romania's role being of utmost importance in the given situation"[18]. The fact that the king received the "Order of the Garter", the highest British decoration, was appreciated by the press in Romania as the clearest proof of the fact that the sovereign was considered one of the most prominent personalities of the time. Carol II was to appreciate that "a peace which was to culminate with the Munich shame, could

throw us, willy-nilly, under the German influence"[19].

The evolution of international life between 1936 and 1939 determined a change in the ratio of forces on the continent. In this context, Romanian diplomacy remained connected to the old paradigms – the League of Nations, alliance with France, close relations with Great Britain, regional treaties, etc., corroborated to efforts of adapting to new realities.

Note

[1] Academia Română, *Istoria Românilor*, vol. VIII, *România Întregită (1918-1940)*, coordinator Ioan Scurtu, Bucharest, Editura Enciclopedică, 2003, pp. 445-447.

[2] See, in detail, Marusia Cîrstea, *Din istoria relaţiilor anglo-române (1936-1939)*, Bucharest, Editura Mica Valahie, 2004.

[3] Ion M. Oprea, *Nicolae Titulescu*, Bucharest, Editura Ştiinţifică, 1966, pp. 130-167.

[4] Marusia Cîrstea, *op. cit.*, p. 70.

[5] ,,Adevărul", 5 July 1922.

[6] Gheorghe Buzatu, coordinator, *Titulescu şi strategia păcii*, Iaşi, Editura Junimea, 1981, p. 379.

[7] Constantin Vlad, *Diplomaţia secolului XX*, Bucharest, Titulescu European Foundation, 2006, pp. 96-97.

[8] See, in detail, Gheorghe Paşcalău, *Relaţii politice româno-engleze (1929-1933)*, Bucharest, Editura Didactică şi Pedagogică, 1995.

[9] Marusia Cîrstea, *op. cit.*, p. 94.

[10] Nicolae Titulescu, *Documente diplomatice*, Bucharest, Editura Ştiinţifică, 1967, p. 718-719.

[11] Ion Pătroiu, Valeriu Florin Dobrinescu, *România, Anglia şi Europa anilor '30*, Craiova, Editura Scrisul Românesc, 1996, p. 45.

[12] *Ibidem*, p. 46.

[13] Foreign Relations Ministry Archive, Bucharest, fund 71 Anglia, vol. 16, f. 312.

[14] *Ibidem*, f. 314.

[15] *Ibidem*, f. 318.

[16] *Ibidem*, f. 316.

[17] *Ibidem*.

[18] Idem, London fund, vol. 76, un-paged.

[19] Apud Ioan Scurtu, *Istoria românilor în timpul celor patru regi (1866-1947)*, vol. III, *Carol al II-lea*, Bucharest, Editura Enciclopedică, 2001, p. 254.

Radical and moderate political groups in the Sociology School of Bucharest

Antonio MOMOC

Abstract: *The Sociology School of Bucharest has not been yet studied from the perspective of the political views of its members. This article represents only a part of a larger research that exhaustively investigates the political orientations of the disciples, as well as the mentor of the Sociology School. We have identified the groups formed inside the School in the '30s and their relationship to the political power.*
Keywords: *sociology, political view, elite, society, propaganda, legionarism, communism.*

After the 1918 Union, the socio-political actors of the new Romanian state proposed various modernization projects. These political projects competed after 1929 to become solutions during the Great Depression. The Sociology School of Bucharest – first through its founder Dimitrie Gusti, and then in the '30s, through the already intellectually grown-up disciples – presented both to the civil and political society with its own modernization project, entitled *Science of the Nation*[1].

Dimitrie Gusti's sociological, political and ethical view involved more than the monographic research of the Ro-manian villages. His ideal was achieving a *Sociology of the nation*, based on researching all the Romanian villages and cities, in order to provide an exhaustive vision upon the social realities in Romania. The outcome of the huge research was going to become

useful to the politicians with decision power, to the King and his ministers.

However, the School of Bucharest did not develop as a unitary block. In the background of the parliamentarian democracy crisis, centrifugal tendencies occurred inside the School. In the '30s, the systemic parties were replaced with the extreme right movement, which was attractive due to its promise of radical system changes. Some of Gusti's collaborators remained loyal to his project according to which specialists should serve the nation throughout the state. Other monographers separated from the School and approached the projects of the other social or political actors. Some of them embraced certain political ideals in their public life, in the press or by adhering to political movements.

According to our modest knowledge, The Sociology School of Bucharest has not been yet studied from the perspective of the

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political views of its members. This article represents only a part of a larger research that exhaustively in-vestigates the political orientations of the disciples, as well as the mentor of the Sociology School[2]. We have identified the groups formed inside the School in the '30s and their relationship to the political power.

Our research method reconstructs the cultural-political biography of Gusti and of his main collaborators. The *representative biography*[3] follows the history of an individual. The resear-cher's interest does not orient towards what is unique, but towards tracing the formative contexts and the experiences shared with others, which followed similar cultural and political paths. Complementary, the method focuses on differences, explaining the choice between different intellectual and political-cultural options. In order to reconstruct the cultural and political paths, we have identified the members' attitudes reflected in their scientific work and in their articles from print media. We have insisted on personal documents that became public: journals, correspondence, memoirs and more recently in oral history interviews[4].

In the '20s the School materialized in the Sociology Seminar and in the public debates from the Romanian Social Institute (RSI), where Gusti treated problems of society from the *Science of the Nation* perspective. The politicians included his themes in their speeches, adding their own political and electoral solutions[5].

At RSI Gusti was interested in forming a lobby group that would unite intellectuals based on their professional skills and gain legitimacy of the social intervention above the party organizations. After 1921, RSI organized 2 conferences regarding the project of the New Constitution[6]. Gusti gathered at RSI experts keen on Romania's institutional development[7]. Any politician was able to become an RSI member had he been invited by Gusti, and the professor had no other criterion except for them to accept the program of the institution. In the '20s the Sociology School manifested itself outside the influences of political power, as part of the civil society.

When King Carol II came back in power, he became the RSI President of Honour. In the '30s the School starts an undeclared competition with the other actors on the Romanian political scene. Politically unaffiliated, Gusti accepted in 1932 the proposal to join the Government led by the National Peasant Party. Invited in the Council of Ministers as a technocrat, professor Gusti led the Ministry of Instruction, Cults and Arts in the National Peasant Governments presided by Alexandru Vaida-Voievod and Iuliu Maniu.

Once Gusti ended his Ministry mandate, the King named him Active President, General Manager of the Cultural Royal Foundation "Principele Carol". Through the cultural action that took place in the villages after 1934, the Royal teams of the Foundation constituted themselves as message carriers and builders of the national specificity as the latter was defined by the national doctrine, concentrated in Gusti's political view.

During the second part of the '30s, RSI and the Foundation served Carol's monarchy. Through the propaganda[8] coordinated by Gusti while he was leading the "Principele Carol" Foundation, the King was trying to win the competition with the Legionary Movement by attractting the young elites and the rural society. Some of Gusti's disciples employed in the monarchist state institutions: Henri H. Stahl was the Research Manager in the Foundation, Octavian Neamţu was the main organizer of the royal teams on field and, together with Anton Golopenţia, they dedicated themselves to the village cultural work.

According to the *Social Service Law* introduced on October 18th, 1938[9], the Romanian royal dictatorship made the cultural action work man-datory. Although not a member of the Council of Ministers, Gusti had the position of a Minister responsible exclusively in front of the King. The royal dictatorship offered Gusti the opportunity to apply his village moder-nization national program, as if he was a state minister. As President of the Social Service, the professor was res-ponding politically exclusively to the King, while the other ministers in the Council were obliged to provide their support and assistance.

Other monographers like Mircea Vulcănescu, Xenia Costa-Foru or Traian Herseni refused to be culturally active at the Royal Foundation „Principele Carol" in the '30s. As a student, Mircea Vulcănescu was enrolled in the Romanian Christian Students Association (nationalist- orthodox), but also attended the summer courses organized by the *International University Federation for the Society of Nations.* Between 1926-1929 he participated with a certain consistency at the monographic research, but at the beginning of the '30s he abandoned the village campaigns, as research started to be replaced by propaganda. Although a sympathizer of Nae Ionescu, Vulcănescu does not join the radical right movement, but chooses public admi-nistration, preferring to be a clerk of the liberal bourgeois state[10].

Under the pressure of the legionary nationalism, Gusti's School suffered internal conflicts and dissidences. The dissident group from *Rânduiala, Arhivă de gând şi faptă românească* review denied Monography, separated from Gusti and entered the Legionary Movement. In the first 4 numbers of *Rânduiala* review, the attacks of the group formed by Dumitru Cristian Amzăr, Ernest Bernea, Ion I.

Ionică and Ion Samarineanu against the Monographic School were shy. But in its second year of issuing, the magazine took the shape of some *Notebooks (Caete)* with strict legionary inclination, containing editorials signed by "Capitan" Corneliu Zelea Codreanu.

Similarly to the other groups that emerged from the Sociology School, the legionary group was not very united. One of the most fervent protestors against the Monographic School, D. C. Amzăr, abandoned the Legionary Movement in 1938 and became a diplomat.

The founder's of the Sociology School attitude regarding to the political views of his students was conciliatory. He did not remove neither the legionary students (D.C. Amzăr, E. Bernea), nor the communist ones (Miron Constantinescu) from the School. All those adhering to Gusti's modernization project were able to part of the School. Gusti's support for Herseni even after the latter joins the Legionary Movement is the clearest proof that becoming a legionary did not auto-matically led to being excluded from the monographers' circle.

Herseni moved from communism to fascism because the attraction of the poli-tical extremes derived from the common values of the radical political promises. In the interwar period many communist militants migrated to fascism, just as some of the fascists adhered to communism. The wandering of the militants can be understood only by referring to the world both communism and fascism had proposed to replace[11].

Herseni collaborated in 1932 with left-wing reviews such as *Societatea de mâine* and *Stânga, Linia generală a vremii.* After writing for *Stânga,* he refuses to be a militant for the Foundation, but joins the Legionary Movement in

1937. The mobilizing speech Herseni uses in the brochures *Mişcarea Legionară şi Muncitorimea*[12] and *Mişcarea Legionară şi Ţărănimea*[13] is identical to the one of the cultural activists from the „Principele Carol" Foundation. What differs is the Hero they were worshiping: Gusti's students served the Monarchy of Carol the Second, while for Herseni and the legionaries, Corneliu Zelea Codreanu was the Savior.

Notes

[1] See Dimitrie Gusti, (1934), *Sociologia militans. Introducere în sociologia politică*, vol. I, ISR Publishing House, Bucharest and Dimitrie Gusti, (1937), *Ştiinţa naţiunii*, Imprimeria Centrală Publishing House, Bucharest, no. 2-3, year II, February-March 1937, Romanian Social Institute.

[2] Momoc, Antonio (2008), *O istorie politică a Şcolii de Sociologie de la Bucureşti*, PhD thesis, coordinated by Proffesor Zoltán Rostás, University of Bucharest, Faculty of Sociology

[3] See Jerry Muller, (1987), *The other God that failed: Hans Freyer, and the deradicalization of German conservatism*, Princeton University Press, Princeton, New Jersey.

[4] See Rostás, Zoltán (2001), *O istorie orală a Şcolii Sociologice de la Bucureşti*, Paideia Publishing House, Bucharest.

[5] Gusti, Dimitrie (1924), *Doctrinele partidelor politice: 19 prelegeri publice organizate de ISR*, in „Arhiva pentru Ştiinţa şi Reforma Socială", year V, Romanian Social Institute, Cultura Naţională Press, Bucharest.

[6] Gusti, Dimitrie (1923), *Noua Constituţie a României: 23 prelegeri publice organizate de ISR, cu o anexă cuprinzând Noile Constituţii Europene,* Cultura Naţională Press, Bucharest

[7] Manoilescu, Mihail (1993), *Memorii* (vol. I), Enciclopedic Publishing House, Bucureşti, pp. 49-50.

[8] Rostás, Zoltán „Strategii de comunicare la Şcoala Sociologică a lui Dimitrie Gusti. Direcţii de cercetare" in *The Romanian Communications Sciences Review* "Jurnalism & Comunicare", year II, no. 2, spring 2003, pp. 3-7.

[9] Hamangiu, Constantin (1939), *Codul general al României, (Coduri, Legi. Decrete-legi şi Regulamente),* vol. XXVI, 1938 – Part II, Monitorul Oficial Publishing House, Bucharest, pp. 2001-2007.

[10] Mircea Vulcănescu was a referent at the Office for Research in the Ministry of Finance between 1929-1933. In 1933 he was also a Government Auditor for the Romanian Agriculture Bank. From June 1935 until September 1937 he was the Managing Director of the Customs. Then he was named Manager of the National Debt in the Ministry of Finances.

[11] Chioveanu, Mihai (2005), *Feţele fascismului. Politică, ideologie şi scrisul istoric în secolul XX*, University of Bucharest Press, p. 69.

[12] Herseni, Traian (1937), *Mişcarea Legionară şi Muncitorimea*, Bucovina Publishing House, Bucharest.

[13] Idem (1937), *Mişcarea Legionară şi Ţărănimea*, Bucovina Publishing House, Bucharest.

Anul 1938 şi înfiinţarea Frontului Renaşterii Naţionale – context european şi context naţional

Mihaela Camelia BUZATU

Abstract: *In 1938, the map of Europe was devided in four kinds of political regimes: communist, fascist, parliamentary and authoritarian. In Romania, which was included in the last category, the year 1938 represented the political triumph of the king Charles II, who changed the constitution, dissolved the political parties and established the National Rennaisance Front. These changes were a part of the European political transformations which will determin the beginning of the second world war.*

Keywords: *party, constitution, king, government, foreign policy.*

Deceniul al IV-lea al secolului XX[1] a fost pentru Europa unul al schimbărilor majore, un deceniu convulsiv, al sfârşitului crizei economice, al naşterii şi dezvoltării regimurilor autoritare sau extremiste. „De la comunism la fascism sau nazism – arăta un istoric român – aproape toate ţările Europei trec, mai devreme sau mai târziu, prin febra totalitarismului (provocată de dezgustul democraţiei şi de mitologia unei «lumi noi» şi a unui «om nou»).”[2] Manifestarea acestor ideologii extremiste – de stânga sau de dreapta – care în ţările de origine au fost acceptate drept politici de stat, dublate de politica de conciliere a puterilor europene democratice, vor deteriora vizibil relaţiile internaţionale la nivel european şi vor duce, în final, la izbucnirea celui de-al doilea război mondial.

Într-o hartă a Europei, corespunzând începutului de an 1938, Serge Berstein şi Pierre Milza împărţeau continentul în patru categorii de state: state cu regim parlamentar sau democraţie liberală (Franţa, Regatul Unit, Irlanda, Ţările de Jos, Belgia Luxemburg, Elveţia, Norvegia, Suedia, Finlanda, Cehoslovacia şi Islanda), state cu regim fascist (Italia şi Germania), state cu regim comunist (U.R.S.S.) şi state cu regim autoritar tradiţionalist (Spania, Portugalia, Turcia, Grecia, Bulgaria, Iugoslavia, România, Ungaria, Austria, Polonia, Lituania, Letonia şi Estonia)[3]. Ţările din această ultimă categorie, exceptând Portugalia şi Spania, se găseau geografic între ţările cu regim fascist şi ţările cu regim comunist, iar cea mai mare parte a lor vor intra după cel de-al doilea război mondial fie în componenţa Uniunii Sovietice, fie în orbita politică a U.R.S.S.-ului. Anul 1938, la nivel european, a continuat evoluţia politică ce avea să se sfârşească cu izbucnirea celui de-al doilea război mondial, în timp ce în România, acelaşi an a reprezentat perioada triumfului în politica internă pentru regele

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Carol al II-lea, acum fiind instaurat regimul personal al suveranului, adoptându-se o nouă constituție care să-l legitimeze, luându-se o serie de măsuri ce au dus la o implicare tot mai activă a monarhiei în viața politică, implicare ce o regăsim în scoaterea partidelor politice în afara legii și în crearea climatului ce a dus la apariția Frontului Renașterii Naționale.

Unul dintre evenimentele politice importante ale anului 1938 și primul în ordine cronologică, este cel petrecut la 10/11 februarie, atunci când guvernul Goga-Cuza își depune demisia, în locul său fiind constituit guvernul condus de Patriarhul Miron Cristea[4]; Henri Prost considera că din acel moment „suveranul devenise propriul său prim-ministru"[5]. Lovitura de stat[6] dată de rege, prin care acesta alcătuia un Consiliu de Miniștri obedient și la conducerea căruia îl numea pe patriarh, a fost interpretată diferit de istoricii români. O primă orientare ar fi aceea, potrivit căreia, regele Carol al II-lea trecuse la instituirea regimului personal după o lungă perioadă de tatonări, perioadă în care a făcut tot ceea ce a depins de el pentru a discredita atât partidele politice cât și instituția Parlamentului, istoricii susținând ideea unui plan privind instaurarea unei dictaturi încă de la urcarea pe tronul României, februarie '38 reprezentând doar momentul prielnic pentru punerea în aplicare a planului[7]. Al.Gh. Savu merge mai departe, afirmând că regele își propusese „încă înainte de urcarea pe tron" impunerea unei astfel de forme de guvernare[8]. O teorie interesantă, care vine să o contrazică pe cea expusă anterior, este aceea lansată de Sorin Alexandrescu:

> „Carol a fost învinuit mai târziu de urzirea, în acești ani, a unui plan diavolesc: el ar fi dorit, încă din 1930, să înființeze o dictatură personală, dar neîndrăznind să treacă imediat la fapte, a făcut tot ce a putut ca să destabilizeze democrația parlamentară și

să aibă astfel un pretext, în 1938, de-a o și desființa formal, ca ineficientă. O asemenea interpretare mi se pare a păcătui prin ceea ce se numește *teleological phallacy*: privești anii 1930-1938 din perspectiva lui 1938 și interpretezi prin urmare toate evenimentele precedete drept tot atâtea etape care trebuiau să ducă la evenimentul anului 1938, declanșarea dictaturii regale. În ce mă privește aș dori să văd anii 1930-1938 mai curând ca un complex *joc în trei* între rege, Garda de Fier și partidele democratice tradiționale. Acest adevărat *triunghi al morții* – replică grotescă la «triunghiul» morții din primul război mondial – n-a fost decât un clasic triumvirat, în care doi dintre participanți se aliază pentru ca să-l elimine pe-al treilea și luptă apoi pe viață și pe moarte, între ei, pentru adjudecarea puterii absolute."[9]

Perioada cuprinsă între venirea pe tron a lui Carol al II-lea în 1930 și anul schimbărilor politice – 1938 – este văzută, astfel, ca o perioadă având trei actori politici: regele, Garda de Fier și partidele tradiționale. Pentru a putea prelua puterea într-o formă autoritară, Carol al II-lea trebuia să-și înlăture ceilalți doi adversari – Garda și partidele. Conștientizând faptul că noul context politic creat prin instaurarea regimului autoritar nu-i este deloc favorabil și anticipând următoarea mișcare a regelui, Corneliu Zelea Codreanu a anunțat, la 21 februarie 1938, dizolvarea Gărzii[10]. Această autodizolvare reprezenta însă un gest formal, instituțional, căci spiritul gardist și sprijinul Germaniei pentru ideile gardiste au continuat să existe și după această dată[11]. Amenințarea pe care o constituiau ideile Gărzii de Fier chiar și după 21 februarie, o regăsim în *decapitarea* mișcării de dreapta extremă pe care Carol al II-lea și Armand Călinescu o structurează în câteva etape, etape influențate și de evoluțiile politice externe: arestarea lui Corneliu Zelea Codreanu[12], fabricarea unui proces și uciderea căpita-

nului împreună cu alţi 13 legionari, pretextul fiind fuga de sub escortă, în timp ce erau transportaţi din închisoarea de la Râmnicul Sărat la cea de la Jilava, în noaptea de 29/30 noiembrie 1938[13]. Anul 1938 ne apare astfel ca un an al victoriei lui Carol al II-lea asupra Gărzii de Fier; este însă o victorie de scurtă durată, deoarece, cu sprijinul Germaniei şi sub conducerea lui Horia Sima, Garda se va revigora şi va deveni foarte puternică în anii următori lui '38, căci „în pânzele ei bătea vântul succeselor Reichului"[14].

Cel de-al doilea adversar al lui Carol al II-lea – partidele politice tradiţionale – este mult mai uşor de învins; de această dată opozantul principal al regelui nu putea fi identificat în postura unei singure persoane, ba mai mult, era vorba de un număr impresionant de partide[15], a căror coeziune era aproape nulă. Rezultatul alegerilor din decembrie 1937, potrivit căruia nici un partid nu reuşise să atingă pragul de 40% (prima majoritară) necesar formării guvernului şi instalarea guvernului Goga-Cuza, au reprezentat semnalul de alarmă ce a dus la „trezirea" partidelor; „democraţii se trezesc şi strâng, în fine, rândurile."[16] Era, însă, destul de târziu, cel care va juca de acum înainte rolul principal pe scena politică a ţării fiind Carol. Fără un sprijin extern, precum cel al Gărzii de Fier şi având un pronunţat caracter eterogen, opus omogenităţii Gărzii, partidele sunt scoase în afara legii la 30 martie[17]; cu toate acestea ele vor continua să-şi desfăşoare activitatea, vor fi însă înlocuite, în mai puţin de un an, printr-o organizaţie politică de tip monolit – Frontul Renaşterii Naţionale. Dacă în cazul Gărzii de Fier, Carol al II-lea nu oferise o alternativă politică la uciderea lui Corneliu Zelea Codreanu, lipsa acestei alternative determinând mai târziu renaşterea Gărzii, alternativa la desfiinţarea partidelor politice a fost însuşi Frontul Renaşterii Naţionale. În aceeaşi zi cu decretul privind scoaterea partidelor politice în afara legii, este dat şi decretul lege nr. 1421, prin care era înfiinţat Consiliul de Coroană[18]. Acest organism al statului funcţionase şi în trecut, elementul de noutate fiind legat de caracterul permanent pe care consiliul îl căpătase; nici acesta, însă, nu venea să îngrădească puterea pe care regele Carol al II-lea şi-o arogase cu puţin timp în urmă, deoarece rolul Consiliului era unul consultativ, hotărârile lui nefiind obligatorii pentru rege[19].

Concomitent cu punerea în umbră sau cu eliminarea adversarilor, Carol al II-lea a încercat să creeze cadrul instituţional necesar schimbărilor iniţiate în februarie 1938, pasul cel mai important fiind promulgarea noii Constituţii, care venea să schimbe pe cea adoptată în timpul domniei tatălui său, regele Ferdinand şi datând din anul 1923. Fără a insista asupra prevederilor noii legi fundamentale, vom menţiona faptul că regele a folosit şi acest prilej pentru a sublinia popularitatea de care se bucura regimul inaugurat la 10/11 februarie; pentru aceasta, el a supus textul constituţiei, redactat de Istrate Micescu, unui plebiscit care a avut loc pe data de 24 februarie şi, prin intermediul căruia, populaţia şi-a putut exprima „liberă" opinia asupra constituţiei. Rezultatul plebiscitului – 4.297.581 voturi pentru şi 5.843 contra[20] – nu poate fi considerat unul obiectiv, dacă se ţine cont de timpul extrem de scurt, de doar 4 zile, care a trecut de la data publicării textului constituţiei şi până la data la care s-a desfăşurat plebiscitul. Fără îndoială, alegătorii nu cunoşteau conţinutul explicit al textului elaborat de oficialităţi; cu toate acestea, Carol va sublinia în nenumărate rânduri *larga adeziune* manifestată de populaţia României faţă de noul sistem, adeziune concretizată prin rezultatul favorabil înregistrat cu ocazia plebiscitului[21]. Nu este mai puţin adevărat faptul că o parte a populaţiei vedea în regele

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Carol al II-lea singurul om care ar fi putut să conducă țara spre mai bine în perioada respectivă, iar actele acestuia, fără a fi chestionate, considerate drept cele mai bune soluții[22].

Cât privește politica externă, Carol a încercat inițial urmărirea liniei tradiționale, aceea a apropierii de Anglia și Franța și menținerea alianțelor regionale – Mica Înțelegere și Înțelegerea Balcanică. Anul 1938 nu va fi, însă, unul lipsit de evenimente majore pe plan european, fapt ce-l va determina pe rege să adopte poziția cerută de circumstanțe, iar nu aceea pe care atât el cât și marea parte a populației o considerau corectă. Interesant de observat cum vedea regele, la 1 septembrie 1938, situația României și ce soluții propunea:

„E adevărat că ne găsim într-o situație politică extrem de gravă și care ne poate antrena la o modificare a politicii noastre externe, ce am ținut-o cu dinții de câțiva ani. Legăturile cât mai strânse cu Franța și, îndeosebi, cu Anglia, fidelitate absolută aliaților noștri (adesea foarte greu) și să nu ne lăsăm angajați niciodată într-un complex care să ne ducă, în mod automatic, în conflic‹t› cu Germania, iar față de U.R.S.S. nici o legătură prea strânsă, care să facă pe germani să creadă că facem un act ostil lor."[23]

Perspectivele României se înrăutățesc, însă, odată cu semnarea acordului de la München[24]; era evident că marile puteri occidentale nu erau dispuse să apere interesele țărilor mici[25]. Ultima încercare de obținere a unor garanții, menite să ofere un oarecare echilibru României în politica externă, se va materializa în noiembrie 1938, atunci când vor avea loc vizitele oficiale ale lui Carol al II-lea la Londra (15-18 noiembrie) și Paris (19-21 noiembrie). Prezentate în termeni destul de îngăduitori de presa vremii, acțiunile diplomatice nu au avut rezultatul scontat, nici unul dintre reprezentanții Angliei sau Franței neasu-

mându-și nici un fel de angajament față de România[26]. Singura soluție viabilă pentru țara noastră rămânea o apropiere de Germania, fapt ce l-a determinat pe rege să aibă la 24 noiembrie, la Berchtesgaden, o întrevedere cu Hitler[27]. Cunoscând rezultatul întâlnirilor avute de Carol cu oficialitățile din Londra și Paris, Führerul a avut un ton ultimativ, cerându-i regelui român să se hotărască dacă va merge alături de Reich, sau dacă se va poziționa împotriva acestuia. Pe lângă cererile ce țin de politica externă, conducătorul german va încerca din acel moment și o intervenție în treburile interne ale țării și anume, aducerea Gărzii de Fier la conducerea României[28]. Așa cum s-a afirmat în istoriografia românească, cererile insistente ale lui Hitler ca Garda de Fier să fie adusă la putere l-au determinat pe Carol al II-lea să recurgă la măsuri rapide pentru decapitarea mișcării legionare[29]; prin eliminarea lui Corneliu Zelea Codreanu, regele rămânea singura persoană de contact a Führerul. Deși nu a fost încântat de acțiunile întreprinse de regele român, Hitler, după o primă reacție negativă, va accepta noua conjunctură creată în România, interesele economice ale germanilor fiind mult prea mari pentru a lăsa incidentul petrecut la 30 noiembrie 1938 să afecteze relațiile comerciale româno-germane[30].

Ieșind pentru moment învingător și în „bătălia" contra Reichului, Carol își va îndrepta atenția asupra problemelor care apăruseră în politica internă; o creionare a acestor probleme face și Al. Gh. Savu:

„Nemulțumirile s-au concentrat, firesc, împotriva regelui Carol al II-lea. Căci, în timp ce sub regimul parlamentar actele regelui își găsiseră o acoperire în guvern, iar actele guvernului în parlament și în partidul aflat la putere, sub dictatură, datorită concentrării puterilor statului în mâinile monarhului, lichidării parlamentului și dizolvării partidelor politice, Coroana rămăsese,

practic, descoperită. Faptul că noua constituţie înscrisese responsabilitatea miniştrilor pentru politica ordonată de rege nu putea să constituie în nici un caz o disculpare a lui în faţa opiniei publice."[31]

Se auzeau tot mai des voci care îl îndemnau pe rege la luarea unei decizii în ceea ce priveşte reînceperea activităţii partidelor politice; această repunere în drepturi a vechilor politicieni, Carol nu numai că nu şi-o dorea, dar o considera de neacceptat în condiţiile în care pasul important în „eliminarea" partidelor fusese deja făcut la 30 martie. Pentru a finaliza conflictul dintre el şi partide în avantajul său şi pentru a încerca o apropiere de cetăţeni, regele a creat, la 16 decembrie 1938, Frontul Renaşterii Naţionale[32], prin decretul-lege de înfiinţare acesta devenind „unică organizaţie politică în Stat". Constituind acest organism, regele încerca să deţină un control cât mai amănunţit asupra treburilor interne, dar şi asupra populaţiei României, populaţie ce era sprijinită să se înscrie în partidul nou format, al cărui conducător era însuşi Carol al II-lea.

Deşi Frontul Renaşterii Naţionale a fost văzut adeseori drept partidul lui Carol al II-lea, ideea înfiinţării unui astfel de organism politic o găsim menţionată şi de Armand Călinescu, fapt demonstrat de un memoriu înaintat de acesta regelui, la 20 octombrie 1938[33]; în memoriu, era subliniată necesitatea alcătuirii unei formaţiuni politice subordonată suveranului. Prin constituirea acestei noi organizaţii se urmărea înlăturarea definitivă a vechilor partide politice, care, deşi fuseseră desfiinţate, îşi continuau activitatea sub diferite forme. Aceasta nu se dorea a fi o structură politică în sensul partidelor tradiţionale, ci, mai cu seamă, o mişcare populară care să atragă intelectualitatea, tinerii, dar şi celelalte categorii sociale; ea trebuia să unească nu politicieni, ci oameni simpli, cărora să le ofere un ideal comun. Dacă analizăm obiectiv planul propus de Armand Călinescu, acesta nu poate fi considerat decât o utopie, visul său, acela de a pune alături bogaţi şi săraci, intelectuali şi ţărani, copii şi vârstnici fiind unul irealizabil. Oameni care nu îşi manifestaseră adeziunea faţă de noul regim şi care erau „ameninţaţi" de contextul extern, nu puteau deveni peste noapte adepţii unor idealuri care nu le aparţineau. Cu toate acestea, Carol II a trecut la punerea în aplicare a ceea ce se dorea a fi o mişcare de *renaştere naţională*, înfiinţând, cum spuneam mai sus, la 16 decembrie 1938, Frontul Renaşterii Naţionale[34].

Legea de înfiinţare, cuprinzând 8 articole, redactate într-un stil concis, chiar laconic, era semnată de Carol al II-lea, de prim-ministrul Miron Cristea şi de miniştrii Justiţiei şi Internelor, Victor Iamandi şi Armand Călinescu. Încă de la început, se sublinia unicitatea FRN-ului (art. I), „orice altă activitate politică", exceptând Frontul, urmând „a fi socotită clandestină" (art. VII); în privinţa scopului înfiinţării FRN, în lege se amintea „mobilizarea conştiinţei naţionale în vederea întreprinderii unei acţiuni solidare şi unitare româneşti" (art. II). Cine putea face parte din Frontul Renaşterii Naţionale? De drept, consilierii regali, la cerere, cetăţenii români de peste 21 de ani, exceptând „militarii activi" şi „membrii ordinului judecătoresc" (art. IV şi V). Din punct de vedere politic, democraţia românească urma să fie circumscrisă de nou-înfiinţatul organ politic, deoarece acesta, se arăta în articolul VI, „are, singur, dreptul de a fixa şi depune candidaturile pentru alegerile parlamentare, administrative şi profesionale". O explicaţie a caracterului concis al legii din 16 decembrie 1938, o găsim în articolul VIII – „un regulament special, făcând parte integrantă din prezenta lege, va determina condiţiunile de organizare şi funcţionare a «Frontului Renaşterii Naţionale»"[35].

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Printr-un document de mai puţin de o pagină, Carol al II-lea oferea o singură alternativă vieţii politice româneşti, după ce, în urmă cu mai bine de şase luni, pusese capăt unei activităţi politice dominată de mai multe partide. 1938 se arătase, atât pe plan intern, cât şi pe plan extern, ca un an zbuciumat, cu evenimente în permanentă schimbare, iar finalul său îl găsea pe rege în fruntea statului, conducând atât direct, din tronul Hohenzollernilor din România, cât şi indirect, prin intermediul nou-înfiinţatului Front al Renaşterii Naţionale. Pentru moment, Carol al II-lea învinsese. Un an mai târziu, Europa intra în cel de-al doilea război mondial, statele de pe continent se divizau în tabere politice şi militare, sfârşitul marii conflagraţii trasând harta europeană pentru următoarea jumătate de secol.

Note

[1] Pentru o istorie a Europei în secolul XX, vezi Serge Berstein, Pierre Milza, *Istoria Europei*, vol. V. *Secolul XX (din 1919 până în zilele noastre)*, trad. de Monica Timu, ediţie îngrijită, note şi comentarii de Doina Bercan-Sterpu, Iaşi, Institutul European, 1998.

[2] Lucian Boia, *România, ţară de frontieră a Europei*, Bucureşti, Editura Humanitas, 2002, p. 90.

[3] Serge Berstein, Pierre Milza, *op.cit.*, p.112.

[4] Printre primele măsuri luate de guvernul Miron Cristea se numără cele care vor ajuta la instituţionalizarea noului regim şi anume: introducerea stării de asediu şi a cenzurii, demiterea prefecţilor şi numirea în locul acestora a unor ofiţeri de rang superior (Ioan Scurtu, Gheorghe Buzatu, *Istoria românilor în secolul XX, (1918-1948)*, Bucureşti, Editura Paideia, 1999, p. 344).

[5] Henri Prost, *Destinul României (1918-1954)*, trad. de Valer Moga şi Valeria Pioraş, ediţie îngrijită, notă asupra ediţiei, note şi indice de Valer Moga, Bucureşti, Editura Compania, 2006, p. 169.

[6] Etapele *loviturii de stat* fuseseră plănuite în detaliu de către regele Carol al II-lea şi co-laboratorii săi apropiaţi, Armand Călinescu, Gheorghe Tătărescu şi Ernest Urdăreanu, după cum aflăm din însemnările făcute de Armand Călinescu în jurnalul său, la 9 februarie 1938 (Armand Călinescu, *Însemnări politice, 1916-1939*, ediţie îngrijită şi prefaţată de dr. Al. Gh. Savu, Bucureşti, Editura Humanitas, 1990, p. 377).

[7] Printre susţinători se numără: Ioan Scurtu (în *Contribuţii privind viaţa politică din România. Evoluţia formei de guvernământ în istoria modernă şi contemporană*, Bucureşti, Editura Ştiinţifică şi Enciclopedică, 1988, passim) sau Neagu Cosma (în *Culisele palatului regal. Un aventurier pe tron Carol al II-lea (1930-1940)*, Bucureşti, Editura Globus, 1990, passim).

[8] Al.Gh. Savu, *Dictatura regală (1938-1940)*, Bucureşti, Editura Politică, 1970, p. 154.

[9] Sorin Alexandrescu, *Paradoxul român*, Bucureşti, Editura Univers, 1998, p. 99.

[10] Petre Ţurlea, *Nicolae Iorga între dictatura regală şi dictatura legionară*, Bucureşti, Editura Enciclopedică, 2001, p. 28.

[11] La 13 martie 1938, Armand Călinescu (în *op.cit.*, p. 384) nota în jurnalul său: „... străinii centrali vor încuraja tot pe gardişti şi la momentul decisiv vor conta tot pe ei, chiar când oficialitatea română ar crede potrivit să schimbe politica externă".

[12] Pretextul arestării a fost scrisoarea cu un conţinut ofensator pe care Corneliu Zelea Codreanu i-a trimis-o lui Nicolae Iorga chiar în ziua închiderii de către autorităţi a restaurantelor legionare (26 martie 1938), scrisoare în care îl învinuia pe istoric de „necinste sufletească" (Petre Ţurlea, *op. cit.*, p. 29.)

[13] Ioan Scurtu, Gheorghe Buzatu, *op.cit.*, p. 352.

[14] Florin Constantiniu, *O istorie sinceră a poporului român*, Bucureşti, Univers Enciclopedic, 1997, p. 359.

[15] La 27 februarie 1938, cu prilejul promulgării noii Constituţii, Patriarhul Miron Cristea, într-un amplu rechizitoriu adresat partidelor politice, vorbea despre „hidra cu 29 de capete electorale", aluzie la cele 29 de grupări politice existente în România la acea dată. (Ioan Scurtu, Gheorghe Buzatu, *op. cit.*, p. 345.)

[16] Sorin Alexandrescu, *op. cit.*, p. 112.

[17] *Istoria Românilor*, vol. VIII, *România Întregită (1918-1940)*, coordonator Ioan Scurtu, secretar Petre Otu, Bucureşti, Editura Enciclopedică, 2003, p. 395.

[18] Al.Gh. Savu, *op.cit.*, p. 172.

[19] *Ibidem*.

[20] Ioan Scurtu, Gheorghe Buzatu, *op. cit.*, p. 345.

[21] Al.Gh. Savu, *op. cit.*, p. 163-164.

[22] Henri Prost, *op. cit.*, p. 171.

[23] Carol al II-lea, *Între datorie şi pasiune. Însemnări zilnice*, vol. I (1904-1939), ediţia a II-a revăzută şi completată de Marcel-Dumitru Ciucă şi Narcis Dorin Ion, Bucureşti, Editura Curtea Veche, 2003, p. 229.

[24] Faţă de acordul de la München (29 septembrie 1938), prin care Reichul anexa regiunea sudetă, aparţinând Cehoslovaciei, Franţa şi Anglia au adoptat o poziţie pasivă, conducătorii politici de la Paris şi Londra considerând că printr-o astfel de atitudine vor ajunge la un consens cu Hitler şi vor putea evita declanşarea unui război; desfăşurarea ulterioară a evenimentelor a dovedit că tactica adoptată de ei nu a avut efectele aşteptate (*cf.* cu Florin Constantiniu, *op. cit.*, p. 360).

[25] Sorin Alexandrescu, *op. cit.*, p. 121.

[26] Ioan Scurtu, Gheorghe Buzatu, *op. cit.*, p. 351.

[27] *Ibidem*, p. 352.

[28] Al.Gh. Savu, *op. cit.*, p. 222-224.

[29] *Ibidem*, p. 226.

[30] În perioada premergătoare celui de-al doilea război mondial, cât şi în timpul desfăşurării acestuia economia României va fi în mare parte orientată spre Germania, acordul care va consfinţi acest lucru fiind semnat la 23 martie 1939; se încerca, prin acest acord, câştigarea bunăvoinţei germanilor în politica expansionistă pe care o practicau la momentul respectiv. Preţul plătit de ţara nostră va fi mult prea mare, dacă se au în vedere prevederile respectivului acord, prin care economia românească se transforma într-o economie menită să îndeplinească cerinţele Germaniei, pătrunderea capitalului german pe piaţa românească ducând şi la o creştere a controlului pe care Führerul îl va exercita în România (a se vedea Rebecca Haynes, *Politica României faţă de Germania între 1936 şi 1940*, trad. de Cristina Aboboaie, Iaşi, Editura Polirom, 2003).

[31] Al. Gh. Savu, *Sistemul partidelor politice din România*, Bucureşti, Editura Ştiinţifică şi Enciclopedică, 1976, p. 153.

[32] Arhivele Naţionale Istorice Centrale, fond Frontul Renaşterii Naţionale, dosar 1/1939, f. 8; referitor la FRN, amintim două lucrări mai noi: Radu Florian Bruja, *Carol al II-lea şi Partidul Unic: Frontul Renaşterii Naţionale*, Iaşi, Editura Junimea, 2006; Petre Ţurlea, *Partidul unui Rege: Frontul Renaşterii Naţionale*, Bucureşti, Editura Enciclopedică, 2006.

[33] Al.Gh. Savu, *op. cit.*, p. 156-158.

[34] Arhivele Naţionale Istorice Centrale, fond Frontul Renaşterii Naţionale, dosar 1/1939, f. 8.

[35] *Ibidem*.

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Planul Marshall și consecințele sale pentru Europa

Cosmin Lucian GHERGHE

Abstract: *The Marshall Plan – officially styled „the European Recovery Program" (ERP) – had a major contribution to the rebuilding of Europe, the Americans being engaged in a policy of blocking the spread of communism in the entire world. For the first time, the European countries had to act with a single economic unity, to collaborate with each other. The Marshall Plan generated the issue of the Schuman Plan, which, in turn, generated the European Coal and Steel Community, then the EURATOM and the common market, tracing the direction for what was to become the European Union.*
Keywords: *foreign policy, security, recovery, economic assistance, program, doctrine.*

După încheierea celui de al doilea război mondial s-a trecut la împărțirea sferei de influență asupra continentului European de către cele două superputeri SUA şi URSS. Sovieticii au obținut „teritoriile eliberate" de armata roșie şi au impus în aceste țări ideologia lor. SUA, apreciind „problema germană" de importanță covârșitoare, își va orienta țelurile pe direcția sprijinirii europenilor pentru lichidarea diviziunii, creării şi consolidării Europei unite, a unei alianțe atlantice care să împiedice expansiunea sovietică.

Concomitent cu victoria electorală a opoziției republicane în Congresul american, președintele Harry Truman (1884-1972), într-un discurs ţinut în faţa Congresului Statelor Unite, la 12 martie 1947, oficializează politica externă a Statelor Unite de a proteja națiunile amenințate de comunism prin asistență militară şi suport eco-nomic, ceea ce va rămâne sub numele de „Doctrina Truman". Trăsătura principală a acesteia a reprezentat-o desprinderea de un anume globalism, în favoarea priorității acordate Europei Occidentale şi a redresării sale, ca o condiţie a securităţii americane.

Un rol important în organizarea Europei de după război, în perioada 1947 – 1949, a avut-o şi secretarul de stat american George Marshall Catlett (1880-1959)[1]. El a iniţiat un ajutor masiv pentru Grecia şi Turcia pentru a putea rezista presiunilor comuniste, şi a propus, la iniţiativa preşedintelui democrat Truman un program ambiţios, Planul Marshall, un vast program de sprijin economic (peste 10 miliarde de dolari), care va contribui la reconstrucţia Europei, cu condiţia ca aceste state prin reprezentanţii lor să-şi prezinte nevoile şi să se înţeleagă asupra celor mai potrivite mijloace.

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Ca Secretar de Stat, la 5 iulie 1947, Marshall este invitat la distribuirea premiilor Universității Harward. În discursul ținut cu această ocazie își expune „faimosul Program of European Recovery" care va fi punctul de plecare spre așa numitul Plan Marshall de construcție a Europei[2].

Prin programul lansat, generalul Marshall a declarat „război foamei, sărăciei, disperării și haosului din Europa", pentru că „reconstrucția structurii economice… va cere evident mult mai mult timp și eforturi mai mari decât am prevăzut noi"[3].

Acest program numit oficial „European Recovery Program" (ERP) avea drept scop de a contribui la „renașterea unei economii active în lume pentru a avea condițiile politice și scoiale în care să poată să existe instituțiile libere", realizarea „unui acord de către tote țările Europei asupra nevoilor actuale și asupra a ceea ce aceste țări… vor face ele însele pentru a eficientiza toate măsurile pe care acest guvern ar putea să le ia. Nu ar fi nici bine nici util ca guvernul SUA să stabilească el însuși un program destinat punerii pe picioare a economiei europene. Aceasta este problema europenilor"[4], rolul SUA rezumându-se la acordarea „unui ajutor prietenesc, la stabilirea unui program european" și „aplicarea acestuia în măsura în care va fi posibil să o facă"[5] „European Recovery Program" destinat aliaților europeni după cel de-al doilea război mondial a fost primul plan de reconstrucție conceput de americani. Planul Marshall reprezintă extensia în domeniul economic a „Doctrinei Truman".

Rusia și statele satelite ei, printre care și România, considera această ofertă de ajutor ca o tendință de subjugare politică. „Ziarele regimului la noi, consemna în Jurnalul său avocatul C.I. Năvărlie, consideră acest ajutor ca o adevărată catrastrofă pentru România. Statele mari ca Anglia, Franța, Italia etc., pot primi cu recunoștință aju-

torul pe care-l consideră ca o salvare, numai România care se zbate în lipsuri și în mizerie, nu are nevoie de el!"[6]

După desfășurarea Conferinței de la Paris din iunie 1947 miniștrii de externe francez (Georges Bidault) și britanic (Ernest Bevin) semnează un comunicat prin care invită 22 de state europene să trimită reprezentanții lor la Paris pentru a discuta punerea în aplicare a planului generalului Marshall, cu privire la refacerea economică a Europei. S-a luat hotărârea să fie invitat și ministrul de externe al Rusiei, Molotov, pentru a i se prezenta oferta de ajutor economic a SUA pentru întreaga Europă.

La sfârșitul Conferinței de la Paris dintre Franța, Anglia și Rusia aliații au refuzat participarea la program, iar Molotov a declarat că „statele își pierd autonomia lor economică și independența națională în profitul unor mari puteri"[7].

Stalin a văzut în planul Marshall nu numai hotărârea Occidentului de a se proteja împotriva comunismului, dar și o încercare de a desprinde Moscova, prin avantaje economice, țările satelite de URSS. Stalin a interzis astfel participarea acestor state la Planul Marshall, și a luat măsuri de consolidare a controlului sovietic asupra țărilor satelite și asupra partidelor comuniste[8].

După ce URSS a respins oferta americană, speranța administrației Truman a fost să utilizeze planul Marshall ca mijloc de a înlesni un proces de integrare între țările Europei Occidentale.

Pentru a se stabili nevoile economice comune, la 12 iulie 1947 s-a desfășurat la Paris Conferința de Cooperare Economică Europeană. Dintre statele Europei invitate la Paris de către Franța și Anglia pentru discutarea Planului Marshall au răspuns favorabil următoarele țări: Belgia, Olanda, Luxemburg, Irlanda, Austria, Italia, Islanda, Turcia, Portugalia, Danemarca, Grecia, Suedia, Norvegia, Elveția, zona de vest a

Germaniei şi teritoriul Triest. Ulterior au mai fost admise RFG (1955) şi Spania (1959)[9]. Au refuzat să ia parte statele ocupate sau aflate sub influenţa URSS: Ungaria, Polonia, Iugoslavia, Bulgaria, Albania, Cehoslovacia, România şi Finlanda.

Guvernul român, într-o notă semnată de ministrul de externe Gheorghe Tătărescu, prin care se refuza colaborarea preciza că: „organizarea propusă de guvernele britanice şi franceze va duce fatal la rezultate care vor însemna pe de o parte o ştirbire a independenţei pe care ţările Europei vor, şi trebuie să o păstreze cu privire la politica lor economică, iar pe de altă parte o imixtiune în afacerile interne ale acestor ţări"[10].

În timpul desfăşurării lucrărilor Conferinţei s-au stabilit priorităţile care trebuiau rezolvate: obţinerea şi menţinerea stabilităţii financiare interne şi dezvoltarea cooperării economice între statele asociate. În septembrie 1947 Comitetul European de Cooperare Economică publică un raport privind nevoile şi costurile Programului European de Reconstrucţie (ERP) pe o perioadă de 4 ani. La 2 aprilie 1948 Congresul Statelor Unite votează actul de Cooperare Europeană care autorizează Planul Marshall, preşedintele Truman promulgându-l a doua zi.

Prima întrunire oficială a Comitetului European de Cooperare Economică pentru determinarea nevoilor fiecărei ţări, anterior trecerii prin Congres a legii de alocare a fondurilor a avut loc la 15 aprilie 1948 iar la 16 aprilie s-a constituit Organizaţia Europeană de Cooperare Economică, care coordona ajutorul american oferit prin Planul Marshall. Aceasta a inclus acele state care au participat la sesiunile Comitetului Pentru Cooperare Economică Europeană din iulie 1947[11]. S-a stabilit, de asemenea, „Programul European de Reconstrucţie a Europei", care prevedea dezvoltarea industriei, agriculturii, menţinerea stabilităţii monetare şi bugetare, amplificarea

relaţiilor comerciale între ţările participante şi reducerea barierelor comerciale.

Planul Marshall era administrat de două instituţii: ECA (Economic Cooperation Administration), de partea americană şi OECE (Organizaţia Europeană de Cooperare Economică), de partea europeană. OECE a contribuit la repartizarea ajutorului american, fiind înfiinţată ca organizaţie permanentă de coordonare a politicilor economice naţionale[12]. OECE a pus la punct un sistem multilateral de plăţi, liberalizarea schimburilor, în special prin stabilirea aşa numitelor coduri de liberalizare şi prin suprimarea restricţiilor cantitative.

Programul de Reconstrucţie a Europei s-a încheiat cu un an înainte de data preconizată datorită războiului din Coreea.

Transferul total de fonduri către Europa s-a ridicat la suma de 13,3 miliarde de dolari contribuind la redresarea economică a Europei.

Ajutorul american acordat prin Planul Marshall a avut drept rezultat stoparea extinderii comunismului în occident dar şi realizarea coeziunii Europei de Vest. OECE – prima formă de organizare europeană, a asigurat în mod eficient sprijinul financiar statelor europene în efortul lor de redresare. Convenţia din 14 decembrie 1960 a înlocuit OECE cu Organizaţia de Cooperare şi Dezvoltare Economică în care au intrat şi Statele Unite, Australia, Canada, Japonia, Noua Zeelandă, creându-se astfel comunitatea statelor industrializate[13].

Planul Marshall – vast program de asistenţă economică – a avut o contribuţie importantă la refacerea Europei, americanii angajându-se pe linia unei politici de blocare a răspândirii comunismului în întreaga lume. Pentru prima oară ţările europene trebuiau să acţioneze cu o singură unitate economică, să colaboreze între ele.

Planul Marshall a generat redactarea planului Schuman, care la rândul lui a

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generat Comunitatea Europeană a Cărbunelui și Oțelului apoi EURATOMUL și Piața Comună trasând direcția pentru ceea ce avea să devină Uniunea Europeană.

Note

[1] Derek Urwin, *Dicționar de istorie și politică europeană, 1945-1995*, Institutul European, Iași, p. 322.

[2] Gilles Ferréol, *Dicționarul Uniunii Europene*, Editura Polirom, București, 2001, p. 132.

[3] Cezar Avram, *Construcția europeană, evoluție, instituții, programe*, Editura Universitaria, 2003, p. 50.

[4] *Ibidem.*

[5] *Ibidem.*

[6] Constantin I. Năvărlie , *Jurnal. Între abandon și crucificare. România 1946-1949*, vol. II, Editura de Sud, Craiova, 2000, p. 67.

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The birth of the E.U. Historiographical and political aspects regarding the period 1945-1970

Ionuţ ŞERBAN, Florian OLTEANU

Abstract: *The article discusses the main moments which have led to the creation of the European Union. There are also presented the main stages of the establishment of several European institutions, such as: the European Economic Community, the European Community of Atomic Energy, the European Coal and Steel Community etc., between 1945 and 1970, their development and evolution. The conclusion refers to the fact that Europe has begun to turn into an important economic force capable of beginning an intense process of political partnership.*
Keywords: *European Union, political and historioghraphical aspects, political and economical experience, international relations, political partnership.*

At the end of the Second World War, new major changes influenced the international relations. Europe had lost its political supremacy over the world which will be for the next fifty years exercised by U.S.A., which claimed the highest position in the economy of the world and the major role in the politics of reconstruction in the post-war era. The reconstruction was oriented mainly over the Western Europe, because in the East, the Soviet Union started the implementtation of its political system using the military force, as its leader Joseph Vissarionovitch Stalin (1870-1953) declared in 1943 to Milovan Djilas, the lieutenant of the Yugoslavian communist leader, Josip Broz Tito: "the political system of a state will be implemented wherever its army goes in"[1].

Great powers as Italy, Germany, were in a social and economical chaos after their defeat in the war, Great Britain and France, though victorious, had serious problems caused by the war damages and by the disintegration of their colonial empires[2].

The American strategy was settled using very important means as: credits, capital exportation and investments. In 5 June 1947, General George C. Marshall, the U.S. secretary, launched in a speech presented at Harvard University a program of measures, which proposed the growth of the industrial and agricultural production, the exportation and financial stability. The program, known as "Marshall Plan", was accepted by 16 states from the occidental influence area. In the "Eastern camp", at the "recommendation" of the Soviet Union, all the states refused the program. Austria,

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Greece and Turkey had a major economic aid because they were "buffer states" and pylons against the Soviet assimilation politics[3].

The main consequence of the "Marshall Plan" was the quick economical reconstruction in Western Germany, under the surveillance of the allied forces. The main aspects were the process of democratization and elimination of the extremists belonging of former Nazi party. States as Great Britain and France had major problems after losing their colonies. Italy had difficulties with the social movements and great differences between the industrialized North and agricultural South. Spain will be dominated until 1975 by the dictatorial leadership of the General Francisco Franco[4].

The communist international movement had an important influence in states like France and Italy, terrorist movements based on fight for ethnical emancipation intensified their fight for separation in Spain (Bask organization ETA) and in Great Britain (Irish organization IRA, with a political wing, Sinn Fein)[5].

The new technologies, the informational evolution, the era of mass-media contributed to the creation of a "middle class", a strong social group formed by lawyers, medics, technicians, managers, businessmen, administration employees. This was the frame of a new concept, "the state of social prosperity", which produced an increase of people's revenues, a reducing of work days in a week, the development of tourism, the growth of the number of automobiles, goods, the mass access at the travels in airplanes, ships, the reformation of social insurance system, the modern evolution of the education[6].

Other problems as illegal immigration, work unregistered, drug traffic, terrorism, pollution and protection of the environment, woman's condition, human rights are typical for the second half of the XX-th century.

In the frame of the geopolitical and geo-strategic evolution is also included the process of creation of the European identity. The United Europe is a long-term project. The main problem is the equivalence between national and European conscience. The European Union is a political, cultural, social and economical entity which also has a strategic influence in the "globalization movement", in fact a long list of events which were the consequence of the fight between great powers for the world domination[7].

The idea of a United Europe had a first mention in the Pan-European movement, initiated by Coudenhove-Kalergi, a Czech aristocrat, in 1923. Six years later, Aristide Briand, one of the artisans of the Nations League, proposed a "federalization" based on the French-German cooperation.

The British Prime Minister Winston Churchill proposed in 1946 at the Zurich discussions the idea of the united Europe, having the help of the French President Charles de Gaulle[8].

The accomplishment of the common policy of security and defense imposes the existence of resources, forces and capacities[9].

The birth of the European Union is a result of centuries of wars, treaties, political and economic experience. The study of this process imposes cooperation between historians, specialists in economy, law, geopolitics.

The coordinator of the collection "*Construction of Europe*", the great historian Jacques le Goff noted:

"*Europe builds. It is a great hope, which will become reality if only we consider the history: A Europe without history would be an orphan and a miserable. Because the present day comes from the yesterday and the tomorrow is the result of the past. A past which must not paralyze the present, but help to be different in fidelity and new in progress. Between the Atlantic, Asia and*

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Africa, our Europe exists really for a long time, designed by geography and shaped by history, early from the times when Greeks gave the name it bears. The future people must rely on these heritance, which, from the Ancient times, even from Pre-historic times, reached Europe step by step, making it extraordinarily creative in its unity and its diversity, including a world complex frame"[10].

One of the first steps of the consti-tution of the common policy of security and defense is the Treaty of Brussels (17 March 1948), which established the basis of the Western European Union (U.E.O.)[11]. The introduction of the treaty has as main objective the mutual warranty of the se-curity of the states, which signed the treaty. The fifth article imposed for the Member States the task of the military help and political assistance in case of a military attack against an European state[12].

The U.E.O. Treaty offered large attri-butions in matters of European defense strategy, but in the conditions of the Cold War appeared other organizations which made a very restraint area of action of this treaty[13].

On 11 August 1950, at the 5th Con-sultative Assembly of the European Council[14] (created in May 1949), the former British Prime Minister Sir Winston Churchill, the hero of the World War II and of the Allied Conferences and post-war arrangements (Teheran, Yalta, Moscow), proposed the creation of the European United Army[15]. The E U A should be under democratic control, and also would have an alliance with Canada and USA.

On 24 October 1950, the President of the European Council, Hene Peven launched the Plan of the Defense of the European Community (C. E. A.), which was presented to the National French Assembly. The C. E. A., in accordance with the constitution treaty, should have had a common budget and European Ministry of Defense. It was placed under the control of the European Parliamentary Assembly.

Jean Monnet (1888–1979 – a very important counselor of the allied governments, during the Second World War), and Robert Schuman (1886–1963 – French Foreign Affairs Minister) initiated a plan able to put together the production of coal and steel in France and Western Germany[16]. It was the base of the "Schuman decla-ration", published on 9 May 1950[17].

During the discussions with the German Chancellor Konrad Adenauer, on 4 April 1951 Jean Monnet defined the warranty of the union agreements based on the principle of equality:

"*I am authorized to propose that the relations between Germany and France, within the Community, will be governed on the principle of equality, in the Council and in the Assembly and in all the European institutions, present or future*"[18].

Konrad Adenauer made his response: "*You know how I am attached to the equality rights for my country in the future and to my conviction of the domination actions in which it was entrained in the past. I am glad to give my full accord to your proposal, because I do not see the Community without total equality*"[19].

As a direct consequence, on 18 April 1951 the Treaty of Paris was signed among France, Federal Germany, Italy, and the three Benelux countries (Belgium, Luxembourg, and the Netherlands). It established the European Coal and Steel Community (E.C.S.C.), a first step in the creation of the European Union. The treaty could act starting on 23 July 1952 until 23 July 2002.

The treaty which established the E.C.S.C. has a major importance as Petre Prisecaru considered: "*the objective of the C.E.C.O. (E.C.S.C.) – common reglementation of the coal and steel is less important than the international principles established,*

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which conducted to the start of the Western European integration based on a political vision oriented to the future and to the pragmatic action"[20].

This treaty imposed a new theory, that of the intensification of the economic relations which creates a solidarity conducting soon to a political cooperation[21].

Until August 1954, the C.E.A. treaty was ratified by five Member States (Italy, Germany, Belgium, Luxembourg, Netherlands). But, after a preliminary vote, without presenting the contents of the treaty, the National French Assembly rejected the project. It was the end of the C.E.A. project[22].

The annalists considered the failure of C.E.A. project as a consequence of an insufficient consideration for the internal problems of the European states during the Cold War when Europe was divided between the "capitalist West" and "the socialist East"[23].

During 1-3 June 1955, at the Conference of Messina a committee was appointed, led by Paul Henri Spaak, which had as main responsibility the preparation of a preliminary report about the ways of the creation of the common market.

The Suez Crisis from 1956, the last colonial aggression put France and Britain, the most powerful European states after the war, in a desperate situation. Europe represented nothing when forces as U.S.A. or U.S.S.R. made their intervention.

The historians consider that the Suez Crisis imposed the next step on the European construction, the birth of a European Community. In the conditions of the failure of the plan of a European army, the architects of the Union realized that the only way was an economic one[24].

On March 25th, 1957, at Rome two treaties were signed by Belgium, the Netherlands, Luxembourg, France, Federal Germany and Italy. The first one represented the birth certificate of the E.U.,

being known as European Economic Community (E.E.C.). The second made the frame in controlling the atomic energy, named the Treaty of European Atomic Energy Community (EURATOM). The treaties had judicial power starting on 1-st January 1958. Later, the *Treaty establishing the European Economic Community* became the *Treaty establishing the European Community*[25].

The British opposition in signing the treaties from 1957 will be diminished by offering to the British government the status of the supervisor on the common market in the field of coal and steel.

In July 1969, the West-German Chancellor Willy Brandt proposed to the members of C.E.E. an active implication in the creation of the common strategy in foreign policy of defense.

The birth date of the concept of cooperation in the external policy (known as "political cooperation") is December 1969, at the summit of C.E.E. in Hague, when the Member States decided to make a report over the cooperation possibilities in the field of foreign affairs.

A committee formed by high rank officials under the presidency of Etienne Davignon (a high rank official of Foreign Affairs Ministry from Belgium), created a report which recommended the creation of the "harmonization system of the points of view, the coordination of the positions and, when it is possible, accepting of common positions"[26]. The "Davignon report" was adopted on 28 October 1970 in Luxembourg and became the frame of the "political cooperation" in the C.E.E. states between 1970-1989. The report of the Belgian Prime Ministry Leo Tindemans pointed out the absence of the common defense and security policies. The "Tindemans report" insisted over the general conclusion: the Union remained uncompleted without a common defense policy. The security pro-

blems included only the economical and political aspects, and not the military field[27].

Starting with 1962, a preoccupation of the members of E.E.C. proposed to create an integration of the European Communities which succeeded in 1967 (an institutional integration of the E.E.C., E.C.C.S. and EURATOM)[28].

The next step was made at the Hague Conference in 1969 where a report to develop a Unitary Monetary Unity (U.E.M.)[29] was demanded.

The period between 1945 and 1970 represents the time of creation of the communitarian structures. At that time, the Western states knew to leave out the problems caused by the war, especially the fear of a new grow-up of Germany. The historical reconciliation between Germany and France was the first step. After the failure of the project of a united European army, in 1954, caused by the veto of the French Parliament, only the economic way was embraced, this will contribute to the political cooperation.

The creation in 1957 of the C.E.E., defined the way which would be followed in the second half of the XX-th century. The historians must consider beside the facts of the Cold War, the struggle between communism and capitalism, between U.S.A. and U.S.S.R., between "East" and "West" that Europe started to be an economic force able to initiate a strong political partnership until 1970.

Note

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[17] Sime Pirotici, *loc.cit.*, p. 136.

[18] Jean Monnet, *Memoires*, Paris, Editure Fayard, 1976, p.413-415.

[19] *Ibidem*.

[20] Petre Prisecaru, *Teoria integrării economice europene*, București, Editura Sylvi, 2001, p.29.

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[24] Paula Daniela Gânga, *Cuplul Franța-Germania într-o europă în schimbare*, în *Despre Europa*, Editura Lumen, Iași, 2006, p. 15.

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[26] Ion Ganea, *loc.cit.*, p. 75.

[27] Archive of the European Integration (A.E.I.) http://www.aei.pitt.edu//942.

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[29] *Ibidem*.

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De la internaționalismul socialist la național-comunism

Despre metamorfozele ideii naționale în România comunistă

Mihai GHIȚULESCU

Abstract: *Twenty years after the fall of the communist regime we still feel working its ideological mechanisms. The main reason is our incapacity to understand what happened in society during the four decades of communist rule. We thought that it is enough to know the facts and to blame the perpetrators (although we never actually did that). But this is only the first step. Furthermore, we must take an analytic approach. That is why, in this article I aim to analyze the way in which communism mixed with nationalism in Romania. I have a look at the principles of socialist internationalism, at the practice of the so-called „national-comunism" in several socialist/communist countries and, finally, I focus on the Romanian pattern, showing its ideas and its functioning. My conclusion is that the „national-communism" is not a specific type of nationalism, but a simple rhetoric, ignoring any sense and mixing demagogically coloured elements from both ideologies.*

Keywords: *socialism, communism, nationalism, internationalism, history.*

La două decenii de la căderea comunismului, nostalgia ia tot mai mult locul „tristei amintiri". Și când spun nostalgie nu mă gândesc la retorica, mai mult sau mai puțin sinceră, de tipul „ce bine era, că aveam casă și servici (sic!)!", ci la ajustarea memoriei după zicala „cele rele să se spele, cele bune să se-adune!". Într-o astfel de situare, trecutul, oricât de negru, devine simplu decor pentru experiențe personale de care îți aduci aminte dacă nu cu plăcere ori cu regret, măcar cu duioșie. Într-o viață de om, istoria personală o bate pe cea socială. Numai că o sumă de istorii personale similare duce inevitabil la crearea unei alte istorii sociale, care o dublează pe cea consacrată prin istoriografie. De aici, pentru o vreme, o confuzie în ceea ce privește raportarea la perioada avută în vedere. Ajungi, atunci când nu ai trăit respectivele vremuri și/sau nu te-ai scufundat în scrierile istorice, să nu mai știi ce a fost rău și ce a fost bine și, de aceea, să perpetuezi inconștient remanențe comuniste.

Condamnarea comunismului este o operațiune mult mai dificilă decât s-a crezut. Demascarea crimelor și rostirea de sentințe – aproape nici o aluzie la Raportul Comisiei prezidențiale, care necesită o discuție

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aparte – sunt necesare, dar insuficiente. Nu ajunge să stabilim faptele, să descoperim făptașii și să-i dăm deoparte pentru a scăpa de comunism. E absolut necesar să-i disecăm ideologia, instrumentele, mobilurile și alibiurile, pe de o parte pentru a putea identifica și elimina „depunerile" încă numeroase, iar pe de altă parte pentru că, odată cunoscute metodele și instrumentele manipulatorii ale regimului totalitar, va fi mult mai ușor să le contracarăm pe cele arhifolosite în actualul regim democratic. Cunoașterea comunismului are deci, simultan, o funcție curativă și una profilactică.

În agitații ani '90, comunismul a fost condamnat înverșunat, patetic și cu iz senzaționalist – fapt de înțeles pentru acea vreme, benefic, fără îndoială, dar, vedem astăzi, nu prea eficient. Îndrăznesc să spun că nici o țară din lumea civilizată (cu excepția spațiului ex-sovietic – incorectitudine politică asumată!) nu a păstrat atât de puternic urmele unui regim totalitar la două decenii după abandonarea acestuia. Discursul de tip „Memorialul durerii" a dominat spațiul public, descurajând și punând în umbră demersurile analitice (destul de solide în Occident, puține și firave, la noi). Lucrurile nu pot și nu trebuie să mai rămână așa.

Mare parte a rândurilor de mai jos au fost scrise cu câțiva ani în urmă, fiind abandonate în așteptarea unor revizuiri și adăugiri mereu amânate. Actuala revenire asupra lor se datorează unor apariții editoriale recente. În primul rând, volumul *Politică și istorie. Cazul comuniștilor români 1944-1977*, al regretatului istoric Vlad Georgescu[1]. Scrisă în 1978 și publicată în Germania în 1983, lucrarea reprezintă o analiză rece (chiar incredibil de rece, dacă ne gândim la momentul realizării), aplicată și ultra-documentată (autorul chiar avertizează că a sacrificat „*fluența lecturii în favoarea caracterului documentar*"), urmărind să explice „*histo-politografia comunismului român, locul istoriei în politică, precum și*

al politicii în istoria sa […], *imagologia, rădăcinile sociale și psihologice* […], *impactul asupra societății românești contemporane...*"[2]. Cea de a doua carte, *Iluziile literaturii române*, a criticului și istoricului literar Eugen Negrici[3], „*efervescența mitogenetică*"[4] românească manifestată așa cum s-a manifestat ea în literatură (inclusiv cea din perioada comunistă). În sfârșit, după două analize meritorii, vine rândul unei sinteze asemenea. Este vorba de „manualul pentru liceu" *O istorie a comunismului din România*, apărut sub egida Institutului de Investigare a Crimelor Comunismului în România[5]. Realizat impecabil, manualul relevă dificultatea, dacă nu chiar imposibilitatea, elaborării unei sinteze istorice inteligibile a comunismului românesc. Oricine este cât de cât familiarizat cu literatura dedicată epocii, își dă cu ușurință seama că autorii au reușit să rețină într-un mod admirabil esențialul, să dea maximum de informație în minimum de cuvinte. Rămâne întrebarea: ce poate înțelege elevul mediu de liceu, născut după 1990. Sincer, mai nimic! Pentru el, totul seamănă a ficțiune, a Orwell, așa că nu prea mai are sens să folosim clișeul trimiterii la Orwell pentru a desluși „*mecanismul psihologic prin care regimul comunist a manipulat conștiințele oamenilor prin propagandă*"[6].

Și totuși, „mecanismul psihologic…" trebuie deslușit… Nu-i vorba numai de comunism, ci de orice regim, partid, curent ori om politic… Adevărata garanție a democrației nu stă în consacrarea ei formală, adică în ceea ce azi numim „stat de drept", ci în asumarea ei de către individ, adică în voința și în capacitatea acestuia de a o apăra, rezistând tentativelor de manipulare.

Cu aceste gânduri am revenit asupra textului care încearcă să disece raporturile destul de încâlcite dintre *naționalism* și *comunism*, cele două mari *isme* prin care indivizii au fost manipulați pe parcursul ultimelor două secole.

După o perioadă interbelică în care curentele naţionaliste au dominat spaţiul public şi după două dictaturi care au făcut din naţionalism o adevărată politică de stat, venirea la putere a Partidului Comunist Român a însemnat o despărţire sau, pentru a folosi una din metaforele matrimoniale ale istoricului Stephen Fischer-Galaţi, un „*divorţ de tradiţie*"[7].

Mişcarea comunistă promitea o altfel de democraţie decât cea oferită de societatea capitalistă, o democraţie care să slujească interesele „clasei muncitoare". Odată ajunsă la putere însă, ea a desfiinţat orice democraţie. A respins totodată naţionalismul şi a adoptat internaţionalismul, susţinând principiul egalităţii naţiunilor. În scurt timp, intenţiile s-au transformat, în practică, în contrariul lor, iar apoi au fost cu totul abandonate prin îmbrăţişarea unui naţionalism foarte asemănător cu cel mişcărilor fasciste anterioare. Astfel, deşi în planul ideologiilor originare extrema dreaptă şi extrema stângă erau radical diferite, în planul practicii social-politice au dat naştere unor regimuri totalitare similare[8].

Etapa internaţionalismului socialist

Odată cu proclamarea Republicii Populare Române, în 1947, au fost create practic toate condiţiile pentru instaurarea statului totalitar. Un prim pas l-a constituit înregimentarea militară a ţării în blocul sovietic, prin tratatul româno-sovietic de prietenie, colaborare şi ajutor reciproc. Au urmat consolidarea partidului unic de masă şi impunerea modelului totalitar sovietic prin adoptarea Constituţiei din aprilie 1948. Comuniştii au acţionat foarte rapid pentru transformarea României urmând modelul sovietic şi folosind practicile staliniste[9].

Noii conducători ai României şi-au asumat rolul de susţinători ai planurilor Moscovei de transformare a estului european într-un adevărat imperiu comunist. Pentru ei, poate mai mult decât pentru oricare alţi lideri estici, unicul principiu de legitimare consta în ataşamentul faţă de URSS şi asumarea obligaţiei de a îndeplini de îndeplini directivele Kremlinului[10]. Au adoptat deci, fără discuţii, ideologia internaţionalismului proletar aşa cum era prezentată de Marx, Engels, Lenin şi mai ales Stalin, adică susţinerea primatului solidarităţii de clasă în raport cu cea naţională. Internaţionalismul nu este considerat contrar intereselor naţionale, pretinzând că se îmbină cu „*patriotismul socialist*" în lupta pentru libertate a diferitelor ţări, posibilă însă numai „*pe calea dezvoltării socialiste*"[11]. El nu este, teoretic, o negare, ci o depăşire a naţionalismului căruia i se recunoaşte rolul diferit în funcţie de condiţiile istorice (chiar rolul pozitiv în cazul naţiunilor asuprite), dar care este considerat „*ostil scopurilor finale ale clasei muncitoare*"[12]. Naţiunea era definită ca o comunitate umană stabilă, constituit istoric pe baza comunităţii de limbă, de teritoriu, de viaţă economică şi de factură psihică materializată în cultura naţională. Întrunirea cumulată a tuturor acestor elemente era considerată obligatorie, dar rolul esenţial era rezervat intereselor economice. Momentul istoric al naşterii naţiunii poate fi aflat „*în perioada capitalismului ascendent*", chiar dacă unele din componentele sale au precedat acest moment. Ca orice fenomen istoric, ea este presupusă a avea un sfârşit, plasat perioada următoare victoriei comunismului în lumea întreagă şi instaurării unui sistem al economiei comuniste mondiale care ar fi creat condiţiile pentru contopirea tuturor naţiunilor într-una singură[13].

Stalin în persoană a trasat linia de conduită a comuniştilor în „*problema naţională*". În viziunea sa, aceasta se manifestă diferit în funcţie de interesele de clasă pe care le serveşte: „*În timpuri diferite păşesc în arena luptei clase diferite şi fiecare clasă înţelege în felul ei «problema naţională»*"[14]. Referindu-se la cazul particular al popoa-

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relor din Rusia, el a încercat să ilustreze diferența dintre „*problema națională*" a proletarilor și cea a nobilimii ori a burgheziei. Dacă acestea din urmă doresc, în viziunea sa, izolarea națională, proletarii au în vedere, dimpotrivă, desființarea barierelor ridicate între națiuni. De aceea, trebuie acordată mare atenție condițiilor comune tuturor proletarilor, comunității lor de interese, iar „*deosebirile naționale*" trebuie luate în considerare numai în măsura în care nu contravin „*intereselor comune ale proletarilor*"[15]. Ideea sa este simplă: solidaritatea dintre clasele corespondente din cadrul diferitelor națiuni are prioritate în raport cu cea dintre clasele sociale diferite din interiorul aceleiași națiuni. Pentru Stalin, „*problema națională*" este o nebuloasă care poate fi clarificată numai reducând-o la o sumă de probleme sociale („*revendicări de clasă*")[16]. Din tot textul său se pot desprinde câteva idei precise: egalitatea de drepturi cetățenești pentru toate naționalitățile din Rusia, libertatea folosirii limbii materne, dreptul de auto-administrare (însă numai în condițiile unei „*conștiințe proletare dezvoltate*") și negarea, de pe poziții materialist-dialectice, a existenței „*spiritului național*", „*din punct de vedere logic o nerozie*"[17]. Evident, aceste precepte staliniste erau valabile și pentru noile state-satelit. Stalin era singurul îndreptățit să (re)interpreteze ideologia pentru legitimarea diverselor acțiuni sau comportamente conjuncturale[18].

Teoria socialistă cu privire la „problema națională" a constituit fundamentul noii politici externe a URSS. În condițiile implicării americane în reconstrucția Europei și ale sprijinului acordat de către englezi forțelor anticomuniste grecești, sovieticilor le-a devenit tot mai evident că vremea concordiei dintre aliați era definitiv apusă și că se deschidea o epocă nouă, de luptă între estul socialist și pretins democratic, pacifist și progresist și vestul capitalist, catalogat drept imperialist, războinic și reacționar. Pentru a câștiga, sau măcar pentru a face față, nu trebuia și nu putea să lupte de una singură, ci să contrapună statelor occidentale o coaliție cuprinzând statele estice. Pentru mobilizarea lor a apelat la „chestiunea națională a proletarilor". Aceasta nu mai însemna acum doar solidaritatea proletarilor de naționalități diferite din interiorul aceluiași stat ori din state diferite, ci, pur și simplu, solidaritatea statelor în care proletariatul devenise „clasă conducătoare". Diferențele dintre ele trebuia șterse prin eliminarea particularităților naționale și înlocuirea lor cu modelul sovietic. Cel care a lansat apelul a fost A.A. Jdanov, ideologul oficial al stalinismului. „*Căile naționale spre socialism trebuiau definitiv părăsite*" spunea acesta, chemând toate „*forțele progresiste*" să facă front comun cu Uniunea Sovietică, „*bastionul visului de egalitate și fericire al omenirii*". Strategiile sale de intensificare a luptei de clasă internaționale și consecințele ei în Europa răsăriteană au fost definitivate în 1947 și materializate în *Cominform* (Biroul de Informații al Partidelor Comuniste și Muncitorești), un organism care, ca succesor al *Cominternului*, își propunea să concentreze diversele tendințe din cadrul comunismului mondial[19].

Jdanov a impus tuturor partidelor comuniste care au participat la *Cominform* (cele din estul european, minus Albania și Germania de Est, plus Franța și Italia) adoptarea unei declarații prin care se recunoștea URSS calitatea de depozitar al dezideratelor umaniste ale luptei antifasciste. Stilul său era imperativ și manieist: nu vedea nici o cale de mijloc între socialismul sovietic și capitalismul occidental, fapt ce a dus la accelerarea procesului de aservire a statelor socialiste din est, la depășirea formelor democratice păstrate în primii ani de după război. Modelul care li s-a impus consta în distrugerea so-

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cială, economică, politică, culturală a ordinii anterioare, eliminarea tuturor duşmanilor reali sau potenţiali şi implantarea unor structuri noi, calchiate după cele sovietice[20]. A fost inventată chiar şi o teorie care să descrie natura noilor regimuri: ele nu erau chiar „dictaturi ale proletariatului", ci experimente ale unei noi formule politice, „democraţia populară". Aparent o formă goală, această sintagmă este foarte importantă. Ea a oferit acoperirea ideologică pentru modul diferit în care se construia socialismul în fiecare ţară şi, în special, pentru implicarea ţărănimii, categoria dominantă. Revoluţia nu era specifică nici uneia din ele şi urma peste tot prescripţiile Moscovei dar trebuia să ţină cont de condiţiile de la faţa locului. „Democraţia populară" era definită ca o formă de organizare politică a societăţii care, în funcţie de condiţiile istorice, putea lua fie forma „dictaturii proletariatului", fie pe cea a „dictaturii proletariatului şi a ţărănimii". „Revoluţiile democrat-populare" erau privite iniţial ca mişcări pentru independenţă naţională şi reformă politică şi socială şi, abia odată acestea realizate, ele se transformau în revoluţii socialiste. „Democraţii populare" erau nu numai ţările din Europa de Est, ci şi statele socialiste din Asia[21].

În această primă fază, internaţionalistă, în România, s-a urmărit distrugerea oricărei legături cu trecutul „burghezo-naţionalist", în toate domeniile: economie, cultură şi, mai ales, politică. Eradicarea trecutului a început în 1948, imediat după instaurarea republicii, şi se poate considera că în 1952 el era deja, de facto, încheiat[22]. Schimbarea a avut un caracter cu atât mai brutal cu cât peisajul ideologic românesc nu cunoscuse o direcţie marxist-revoluţionară prea puternică. Puţinele tradiţii de stânga (poporanismul, ţărănismul) nu au anunţat revoluţia, social-democraţii au rămas marginali pe scena politică, iar comuniştii au fost interzişi. Totuşi, acestea nu par să fi reprezentat mari impedimente pentru noua putere. În foarte scurt timp, toate reperele istoriei româneşti au fost inversate. Solidaritatea internaţională, atât de invocată în istoriografia trecută şi viitoare, a fost pentru moment înlocuită cu „lupta de clasă", învestită cu rolul de motor al istoriei. Internaţionalismul se dovedeşte, de fapt, un antinaţionalism. Nu doar că toate marile evenimente istorice sunt reinterpretate ca simple acte de clasă, dar românii sunt plaţi în rolul negativ de agresori imperialişti ai revoluţiei socialiste: unirea din 1859 era rezultatul înţelegerii dintre boierime şi burghezie în dauna maselor populare, unirea cu Basarabia şi Transilvania, acte de agresiune împotriva revoluţiilor din Rusia şi Ungaria. Din 1947 până în 1956, *Istoria României* va purta numele de *Istoria R.P.R*[23]. Cuvântul „naţiune" şi derivatele sale au început să fie evitate în vorbirea oficială; relevantă mi se pare observaţia istoricului Vlad Georgescu că „până şi campionatele naţionale de fotbal au fost rebotezate campionate republicane"[24].

Misiunea rescrierii istoriei a revenit unor noi istorici, în cea mai mare parte, improvizaţi (este de notat numele lui Mihail Roller, adevărat guru al istoriografiei de la sfârşitul deceniului al V-lea şi începutul celui următor). „Vechii" istorici ai perioadei interbelice, acuzaţi de naţionalism şi de pro-occidentalism, au fost principalele ţinte ale epurărilor[25], alături de „vechii" politicieni, scriitori etc. Capul clasic de acuzare era „fascismul", un clişeu al jargonului socialist al vremii, cuprinzând întreaga opoziţie românească faţă de noua „orânduire". În „fascism" erau incluse toate valorile negative: naţionalismul, antisovietismul, anticomunismul etc. şi, în plus, era considerat instrumentul ideal al atacurilor din exterior, din partea „fascismului" şi „imperialismului" internaţional[26].

În acest punct devine vizibilă limitarea internaţionalismului socialist la statele

lagărului estic. Orice legătură cu occidentul capitalist era exclusă. Până și „proletarul" occidental părea decăzut din rolul său istoric. Nu era suficient ca românii să întrețină relații strânse cu popoarele vecine și în special cu cel sovietic, trebuia să existe o strânsă legătură seculară și chiar o îndatorare față de acestea. Ideea insulei de latinitate dispare pentru o vreme lăsându-i pe români să se piardă în marea slavă[27]. Misiunea „*frontului istoric*" a fost să demonstreze „*rolul creator și stimulator pe care marea cultură a marelui vecin a avut-o asupra românilor, de la sciți la comuniști, de la epoca pietrei, la aceea a socialismului*": lor se presupunea că le-am fi datorat desăvârșirea etnogenezei, protecția în Evul Mediu, modernizarea, independența și, bineînțeles, modelul călăuzitor pentru viitor[28]. Nu e deloc greu să observăm o contradicție flagrantă: istoricii anti-naționaliști români au promovat involuntar nu doar sovietismul, ci un adevărat naționalism rus, care, teoretic, era condamnat de preceptele staliniste.

O altă limită a internaționalismului comunist „românesc" poate fi considerată și lupta sângeroasă care s-a dat în interiorul și pentru controlul PMR. La vremea apariției pe scena politică a României post-belice, în conducerea PCR au existat trei grupuri: cei care rămăseseră în țară și activaseră în ilegalitate (Ștefan Foriș, Lucrețiu Pătrășcanu etc.), „grupul din țară" al celor care fuseseră întemnițați încă din anii '30 (în frunte cu Gheorghe Gheorghiu-Dej și din care a făcut parte și Nicolae Ceaușescu) și „grupul de la Moscova" (Ana Pauker, Vasile Luca etc.)[29]. Gheorghiu-Dej și grupul său s-au impus în cele din urmă, eliminându-le pe celelalte două. Trecând peste acuzațiile formale care li se aduceau victimelor epurărilor, lupta pentru putere pare să se fi concentrat asupra compoziției etnice a conducerii partidului. Bineînțeles, este greu de apreciat dacă eliminarea Anei Pauker și a

lui Vasile Luca s-a bazat pe dorința de putere nelimitată sau pe „naționalismul" lui Gheorghiu-Dej sau dacă ea avut loc din inițiativa acestuia sau ca urmare a instrucțiunilor Moscovei. Există, în principal, două opinii. Prima consideră acțiunea ar fi fost cauzată de conflictul dintre „grupul din țară" și „grupul de la Moscova". În acest caz, ar fi putut fi vorba de „naționalism" dar nu înțeles ca șovinism, ci doar ca o convingere că liderii din țară, și nu cei din străinătate, ar fi fost moștenitorii de drept ai firavei tradiții revoluționare românești și, prin urmare, tot ei ar fi trebuit să își asume rolul de executanți ai ordinelor lui Stalin[30]. E ușor de observat că „naționalismul" nu prea e de fapt naționalism, ci un simplu conflict de interese. Această opinie nu explică însă de ce au fost eliminați doar cei doi lideri moscoviți, iar cei de rangul al doilea (Valter Roman, Leonte Răutu etc.) au fost menținuți în continuare. O a doua opinie, care exclude cu hotărâre atât conflictul dintre grupuri cât și șovinismul/ antisemitismul dejist, nu explică motivele eliminării altfel decât prin interesele personale. Ea pune însă în centru mișcarea antisionistă, de fapt antisemită, lansată de Stalin. Astfel, acesta, fără să se manifeste deschis împotriva celorlalți, l-ar fi preferat pe Gheorghiu-Dej tocmai pentru că nu era evreu. În plus, anunțarea sionismului ca pericol pentru comunism și campania anti-semită pornită la Moscova și în alte țări ale blocului ar fi fost un bun prilej pentru „românizarea", adică instalarea în funcții a propriilor oameni, și, în special, excluderea Anei Pauker – „*faptul că Ana Pauker era evreică a fost un accident fericit pentru Dej*", scria istoricul Dennis Deletant – și a lui Vasile Luca (de origine maghiară)[31]. Nu ar fi fost deci vorba de antisemitism ci de folosirea în favoarea sa a antisemitismului stalinian. Nici unul din cele două moduri de a explica lupta de la vârful partidului nu este satisfăcătoare. Ambele

lasă în umbră cazurile particulare ale multor excluși și ale multor rămași. Chiar în lipsa datelor precise, este de notat că atitudinea comuniștilor față de cei de altă etnie și în special față de evrei este departe de „progresismul" afirmațiilor cu privire la „problema națională". Mai important decât ideile și sentimentele față de „străini" ale diverșilor conducători români este faptul că, la cumpăna deceniilor al V-lea și al VI-lea, internaționalismul și antisemitismul au avut o sursă comună.

Se poate aprecia că internaționalismul a cunoscut o pantă ascendentă până la moartea lui Stalin pentru ca apoi să descrească în intensitate. Urmele sale au rămas adânci vreme de un deceniu, iar la nivel declarativ s-au menținut până la sfârșitul regimului comunist. Internaționalismul, privit retrospectiv, nu pare să fi susținut atât cooperarea între statele comuniste cât cooperarea fiecăruia dintre ele cu URSS. A fost deci mai degrabă un amestec de anti-naționalism principial (chiar „anti-național") și sovietism (incluzând aici și naționalismul rus).

Național-comunismul

Falimentul internaționalismului și naționalismele compensatoare

Comunismul românesc, ca de altfel toate comunismele implantate de URSS după cel de Al Doilea Război Mondial, s-a găsit încă de la începuturile sale într-o criză de legitimitate. Internaționalismul, manifestat în special ca atașament față de Moscova, și asumarea rolului de reprezentant al „clasei muncitoare" nu au reușit să îi aducă suportul popular de care ar fi avut absolută nevoie. Cu timpul, el a operat o schimbare de direcție încercând să compenseze, în fața majorității naționale, lipsa democrației prin adoptarea fățișă a naționalismului majoritar. „*Chiar slăbiciunea regimului l-a forțat să cadă în*

brațele ideii naționale", scria Katherine Verdery[32]. A luat naștere astfel ceea ce se va numi „comunismul național" sau „național-comunismul".

România nu a fost un caz singular. Se poate spune chiar că, pretutindeni, comunismul a manifestat o tendință de trecere, mai lentă sau mai rapidă, mai zgomotoasă sau mai discretă, de la internaționalism la naționalism. Fenomenul nu este, așadar, în esență, tipic românesc, ci caracteristic evoluției regimurilor comuniste în general[33] chiar dacă s-a apreciat (de către filosoful Alain Finkielkraut) că, prin formele paroxistice atinse de național-comunism în vremea lui Nicolae Ceaușescu, statul român ar fi fost un „*ideal-tipic*" al acestui regim[34].

Paradoxal, deschizătoarea de drumuri a fost și în acest sens tot Rusia, care, prin Stalin, a desfășurat, chiar din perioada lozincilor internaționaliste, o politică naționalistă foarte agresivă. Denumirea de URSS a fost masca perfectă pentru naționalismul rus, pentru oprimarea celorlalte popoare cărora, doar aparent, li se asigurase dreptul de autoguvernare. China a dat și ea o tentă națională comunismului său. România, Albania, Coreea de Nord au urmat aceeași linie. Ungaria și Bulgaria s-au alăturat și ele iar RDG, care multă vreme a evitat orice manifestare de spirit național, a recurs, la sfârșit, când a devenit evidentă lipsa oricărui argument pentru existența sa, la aceeași retorică naționalistă[35].

Există un grup de țări cărora li s-a aplicat, cu precădere, eticheta de „național-comunism": Albania, Coreea de Nord, Cuba, România și Vietnam. Acestea s-au opus oricărei tentative de reformare și, totodată, au urmărit obținerea unei cât mai puternice stabilități populare. Nu este întâmplător că, în paralel cu încurajarea comportamentelor naționaliste, au manifestat o apetență pentru comunismul dogmatic, reticent față de orice formă de înnoire. Situația lor a fost de două ori paradoxală:

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liderii comuniști au desfășurat o retorică anticominternistă și antisovietică deși ajunseseră la putere numai ca urmare a presiunii sovietice (și se poate aprecia că fără existența ei nu ar fi rezistat atâta vreme); un alt paradox este că prin proclamarea independenței față de Moscova s-a desăvârșit puterea dictatorilor naționali care a dus la respingerea democratizărilor propuse de la „centru": ruptura de modelul sovietic a permis menținerea în viață a stalinismului până târziu[36]. Pe acestea se poate întemeia afirmația că, în peisajul global al comunismului, „național-comunismele" ocupă un rol intermediar, între experiențe de inspirație liberală (de la care păstrează manifestările de independență și suveranitate națională) și comunismele utopice (cărora le împărtășesc radicalismul ideologic)[37].

E greu de spus care au fost motivele pentru care unele state au decis să se îndrepte spre un astfel de regim. Țările etichetate ca „național-comuniste" erau diferite din punct de vedere cultural, proveneau din arii geografice diferite, aveau interese economice diferite și, nu în ultimul rând, se confruntau cu pericole politico-militare diferite. Din această evidentă eterogenitate nu se poate deduce decât că „național-comunismul" a fost un sistem sau foarte suplu sau foarte ambiguu, făcând astfel față unor situații din cele mai diverse[38]. Fenomenul, general, s-ar explica, în viziunea istoricului Lucian Boia, prin „*caracterul izolaționist al utopiilor*" și prin incapacitatea comunismului de a oferi, așa cum promitea, „raiul pe pământ". Discursul naționalist apare ca o formă, cea mai frecventă și nu arareori eficientă, de diversiune în fața dificultăților acumulate, o compensare a lipsurilor și frustrărilor din viața de zi cu zi a oamenilor. Apare din nou în discuție chestiunea legitimității. În țările unde regimul fusese impus prin ocupație sovietică (cum a fost și cazul României, până în 1958), era firesc ca internaționalismul impus să se

erodeze treptat; în plus, odată cu retragerea trupelor străine s-a creat un vid de legitimitate ce nu putea fi umplut altfel decât prin apelul la valorile naționale[39].

În ceea ce privește conjunctura, se poate spune că, în epoca stalinistă, naționalismul nu a existat în stare latentă, răbufnind uneori la semnalele Kremlinului. Trecerea, în grade diferite și cu viteze diferite, a început după moartea lui Stalin (1953) și odată cu curentul de „democratizare"/„liberalizare" susținut în special de Hrusciov. Conjunctura favorabilă despărțirii nete de Uniunea Sovietică a reprezentat-o însă conflictul ideologic dintre sovietici și chinezi de la începutul anilor '60.

Național-comunismul românesc

În acest cadru general, România a mers mai departe decât ceilalți. Explicația stă probabil în tradiția discursului naționalist pe care antinaționalismul începuturilor comuniste l-a acoperit, dar nu a reușit să îl anihileze. A contat poate și sentimentul particularității românești în blocul comunist, acea obsesie a „insulei de latinitate din marea slavă".

Manualul *O istorie...*, de care am vorbit la început, sintetizează perfect trăsăturile național-comunismului românesc. De aceea, citez *in extenso*:

> „Degenerarea naționalistă a ideologiei de la București, care s-a produ în ultimele două decenii de comunism românesc, a găsit un teren fertil de acceptare populară. Naționa-lismul românesc din secolul al XIX-lea și cel interbelic a fost orientat mai degrabă către istorie, limbă și cultură (utilizate ca argumente în construcția statului național), decât către ideea de democrație și drepturi politice ale cetățenilor ca în modelul naționalist francez, spre exemplu; exploatarea specificului național a dus la subordonarea integrală a istoriei și culturii față de politica oficială, aceasta fiind învestită cu misiunea de a crea miturile cu funcție ideologică legiti-

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matoare, iar ulterior de a servi cultului delirant al lui Ceaușescu […]. În acest context, comunismul n-a știut să facă diferența între cabotinism și patriotismul autentic."[40]

Încercând o schiță cronologică a nașterii și evoluției național-comunismului românesc trebuie să precizăm că momentul schimbării majore este plasat, de regulă, în 1964, dar se acceptă faptul că el a fost pregătit încă din deceniul trecut. Înainte de implantarea naționalismului, mai mult sau mai puțin oficial, ca politică de stat, a fost nevoie de o desovietizare, de o afirmare a autonomiei față de Moscova, fără ca aceasta să implice și o destalinizare puternică. S-a argumentat că decizia plenarei din august 1953 a fost prima formulare a „liniei naționale" și a marcat cariera viitoare a lui Gheorghiu-Dej. În cuvântarea sa de la 23 august 1953 acesta a pus un semn de egalitate între obiectivele istorice ale Partidului Muncitoresc Român (este interesant că acesta s-a prezentat întotdeauna ca „român", și nu „din România", așa cum recomandase Stalin), al națiunii române și construcția socialistă a unui stat român modern[41]. Manifestarea, chiar dacă slabă, a independenței românești ar fi survenit, așadar, la foarte puțin timp de la dispariția lui Stalin, într-o vreme în care destalinizarea viitoare nu era încă clară. Alte momente importante ar fi fost Congresul al II-lea din 1955 și plenara din 1958. Pentru Dej, campaniile de destalinizare lansate de Hrusciov nu prevesteau nimic bine. Asemenea altor veterani politici, el considera că noua politică nu putea decât să submineze sistemul, în general, și regimul din România, în special. A profitat de ea numai în măsura în care era utilă scopurilor sale de autonomizare și cucerire a puterii absolute, practicând o destalinizare strict controlată și limitată la atacurile împotriva foștilor rivali. A asigurat o „românizare" a eșaloanelor superioare din partid și administrație, maghiarii și

evreii fiind rapid înlocuiți cu etnici români. S-a apropiat, de asemenea, de Tito, susținând neamestecul sovieticilor în afacerile interne și l-a aprobat pe Mao în apărarea hotărâtă a moștenirii staliniste. A boicotat demersul lui Hrusciov pentru formarea unor corpuri integratoare supranaționale (în cadrul CAER), considerând că singurul mod de a-și apăra hegemonia era independența (chiar autarhia) economică. Ideea industrializări rapide, cu accentul pe industria grea, preluată direct de la Lenin și Stalin, l-a transformat – iată un nou paradox! – pe Dej într-un „comunist național". În acest sens, sunt juste două observații ale lui Dennis Deletant: 1) Dej a făcut distincția dintre „modelul sovietic" și Uniunea Sovietică, care, în noua sa politică, abandonase respectivul model (altfel spus, românul devenise mai sovietic decât sovieticii) și 2) campania de stabilire a noului curs al României a fost, concomitent, activă și reactivă[42]. Față de conflictul sino-sovietic el s-a păstrat pe o poziție de neutralitate dar a preluat din acesta ideea egalității tuturor statelor socialiste pe care a opus-o Kremlinului. La începutul anilor '60, presa românească a început să publice o serie de articole anti-sovietice. Astfel, ca reacție față de Moscova, Dej a trecut la folosirea armei naționalismului, comuniștii români, altădată cei mai fideli, au trecut rapid la promovarea valorilor naționale. Pentru o vreme im-punerea liniei naționale a avut efectul scontat: obținerea unei mai largi baze populare pentru conducerea dejistă[43].

Legitimarea rupturii de URSS și a trecerii la „comunismul național" a fost *Declarația cu privire la poziția Partidului Muncitoresc Român în problemele mișcării comuniste și muncitorești internaționale*, din 1964, cunoscută și sub numele de *Declarația de independență a PMR*, declarație prin care comuniștii români își manifestau autonomia și cereau chiar sprijin

occidental împotriva Moscovei. Ea a fost concepută ca răspuns la *Planul Valev* care urmărea crearea unei regiuni economice formată din RSS Moldovenească, România şi o parte din Bulgaria, evident controlată de Uniune[44].

În continuare, în perioada 1964-1971, România a cunoscut o perioadă de „libertate" limitată şi strict supravegheată, fiind greu de apreciat dacă a fost sau nu vorba despre o reală destalinizare. A fost vremea „recuperării trecutului", a reabilitării şi reintegrării în cultura românească a valorilor naţionale, deriva naţionalistă de peste câţiva ani fiind, în acele momente, probabil, imposibil de prevăzut. Au apărut primele sinteze de istorie naţională de după război, au fost recuperate nume mari ale culturii române, a apărut un suflu nou în literatura contemporană. În aprecierea noilor schimbări este totuşi nevoie de o anumită rezervă: liberalizarea culturală a fost subordonată scopurilor şi intereselor puterii comuniste. Partidul Muncitoresc (redevenit, din 1965, Comunist) Român a încercat să îşi aroge un rol mult mai mare decât a avut în istoria românilor, ca „vârf de lance" al „forţelor democratice şi progresiste" cărora le-ar fi revenit rolul pentru toate realizările naţionale şi sociale. Pentru aceasta, a reţinut din trecut numai personalităţile şi numai operele care conveneau. „Recuperarea" s-a făcut cu preţul pierderii sensurilor reale; a fost o „preluare critică", implicând reformulări, reinterpretări, scoateri din context ori eliminări. Toată acţiunea de reconstruire a întregii culturi române a avut două obiective principale: legitimarea comunismului şi propaganda. Privind retrospectiv, considerăm ca „naţional-comunismul" exaltat care a urmat era previzibil[45].

Nicolae Ceauşescu, venit la putere în 1965 şi rămas unic conducător după 1967, s-a păstrat în primii ani ai „domniei" în limitele trasate de predecesorul său. El a confirmat declaraţia de independenţă din 1964, în 1968, cu prilejul invadării Cehoslovaciei de către trupele Pactului de la Varşovia. S-a convins atunci că că apelul la sentimentul naţional, retoric şi prin diverse simboluri, poate fi un mecanism eficient pentru controlul social şi pentru dictatura personală[46]. Răbufnirea violentă a naţionalismului s-a produs în 1971, când Ceauşescu a lansat aşa-numitele „teze din iulie" ce anunţau o „(mini)revoluţie culturală". „Liberalizarea" şi „deschiderea" au fost definitiv stopate iar noua linie „naţional-comunistă" s-a radicalizat continuu, mai ales în anii '80, când a şi fost confirmată prin „tezele de la Mangalia" (1983), până în 1989. Camuflate sub sintagma de „*umanism socialist*", cele 17 „teze din iulie" reprezentau, de fapt, o întoarcere la realismul socialist al anilor '50, altoit, de această dată, cu o notă naţionalistă. Se făcea chemare la „*creşterea continuă a rolului conducător a partidului în toate domeniile activităţii politico-educative*", sublinierea „*marilor realizări ale poporului român – constructor al socialismului*", îmbunătăţirea „*formelor de învăţământ politico-ideologic al membrilor şi cadrelor de partid*", „*un control mai riguros*" pentru evitarea publicării lucrărilor care „*nu sunt la nivelul activităţii politico-ideologice a partidului*" sau, şi mai grav, conţin „*idei şi concepţii dăunătoare intereselor construcţiei socialiste*". Accentul trebuia pus „*pe promovarea producţiilor naţionale cu un caracter militant şi revoluţionar*"[47].

În următorii aproape 20 de ani, România s-a aflat într-o stare de izolare iar spaţiul public intern s-a aflat sub controlul strict al autorităţilor. Cultura română a fost marcată de preceptele ceauşiste iar operele, de orice gen, care s-au dovedit contrare acestora au atras asupra autorilor lor măsuri represive. S-a spus, nu fără îndreptăţire, că naţionalismul regimurilor comuniste nu a fost unul original în exprimare, ci s-a

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dovedit apropiat de cel practicat de statele fasciste ale perioadele interbelice. Axele sale majore, comune, în mare, tuturor cazurilor, au fost: cultul personalității liderului suprem, exaltarea manifestărilor populare naționaliste, rescrierea istoriei, crearea unei imagini a „patriei în pericol permanent", afirmarea independenței în cadrul blocului comunist[48]. Înainte de a privi asupra fiecăreia dintre acestea, este necesară o prezentare a modului în care constituțiile perioadei comuniste au formulat raporturile dintre popor/națiune și stat și explicarea „conceptelor-cheie" în „problema națională", așa cum erau ele gândite în ideologia „național-comunistă".

Stat popular, stat național, stat-națiune

Primul act fundamental al regimului comunist, Constituția din 1948 a reprezentat o ruptură cu tradiția: dacă toate constituțiile anterioare avuseseră în vedere calitatea de „*stat național*" a României (implicită în 1866, explicită în 1923 și 1938), ea a înlocuit-o cu cea de „*stat popular*", un stat în care întreaga putere „*emană de la popor și aparține poporului*"(articolul 3). „*Poporul*" înlocuiește pretutindeni națiunea (adjectivul „național" mai apare pe alocuri: „*economia națională*", „*independența națională a RPR*", „*Marea Adunare Națională*") și este lipsit de orice conotație etnică. Faptul că se vorbește despre „*naționalități conlocuitoare*" sau „*populații de altă naționalitate decât cea română*" pare o simplă constatare a unei stări de fapt, neîncercându-se instrumentarea ei politică.

Constituția din 1952 se situează în același plan dar aduce un plus de ambiguitate. Statul nu mai este pur și simplu „*popular*" ci aparține „*oamenilor muncii de la orașe și sate*" (articolul 1). Bizar este că întâlnim două tipuri de popor: pe de o parte, „*poporul muncitor*", format din „*oamenii muncii...*" și care este subiectul politic al statului; pe de alta, „*poporul român*", al

căruri sens etnic este subliniat încă din *Capitolul Introductiv*, unde se precizează că „*minoritățile naționale... se bucură de deplină egalitate în drepturi cu poporul român*", și amintit mai apoi când se stipulează că statul „*asigura dezvoltarea culturii poporului român și a culturii minorităților naționale, socialistă în conținut, națională în formă*" (articolul 17, alineatul j.). Cum „*poporul roman*" și „*poporul muncitor*" nu par să fie unul și același lucru, folosirea alternativă a celor două sintagme – se vorbește, de exemplu, despre „*independența și suveranitatea*" celui dintâi, despre „*cuceririle*" și „*dușmanii*" celui din urmă (articolul 17, alineat a) – nu poate crea decât confuzie. Înclinăm să credem că la redactarea textului, „cele două popoare" au fost considerate sinonime, scăpându-se din vedere deosebirea creată involuntar.

Cea de a treia Constituție (1965) acordă, rândul ei, întreaga putere poporului care reunește „*clasa muncitoare..., țărănimea, intelectualitatea, celelalte categorii de oameni ai muncii, fără deosebire de naționalitate*". Tot acum, reapare națiunea, sub forma „*națiunii socialiste*". Ea este considerată sinonimă cu „poporul", fiind deci, teoretic, o națiune civică și nu una etnică. Practic, în cele două decenii și jumătate cât a rămas în vigoare, litera constituției se va dovedi în contradicție cu realitatea. Înflorirea național-comunismului a transformat sintagma „*națiune socialistă*" într-o formă goală, folosită ca alibi și ca mijloc legătură cu dogmele comuniste[49].

„*Națiunea socialistă*" și „*patriotismul socialist*"

În prezentarea concepțiilor despre națiune, naționalism, internaționalism, vom apela la două lucrări „politologice" ale epocii: un manual universitar de *Socialism științific*[50] și un *Dicționar politic*[51]. Primul lucru observabil este existența a două tipuri de națiune: „*națiunea burgheză*" și „*națiunea socialistă*".

Pentru ilustrarea celei dintâi, sunt trecute în revistă definiţiile unor autori străini, precum Ernest Renan, R. Redsolb, Rupert Emerson, Mario Albertini, dar şi români, D. Gusti, P. Andrei, C. Rădulescu-Motru, L. Blaga, Mircea Djuvara (S.S., pp. 176-178), ajungându-se la concluzia existenţei a două tipuri de definiţii: spiritualiste şi biologiste. Ambele sunt considerate false, cu precizarea că în primele „*pot fi găsite mult mai multe elemente viabile*" (S.S., p. 179); li se reproşează „*anistorismul*", faptul că „*naţiunea apare ca o entitate atemporală, existând dintotdeauna*" (S.S., p. 179). Privind însă „*din unghiul unei concepţii generale materialist-dialectice despre societate*" (S.S., p. 180), ar trebui să ne pară evident că „*orice formă de comunitate are un caracter istoric*" (S.S., p. 180), că naţiunea, forma de comunitate corespunzătoare societăţii capitaliste, a apărut în perioada trecerii de la feudalism la capitalism (D.P., p. 387) şi că este definibilă ca întrunire, graţie „*invincibilului rol integrator*" al „*modului de producţie capitalist*" (S.S., P. 182), într-o „*unitate organică*" a mai multor elemente: etnia (ansamblul trăsăturilor comune ale unei populaţii, rezultate în urma convieţuirii (S.S., p. 189)), teritoriul, limba literară unică, economia capitalistă, relaţii de clasă antagonice, o putere de stat capitalistă şi o cultură „*de tip capitalist*" pe baza căreia comunitatea îşi modelează „*conştiinţa de sine a unităţii sale*" (S.S., p. 181). Conştiinţa naţională are ea însăşi caracter istoric şi poartă amprenta intereselor de clasă, nefiind, de fapt, decât o parte a „*conştiinţei de clasă*".

Pe lângă această „*naţiune burgheză*" mai există şi „*naţiunea socialistă*", un „*nou tip de naţiune, incomparabil mai puternic şi mai omogenă*" după spusele lui Ceauşescu însuşi (apud S.S., p. 357), pentru că este „*o comunitate de viaţă economică*" şi „*unitară din punct de vedere social politic*". Ea apare în urma unui proces istoric „*care nu va fi altul decât procesul dezvoltării socia-*

lismului ca sistem global" (S.S., p. 358), pornind, e adevărat, de la „*naţiunea burgheză*", dar reprezentând „*un proces negator precum şi un salt calitativ*". Caracteristicile ei, pe lângă cele comune cu „*naţiunea burgheză*" (limba, teritoriul) sunt: economia bazată pe proprietatea obştească, dispariţia antagonismelor de clasă şi deci relaţiile de colaborare între clasele şi grupurile sociale, deţinerea puterii de către clasa muncitoare în alianţă cu intelectualitatea şi ţărănimea şi, în sfârşit, o cultură care stă la baza „*conştiinţei naţionale socialiste*" (S.S., pp. 358-359; D.P., pp. 387-389).

Deşi în plină exacerbare naţionalistă, naţionalismul este respins ca „*ideologie şi politică a burgheziei în problema naţională*" (D.P., p. 384), dar nu a oricărei burghezii, indiferent de timp şi loc. El este este una dintre cele mai importante arme ale burgheziei pentru a-şi satisface interesele economice şi a-şi consolida poziţia politică. Se poate face distincţia dintre naţionalismul „*burgheziei dominante*", folosit „*pentru a dezbina popoarele, a le asupri şi exploata*" (D.P., p. 384) şi cel al „*burgheziei dominate*", determinat de „*politica de dominaţie şi asuprire naţională*"(D.P., p. 384). Dacă primul este reacţionar şi şovin, cel din urmă e „*în ansamblu are un caracter democratic, progresist*". Totuşi nici el nu este complet ferit de derapaje şovine. Adevărata rezolvare a „*problemei naţionale*" ar sta deci în „*lichidarea societăţii care generează asemenea raporturi*". Singură societatea socialistă este presupusă a putea elimina conflictele etnice pentru că ea plasează în locul naţionalismului „*patriotismul socialist*", „*o etapă nouă, calitativ superioară în evoluţia conştiinţei patriotice*" (S.S., p.366) şi desemnând mai degrabă un ataşament valorile socialismului decât faţă de cele naţionale.

Paradoxal, se vorbeşte în continuare despre „*internaţionalismul proletar*" şi, teoretic, este privit, în mare, la fel ca în urmă

cu două decenii. Așa cum spunea Alain Finkielkraut, el a încetat să mai fie un țel real al comunismului românesc, dar a continuat să fie invocat ca alibi[52]. Temeiul său continuă să fie văzut în solidaritatea de clasă dincolo de frontierele naționale dar, ni se spune acum, având și el un caracter istoric, „*conținutul…formele și metodele sale*" suferă schimbări în funcție de „*condițiile concret-istorice*"(S.S., p. 367). Astfel, sfera sa apare ca lărgită și, prin urmare, diluată. Nu se mai referă doar la colaborarea dintre statele blocului comunist, ci cuprinde și „*mișcările de eliberare național-colonială*" și „*alte forțe antiimperialiste*" (S.S., p. 368). Internaționalismul proletar nu mai are ca țintă finală contopirea tuturor națiunilor în una singură. Disparția națiunii este de neconceput pentru că socialismul nu poate face abstracție de „*caracterul național al formei de comunitate*", pentru că națiunea „*este o componentă a acestei societăți* [socialiste]". Ca argument concret, se spune că ar fi absurd să concepem disparția națiunii numai într-o parte a lumii și menținerea ei în zonele capitaliste și în lumea a treia, ambele întârziate din punct de vedere istoric. În sfârșit, la Congresul a X-lea al PCR și la Conferința națională (1972) „s-a stabilit" că „*procesul edificării socialiste multilateral dezvoltate este implicit procesul dezvoltării națiunii înseși*" (S.S., p. 360). Vorbind despre disparția națiunii în vest, avându-se în vedere pe atunci încă tânăra integrare europeană, se spune că integrarea supranațională ar fi imposibilă din cauza rezistenței burgheze care și-ar vedea amenințate interesele economice și politice (S.S., p. 196).

O altă problemă o reprezintă „*relațiile naționale în socialism*", înțelegând prin ele „*raporturile dintre națiunile sau grupurile naționale existente în interiorul aceleiași societăți*" (S.S., p. 188). Generatoare de tensiuni în capitalism, „*problema națională*" își găsește în socialism „*condițiile obiec-*

tive ale rezolvării" (S.S., p. 361). România este prezentată ca un stat model în acest sens, dată fiind preocuparea Partidului pentru „*naționalitățile conlocuitoare*", pentru „*asigurarea egalității în drepturi și a condițiilor de afirmare nestingherită a fiecărei naționalități*" (D.P., p. 386). Sunt aduse ca argument articole de constituție, procente de reprezentare a minorităților etc.

„*Problema națională*"

În ciuda declarațiilor oficiale privind respectarea drepturilor minorităților naționale, efectele politicii reale au lăsat impresia unui proces de omogenizare etnică în sensul scăderii procentului de minoritari prin emigrație sau asimilare. Încă din anii '50, a fost desfășurată celebra și misterioasa „afacere a vânzării evreilor", începută de Gheorghiu-Dej, continuată și extinsă de Ceaușescu. În aceeași perioadă, maghiarii din Transilvania au beneficiat de o regiune autonomă dar, chiar și așa, situația lor a lăsat de dorit.

În anii '60, potrivit unor observatori, situația maghiarilor pare să se fi îmbunătățit în ceea ce privește folosirea limbii materne, menținându-se însă restricții referitoare la schimburile culturale. După desființarea Regiunii Autonome Maghiare, în 1960, în ciuda protestelor guvernului maghiar, „problema maghiară" a revenit în discuție cu ocazia reformei administrativ-teritoriale. Ceaușescu a promis că va ține cont de structura etnică a populației și va veghea la respectarea prevederilor constituționale cu privire la folosirea limbii materne în școli, administrație etc. în localitățile în care trăiau „*naționalități conlocuitoare*". S-a ținut de cuvânt numai parțial. Propunerea de creare a unui „județ puternic", cuprinzând zonele cu cea mai mare densitate de populație maghiară, a fost ignorată. În schimb, în noua organizare, maghiarii erau lăsați majoritari în mai multe județe decât în perioada anterioară dar lipsiți de posibilitatea de a crea un bloc, cu even-

tuale pretenţii de autonomie; ca o compensaţie, unele zone au fost alese pentru investiţii speciale în vederea industrializării rapide. Pe măsură ce guvernul de la Bucureşti şi-a dezvoltat autonomia, Ungaria a găsit un sprijin la Moscova în „chestiunea Transilvaniei". În 1968, teama că tulburările minorităţilor vor fi un prilej pentru o eventuală intervenţie sovietică în România l-a determinat pe Ceauşescu să facă o serie de concesii economice zonelor locuite de maghiari. Teama s-a dovedit nejustificată. Participarea Ungariei la acţiunea de la Praga a stârnit nemulţumiri în rândul maghiarilor iar reticenţa comună faţă de URSS a dus la o îmbunătăţire a relaţiilor interetnice materializată în creşterea cantitativă a presei de limbă maghiară şi germană şi în crearea, în 1969, a Consiliului Oamenilor Muncii de Naţionalitate Maghiară şi respectiv Germană[53].

În ceea ce priveşte minoritatea germană, lucrurile s-au precipitat după 1970, când guvernul polonez a hotărât să permită emigraţia în Germania de Vest, fapt care a stârnit o cerere de sporire a numărului de emigranţi germani din România. Puterea de la Bucureşti a răspuns printr-o campanie de presă în scopul liniştirii spiritelor. S-a ţinut sub tăcere înţelegerea dintre ţara noastră şi RFG, în urma căreia guvernul de la Bonn vira sub formă de credite sume cuprinse între 4000 şi 10000 DM pentru fiecare imigrant sosit din România. Se estimează că numărul total al acestora, între 1967 şi 1989, s-a ridicat la circa 200000 de persoane[54].

Acordul de la Helsinki (1975) a făcut posibilă examinarea internaţională a situaţiei minorităţilor din România. Deşi guvernul semnase o serie de documente internaţionale în această materie, respectarea lor se dovedea arbitrară. Dacă Germania de Vest a înţeles să nu se folosească de Acord pentru a nu periclita emigrarea, Ungaria a hotărât să profite de ocazie pentru a obţine o îmbunătăţire a situaţiei etnicilor maghiari de pe teritoriul românesc. În Transilvania, a început să crească numărul protestelor cu privire la reprezentarea în Marea Adunare Naţională, învăţământul în limba maternă (se operase o fuziune a şcolilor în limba maghiară cu cele româneşti, adică o reducere graduală a celor dintâi) etc. Diversele nemulţumiri i-au făcut pe maghiari să privească cu suspiciune politica de egalizare prin modernizare. Investiţiile sporite în zonele cu populaţie majoritar maghiară erau privite ca un mijloc ascuns de a reduce numărul acesteia în vederea asimilării. Asimilarea era încurajată pe trei căi: migrarea românilor în Transilvania şi emigrarea din provincie a germanilor şi maghiarilor, reducerea numărului şcolilor cu predare în alte limbi prin stabilirea unui număr minim de elevi şi promovarea folosirii limbii române ca limbă a majorităţii. În plus, migrarea forţei de muncă dinspre rural spre urban, în condiţiile în care majoritatea românilor locuiau la ţară iar oraşele deveniseră mai puţin cosmopolite după plecarea germanilor şi a evreilor, avea să aibă ca rezultat tot „românizarea"[55].

În anii '80, când Ceauşescu a ajuns să joace până la capăt cartea naţionalistă, minorităţile îi apăreau ca nişte elemente primejdioase, reprezentante ale unor valori străine. Maghiarii, de altfel, cei mai numeroşi, erau principala sa obsesie. Dictatorul român este încadrabil, alături de alţi lideri „conservatori" est-europeni, în categoria comuniştilor xenofobi, pentru care orice încercare de reformă echivala cu o trădare a intereselor naţionale[56].

Rescrierea istoriei

Se poate observa că discursul politic românesc a cunoscut, în timpul celor aproape 50 de ani de comunism, mai multe etape. Prima dintre ele a corespuns ultimilor ani dinainte de instaurarea oficială a noului regim (1945-1948) şi a fost marcată de

confuzie, simţind despărţirea de trecut dar nevăzând-o realizată. Au urmat internaţionaliştii şi antinaţionaliştii ani 1948-1960 când trecutul a fost curăţat de orice urmă de „naţional", în general, şi de „românesc", în particular. Între 1960 şi 1971 s-a simţit o vagă liberalizare, s-au reluat unele contacte cu Occidentul, s-a început „recuperarea valorilor naţionale", dar s-a şi anunţat ultima fază, „absolutistă", dintre 1971 şi 1989[57]. În tot acest timp, regimul s-a transformat (sau a lăsat impresia că se transformă), „ţelul istoriei" s-a schimbat şi, odată cu el, şi istoriografia[58].

Naţionalismul a devenit, în epoca Ceauşescu, principalul argument istoric şi politic. Românii trebuia să apară uniţi nu doar în prezent, în jurul Partidului şi al Conducătorului, ci şi în trecut, în întreaga lor istorie. Folosit ca instrument de dominare, naţionalismul a îmbinat tradiţia cu scopurile urmărite de puterea comunistă. Campania de recuperare a fost, de fapt, una de manipulare. Teoretic, reelaborarea în sens naţionalist a istoriei ar fi trebuit să implice o atenuare a mecanismelor luptei de clasă. Practic, cele două au reuşit să coexiste[59].

„Naţionalizarea istoriei" s-a manifestat într-un mod bizar, dar nu chiar original : „protocronismul". Acesta mai apăruse într-o formă foarte virulentă în Rusia stalinistă, când se ajunsese la concluzia că toate marile realizări din cultura şi ştiinţa universală erau, în fapt, nişte creaţii ruseşti. Protocronismul românesc s-a înscris în această linie, dar nu ca imitaţie, ci ca urmare a unei logici similare, unele rădăcini în autohtonismul secolului al XIX-lea[60]. Conceptul a fost lansat în 1974, printr-o carte a istoricului literar şi esteticianului Edgar Papu, *Din clasicii noştri: contribuţii la ideea protocronismului românesc*, în care se susţinea „*întâietatea cronologică a atâtor iniţiative literare româneşti faţă de unele realizări similare din alte părţi*" şi se concluziona că „*una din dominantele trăsături defini-*

torii ale literaturii noastre în context universal este protocronismul"[61]. Astfel, Neagoe Basarab era privit ca un contemporan superior lui Machiavelli dar şi ca un anticipator al barocului literar, Cantemir ar fi fost un romantic avant la lettre, Heliade Rădulescu, un psihanalist, Negruzzi, un predecesor superior al lui Flaubert, Alecsandri un presimbolist iar Eminescu, nici mai mult nici mai puţin decât un strămoş al existenţialismului. Protocronismului nu îi era suficient să reinterpreteze istoria, avea nevoie şi de o legitimare a sa ca teorie şi, pentru aceasta, şi-a autoproclamat filiaţia cu operele marilor istorici şi literaţi din trecut: „*direcţia principală urmată de cercetările ultimelor două decenii a fost dominată de acelaşi spirit ce-i însufleţise pe Iorga şi Călinescu: a dovedi valoarea «în absolut»*", scria Dan Zamfirescu[62]. Bineînţeles, maladia nu s-a putut limita la literatură, ci a cuprins rapid întreaga istorie. Totul începea cu „*Australanthropus Olteniensis*" – „*unul din primele exemplare decisive în procesul antropogenezei pe calea lui homo sapiens*" (Mihnea Gheorghiu) –, descoperit, chipurile, la Bungiuleşti, în Olt, aproape de Scorniceşti[63], care trebuia să arate că „*aici începe antropogeneza în Europa*"[64] şi continua, în antichitate, cu Burebista, conducătorul unei armate unificate de 200000 de oameni (cifră nemaiatinsă de nimeni până în epoca modernă). Atât de puternic pare să fi fost „împăratul" dac, încât Cezar, terifiat, ar fi ordonat asasinarea lui de către un commando special, numit – ţineţi-vă bine! – CIA (adică… *Centuria Infesta Addita*). Era, prin urmare, normal ca un astfel de personaj să se bucure de toată atenţia CC al PCR, care a hotărât ca, în 1980, cu ocazia Congresului internaţional de ştiinţe istorice de la Bucureşti, să se serbeze fix 2050 de ani de la înscăunarea sa[65]. Mircea cel Bătrân a devenit „cel mare" pentru că, fără al său Rovine, Europa se pare că ar fi fost islamizată. Mihai Viteazul a fost un

vajnic luptător pentru unitatea naţională (deşi conform preceptelor marxist-leniniste adoptate oficial, naşterea naţiunii era legată de trecerea la capitalism). Horea, Cloşca şi Crişan au anticipat, chiar dacă numai cu 5 ani, Revoluţia Franceză. Secolul al XIX-lea era recuperat prin revoluţiile şi personalităţile sale progresiste, „democrate premarxiste". În sfârşit, perioada interbelică şi regimul antonescian au fost parţial „reabilitate", scoţându-se în evidenţă reformele sociale, succesele politicii externe, rezistenţa antifascistă, cu un accent supradimensionat pe activitatea PCR şi, bineînţeles, cu precizările de rigoare privitoare la exploatarea muncitorimii şi starea proastă a ţărănimii. Prosovietismul anilor '50, deşi parte a revoluţiei, era condamnat[66]. Punctul terminus: România ceauşistă.

Pe scurt, „*neamul, ţara, istoria lor îşi pierd dimensiunile reale, explodează în univers, se gigantizează, totul devine epocal, istoric, uriaş, fără seamăn...*"[67].

Toată această „re-istorie" ar fi fost lipsită de sens dacă nu ar fi fost pusă în legătură cu prezentul. Regula de bază a oricărei mitologii istorice este că prezentul se proiectează în trecut[68]. Redesenarea trecutului implica o percepţie denaturată a prezentului şi o imaginare a viitorului conform idealurilor puterii. Două au fost, în principal, imaginile pe care „recuperarea" cantitativă şi calitativă a istoriei trebuia să le creeze. Prima este cea a „*destinului mare al unei ţări mici*", crearea iluziei unei mari puteri în ciuda dimensiunilor şi a potenţialului redus. Istoria s-a vrut o dovadă că şi o ţară ca România poate juca un rol important în politica internaţională, situându-se pe poziţie de egalitate cu marile puteri. Cu cât statutul internaţional a devenit mai labil, cu atât Ceauşescu a simţit nevoia de compensare prin discurs (istoric) a realităţii[69]. O afirmaţie elecventă în acest sens aparţine aceluiaşi Dan Zamfirescu: România a fost între 1964 şi 1989 „*a patra putere politică a lumii, după Israel (statul şi etnia universal răspândită) SUA şi URSS*"[70]. Consecinţe ale acestei imagini erau exaltarea patriotică a populaţiei şi posibilitatea liderului suprem de a se înscrie în galeria glorioaselor figuri istorice. Prin prezentarea istoriei ca suită de lupte defensive cu toată lumea apare imaginea „patriei în primejdie permanentă"[71]. Efectele pot fi observate în aceleaşi două planuri: al populaţiei şi al liderului. Pentru prima, „patria în primejdie" înseamnă o exacerbare naţionalistă, inevitabil însoţită de o ostilitate faţă de tot ce este „străin" şi, eventual, de o distragere a atenţiei de la realităţile imediate. „Conducătorul" găseşte astfel ocazia de a poza în „Salvator" şi de a cere strângerea rândurilor în jurul său.

Acesta a fost discursul dominant, chiar unic, dacă ţinem cont că el putea fi ocolit dar nu combătut explicit. Discursurile alternative, neoficiale, erau inacceptabile. Rosturile campaniei erau legitimarea, obţinerea susţinerii populare, obturarea disfuncţiilor regimului etc. În ce măsură au fost acestea realizate? S-a afirmat că metodele lui Ceauşescu au fost eficiente pentru că numai astfel s-ar justifica obedienţa poporului, numărul relativ mic de acte de opoziţie făţişă. Pe de altă parte, deznodământul demonstrează falimentul întregii sale politici. Adevărul este undeva la mijloc. Cu siguranţă că în anumite momente, mai ales la început, când virulenţa nu atinsese cotele din final, judecat în raport cu dominaţia sovietică, discursul naţionalist era preferabil iar „tovarăşul" s-a bucurat de oarecare simpatie. Cu siguranţă, şi mai târziu au existat oameni care au rezonat la retorica patriotardă. Totuşi, aceasta nu a reuşit să pună în umbră evidenţa, degradarea continuă a vieţii de zi cu zi şi să asigure politicii ceauşiste sprijinul dorit.

Privit ca piesă în ansamblul „naţionalismelor" româneşti, „naţional-comunismul"

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este, aparent, total diferit de toate celelalte. De fapt, el nu a făcut decâ să preia mai vechi teme naționaliste și să le combine într-o manieră care, fatalmente, nu putea fi originală. Originalitatea constă în folosirea naționalismului, în scopurile pe care el a fost chemat să le realizeze. Fiind, fără îndoială, la început, (și) o reacție la internaționalismul anti-național, materializat în dominația sovietică – adică, până la urmă, un naționalism clasic „emancipator" și „liberalizator" – cu timpul, el a devenit „reacționar", „izolaționist", formă în care a cunoscut manifestările de cea mai mare amploare din istoria românească. Demagogia naționalistă existentă dintotdeauna s-a văzut acum eliberată de orice constrângeri teoretice. Naționalismul comunist a fost pură propagandă. Mască pentru o politică falimentară, instrument de legitimare și mobilizare, între el și ideologia pe care a slujit-o a existat o prăpastie. De aceea, sintagmele „național-comunism" ori „naționalism comunist" nu desemnează un tip aparte de naționalism, ci doar indică circumstanțele în care el funcționat. Deși practicat la nivel de stat, a fost întotdeauna în contradicție cu linia oficială. A fost promovat și negat în egală măsură. Căderea regimului comunist este dovada clară că naționalismul a eșuat în îndeplinirea misiunii pentru care a fost reanimat. A reușit în schimb să producă efecte, probabil, nesperate: să dea dependență și să lase moștenitori.

Note

[1] Vlad Georgescu, *Politică și istorie. Cazul comuniștilor români 1944-1977*, ediție îngrijită și postfață de Radu Popa, Ed. Humanitas, București, 2008.
[2] *Ibidem*, pp. 6-7.
[3] Eugen Negrici, *Iluziile literaturii române*, Ed. Cartea românească, București, 2008.
[4] *Ibidem*, p. 7, *passim*.
[5] Mihai Stamatescu, Raluca Grosescu, Dorin Dobrincu, Andrei Muraru, Liviu Pleșa, Sorin Andreescu, *O istorie a comunismului din România. Manual pentru liceu*, Ed. Polirom, Iași, 2008.
[6] *Ibidem*, p. 102.
[7] Stephen Fischer-Galați, *România în secolul al XX-lea*, trad. Manuela Macarie, cuvânt înainte de Kurt Treptow, Institutul European, Iași, 1998, p. 53., p. 133.
[8] Andrei Roth, *Naționalism sau democratism*, Ed. Pro Europa, Târgu Mureș, 1999, p. 35.
[9] Dennis Deletant, *România sub regimul comunist*, trad. Delia Răzdolescu, Fundația Academia Civică, București, 1997, pp. 64-68.
[10] Vladimir Tismăneanu, *Reinventarea politicului. Europa răsăriteană de la Stalin la Havel*, Ed. Polirom, Iași, 1999, p. 49.
[11] B.N. Ponomarev (sub redacția), *Dicționar politic*, Ed. Politică, București, 1958, p. 304.
[12] *Ibidem*, pp. 406-407.
[13] *Ibidem*, p. 408.
[14] I.V. Stalin, *Cum înțelege social-democrația problema națională?"*, Ed. PMR, București, 1948, p. 5.
[15] *Ibidem*, p. 12.
[16] *Ibidem*, p. 17.
[17] *Ibidem*, p. 30.
[18] Vladimir Tismăneanu, *op. cit.*, p. 50.
[19] *Ibidem*, p. 45.
[20] *Ibidem*, p. 46.
[21] B.N. Ponomarev (sub redacția), *op. cit.*, pp. 189-190.
[22] Stephen Fischer-Galați, *op. cit.*, p. 133.
[23] Lucian Boia, *Două secole de mitologie națională*, Ed. Humanitas, București, 1999, pp. 116-118.
[24] Vlad Georgescu, *op. cit.*, p. 43.
[25] Stephen Fischer-Galați, *op. cit.*, p. 137.
[26] *Ibidem*, pp. 134-135.
[27] Lucian Boia, *op. cit.*, p. 119.
[28] Vezi Vlad Georgescu, *op. cit.*, pp. 26-28.
[29] Dennis Deletant, *op. cit.*, pp. 97-98.
[30] Stephen Fischer-Galați, *op. cit.*, p. 144.
[31] Dennis Deletant, *op. cit.*, pp. 98-99.
[32] Apud Andrei Roth, *op. cit.*, p. 94.
[33] Lucian Boia, *op. cit.*, p. 120.
[34] Andrei Roth, *op. cit.*, p. 36.
[35] Lucian Boia, *op. cit.*, p. 120-121.
[36] Andrei Roth, *op. cit.*, pp. 94-95.
[37] Jean-François Soulet, *Istoria comparată a statelor comuniste din 1945 până în zilele*

noastre, trad. Silvia Albeşteanu, Ana Zbarcea, Ed. Polirom, Iaşi, 1998, p. 156.

[38] *Ibidem*, p. 157.

[39] Lucian Boia, *op. cit.*, p. 121.

[40] Mihai Stamatescu *et allii*, *op. cit.*, p. 107.

[41] Stephen Fischer-Galaţi, *op. cit.*, p. 157.

[42] Dennis Deletant, *op. cit.*, p. 119.

[43] Vladimir Tismăneanu, *op. cit.*, pp. 90-92.

[44] Dennis Deletant, *op. cit.*, p. 121.

[45] Lucian Boia, *op. cit.*, pp. 121-125.

[46] Dennis Deletant, *op. cit.*, p. 137.

[47] Apud *ibidem*, p. 143.

[48] Jean-François Soulet, *op. cit.*, p. 160.

[49] *Constituţiile din 1948, 1952, 1965*, în http://legislatie.resurse-pentru-democratie.org; Alexandra Ionescu, *op. cit.*

[50] *Socialism ştiinţific. Manual universitar,* Ed. Didactică şi Pedagogică, Bucureşti, 1973 - în continuare, în text (S.S, p.).

[51] *Dicţionar politic*, Academia „Ştefan Gheorghiu", Ed. Politică, Bucureşti, 1975 - în continuare, în text (D.P., p.).

[52] Andrei Roth, *op. cit.*, p. 36.

[53] Dennis Deletant, *op. cit.*, pp. 127-130.

[54] *Ibidem*, pp. 131-132.

[55] *Ibidem*, pp. 152-156.

[56] Vladimir Tismăneanu, *op. cit.*, pp. 200-201.

[57] Al. Zub, *Orizont închis. Istoriografia română sub dictatură*, Institutul European, Iaşi, 2000, pp. 171-172.

[58] Idem, „Mituri istoriografice în România ultimei jumătăţi de secol", în Lucian Boia (sub direcţia), *Miturile comunismului românesc*, Ed. Nemira, Bucureşti, 1998, p. 90. Chiar dacă alegând borne temporale diferite, tot patru perioade stabileşi Vlad Georgescu: sovietizarea din 1944-1960, începutul reinterpretării din 1960-1965, relaxarea ideologică din 1965-1971 şi „noile mituri" sau „kitschul istoric" de după 1971 (Vlad Georgescu, *op. cit.*, p. 149). Eugen Negrici însă delimitează cinci faze: „faza fundamentalistă" (1947-1953), „falsa destalinizare" (1953-1957), „noua glaciaţiune" (1957-1964), „mica liberalizare" (1964-1971) şi „perioada comunismului naţional-ceauşist (1971-1989) (Eugen Negrici, *op. cit.*, pp. 243-271).

[59] Lucian Boia, *op. cit.*, p. 126.

[60] *Ibidem*, p. 130.

[61] Apud Anneli Ute Gabanyi, *Cultul lui Ceauşescu*, trad. Iulian Vamanu, cuvânt înainte de Dan Berindei, prefaţă de J.F. Brown, Ed. Polirom, Iaşi, 2003, pp. 112. Vezi şi Eugen Negrici, *op. cit.*, pp. 268-270.

[62] *Ibidem*, p. 112.

[63] Vlad Georgescu, *op. cit.*, pp. 91-92.

[64] Anneli Ute Gabanyi, *op. cit.*, pp. 116-117.

[65] Vlad Georgescu, *op. cit.*, pp. 91-93.

[66] Al Zub, *Orizont…*; „Mituri…"; Lucian Boia, *op. cit.*, pp. 125-134.

[67] Vlad Georgescu, *op. cit.*, p. 111.s

[68] Lucian Boia, „Destinul mare al unei ţări mici", în: Lucian Boia (sub direcţia), *op. cit.*, p. 215.

[69] *Ibidem*, pp. 209-211.

[70] Apud *ibidem*, p. 207.

[71] Eugen Negrici, „Mitul patriei primejduite", în: Lucian Boia (sub direcţia), *op. cit.*, p. 220; Jean-François Soulet, *op. cit.*, pp. 164-165.

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Il y a 20 ans…
(Un panorama constitutionnaliste de la révolution roumaine)

Mircea CRISTE

Abstract: *This study is a panorama of the events that took place twenty years ago which transformed in radical fashion the Romanian society, a society that presented itself in the époque as one of the most Stalinist states and that had no other way for exiting but the revolution. Following the events which unfolded in December 1989, Romania knew a succession of documents of constitutional value, presented in this study, which remain fresh material for researchers.*
Keywords: *revolution, communist rule, constitution, political regime.*

Le 21 décembre 1989 la Roumanie avait encore une Constitution, celle octroyée par Ceausescu en 1965. Il s'agissait d'une Constitution marxiste, qui proclamait le Parti Communiste comme force politique dirigeante de toute la société et la Grande Assemblée Nationale comme organe suprême du pouvoir.

Le lendemain, Ceausescu emporta cette Constitution dans sa fuite. Conçue pour défendre un régime et un dictateur, elle n'a pas réussi à survivre à son auteur.

1. Le bouleversement de l'ordre constitutionnel par la révolution.

L'éclatement d'une révolution se produit, comme condition générale, lorsque la Constitution ne reflète plus les besoins et les aspirations des citoyens. Il est également requis qu'on ait soustrait au peuple le contrôle sur la Constitution, c'est-à-dire qu'il n'a plus la possibilité, ni directement,

ni par l'intermédiaire des ses élus (qu'il ne contrôle guère), de modifier la loi fondamentale ou de la protéger contre les abus des gouvernants, notamment en ce qui concerne les droits fondamentaux.

La révolution représente ainsi le moyen par lequel on sort du domaine du droit pour se situer dans le domaine du fait, de la force qui, en détruisant l'ancien ordre constitutionnel, le remplace par un nouveau[1]. Dans le déroulement d'une révolution on distingue trois étapes: une première où l'ordre existant et le fait révolutionnaire sont en bascule[2], une deuxième étape où la révolution l'emporte sur l'ancien ordre constitutionnel et la troisième qui correspond à l'instauration du nouvel ordre.

Quant à la société roumaine, celle-ci se trouvait, à la fin de la dernière décennie, sous l'emprise d'un régime totalitaire qui rendait impossible toute évolution dans le sens d'une démocratisation du système. La

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révision de la Constitution était le monopole du législatif (la Grande Assemblée Nationale), qui adoptait les amendements à une majorité de deux tiers des députés, tous élus du parti unique. Une telle situation faisait facile toute violation des droits fondamentaux[3], d'autant que la Constitution de 1965 disposait, d'une manière catégorique, que "seule la Grande Assemblée Nationale décide sur la constitutionnalité des lois" (article 43/14).

Il était devenu évident pour tous qu'une démocratisation de la société n'était plus possible en respectant la *légalité socialiste*, mais qu'une action de force était nécessaire. A cette fin plusieurs scénarios avaient été déjà mis au point avant décembre 1989, mais tous avaient été déjoués par la police sécrète. Pourtant, les mécontentements accumulés provoquèrent un terrible mouvement populaire spontané qui éclata le 16 décembre 1989 à Timisoara, se propageant en moins d'une semaine dans tout le pays et provoquant la chute du régime de Ceausescu[4]. A la tête de ce mouvement s'étaient placés des leaders *ad-hoc*, issus de la masse de manifestants, auxquels se rallièrent certains dissidents et même des opposants de l'intérieur du Parti communiste. Ils formèrent un organe de direction du mouvement, le Front de Salut National, qui, dans un premier temps, agit comme un Gouvernement de fait[5], réunissant des personnalités démocrates apparemment sans couleur politique, et qui préféra prendre ses décisions sous forme de communiqués, qui contenaient non seulement des actes politiques et des appels à la population, mais aussi des dispositions juridiques à valeur constitutionnelle.

Le plus important de ces communiqués fut sans doute le premier[6] qui, en reconnaissant que la révolution "ouvrait une nouvelle page dans la vie politique et économique de la Roumanie", faisait valoir la volonté de changement du F.S.N. Pre-mièrement, par ce communiqué furent démantelées les anciennes structures de pouvoir et mises en place d'autres contrôlées par le C.F.S.N.[7]. Même si l'organe qui détenait le pouvoir suprême, la Grande Assemblée Nationale, n'était pas expressément mentionné, on ne peut conclure qu'à sa suppression, puisque l'intention du nouveau pouvoir était de dissoudre toutes les structures du régime renversé. De plus, au moment où, dans le procès des époux Ceausescu, le dictateur invoqua la compétence de la G.A.N. pour le juger, on lui répliqua que celle-ci n'existait plus.

En second lieu, le communiqué contenait une ébauche des nouvelles règles constitutionnelles. Quelques-unes concernaient l'organisation politique de la nouvelle société : l'abandon du rôle dirigeant d'un seul parti et l'établissement d'un système démocratique pluraliste de gouvernement; l'organisation d'élections libres; la séparation des pouvoirs législatif, exécutif et judiciaire et l'élection de tous les dirigeants politiques pour un ou au plus deux mandats. D'autres règles visaient les droits fondamentaux: l'élimination des dogmes idéologiques, le respect des droits et des libertés des minorités nationales et l'assurance de leur entière égalité en droits avec les Roumains, ainsi que le respect des droits et des libertés de l'homme, y compris le droit de voyager librement. Ce premier communiqué du F.S.N. disposait également qu'un comité de rédaction de la nouvelle Constitution commencerait à fonctionner immédiatement et contenait aussi une liste provisoire des membres du Conseil[8].

Un deuxième communiqué[9] fut publié pour annoncer la victoire des forces révolutionnaires, même si une certaine crainte liée à la fragilité de celle-ci était perceptible. Ce communiqué disposait que la culpabilité du dictateur et de ses *laquais* serait établie devant des tribunaux, qui décideraient avec toute sévérité des peines

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à infliger pour l'action de destruction du pays. L'armée fut déclarée seule détentrice des armes, les unités subordonnées au Ministère de l'Intérieur étant intégrées au Ministère de la Défense. En ce qui concernait les organes des nouvelles structures démocratiques, le communiqué disposait que celles-ci devaient entamer sans délai l'activité de reconstruction du pays, en se subordonnant au Conseil du F.S.N. et en adoptant avec celui-ci les mesures politiques, sociales, administratives et économiques nécessaires dans les premières étapes de la reconstruction.

Enfin, le troisième et dernier communiqué annonçait que les époux Ceausescu avaient été jugés, condamnés et exécutés par un tribunal militaire extraordinaire pour des crimes commis à l'encontre du peuple roumain. La disparition du couple dictatorial signifiait la victoire entière des nouvelles forces, situation se traduisant, sur le plan du droit constitutionnel, par la fin de la période où les décisions étaient prises par communiqués. Pour le professeur Draganu „les jours de 22-26 décembre 1989 forment ce qu'on pourrait très bien appeler *l'étape du pouvoir révolutionnaire diffus* ou *l'étape du gouvernement par communiqués*"[10].

2. La confirmation du nouveau pouvoir

Le problème des conséquences d'une révolution populaire s'était déjà posé dans le cas roumain, avec le précédent créé à la fin de la deuxième guerre mondiale, quand, après une période de dictature inaugurée par le coup d'Etat du roi Charles II en 1938, on est revenu à la Constitution de 1923.

2.1. Le gouvernement d'assemblée

Ce ne fut plus le cas en 1990, puisque les conditions n'étaient plus les mêmes. Si, en 1944, la société roumaine n'avait pas changé par rapport au 1938, bénéficiant en

plus d'une continuité de l'institution monarchique, la quarantaine d'années du régime communiste l'avait transformé radicalement, d'une manière qui rendait impossible un retour pure et simple à l'ancienne Constitution[11]. Cela explique pourquoi les partisans de l'application de plein droit de la Constitution de 1923 sont restés minoritaires.

D'autre part, la Constitution de 1965 n'a pas été expressément abrogée, seules quelques dispositions (notamment celles concernant les structures de pouvoir) étant remplacées par des lois spéciales. Les autres sont demeurées, avec valeur constitutionnelle et non comme des lois ordinaires[12]. Elles ont formé un bloc de constitutionnalité à côté d'autres décrets-lois adoptés jusqu'au vote de la nouvelle Constitution. Au sein de ce bloc on remarque notamment le décret-loi n° 2 publié le 27 décembre 1989, sur l'organisation et le fonctionnement du Conseil de Front de Salut National et des conseils territoriaux du F.S.N. Selon l'expression couramment utilisée dans la doctrine, il est une mini Constitution révolutionnaire, qui contient des dispositions concernant les nouveaux organes du pouvoir, leur organisation et leurs rapports.

En réaffirmant que toutes les structures de pouvoir de l'ancien régime dictatorial sont et restent dissoutes, ce décret-loi organise le Conseil du F.S.N. comme un quasi-Parlement. Il se voit reconnaître la compétence d'adopter des décrets-lois et des décrets, d'adopter le budget, de nommer et de révoquer le Premier ministre, le président de la Cour Suprême de Justice et le procureur général, de nommer le Gouvernement, d'adopter le système électoral, de ratifier les traités internationaux, de déclarer l'état de guerre. Composé de 145 membres, ce Conseil fonctionnait en sessions et en commissions de spécialité et pour la période d'entre sessions ses attributions étaient exercées par un bureau exécutif. Le Bureau exécutif, ayant en tête le président

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du Conseil du F.S.N., était composé d'un premier vice-président, de deux vice-présidents, d'un secrétaire et de six membres. Le président du Conseil était élu par ses pairs et il avait accompli le rôle d'un Président de République, même si ses pouvoirs étaient bien limités[13].

Du fait que le président, le bureau exécutif et le Gouvernement étaient nommés et révoqués par le Conseil du F.S.N., on a tiré la conclusion que dans cette deuxième période „le régime politique de notre pays a rempli, au moins sur plan normatif, les caractéristiques de ce qu'on appelle le gouverne-ment ou le régime *d'assemblée*"[14].

Une fois proclamé, le principe du plu-ralisme politique a été mis en oeuvre par le décret-loi n° 8 du 31 décembre 1989 sur l'enregistrement et le fonctionnement des partis politiques et des organisations publi-ques en Roumanie[15]. Les partis ont été ainsi organisés dans le respect de la souveraineté, de l'indépendance et de l'intégrité territo-riale, de la démocratie, en vue de la garantie des libertés et des droits des citoyens.

Un moment important pour le dé-veloppement constitutionnel ultérieur est intervenu le 24 janvier 1990, à la suite de l'annonce par le Front de Salut National de son intention de présenter des candidats propres aux prochaines élections. Cette déclaration a provoqué une vive réaction de la part de la plupart partis politiques, notamment les partis traditionnels, qui ont reproché au F.S.N. de tenter de mono-poliser le pouvoir. Jusqu'à cette date, le Front s'était présenté comme une structure de pouvoir provisoire, ayant pour mission de gérer les affaires courantes de l'Etat et de rendre possible le passage vers une société démocratique en organisant des élections libres dans le plus court délai. Le Conseil du F.S.N. jouait le rôle d'un Parlement, son président remplissait les fonctions d'un chef de l'Etat et les conseils locaux du F.S.N. étaient des organes de

l'autorité publique. Le Front ne constituait pas une formation politique qui aurait possédé une stratégie et un programme clairement définis, n'étant pas enregistré comme une organisation politique, selon les dispositions du décret-loi n° 8/1989.

Pour protester contre la décision du F.S.N. de se présenter aux élections, le Parti National Paysan (chrétien et démocrate), le Parti Social-démocrate et le Parti Libéral organisèrent le 24 janvier 1990 une grande manifestation populaire, préoccupés du fait que tout l'appareil de l'Etat puisse se transformer d'un jour à l'autre en un parti politique, à fin d'obtenir le plus de voix[16]. Les dirigeants du Front furent contraints de négocier avec les représentants des autres partis une nouvelle organisation du pouvoir, négociations qui s'étaient concrétisées dans une entente conclue le premier février 1990. A la suite de cet accord, fut adopté le décret-loi n° 81 du 9 février 1990[17] sur le Conseil Provisoire d'Union Nationale.

Le premier article de ce décret-loi con-sacrait la substitution au Conseil du F.S.N. d'une nouvelle autorité, le Conseil Provi-soire d'Union Nationale (C.P.U.N.), composé pour moitié des membres de l'ancien Conseil, l'autre moitié étant constituée par les représentants des partis, des formations politiques et des organisations des mino-rités nationales cooptés. Même s'il fut envisagé d'en limiter le bénéfice aux partis qui avaient participé à l'entente du premier février, il est resté possible de coopter d'autres partis et formations politique ou organisations des minorités nationales, avec l'accord du nouveau Conseil et en respectant le principe de la parité.

Dans le communiqué qui a suivi la première réunion du C.P.U.N., celui-ci se présenta comme un organe législatif et du pouvoir de l'Etat pour une période transi-toire, jusqu'aux premières élections libres. Le nouveau Conseil était composé de 241 membres: 106 représentants de l'ex-C.F.S.N.,

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105 représentants des partis et des formations politiques, 27 représentants des minorités nationales et 3 représentants de l'Association des anciens détenus politiques. Les partis constitués après étaient acceptés aux débats du C.P.U.N. avec le statut d'observateurs. A cette première organisation du C.P.U.N. on apporta très vite des modifications par le décret-loi n° 82 du 13 février 1990[18], qui a porté le nombre des membres à 253 et qui a organisé le nouveau Bureau exécutif et les commissions spécialisées du C.P.U.N.

2.2. La République de 1990

A partir de son entrée en fonction, le Conseil Provisoire d'Union Nationale eut comme but le passage vers une société démocratique stable. Pour cette raison, le plus important acte adopté par le Conseil fut le décret-loi n° 92 du 14 mars 1990[19] pour l'élection du Parlement et du Président de la Roumanie.

Il convient de remarquer d'abord que ce décret-loi a réorganisé les institutions politiques, en prévoyant expressément la séparation des pouvoirs législatif, exécutif et judiciaire. La place du C.P.U.N. fut prise par un Parlement formé de deux chambres (l'Assemblée de députés et le Sénat), l'exécutif était constitué d'un Gouvernement avec, à sa tête, un Premier ministre et était prévue de nouveau l'institution du Président de la République, qui n'avait bien sûr rien de commun avec celle instituée pour la première fois en Roumanie en 1974.

Le Parlement bicaméral créé par le décret-loi n° 92/1990 reprenait une tradition commencée en 1866 et interrompue en 1940. Les élections se déroulèrent au scrutin de liste, les parlementaires étant élus au suffrage universel, égal, direct, secret et libre exprimé par les citoyens. Les organisations des minorités nationales qui n'avaient pas accédé au Parlement, ont eu aussi droit à un mandat de député. De plein droit, l'Assemblée des députés et le Sénat s'établirent, en séance commune, en Assemblée Constituante présidée – successivement – par les présidents des deux chambres. Ce premier Parlement créé après les événements de décembre 1989 remplissait donc tant les attributions d'une assemblée législative, que celles d'une Constituante. Une fois la Constitution adoptée, devaient être organisées des élections dans un délai maximum d'un an.

Selon le décret-loi n° 92, le Président désignait le Premier ministre, dans la personne du représentant du parti ou de la formation politique qui avait obtenu le plus des mandats au Parlement ou – en cas d'absence de majorité – dans la personne d'un député ou sénateur, après consultation des partis représentés au Parlement. Le Président ne pouvait rester membre d'un parti ou d'une formation politique et il n'était pas responsable devant le législatif. En revanche, la responsabilité pour l'activité de l'exécutif revenait obligatoirement au Premier ministre, qui contresignait les actes du Président.

Toutefois, les relations Président – Parlement étaient bien délimitées, avec très peu de possibilités de contrôle réciproque. Le Président ne pouvait être démis qu'au cas où il aurait commis des actes qui le rendent indigne de cette fonction et selon une procédure assez complexe. Dans un premier temps il devait être suspendu de ses fonctions sur proposition d'un tiers des députés et sénateurs, en séance commune des deux chambres et ensuite la destitution était soumise à un référendum. De son côté, le Président n'avait pas la compétence de dissoudre le Parlement, sauf le cas où la Constitution n'aurait pas été adoptée dans un délai de 9 mois[20]. Même dans cette situation, il devait avoir au préalable l'accord du Premier ministre et des présidents de l'Assemblée des députés et du Sénat. En tout cas, la Constituante était de plein droit dissoute en cas de non-adoption de la

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nouvelle Constitution dans un délai de 18 mois.

A cette analyse, purement théorique, il faut ajouter une autre fondée sur les faits, puisqu'en réalité ce faible Président de République créé par le décret-loi n° 92 devint – par le jeu du hasard et jusqu'à l'adoption de la nouvelle Constitution - un président plus actif et plus puissant que celui dont parle le décret-loi. La source de cette évolution constitutionnelle fut les élections du 20 mai 1990, qui avaient donné une écrasante majorité au Front de Salut National, en tant que formation politique. Il avait obtenu 67 % des voix pour les deux chambres du Parlement et 85 % des voix pour son candidat aux élections présidentielles, M. Ion Iliescu. Même si, se conformant aux dispositions du décret-loi n° 92/1990, le Président sortant avait démissionné du parti, c'était incontestablement grâce à lui que le F.S.N. s'était approprié les élections. Pour cette raison il a gardé une forte influence tant sur la grande majorité des députés et des sénateurs, que – au moins pour une première période – sur le Gouvernement issu du nouveau Parlement[21].

En outre, au-delà des dispositions du décret-loi n° 92, les Règlements de l'Assemblée des députés et du Sénat avaient institué un droit de veto suspensif en faveur du Président de la République, en anticipant la solution de la future Constitution. Le Président jouissait en cela non seulement du droit de promulgation des lois, mais aussi du droit de restituer la loi en vue d'un nouveau débat dans les deux chambres législatives[22].

La mission principale du Parlement élu le 20 mai 1990 était sans doute celle de donner à la Roumanie une nouvelle Constitution qui fonde l'Etat de droit. A cette fin, fut constituée une commission chargée de la rédaction du projet, commission formée de 12 députés, 11 sénateurs et 5 experts, ces derniers avec voix consultative[23]. Sans énumérer les principes sur lesquels la commission devait travailler, le Règlement de la Constituante prévoyait en revanche, dans son article 9, les étapes à franchir pour arriver à la forme finale de la nouvelle loi fondamentale. Dans la première, la commission de rédaction du projet était chargée de définir les principes et la structure par chapitres de celui-ci[24], qui devait – dans une deuxième étape – être soumis à la discussion et au vote de l'Assemblée. Ensuite, sur le fondement des observations et des amendements présentés, la commission devait préparer le projet final de Constitution qui ferait l'objet de l'adoption par la Constituante et, finalement, de la confirmation populaire par un référendum.

Le 21 novembre 1991, l'Assemblée Constituante a adopté le texte final de la nouvelle Constitution, texte approuvé par la suite par le référendum organisé le 8 décembre 1991.

Notes

[1] La révolution „contredit toute explication juridique puisque le refus du droit existant non seulement n'entraînera aucune sanction mais encore sera à l'origine de la création d'un droit nouveau" (Pierre Pactet, *Institutions politiques. Droit constitutionnel*, Paris, Masson, 11ème édition, 1992, p. 74).

[2] *Ibidem.*

[3] En dépit des dispositions de l'article 36 de la Constitution de 1965 qui proclamaient que "le droit de propriété personnelle est protégé par la loi", rien n'empêcha le législatif en 1974 de voter les lois 58 et 59 qui posaient des sérieuses limitations à ce droit, interdisant les transactions foncières *inter vivos.*

[4] „La répression fait échouer ses propres buts : les gouvernements totalitaires sont *en péril* d'être renversés par violence dans la mesure où ils recourent à la répression comme moyen pour résoudre le conflit. Ceci explique la Roumanie de Ceausescu" (Ralf Dahrendorf, *Reflectii asupra Revolutiei în Europa*, Bucarest, Humanitas, 1993, p. 18).

[5] Cf. Tudor Draganu, *Drept constitutional şi instituţii politice*, tome 2, Cluj-Napoca, 1992, p. 216.

[6] Le communiqué pour le pays du Conseil du Front du Salut National, *Monitorul Oficial*, 1989, n° 1, p. 1-2.

[7] „A partir de ce moment toutes les structures du pouvoir du clan Ceausescu sont dissoutes. Le Gouvernement est démis, le Conseil d'Etat et ses institutions cessent leur activité. Tout pouvoir dans l'Etat est assumé par le Conseil du Front du Salut national... Sur tout le territoire s'institueront des conseils du Front du Salut National comme organes du pouvoir local".

[8] Le comité avait été élu après six mois par la Constituante et une liste définitive du Conseil ne sera jamais publiée dans le Moniteur Officiel.

[9] *Monitorul Oficial* du 25 décembre 1989, pp. 1-2.

[10] Tudor Draganu, *op. cit.*, p. 217.

[11] Selon M. Tudor Draganu si „au moment où la révolution populaire triomphe, la Constitution antérieure au coup de force semble dépassée par le prisme des aspirations changées d'une nation, l'élaboration d'une nouvelle Constitution s'impose" (*op. cit.*, p. 224).

[12] *Ibidem*, p. 222.

[13] Le président du Conseil n'avait aucune compétence pour nommer et révoquer le Premier ministre et les membres du Gouvernement.

[14] Tudor Draganu, *op. cit.*, p. 219.

[15] Publié au *Monitorul Oficial* n° 9 du 31 décembre 1989.

[16] „Une telle identification du parti de gouvernement avec l'Etat est justement ce qui caractérise les régimes totalitaires. Seul dans ces régimes le parti unique se confond avec l'Etat...Sa transformation [du F.S.N.] en parti politique n'aurait été autre chose qu'une nouvelle forme de totalitarisme, à la seule différence que cette fois ce n'était pas le parti unique qui tentait de se confondre avec l'Etat, mais l'Etat qui voulait devenir parti" (Tudor Draganu, *op. cit.*, p. 224-225).

[17] Publié au *Monitorul Oficial* n° 27 du 10 février 1990.

[18] Publié au *Monitorul Oficial* n° 28 du 14 février 1990, p. 1.

[19] Publié au *Monitorul Oficial* n° 35 du 18 mars 1990, pp. 1-11.

[20] Le professeur Tudor Draganu observait que „l'équilibre créé dans le régime parlementaire entre le pouvoir exécutif et le législatif par le fait qu'au droit du Parlement de provoquer la démission du Gouvernement s'oppose le droit du chef de l'Etat de dissoudre le Parlement semblait rompu dans le système du décret-loi n° 92/1990 dans la mesure où celui-ci ne permettait au Président de dissoudre la Constituante que dans un seul cas : dans le cas où elle n'avait pas adopté la Constitution dans un délai de 9 mois" (*op. cit.*, p. 230). Il convient d'observer que le Président n'avait en réalité aucun pouvoir à l'encontre des deux chambres, en tant que législatif.

[21] „Dans ces conditions, ce n'est pas une surprise que tant les deux chambres du Parlement, qu'aussi le Gouvernement formé après les élections, ont été prêts se conformer dans toutes les questions essentielles au mot d'ordre du Président de la République, un succès de celui et du Gouvernement étant en même temps un succès du Front et un échec, un échec du Front. Dans la structure d'Etat créée par le décret-loi n° 92/1990, la position du Président a été pour cette raison jusqu'à une date récente celle d'un général qui commande deux armées, qui lui sont habituellement profond dévouées et en bonne part même obéissantes, l'une étant le Gouvernement et l'autre le Parlement" (Tudor Draganu, *op. cit.*, p. 231).

[22] Le professeur Tudor Draganu a critiqué à juste titre cette modification apportée au décret-loi n° 92/1990 par les Règlements cités (*op. cit.*, pp. 231-232).

[23] Une première commission fut constituée le 28 décembre, composée de MM. Mihai Constantinescu, Ion Deleanu, Antonie Iorgovan, Ioan Muraru, Mihaï T. Oroveanu et Florin Vasilescu, mais elle n'a fonctionné que jusqu'au 12 janvier 1990 (cf. Mihai T. Oroveanu, *Istoria dreptului românesc si evolutia institutiilor constitutionale*, Bucarest, Cerma, 1992, p. 304, note 606).

[24] La commission avait employé l'expression de *thèses*.

Supradimensionarea şi disproporţionalitatea legislativă. Uninominalul, reformă electorală sau miză politică?

Anca Parmena OLIMID

Abstract: *In the present article the author analysis the 2008 parliamentary elections when Romania first used a variant of a majoritarian system. The article also discusses the avantages and disavantages brought by the new electoral system. The author argues that the uninominal vote and the electoral proportionality generated a current of criticism regarding the new law.*

Keywords: *tranzition, parliamentary elections, electoral reforme, disproportionality, magnitude, index.*

"Tranziţia" de la un sistem la altul

Alegerile legislative din 30 noiembrie 2008, cel de-al şaselea test al democraţiei parlamentare din România după 1989 s-au defăşurat în baza unui nou cadru legal. Noul sistem electoral a fost consacrat de Legea nr. 35/2008 din 13 martie 2008 pentru alegerea Camerei Deputaţilor şi a Senatului şi pentru modificarea şi completarea Legii nr. 67/2004 pentru alegerea autorităţilor administraţiei publice locale, a Legii administraţiei publice locale nr. 215/2001 şi a Legii nr. 393/2004 privind Statutul aleşilor locali, promulgată prin Decretul nr. 364 din 12 martie 2008[1]. Legea a fost modificată prin O.U.G. nr. 66 din 28 mai 2008[2], stabilind regulile de desfăşurare a jocului politic şi condiţionând totodată rezultatul partidei[3].

Legea electorală din 2008 proiectată anterior în termenii unei reforme electorale a reglat în definitiv piaţa politică devenind prin consecinţele sale o reformă politică[4]. A reuşit noul sistem electoral să reformeze scrutinul legislativ? A reuşit noua mecanică electorală să stabilizeze sistemul politic postdecembrist? Pentru a găsi răspuns la aceaste întrebări şi pentru a formula argumente pentru un răspuns sau altul, este necesar, mai înainte de toate, să examinăm caracteristicile noii formule electorale în contextul politic al anului 2008. Problema iniţială aici rezidă în confuzia ideologică şi indecizia politică în care factorii structural-organizatori se îmbină într-o perspectivă de multe ori regională necesitând implicarea unor competenţe tipice democraţiilor incipiente.

Punctul de plecare în analiza noastră îl constituie art. 5, alin. 1. din legea nr. 35/2008. Conform noilor reglementări "deputaţii şi senatorii se aleg în colegii uninominale constituite potrivit prevederilor art. 11,

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prin scrutin uninominal, potrivit principiului reprezentării proporţionale". Noua lege regrupează unităţile electorale prin împărţirea circumscipţiilor electorale plurinominale în colegii uninominale, în funcţie de numărul de mandate, rezultat al aplicării normei de reprezentare. Prin noua mecanică electorală au fost astfel obţinute 137 de colegii uninominale pentru Senat şi 315 de colegii uninominale pentru Camera Deputaţilor.

Acum însă ne vom limita doar la câteva observaţii. In noiembrie 2008, numărul total al cetăţenilor cu drept de vot a fost de 18.328.646 cu aproximativ 1 milion de electori mai mult decât la primele alegeri legislative din 20 mai 1990. În acest sens, participarea electoratului la alegerile legislative şi prezidenţiale a cunoscut o evoluţie descendentă delimitată de cele două extreme: alegerile legislative din 1990 şi alegerile europarlamentare din 7 iunie 2009.

Tabel nr. 1. Corpul electoral şi participarea la alegerile parlamentare (1990-2008)

Tipul scrutinului	Data scrutinului	AILP	APU	%
AG$_1$	20.05.1990	17.200.722	14.825.017	86,18
AG$_2$	27.09.1992	16.380.663	12.496.430	76,28
AG$_3$	03.11.1996	17.218.654	13.088.388	76,01
AG$_4$	26.11.2000	17.699.727	11.559.458	65,31
AG$_5$	28.10.2004	18.449.676	10.794.653	58,51
AG$_6$	30.11.2008	18.253.616	7.238.871	39,20

Notă: Am notat în tabel: AG – alegeri generale; AIPL – numărul alegătorilor înscrişi pe listele permanente; APU – numărul alegătorilor prezenţi la urne. Prima coloană indică tipul scrutinului, iar indicele 1,2, 3, …, 6 indică numărul scrutinului. Cea de-a doua coloană a tabelului indică data scrutinului, cea de-a treia coloană indică numărul alegătorilor înscrişi pe listele permanente, iar cea de-a patra coloană indică numărul alegătorilor prezenţi la urne. În ultima coloană este evidenţiată procentual participarea la vot (%).

În această ordine de idei, trebuie precizat că numărul respectiv de mandate include şi numărul de mandate, două mandate de senator şi patru de deputat corespunzătoare circumscripţiei nr. 43, nou creată pentru cetăţenii români rezidenţi din afara graniţelor ţării.

Cadrul legal reţinea în fapt aceleaşi reguli consacrate deja de scrutinele anterioare: la nivel de circumscipţie electorală aplicarea metodei coeficientului electoral simplu, iar la nivel naţional a metodei d'Hondt.

În privinţa procedurii de atribuire a mandatelor şi de de determinare a candidaţilor câştigători legea impune două etape distincte: *într-o primă etapă* sunt atribuite mandate candidaţilor ce au întrunit pragul electoral, aşadar au obţinut majoritatea absolută în cirscumscripţia în care au candidat. *În cea de-a doua etapă*, atribuirea mandatelor se va realiza în baza unei liste ce cuprinde ceilalţi candidaţi în odinea descrescătoare a voturilor primite. În concluzie, noua lege electorală nu modifică regula de atribuire a mandatelor legislative ce rămâne unul specific *reprezentării proporţionale*, ci doar procedura de vot.

Tabel nr. 2. Rezultatul alegerilor legislative din 30 noiembrie 2008

Partide politice	%	
	Camera Deputaţilor	**Senat**
Alianţa PSD-PC	33,09%	**34,16%**
PDL	32,36%	**33,57%**
PNL	18,57%	**18,74%**
UDMR	6,17%	**6,39%**
PRM	3,15%	**3,57%**
PNG-CD	2,27%	**2,53%**
Total	**100%**	**100%**

Notă: Prima coloană a tabelului indică partidul, iar cea de-a doua coloană menţionează procentul obţinut de respectivul partid în alegerile legislative din 30 noiembrie 2008 pentru fiecare cameră a Parlamentului.

Tabel nr. 3. Rezultatul alegerilor legislative din 30 noiembrie 2008 (număr mandate)

Partide politice	Număr mandate	
	Camera Deputaţilor	**Senat**
PDL	115	**51**
Alianţa PSD-PC	114	**49**
PNL	65	**28**
UDMR	22	**9**
PRM	0	**0**
PNG-CD	0	**0**
Total	**216**	**137**

Notă: Prima coloană a tabelului indică partidul, iar cea de-a doua coloană menţionează numărul de mandate obţinute de respectivul partid în alegerile legislative din noiembrie 2008.

Oprindu-ne asupra celei de-a doua precizări, trebuie să admitem că există opinii care susţin că în cazul românesc non-reprezentativitatea generală şi creşterea numărului de mandate atribuite în mod direct au condiţionat structura ofertei post-electorale[5].

Tabel nr. 4. Numărul de mandate alocate în alegerile legislative (1992-2008)

Anul scrutinului	Număr mandate *Senat*	Număr mandate *Camera Deputaţilor*
1992	143	341
1996	143	343
2000	140	345
2004	137	314
2008	137	315

Notă: Prima coloană a tabelul indică anul scrutinului legislativ, cea de-a doua coloană menţionează numărul de mandate pentru Senat, iar cea de-a treia coloană, numărul de mandate pentru Camera Deputaţilor

Criza unui sistem

Cadrul de analiză al prezentului studiu priveşte şi existenţa unui dezacord între pragul electoral şi magnitudinea medie a circumscripţiilor[6]. Raportul între cele două variabile poate fi aproximat de următoarea ecuaţie:

$$P = 75\% / (M+1)$$

Am notat: P – pragul electoral; M – magnitudinea medie a circumscripţiei.

Potrivit ecuaţiei, magnitudinea medie constituie un obstacol serios pentru intrarea partidelor mici în Parlament. În alegerile din 2004, avem un nivel al magnitudinii de 3,26 pentru Senat şi de 7,9 pentru Camera Deputaţilor, iar în 2008, s-a înregistrat un nivel al magnitudinii de 3,19 pentru Senat şi 7,33 pentru Camera Deputaţilor. Avem astfel în alegerile legislative din 2004 un prag implicit de 17% pentru Senat (de trei ori mai mare decât pragul electoral explicit fixat pentru partidele politice de 5% şi respectiv de 8% pentru Camera Deputaţilor, iar în alegerile din 2008 un prag implicit de 17,89% pentru Senat şi de 9% pentru Camera Deputaţilor. După cum rezultă din cele expuse mai sus, parametrii electorali din

alegerile legislative din noiembrie 2008 se încradrează în aceeaşi tendinţă consa-crată de alegerile din 2004.

Aşa cum am observant pe parcursul analizei noastre, numeroase variabile ale unui sistem electoral influenţează în mod direct gradul de disproporţionalitate şi în mod indirect numărul de partide din sistem. Cum poate fi apreciată această dispropor-ţionalitate? În acest sens, una dintre solu-ţiile propuse ar putea fi rezultatul diferenţei între distribuţia voturilor şi distribuţia lo-curilor pentru fiecare partid[7]. Cu toate acestea, numeroase discuţii pot apărea în cazul însumării tuturor deviaţiilor voturi-locuri ale tuturor partidelor[8]. În baza unor astfel de premise, formula lui Michael Gallagher ar putea ajuta la înţelegerea dezechilbrului produs între valorile pragului explicit şi pragului implicit. Indicele de disproporţio-nalitate propus de Gallagher se calculează astfel:

$$G_L = \tfrac{1}{2} \Sigma \, (V_i - l_i)^2$$

Am notat: G_L – indicele de disproporţionalitate; V_i – procentul de voturi obţinute de partidul i; l_i – ponderea mandatelor obţinute de partidul i[9].

Tabel nr. 5. Dispropoţionalitatea legislativă (1990-2004)[10]

Anul scrutinului	G_L
1990	7.86
1992	5.88
1996	7.03
2000	9.38
2004	4.98
Media	7.03

Notă: Tabelul prezintă valorile indicelui de disproporţionalitate pentru scrutinele legislative din perioada 1990-2004; pentru realizarea calculelor din tabel conform formulei lui Gallagher, am avut în vedere rezultatele alegerilor legislative pentru Senat pentru fiecare scrutin legislativ.

Semnificaţia alegerilor.
Argumente pro şi contra

În baza unor astfel de observaţii vom analiza rezultatele alegerilor din noiembrie 2008 comparativ cu rezultatele alegerilor din 1992 şi 2004, în sensul argumentării non-reprezentativităţii sistemului proporţional românesc („iniţial proporţionalist, dar devenit între timp majoritarist"[11]), dar mai ales al efectelor pragului electoral de 5%. Este evident că putem aprecia că reforma sistemului electoral din 2008 a soluţionat problema reprezentativităţii. În competiţia electorală aşa cum menţionat anaterior pentru cele 137 mandate de senatori şi 334 de deputaţi s-au înscris 2960 de candidaţi în cele 453 de colegii uninominale. Dintre aceştia 31 au fost candidaţi independenţi, Alianţa PSD-PC, PNL, PD-L, PRM şi PNG susţinând candidaţi în toate colegiile. La această

afirmaţie vom mai adăuga următoarea precizare: înainte de reforma electorală din 2008, voturile acordate partidelor neparlamentare (ce nu reuşeau să depăşească pragul electoral) erau redistribuite – conform sistemului celor mai mari resturi – partidelor care depăşeau pragul electoral. Aşadar, la alegerile legislative din 2000, mai mult de 1/5 din opţiunile corpului electoral au fost redistribuite partidelor parlamentare, adică mai mult de 2,3 milioane de voturi pentru Camera Deputaţilor şi 2,2 milioane pentru Senat. Când vorbim de comparaţie, în termenii rezulatelor alegerilor, este evident că în alegerile legislative din 2004, nu-mărul voturilor irosite va ajunge la 11-12%, pentru ca la alegerile din 2008, procentul înregistrat să fie de numai 7-10 % (aceasta înseamnă că procentul diferă în funcţie de fiecare cameră a Parlamentului).

Tabel nr. 6. Voturi pierdute în alegerile legislative din 1992-2008

Senat

Anul scrutinului	VVEPP	VVE	VP	V P(%)
1992	9360739	10964818	1604079	14.63
1996	10239125	12287671	2048546	16.67
2000	8723251	10891910	2168659	19.92
2004	9081077	10231476	11503399	11.24
2008	6396804	6888055	491251	7.11

Camera Deputaţilor

Anul scrutinului	VVEPP	VVE	VP	VP(%)
1992	8765014	10880252	2115238	19.45
1996	10049643	12238746	2189103	17.89
2000	8464543	10839424	2374881	21.91
2004	8866775	10188106	1321332	12.96
2008	6212380	6886794	674414	9.75

Notă: Am notat în tabel: VVEPP – voturile valabil exprimate pentru partidele care au depăşit pragul electoral; VVE – voturile valabil exprimate; VP – voturile pierdute; VP – voturile pierdute procentual. Prima coloană a tabelului indică numărul voturilor valabil exprimate pentru cele şase scrutine electorale pentru partidele care au reuşit să intre în Parlament; cea de-a doua colană indică numărul voturilor valabil exprimate pentru cele şase competiţii electorale, iar cea de-a patra şi a cincea coloană indică numărul voturilor pierdute (în cifră absolută şi procentual) la alegerile legislative din 1992-2008[12].

Conform datele indicate în tabele de mai sus, partidele câştigătoare în alegeri reuşeau să primească prin redistribuirea mandatelor prime de 9-10% din voturi. Cu toate acestea, procentul generos nu s-a dovedit a fi decisiv pentru alcătuirea noului guvern, însă a consolidat poziţia partidului aflat pe primul loc. În 2008, o dată cu introducerea votului uninominal, procentul mandatelor redistribuite s-a diminuat considerabil. Rezultatele arată că deşi PSD a câştigat alegerile parlamentare în procente, înregistrând 33,09% faţă de 32,36% pentru PD-L la Camera Deputaţilor şi 34,16% faţă de 33,575 la Senat, PD-L a reuşit să obţină cu trei mandate mai mult.

Tabel nr. 8. „Primele electorale" obţinute de câştigătorii alegerilor legislative 1990-2008

Anul scrutinului	Partidul câştigător	Camera Deputaţilor	Senat
1990	FSN	-0.07	+10,29
1992	FDSN	+6.60	+5,97
1996	CDR	+5,40	+6.37
2000	PDSR	+8.31	+9.33
2004	PSD	+4.48	+3.13
2008	PSD	+3.13	+1.64

Notă: Tabelul indică primele acordate partidului câştigător în alegeri. Calculul s-a realizat ca diferenţă între procentul de locuri şi procentul de voturi obţinute. Prima coloană a tabelului indică anul scrutinului legislativ (1990, 1992, 1996, 2000, 2004, 2008). Cea de-a doua coloană indică numele partidului câştigător în alegerile legislative, iar coloana a treia şi a patra indică primele electorale acordate câştigătorilor diferenţiat pentru fiecare cameră a Parlamentului.

În opinia Laviniei Stan şi Dianei Vancea deficienţele noii mecanici electorale sunt mult mai numeroase decât avantajele sale. Rezultatele au evidenţiat că a existat o diferenţă considerabilă între câştigători dacă avem în vedere numărul de voturi obţinut de fiecare candidat[13]. Din această perspectivă noua lege electorală a defavorizat candidaturile independente, nici un candidat independent nu a reuşit să intre în Parlament. Mai mult, procedura de redistribuire a voturilor a dezavantajat partidele mici, favorizând candidaturile partidelor mari şi "pe cele cu susţinere în teritoriu"[14].

Pierre Bréchon insista în 2004 pe criteriul polarizării unui sistem politic amintind de importanţa culturii politice a ţării şi cea a instituţiilor sale. El admitea că stabilitatea sistemului de partide "nu este prin urmare ceva de la sine înţeles. Ea nu rezultă din legi de echi-libru, ci chiar din faptul că aceste legi sunt profund înrădăcinate în cultură şi în instituţii, cele două fiind legate"[15]. În încheierea acestui studiu să notăm că dincolo de asemenea opinii, alegerile din 2008 au adus *un nou mecanism electoral rezultat al unui consens politic*, garantată constituţional.

Note
[1] Monitorul Oficial nr. 196 din 13 martie 2008.
[2] Monitorul Oficial nr. 409 din 30 mai 2008.
[3] Fiecare ediţie a alegerilor legislative a beneficiat de modificarea legislaţiei electorale. *Primele alegeri legislative din anul 1990* au fost reglementate de Decretul-lege nr. 92 din 14 martie 1990. Procedura electorală prevedea distribuţia mandatelor la două niveluri judeţean şi naţional. *Următoarele alegeri din 1992-2000* s-au desfăşurat în baza Legii nr. 68/1992 pentru alegerea Camerei Deputaţilor şi a Senatului[1]. În anul 2000, guvernul Isărescu a modificat legile electorale prin următoarele ordonanţe de urgenţă: O.U.G. nr. 63 din 26 mai 2000, O.U.G. nr. 129 din

30 iunie 2000, O.U.G. nr. 140 din 14 septembrie 2000, O.U.G. nr. 154 din 10 octombrie 2000, O.U.G. nr. 165 din 13 octombrie 2000. Ordonanţele au modificat unele aspecte legate de sistemul electoral care a rămas unul proporţional pe liste cu un singur tur de scrutin conform metodei d'Hondt de repartizare a mandatelor. *Alegerile din 2004* s-au desfăşurat în conformitate cu prevederile baza Legii nr. 373 din 24 septembrie 2004 pentru alegerea Camerei Deputaţilor şi a Senatului.

[4] Alexandru Radu, *Reformă sau experiment electoral* în "Sfera Politicii", nr. 131-132, anul XVII, 2009, pp. 14-21; Pierre Bréchon, *Partide politice*, Cluj-Napoca, Eikon, 2004, pp. 66-67.

[5] Cristian Preda, Sorina Soare, *Regimul, partidele şi isstemul politic din România,* Bucureşti, Editura Nemira, 2008, p. 98.

[6] Avem în vedere definiţia consacrată de Arendt Lijphart, *Modele ale democraţiei, Forme de guvernare şi funcţionare în treizeci şi şase de ţări,* Iaşi, POLIROM, 2000, p. 147. *Magnitudinea unei circumscripţii electorale* denotă numărul de candidaţi ce urmează a fi aleşi în respectiva circumscriţie. În aceeaşi interpretare, nu ar trebui confundată magnitudinea medie a unei circumscipţii cu delimitările geografice ale respectivei zone geografice sau cu numărul de alegători (*Ibidem*).

[7] *Ibidem*, p. 153.

[8] *Ibidem*.

[9] Aceeaşi formulă este folosită şi pentru calculul indicelui de disproporţionalitate prezidenţială care în

fapt este acelaşi cu scorul înregistrat de candidatul învins în turul doi al alegerilor.

[10] Calcule asemănătoare au fost realizate de Cristian Preda, Sorina Soare, *op. cit*., p. 99 pentru perioada 1990-2004. Vezi pentru detalii cu privire la modul de calcul al indicelui de disproporţionalitate pentru fiecare scrutin legislativ în perioada 1990-2000 în Cristian Preda, *România postcomunistă şi România interbelică*, Meridiane, Bucureşti, 2002, pp. 59-60.

[11] Reluăm aici expresia consacrată de raportul Asociaţiei Pro Democraţia, *Istoria unui dezacord: Uninominalul*, Bucureşti, 2008, pp. 17-19. Materialul poate fi accesat pe site-ul oficial la adresa http://www.apd.ro/files/publicatii/brosura_uninominal.pdf. Vezi şi Cristian Preda, Sorina Soare, *op. cit*., pp. 97-98.

[12] Calcule cu privire la numărul voturilor pierdute în alegerile legislative după 1989 au fost făcute cu ocazia raportului Asociaţiei Pro Democraţia, *Istoria unui dezacord: Uninominalul*, pp. 17-19. Vezi şi Cristian Preda, Sorina Soare, *op. cit*., pp. 97-98. Raportul Asociaţiei Pro Democraţia consacră expresia „voturi pierdute", în timp de Cristian Preda şi Sorina Soare utilizează sintagma „voturi irosite".

[13] Lavinia Stan, Diane Vancea, *Alegerile parlamentare din 2008: Vin vechi în sticle noi* în "Sfera Politicii", nr. 131-132, anul XVII, 2009, pp. 3-13.

[14] *Ibidem*.

[15] Pierre Bréchon, *op. cit*., p. 66.

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Political control, public organizations' recruitment and selection policies and the New Public Management

Cătălina Maria GEORGESCU

Abstract: *The desire for a more responsive public management as regards the needs of local communities and citizens has given the urge for the beginning of the decentralization process in the Romanian public sector. One of the ways to meet this desire could be a more responsive policy of employees' recruitment in public organizations. The paper aims at offering an objective perspective on several issues. Firstly it aims at presenting several considerations on the character of recruitment and selection policies in Romanian public organizations. Secondly, it aims at discussing the different types of administrative reforms that have established the management of post-communist public organizations and the perspectives offered by applying the New Public Management model. Thirdly, the paper addresses the major laws that regulate the recruitment and selection processes in Romanian public organizations.*
Keywords: *New Public Management, public recruitment, candidate selection, public organization, political control.*

Introduction

The idea that one might increase the efficiency of public organizations management has raised a series of questions, the effort of providing each of them with a solution directly implying public managers and human resources practitioners. These questions have ranged from inquiring into the best method to draw, keep and develop high-quality human resources within the public organization to the role of public managers as regards the efficient use of

public employees within the public institutions and authorities.

The paper considers rendering a new work perspective on the following issues: understanding the key principles of the "New Public Management" model, discriminating between the merit-based career system and the spoils system of recruitment and selection within the Romanian public administration, presenting the major laws that govern the recruitment and selection procedure in the public service.

It would be thus highly interesting to discuss the manner in which *political*

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discretion (a term coined by Jan-Hinrik Meyer-Sahling[1] in 2006) operates in the public sector, through the system of rewards paid for political affiliation (public recruitment/ designation based on political allegiance) and peculiar secondary aspects such as bribery, corruption, incompetence. Public sector analysts, scholars and practitioners have been discussing whether politics could be separated from the administration, subject which has offered a complex theme of study even prior to WWII[2] (Goodnow, 1967, 2003; Rabin, Bartley Hildreth and Miller, 1997; Kramer, 1981; Berkley, 1981; Mosher, 1982; Rabin and Bowman, 1984; Abney and Lauth, 1986; Rosenbloom and Goldman, 1993; Maguire, 1996; Pollitt, Birchall and Putman, 1998; OECD, 1998; Nunberg, Barbone and Derlien, 1999; Thuy, Hansen and Price, 2001; Lynn, 2004; Henry, 2005; Berman, Bowman, West and Van Wart, 2005; Hacek, 2006; Bourdeaux, 2007; Androniceanu, 2008), and cried for the institutionalization of the merit-based system in public employees' recruitment and selection policies and increasing efficiency[3]. This paper is thus also designed to discuss the manner in which the activities of public managers in the field of recruitment and selection of public employees are influenced by the challenges and opportunities of the political environment.

The New Public Management and Romanian public organizations

The beginning of the decentralization process in the early 1990s gave the impetus for the increase in the responsiveness and accountability of the local authorities who became more aware of the needs and interests of the local communities. The reform process within the public sector was accelerated in 1999 with the adoption of Law 188/1999 of December 8th, 1999 regarding the Statute of public employees, which answered the need for the adoption of a legal framework which would enhance the creation of a body of professional and neutral civil servants and also increased the performance and efficiency of the Romanian public administration[4].

The model of the "New Public Management" (NPM) – public management practices originating from the private sector – was coined in the work of the British and Australian theorists Christopher Hood and Michael Jackson, *Administrative Argument* (1991) and again in 1991 by Christopher Hood when carrying out a study on the evolution of the public management styles of OECD countries back in the 1980s. Christopher Hood traced a pattern within the various styles of public management and styled a singular concept that would provide an explanation to public organizations' establishment[5], although he mentioned the fact that those public administrations he analyzed had found unique manners to perform the reform process. Also, in 1990, by referring to the same pattern Christopher Pollitt styled it "managerialism"; in 1992 Lan and Rosenbloom spoke of the "market-oriented public administration" while Michael Barzelay named it the "post-bureaucratic paradigm", which was further re-named as "entrepreneurial governance" by Osborn and Gaebler[6].

It is expected that, by engaging into applying the NMP model of public service reform, some particular institutional arrangements to be present at the level of the public administration:

> "(1) the public managers' autonomy to coordinate, act and solve problems; (2) applying the explicit performance criteria and measures; (3) shifting the balance in favour of control and outputs; (4) ensuring an increase in the competition by resorting to contracts on a definite duration and public tendering procedures; (5) borrowing

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from the private sector management style; and (6) making appeal to discipline and control in the use of financial resources"[7].

Re-inventing Romanian public organizations requires a series of changes, first and foremost in the sense of downsizing the public sector and operating a de-concentration of the governmental services, second, in the sense of stimulating the growth of public management accountability and responsiveness, third, in the sense of increasing the use of market-oriented mechanisms, fourth, in the sense of increasing the decision-making power at operational level, fifth, in the sense of highlighting the importance of performance, human resources, information technology and communication management, moreover, in the sense of ameliorating the relations and services offered to citizens[8]. However, in our opinion, one should be especially pre-occupied with limiting the political influence on the public management.

The NPM model was translated at the local level into legislation among which some of the most innovating measures were: the appointment of the chiefs of public institutions and public services under the subordination of local councils on a competition-basis and accompanied by a management contract, and the creation of the city/county manager position at city, commune and county level, the appointment being made on the proposal of the mayor/president of the county council[9].

However, when discussing the different types of administrative reforms that have established the management of Romanian post-communist public organizations and the perspectives offered by applying the New Public Management model, one must constantly have in view the fact that the Romanian public sector has to be analyzed in the limelight of its communist heritage, which has molded a specific type of organization culture, hence a distinct human resource public management.

Political control and public personnel recruitment and selection policies

The next section discusses the criteria, both formal and informal, that bind public managers in the public employees' recruitment and selection processes. At present, budgetary constraints on public organizations have impacted on human resources policies and on public organization structure, in the sense of reducing both the staff number and organization structure. Moreover, public recruitment and selection are operated within a legal framework which stipulates the rights and obligations, as well as the guarantees as regards the activities in this process, thus the discussion also addresses the major laws that regulate the recruitment and selection processes in Romanian public organizations.

Romanian public employees are recruited, selected, appointed and trained according to the following documents: Constitution of Romania; Law 188/1999 regarding the status of public employees; Government Decision 452/2000 regarding the organization and development of the post attestation examination of employees occupying public management positions within public institutions and authorities; Government Ordinance 81/2001 regarding the organization of the National Administration Institute; Government Decision 1085/2001 regarding the organization of the probation period, the evaluation conditions and the specific rules applicable to debutant public employees; Government Decision regarding the organization and development of competitions and examinations for public offices.

From casting lots (as was the case with ancient Greece) to heredity (as in Great Britain) and further to direct appointment by the hierarchical (often-times political)

superior, the recruitment process was not always performed on a rational choice-basis, by choosing the most capable candidates who could fulfil the demands of the job and public office[10].

The public recruitment process has witnessed some changes thus requiring taking into account the following issues:

"1) the conditions and changes appeared on the labour market, 2) the systems' capacity to train and develop human resources, 3) the attraction of the area and local facilities, 4) the legislative framework, 5) the unions' role, 6) the public organization image, 7) the organization culture, 8) the managerial policies and practices, 9) the existing economic, political, social values, and finally 10) the degree of financial and managerial autonomy of public organization"[11].

At present, most of the central and local public organizations are challenged by the shrinking number of public employees and the decrease in the public organization structure which are partly due to budgetary constraints[12]. Moreover, the public sector functions within a legal framework whose legal regulations and restrictions stipulate on the rights and duties, protection and guarantees that ensure the functioning of all public organizations[13]. However, the reverse of the coin is that all major reforms within the public management of human resources have to be done according to centrally-approved instructions.

According to the provisions of Law No. 188/1999, the beginning of the process of public recruitment is conditioned on whether newly-created jobs or positions appear on the chart of the public organization or through the possibility of vacancy by pension, death, transfer or dismissal. The specialized literature discriminates between two categories of methods of

public employees' selection: on the one hand, there are the so-called non-democratic methods of candidate selection, in which a peculiar candidate is favoured due to heredity, nepotism, chance or hazard, and, on the other hand, the so-styled democratic methods characterised by professional, intellectual and/or political selection[14].

In our opinion, the public recruitment procedure should pass through the following stages: the evaluation of the need to fill the vacant position; drawing up the position description and person specification; advertising the appointment; the inquiry into the locations rich in potential applicants; attracting the applicants for the vacant appointments; spotting the fittest and most qualified applicants for the respective positions[15]. In some democracies, the tendency is to render the recruitment process a more active approach, with governments involved in the process of advertising for a career in the public administration and sending recruiters to university campuses[16].

Moreover, we consider fit that the procedure of the public employees' competitive merit-based selection for both management and execution position comprises the following phases: a first selection in order to reduce applications and possibly determine the most qualified applicants; filling in the standard application form to participate in the examination; the employment interview; the employment testing; references verification; medical exam; final interview; hiring decision and notification of results[17]. According to Law no. 188/1999, the selection process is firstly conditioned by the existence of a vacant position, while Article 49 paragraph 1 clearly stipulates another binding condition, the organization of the contest, a written or oral examination, in order to fill a vacant public appointment.

Government Decision 1087/2001 regulates the organization and development of the contest and exams for filling the vacant

public position. The idea is that by not respecting the provisions of the legal act, one attracts the nullity of the appointment act. The principles which stand at the basis of filling public positions through competitive examination are: open competition, merit-based selection, transparency, equal treatment, confidentiality of applicants' personal data[18]. Government Decision No. 452/2000 regulates the organisation and development of the exam of appointment attestation of civil servants in management public functions within public organizations.

Following the passing through the recruitment and selection procedures, the successful candidate is taken on the staff and appointed to the position through an appointment disposition issued by the competent authority which awards him/her the quality of civil servant. There is the situation, however, of the elected public employees, for whom the appointment disposition validates the election and for whom the beginning of their mandate is marked by taking an oath[19]. This is the case for the president of the state, MPs, county, city and commune counsellors, and mayors. There is a different situation for ministers, general and depute directors, county prefects and their deputies, vice-mayors, secretaries, and other civil servants who are appointed to their positions by the competent authorities.

Merit-based career system versus spoils system in the public sector

In 1995 Richard A. Loverd and Thomas J. Pavlak (in Jack Rabin, Thomas Vocino, W. Bartley Hildreth and Gerald J. Miller, *Handbook of Public Personnel Administration* (1995) alinquired into the history of the American public administration. Their effort resulted in some possible solutions to the problem of providing an increase in the efficiency of public organizations management, such as the use of total quality management by human resources practitioners. As regards the recruitment and selection procedures, their work distinguished between political patronage-based methods and the non-political or merit-based methods[20]. Moreover, it is interesting to notice how Van Riper's assumption made in 1958 and used in Loverd and Pavlak's chapter, that one can trace both selection procedures within the public administration, has kept its validity till the present moment. The author argued in favour of the existence of either a non-political or political civil service or a formula which combines the two[21].

Or, in other words, quoting Fred Kramer from his Dynamics of public bureaucracy: an introduction to public management (1981), the merit-based system comes in oposition to the spoils system in which political criteria fundament employment decisions[22].

The debate over the separation of politics from the administration has resulted in a number of different views and models. Thus, there are some voices who argue in favour of the so-called "political appointments" (politicized bureaucracy) as regards some areas of the civil service for fear that a political sabotage occurs from the part of the dissatisfied public employees of the previous mandate[23]. Moreover, the same voices argue that, in practice, one could hardly separate politics from the administration, due to the political agenda the governing party had established prior to its launch in the electoral battle and which has to be executed through the public administration. Thus, public employees are bound to show loyalty to their hierarchically political superiors and political organizations they represent and to the policy implementation; however, by being part in the political process the civil servant must not neglect his loyalty towards the citizen and the basic objectives of public management. The public employee must thus "play a

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circumscribed role in the democratic process, one that is subservient to the political office bearer and public opinion"[24]. The rationale might be further emphasised by the fact that, although civil servants may be appointed according to political patronage, in the absence of a detailed examination over their competency and efficiency, one cannot necessarily validate the assumption that this politically appointment-based procedure establishes the increase in the level of incompetence and corruption at governmental level[25].

On the other hand, one may also argue that the merit-based career system, within the civil service recruitment, selection and promotion procedures, works for the increase in competence and efficiency of the public organizations. Moreover, some authors suggest that the three basic principles of the merit system – open competition, appointment capabilities and political neutrality – should be endorsed through the establishment of written, standardised examinations, based on the job description and person specification[26].

Some authors argue in favour of the middle-way, impersonated by the "complementarity model"[27] – in which political employees could dominate administrative practice[28].

Others incline in favour of a clear separation of political offices form the other merit-based public positions[29] corroborated to the creation and consolidation of a generation of professional public servants, neutral as regards the political spectrum and endorsed by a clear definition of the role, responsibilities and relations among institutions[30]. The grounds invoked for this cry for the elimination of political patronage is that it causes a perilous instability of the public office, especially as regards the leadership, noticeable at every electoral cycle at the level of the political clientele, translated in the pervasive controlled distribution of financial resources and offices at local level[31].

The Romanian case stands as an example for these assumptions as part of the management of the public administration is politically-appointed, being either elected officials or politically hand-picked according to the legal provisions. Though they are not civil servants, they thus become public managers who, at least in theory, should have been acquainted to the basic requirements and capabilities of their public management position and also in the field of public management[32].

During the past two decades, the Romanian public administration has witnessed an escalation of the spoils system within the public organizations with public management positions created and used in order to reward party loyalty, with complete neglecting of performance criteria, which permitted an increase in the lack of qualified personnel in the public service. The phenomenon was described by Kaufman who found it relevant for the American society, early in 1965. Persons thus selected were not always qualified for the post, making it necessary to supplement jobs to ensure the achievement of objectives[33].

Moreover, as Sorauf argued in 1960, by using public management appointments as political-rewarding tools, a party is able to increase its political power in six distinct ways. Thus management functions can be a form of clientelism. Public employers' selection based on political criteria benefits not only the individual, who enjoys a public function courtesy of its membership of a governing party, but also the political party itself[34].

In other words, as far as the merit-based system is concerned, we find relevant the assumptions issued by McMurty in 1976. The author argued in favor of the existence of three principles of the merit-

based system: the principle of recruitment based on competition and contest, the principle of ensuring the security of the job against arbitrary fyring and the principle of political neutrality within public organizations[35].

Moreover, in 1977 Heclo made the following statements in favour of the merit-based career system and the creation of a body of politically-neutral public servants, thus declaring himself in favour of the selection of subordinated governmental officials on the basis of merit system and against political criteria, ignoring the evolution of political appartenence of the organization leadership at the moment of candidates' selection and orienting this process according to competence, abilities and knowledge criteria, and ensuring job security through negotiations with political representatives[36].

Conclusions

Thus, public offices must be filled with public employees, according to the legal provisions, who meet the person specifications of the appointment. In Romania, a great share of public offices are filled with political appointees, a characteristic disapproved by many political science theorists as it was argued that it generates many flaws in the system; thus some demand a discrimination among the civil servant's public office, the public office of the political elected official and the political office[37].

Keeping a balance between centrally-sprung political control over the management of human resources and managerial flexibility within public organizations is especially challenging due to the extensive set of rules and regulations. The pace of public organizational reform is also decelerated by the same centrally-introduced rules and regulations that govern the public management of human resources.

The problem of increasing the effectiveness of public employees' recruitment has been intricate mostly because of the political patronage, the would-be applicants finding themselves in a position of not knowing whether, as Evan M. Berman et all. stated in *Human Resource Management in Public Service: Paradoxes, Processes, and Problems*, recruitment is a politically-neutral process, or it is a political hiring system[38].

Note

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[9] *Ibidem*, p. 16.

[10] Armenia Androniceanu, *op.cit.*, 2008, pp. 231-232

[11] *Ibidem*, p. 232.

[12] Gabriela Matei, Pena Antonevici, Afrodita Popa, Victor Giosan, *Romania* in Serdar Yilmaz,

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[13] Armenia Androniceanu, *op. cit.*, 2008, p. 232.

[14] Armenia Androniceanu, *op. cit.*, 2008, p. 236.

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[19] *Ibidem*, pp. 241-242.

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[21] Van Riper, 1958, apud Loverd and Pavlak, *op. cit.*, p. 2.

[22] Fred A. Kramer, *op. cit.*, p. 152.

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[24] *Ibidem*, p. 98.

[25] Loverd and Pavlak, *op. cit.*, p. 2.

[26] Fred A. Kramer, *op. cit.*, p. 155 and Willy McCourt, 2007, p. 6.

[27] See M.J. Mafunisa, *op. cit.*, pp. 89-90.

[28] *Ibidem*, p. 90.

[29] See, for instance, the *dichotomy model/ depoliticized bureaucracy model* as explained in M.J. Mafunisa, *op. cit.*, pp. 87-88.

[30] Armenia Androniceanu, *op. cit.*, 2006, p. 16.

[31] Marius Profiroiu, Alina Profiroiu, *Cadrul general privind evoluţia funcţiei publice din România* in *Administraţie şi management public*, Bucharest: ASE Publishing, 2006, No. 6, p. 46.

[32] Armenia Androniceanu, *op.cit.*, 2008, p. 208.

[33] Kaufman, 1965, p. 31 apud Loverd and Pavlak, in Jack Rabin *et al. op. cit.*, p. 6.

[34] Sorauf, 1960, apud Loverd and Pavlak, *op. cit.*, p 6.

[35] McMurty apud Loverd and Pavlak in Jack Rabin *et al.*, *op. cit.*, p. 9.

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Structural Modifications in the Romanian Economy under the Coercions Imposed by the Growth of the Competitiveness*

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Abstract: *The structural convergence of the economies of the new EU Member States is positively influenced by the growth of the average from the services sector and negatively by a relatively high contribution of the industry, trade and transport; the agricultural sector, by reducing the contribution of the GDP in all these countries, sustains the process of structural adjustment. The structural changes from the economy are accompanied by a reduction of the employment rate from agriculture and its growth in the services sector, this trend is also maintaining after the accession to the EU, estimating that in the next ten years the number of those who will focus on a third sector will be of 10% from the employed population. The employment rate from industry registers a non-linear evolution, it grows in the first stages and then it decreases.*
Keywords: *structural convergence, competitiveness, economic growth, adjustment.*

Romania's accession to the European Union raises numerous issues concerning the competitiveness of agriculture: "The reform of agriculture is the main objective: production efficiency and competitiveness of Romanian products.

In this sense, the measures adopted concern: land reform, reform of economic incentives, liberalization of total prices and reducing subsidies, accelerated program of privatization, restructuring and liquidation".

Romanian agriculture has lost the appearance of mass production, which alienates us from the agriculture of other EU countries. Remaining in the agricultural production stage craft will condemn us to stagnation and importing food. Therefore, a part of our agriculture should remain in the economy of scale. We cannot be ruled out neither of the two in that the development strategy is concerned.

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To ensure market demand for both sectors, agricultural sector with a mass production cannot adapt to the economy of scale in the industry.

Family agriculture is excessively atomized as regards property and organization, and this situation can be corrected through policies that bring it closer to an integrated economic environment that produces concentrated offers. Moreover, agriculture cannot become performing integrated as industry, and also have auto producers. Without integration with upstream does not supply the downstream integration with no market and that demand stable.

A great decision in Romanian agriculture at the beginning of this century was a complex restructuring of production and realization of links with industry and services in the private ownership structures.

In this process, the market has a role, but orientation in directions that run the older States of the EU should be supported by policies that ensure economic performance. Technical performance does not render economic and efficient if companies are not open to the market. Competitiveness of our agriculture in the process of European integration must be ensured in terms of a large opening to international trade. This does not mean that agriculture will become the victim of a lack of protection against unfair practices that penetrate our domestic market.

Reforming the agricultural sector is the basis of a comprehensive reform in the Romanian society in the process of creating a market economy. Formation and functioning of agricultural markets require competitive principles: reform of agricultural structures, agricultural policy reform, institutional reform, administrative reform. For the success of structural reforms, an active industrial policy must be accompanied by increasing competitiveness in the agricultural sector.

To study the convergence of real Romanian agriculture with the European Union, we can write a SWOT matrix (strengths, weaknesses, opportunities and risks).

Strengths of the Romanian agriculture:
- the second largest agricultural producer in Central and Eastern Europe, after Poland (agricultural area of 14.8 million hectares);
- climate and soil are conducive to the development of an efficient agriculture;
- potential development of organic farming;
- use of traditional, not intensive, methods.

Weaknesses of the Romanian agriculture:
- the role of "safety net" for people who cannot find work in other areas;
- under resistance of farmers: large number of small, family farms;
- large share of auto producers;
- agricultural market is not fully functional;
- low level of support for farmers, low level of information capacity and poor access to European funds;
- declining share of agricultural production in GDP has been accompanied by an increase in the share of agricultural population to occupied civilian population.

Romania is expecting that, under the conditions created by the membership to the European Union, to obtain or consolidate:
- economic stability;
- large investments in structural funds;
- higher revenue for farmers;
- access to unique market for its products;
- increased demand for products with high added value.

Threats and risks for Romania's agriculture are related to:

- fragmented agricultural structures;
- land markets and poor farming – land market is underdeveloped, representing only 5% of the total potential of this market;
- access to credit - equity investments represent only 30% of the level calculated by the EU for Romania to meet European standards;
- limited access to markets;
- intermediate consumption is extremely low (-25%), according to extensive agricultural activities;
- lack of human capital;
- productivity is half the EU average, while production costs are higher by about 30%;
- the large share of auto producers - two times greater than the level normally considered as a maximum of 30% of agricultural output.

Through the enlargements made in 2004 and 2007, EU wants to achieve:
- a better competitive position in the world;
- a broadening of the market for their products (a market of Central and Eastern Europe of 100 million consumers).

The policies implemented in the agricultural sector explain many of the successes and failures of restructuring in this area.

In return, the industry is one of the branches that will need to ensure economic expansion at home and internationally, in terms of the contemporary world lives and participate in a profound scientific revolution which produces mutations in the core structure of industrial production and world demand. We are assisting at the decline of traditional industries with high share of industrial production and the emergence of new sectors, branches and sub branches that have to face no risk to remain outside the race in top industries, generating and delivering technical progress.

As a result of these industry changes, EU has to pursue two objectives that are, in fact, objectives of Romania's adaptation to the industrially-scale enlarged internal market and to the international competitiveness of insuring enterprises' own markets worldwide.

The main objective of restructuring and resizing Romanian industry, for effective integration in the industry with minimal participation and disadvantage to the single market, is to increase the competitiveness of national industrial production, a goal achievement which involves the essence of transformation and development at three levels: at the level of companies in each industry (sector) in the industries that the obtained performance will be considered representative to the national economic complex, at the level of the international context, and at the level of industrial policies.

A multi-criterion analysis of comparative advantages of 22 industrial sectors, made by a prestigious group of researchers, led to a ranking of the sectors that performed on the basis of ten performance criteria relevant: production dynamics; the dynamics of investment; overall profitability; outstanding payments; degree of privatization; productivity; energy intensiveness.

Depending on the particularities and their positions after the comparative advantage in the manufacturing industry, has resulted an interesting typological grouping that reflects the potentially competitive noticeable difference:

a. Sectors with comparative advantage globally and relative stability – food and beverages, clothes industry, footwear and leather industry, industry products other non-metallic materials; industry of machinery and electrical appliances, furniture manufacturing and other activities not classified;

b. Sectors with comparative advantage globally, subjected to important economic and financial risks – textile industries and textile products, wood processing industry (except the production of furniture);

c. Sectors that have recorded a high and late emphasized privatization and restructuring, which can be sources of major risks of loss of markets – pulp, paper and cardboard industry; oil processing, coal coking and nuclear fuel treatment; chemical fibres, synthetic and artificial; metallurgical industry; industry of machinery and equipment; road vehicles industry; industry of other means of transport;

d. Sectors with comparative advantages overall, that are in a relative economic-financial equilibrium – the processing of rubber and plastics, construction, metal industry and metal products (excluding machinery, equipment and installations), the tobacco industry;

e. Sectors with superior potential in global comparative advantages characterized by high technologies, located in a low stage of development-publishing, printing and reproduction of recorded media, industry of computer and office equipment, industry of radio, television and communications, industry of medical equipment, precision, optical and watch making.

In the grouping proposed by the authors of the study, the first two groups of industries that have comparative advantages, but overall present unfavorable characteristics of low-tech, high intensity of labor, also reduced added value. Products of these sectors are mostly exported in European Union countries, which show the poor total supply of Romanian export. The index of export specialization in Romania in relation to the European Union compared to that of countries in transition showed the situation of our country as lowest, because other countries (Czech Republic, Poland, Hungary) have a significantly increased export capacity of the sectors of manufacturing machinery and equipment, while Romania continues to export products in large quantities from low-technology sectors (garments, footwear, furniture) and reduced processing (fuel resulted from oil refining and steel products represent over half the usual volume of export).

From the evaluations carried out results the need of adopting a set of measures to ensure conditions for effective affirmation of the competitive advantages of existing and potential industries. They must take into account the conclusions resulting from studies and projections prepared by the Ministry of Industry and Commerce, the Institute of Economics of Industry, other institutes and research teams rated in the country and abroad.

- Romanian industry has a labor force of adequate qualification but most industrial units are overload and the staff has technically spent all moral capital and is much less flexible, which induces a modest level of productivity of the total invoice.

- Romanian industry still has competitive advantages in production and export of industrial goods with low labor cost, low tech, low added value. In the European Union market, the competition with labor-intensive sectors from developing countries is a public threat, turning to embarrass the considerable advantages. At this threat is added the fact that the most powerful Romanian export products are registered with the groups of goods medium and highly protected.

- Through the characteristics mentioned in the preceding paragraph, it is obvious that the Romanian exports towards the EU countries continue to

be similar to that of exports to developing countries rich in natural resources. In this respect, it should indicate that the most demanding industrial products worldwide existing on the Romanian market are, according to the United Nations data, simple steel, sodium hydroxide, sunflower oil, heavy plate and rolled steel in simple environments, furniture, cement and garments.

- In assessing the effectiveness of exports, one must keep in mind that the share of high added value production is not always high productivity and efficiency, if the structure is dominated by the added costs of labor (where the production of engines, knitwear and furniture, in these costs represents more than 50% of added value).

- Over 60% of Romanian exports to the EU correspond to sectors that are labor-intensive in these countries. Consequently, the Romanian foreign trade has a positive coverage for the goods which are labor-intensive in the European Union and a negative one for the goods on intensive R&D plans, the use of skilled handwork and capital.

- Adequate capitalization of the existing competitive advantages and potential, that Romanian industry presents, can be ensured by improving significant productivity factors and using tools that can encourage progressive formation of a tender to export products, and include medium and high tech, with high added value, in an increasingly large proportion.

- In these conditions, supplementing industrial production, in Romania's relations with the European Union, should extend as much as possible in the direction of industry and high-tech medium, primarily in stimulating the direct investment of firms and entre-

preneurs from European Union countries in the Romanian economy, and foster partnership links of productive units between Romanian units and Western Europe. These forms can provide a substantial transfer of technological know-how, management and marketing to the Romanian industrial units, creating the prerequisites for recovery above the existing competitive advantages and value in putting progressive potential advantages revealed above.

Priorities (coordinates) of strategic industrial policy of Romania, in order to increase competitiveness, have in mind:

1. Industry restructuring conceived in terms of national competitive advantage, rather than those of comparative advantage, as comparative advantages relates in particular to equip industry with factors of production, while competitive advantage is based, mainly, on efficient use of factors, the efficient industrial activity. The future configuration of industrial structures should be aligned to the main trends in global technology, which has a high mobility and shows a new process of industrial revolution based on knowledge associated to the operation of comparative/competitive advantage. In order to gradually shift towards industry-based knowledge resources, the restructuring policies must take into account the following aspects:

   a) investments should be directed towards priority skills with a great productive and innovative potential, able to create new professions and specializations for the future economy;

   b) the key elements of competitiveness are not limited to the direct costs of factors of production, but the quality of education and training qualification of the labor force, efficient industrial organization,

the scientific research and techno-logical development, availability of infrastructure services that help the flow of industrial goods, high quality products etc.

c) Promotion of sustainable development in industry, in terms of getting products and cleaner development of clean technologies. Eco-industry already knows the market growing rapidly and will grow considerably, worldwide, in the current decade, and Romania will have to rally to this trend.

2. Substantial increase in the volume of industrial production, an increase in the overall economy, thus ensuring limiting unemployment.

3. Shaping and implementation of potential specialized directions of processing industries, which, in the long term, predict industrial structures in Romania, based on the following criteria: energy (energy intensity), technology (the technical equipment, upgrading technology), organic (pollution-free) and economic efficiency (size of gross added value).

Despite the under-functional and un-perfected elements in today's Romanian industry, some even maintained and enhanced in the 18 years of transition, this branch of the national economy has the required potential that is realistically assessed, cultivated and grown with care in accordance with new axes of development outlined by the economic globalization process.

Policies and instruments used with discrimination and the effectiveness of the developed countries engaged in global competition, and lessons learned from carrying out reform in the Romanian economy after 1989 have engaged the reliable reference guide for defining major directions of action in order to increase the competitiveness of Romanian industry and amplify the global markets.

An important adjustment in the national economy according to the requirements of membership to the European Union submits development. In the production of services, developments in recent years can be described by the following coordinates:

- sustained growth in the share that holds services in the achievement of a GDP;
- structural, balancing through services, population;
- differentiated increases, but in some areas, as we have noted previously, significant production in different parts of them, which is a concern for product development services;
- filling a large number of people in services activities, the area in the next period should be levelled by improving the quality of services to the population;
- increasing the hotel business, which meant a better hotel occupancy and contribution to GDP;
- a contribution of about 50% of production services to GDP (in some countries – Sweden, Switzerland etc. – services are more than 70% in achieving GDP);
- developing financial services, banking and capital market.

Main factors affecting economic development of the tertiary sector are:

- growth – which is evolving (in a good or bad pace) in the economy in a period of time – influences the development of services, which is both a prerequisite and an effect of the evolution of whole economies;
- final consumption expenditure of the population is influenced by real income, saving trend, taxes and subsidies from the budget (allowances, benefits etc.) consumer credit etc. Increased consumption expenditures of other individuals and households leads to an increase in the rate of demand for services;
- costs of investment in infrastructure development and modernization of tech-

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nical services industries influence growth of services and offer a level of quality;

- consumption expenditure of public and private administration influence the evolution of public services, not markets, for the benefit of the community or groups of households;
- rates – the exchange rate of currency in relation to the main currencies influencing changes in international volute services, stimulating or, on the contrary, discouraging exports, with multiplier effects on the entire economy;
- interest rates – determine the cost of borrowing, encouraging or not the recourse to loans for both investment and consumption;
- inflation-rate – changes in the general price index affect the purchasing power of population, cost of products, with consequences for both the demand and supply of services.

Other economic factors like the taxation level (taxes, fees, excises etc.), budget policy (allocation of state budget expenditure for public services), the pace of growth of labor productivity and others, also influence the development of services and therefore should be carefully analyzed for a rigorous foundation of strategies for the development of the tertiary sector.

Reconsidering the role and importance of services in the development of Romania's strategy should be a stringent requirement because of the state of insufficient development of this sector in our country, compared to the developed countries and even compared to countries like ours, in the process of structural adjustment to the new contract imposed by the membership to the European Union.

At least three dimensions of the "development services", that give substantive appreciation to the Romanian efficient economic structures, while Europe and the world witness a relentless amplification of the position and role of services in the national economy. The three dimensions are:

- the inextricable link between services and the process of building and running the market;
- the deepening of intra-connexion relationships and integration of services and the rest of the economy in general, and between services and industry in particular;
- enhancing opportunities for growth and development with the purpose of extending international transactions of services, following their gradual liberalization, the institutional approach to the GATS (globally) and the European Approval (at European level); as a partner, Romania has made specific commitments to liberalization.

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How to Kill Civilians in the Name of "Human Rights": Lessons from Sri Lanka

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Abstract: *This article is an overview of the recent history of Sri Lanka. Starting from the quarter of history of civil war, the author argues that humanitarian feeling are no policy alternative to common sense and that a military solution is, in some circumstances, the best way to save civilian lives.*
Keywords: *conflict, human live, human rights, civilian casualties, NGOs, military solution.*

After a conflict of more than a quarter of a century of terrorism and civil war that killed 70,000 people, Sri Lankans finally think they have defeated the Liberation Tigers of Tamil Eelam (LTTE), perhaps the world's most murderous terrorist organization. Why and how a small country of 21 million succeeded in defeating such a group where much bigger powers have failed is a good lesson for those who study terrorism and counterinsurgency. These lessons are primarily political and legal, but also military and diplomatic, and they include both successes and pitfalls in a small country's road to peace and development.

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Sri Lanka, an Indian Ocean country the size of West Virginia, has a diverse population – 81 percent is Sinhalese, most of them Buddhist; some 11 percent are Tamils, who are generally Hindus, either immigrants from India or native. Eight percent of the population are Muslims. As is so often the case in the former British Empire, the native group most adept to Western education and adaptable to British interests – in this case the Tamils – were disproportionately represented among the educated at the time of independence (1948), and thus resented by the majority. Free elections repeatedly brought to power Sinhalese populists/socialists. Tamils were pushed aside and the majority language declared the only official one. The result was, and to some extent remains, Tamil resentment and demands for autonomy, at least in the northern (Jaffna) and Eastern (Trincomalee) areas where they predominate.

Key to understanding why the LTTE lasted for so long and why India was in-

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volved in Sri Lanka on and off at various times is the fact that some 60 million Tamils live in three southern Indian states, primarily Tamil Nadu, and many of those support the LTTE out of ethnic solidarity. Equally, if not more, important, there is a large (ca. 800,000) Sri Lankan Tamil diaspora, mostly in Canada, the UK, Australia, the U.S., and southeast Asia. This diaspora is radicalized and, like most diasporas living in safety, more radical than co–nationals in the country of origin. It still provides the funds, propaganda support, and public relations vital to the LTTE's survival.

The LTTE pretends to fight for a separate Tamil state (Tamil Eelam) in the northern and eastern parts of the island, and it has actually established a de facto state in those areas for almost a decade, complete with administration, courts, taxation, education, etc. – until it lost it all following the Sri Lankan Army (SLA) offensive since the beginning of 2008. What did that "state" look like?

"Though receiving considerable popular support, the LTTE regime was (is) a command state. It has always been a military outfit and the insurrectionary war situation hardly encouraged anything other than dictatorship, but [Vellupillai Prabhakaran]'s personal proclivities and the veneration he received as a demi-god would have ac-centuated this characteristic. Command state meant (means) command economy. State enterprises in transport, restaurants, etc. augmented the returns from taxation and import duties. A critical dimension of its local resources was the supply of monies from the SL government in Colombo, namely, salaries and pensions paid to a wide range of Tamil–speaking administrators, including health officials, who were em-ployees of the central state."[1]

To begin with, the LTTE , despite its claims and effective propaganda, does not represent the Tamils. It never submitted itself to elections; to the contrary, it is a quasi-cult terror group, subservient to the whims of one person, Prabhakaran. His decisions, rather than any nationalist goal, send people to their death, train them for death, preferably from childhood, and have long murdered any moderate or nonviolent Tamil politician in the country. In that, and many other respects, the LTTE are similar to other cult–like revolutionary terrorists, such as the Kurdistan Workers' Party (PKK) of Abdullah Ocalan in Turkey and Abimael Guzman's Communist Party of Peru, a.k.a. Shining Path. Compared to those, Stalin and Mao had and officially claimed fewer powers. To comprehend LTTE, imagine Jim Jones' Temple cult of Guyana in possession of a "navy" and "air force," as well as (at its height) some 20,000 fanatical and armed zombie followers.

Prabhakaran imposed a blood tax on the people under his control. Each family had to provide a son to the LTTE – a pattern condemned by Amnesty International, Human Rights Watch, and the UN. LTTE made every follower bear a cyanide pill (thus few "Tigers" were ever captured) and established special units, such as the "black Tigers," for murder and assassination. In fact, until the early 1990s, the LTTE led the world in suicide bombings, with vic-tims including a president and many mi-nisters of Sri Lanka, as well as a former Prime Minister of India, Rajiv Gandhi (1991). Unsurprisingly, the UN, EU, U.S., and India all declared the LTTE a terrorist group. Still, in the rich West, pro-LTTE groups were allowed to collect funds (and occasional recruits), always illegally and under threat, usually under the pretext of "freedom of expression" but, in places like Canada, for electoral considerations.

The result was that for two decades the LTTE was one of the world richest terror groups, able to create its own "navy" and "air force" – two bad ideas turning

against itself as it happened. That wealth and Prabhakaran's unlimited ambitions led the LTTE to establish a conventional military force, helped, officially and economically by the do-gooders from Norway – a wealthy country with overseas ambitions and best intentions, serving as a "mediator" between Sri Lanka and the LTTE. It was precisely the Norwegian mediation that, for almost a decade, allowed the LTTE to establish its de facto state in the north and east and Prabhakaran to use that for creating his totalitarian "state" there.

With an economy based on tourism, rubber, and tea and heavily dependent on foreign aid, Sri Lanka was obviously vulnerable to terrorism, especially in regard to tourism – and to the influence and sensibilities of Western donors. The latter, as usual, are themselves "sensitive" to the enormously effective, and wealthy, pro-LTTE Tamil diaspora and the international "human rights" lobbies – such as AI and HRW. Each of those, over time and for its purposes, acted to prolong the conflict, protect the LTTE, and thus have more Sri Lankans killed. At no time is that deadly coalition's impact more obvious than now, when the LTTE is on its deathbed.

By the end of 2007, the Sri Lankan electorate was tired of a war that never ended, of a de facto division of the country; and of the war's continuing when a major part of the LTTE, under a defecting leader (second in command to Prabhakaran, Vinayagamoorthy Muralitharan, a.k.a. "Karuna") was ready to cripple the "Tigers." He did so, and is now the official leader of eastern region – and as a former "Tiger" he effectively controls, legally or not, a key area.

Under President Mahinda Rajapaksa, whose brother Gotabaya Rajapaksa is conveniently the defense minister, and under the very competent military leader Lieutenant General Sarath Fonseka, the Colombo government decided that the Norwegian-me-diated "peace process" only led to more terrorism from the LTTE, the de facto partition of the island, and no solution to the Tamil problem. The result was its formal withdrawal from the "process," its declaration of LTTE as a "terrorist organization," and a serious military campaign aimed at the destruction of the "Tigers" as an armed force.

Starting last year, the SLA's better trained and armed elements – some 50,000 altogether – began a steady offensive against LTTE-controlled areas in the north and northwest (the east, following Karuna's defection, was already "Tiger "free). By January 2009 Kilinochchi, Prabhakaran's "capital," and Mullaitivu, his last major stronghold, fell. From a height of over 7,000 square miles, the LTTE area of control shrank to some 30 square miles – all surrounded by the military, from land and sea. While there are conflicting views over Prabhakaran's fate, it is most likely he is still in that area – after all, he is a wanted man by the Interpol and most area countries. It is in this environment that the so-called "human rights" NGOs and their political supporters are actively, whether willingly or not, supporting the survival of the LTTE.

Most sources, from AI to HRW, the Red Cross, and even Colombo, agree that some 200,000 or more civilians are trapped in the shrinking LTTE-controlled area. AI's Yolanda Foster admitted that "We just don't know what's been happening in the last few weeks in Sri Lanka[2]. Her HRW colleagues, based on the same information, condemned the Sri Lanka regime for "failing to distinguish between the trapped civilians and the rebels." The government, she noted, has launched "indiscriminate artillery attacks on civilians" who are trapped in the war zone, shelling hospitals and other designated humanitarian "safe zones." She also admitted that, "Cornered and desperate, the Tamil Tigers, have responded by using

civilians as human shields and forcing others, including children, into service as fighters and porters on the battlefield."[3]

If there are indeed some 200,000 or more civilians in the 30 square miles under LTTE control (that would make that area one of the most densely populated in the world, at 6,600 people per square mile), how is the army going to separate them from the LTTE cadres? Can any army do that? Obviously not, which is why the "solution" advocated by the NGOs and, more logically, by the Tigers' propaganda machine in the West and southern India, is a "cease-fire," ostensibly to allow the evacuation of civilians. That is why LTTE sympathizers are demonstrating in India, England, and Canada, ostensibly in favor of a cease fire – one that would allow the LTTE, once again, to escape final defeat, come back and, of course, repeat the circle again: civilian hostage taking, use, manipulation and indoctrination included, as well as rearming. We have seen this movie before, and many Sri Lankans, mostly Tamils, have paid with their lives for it.

On the other hand, the government intends to establish rehabilitation camps for Tamil refugees from Tiger controlled–areas – and impose security controls as well. Many of those refugees are traumatized by LTTE and war conditions, but some, like a recent female suicide bomber disguised as a refugee, are infiltrators who have to be neutralized, which takes time and individual interrogations. The NGOs' answer to this common sense? "The LTTE's grim practices are being exploited by the government to justify its own atrocities…. High–level statements have indicated that the ethnic Tamil population trapped in the war zone can be presumed to be siding with the LTTE and treated as combatants, effectively sanctioning unlawful attacks."[4] What are the government "atrocities"? Temporary camps, with schools and clinics, for some two

years for civilians formerly under Tiger control and indoctrination – and plausibly infiltrated by terrorist cadres.

Ultimately, the issue is quite simple, both morally and practically. The eradication of the LTTE, at least as a conventional force, saves civilian lives. Misguided or, in the case of pro-Tiger diaspora groups, dishonest calls for a ceasefire would inevitably lead to more civilian casualties and a revival of terrorism. Reason, rather than pacifist or irrational thinking as manifested by the human rights establishment, would suggest that their efforts should be directed toward aid to Sri Lanka for the reinsertion of Tamil civilians and not toward throwing a line to the sinking LTTE.

For more than a decade Western liberal elites gave the LTTE a pass under the pretext that they represent real grievances of Sri Lanka's Tamils. Ottawa, Washington, and Delhi closed their eyes to their own Tamil citizens' being forced or manipulated into paying for the murder of civilians in Sri Lanka, despite officially declaring the Tigers a terrorist group. Military sanctions were imposed on Colombo, aid was conditioned on tolerance of, or "peace negotiations" with, Prabhakaran – and the Tiger cancer grew. All of this pushed the government in Colombo into some dubious friendships (Iran and Venezuela come to mind), counterproductive and unnecessary if common sense in London or Ottawa would have been the main policy criterion.

Ultimately, Western views and policies vis-à-vis Sri Lanka prove that humanitarian feelings and "human rights" are no policy alternative to common sense, and that even small countries, if desperate enough, could solve their secessionist/terrorist problems even despite the powerful human right NGOs pressures to commit national suicide. Second, and most important and with wider implications, short term, obsessive preoccupation with "civilian casualties" is often a

death sentence to civilians in a civil war. The longer the war, especially when the victor is obvious, the more civilian casualties. Hence a military solution is, in some circumstances, the best way to save civilian lives. In general, pacifism disguised as "human rights" or not, always leads to more death, especially in remote, third world, small countries vulnerable to the influence of AI or HRW. Ending a war – by force if need be – protects more civilians than prolonging it under any pretexts.

Notes

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[4] *Ibidem.*

Statul independent Kosovo - cui prodest?

Ion DEACONESCU, Mihai Ovidiu CERCEL

Abstract: *The proclamation of independence has lead to the re-opening of the debates regarding the situation in the Balkans. This article tries to find the true motives of the American implication in this issue as well as the possible consequences on the short, medium and long term.*
Keywords: *independence, national sovereignty, scenario, international community, war, geostrategy, geo-economy.*

Preliminarii

Istoria provinciei Kosovo este extrem de complexă şi controversată, nefiind niciodată un model de interacţiune politică ori de ajustare a tensiunilor şi conflictelor apărute în această arie geografică. Toate demersurile de eliminare a asperităţilor teritoriale, politice, economice şi socio-culturale ce au fost prezente aici nu au favorizat o acomodare paşnică între sârbi şi albanezi ci, dimpotrivă, soldându-se, în cele din urmă, cu pierderi umane şi materiale de ambele părţi, mai ales pentru Belgrad, care s-a văzut în situaţia de învins, prin schimbarea de sistem şi de frontiere.

Astfel, prin crearea artificială, după unii, normală după alţii, a statului independent Kosovo, s-a modificat distibuţia puterii în această parte a Balcanilor, prin apariţia unui precedent periculos în ceea ce priveşte relaţiile internaţionale şi poziţionarea unor noi actori în sistemul mondial. Prin proclamarea independenţei de către Parlamentul din Kosovo la 12 februarie 2008, se impune un "model" şi pentru cei cu ambiţii de secesiune, în condiţiile în care există încă regimuri şi mişcări separatiste care îşi cer dreptul la autonomie: Osetia de Sud, Abhazia, Corsica, Transnistria etc. În virtutea aceloraşi argumente, vor fi şi alţii care percep, prin apariţia noului stat Kosovo, o posibilă şi viitoare acţiune de răsturnare a suveranităţii naţionale din motive morale sau umanitare, dat fiind faptul că O.N.U, alte organizaţii internaţionale, S.U.A, precum şi cîteva ţări occidentale au favorizat, prin pasivitate politică, acţiunile separatiste din această zonă.

Aşa s-a ajuns la încurajarea unei reale forţe opuse, perturbatoare, într-o geografie extrem de sensibilă, marea extindere a fostei Iugoslavii ducînd la declinul şi fragmentarea acesteia, la început, apoi, la distrugerea cvasitotală.

Nu "minoritatea creatoare", cum ar spune Arnold Toynbee, ci printr-o agresivitate permanentă şi susţinută din exterior, albanezii din Kosovo au zdruncinat din temelii „*pax balcanica*" întrucât s-au produs mutaţii semnificative în raporturile dintre state, îndeosebi în Europa, prin recunoaşterea inde-

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pendenţei Provinciei Kosovo. Ostilitatea dintre sârbi şi albanezi, manifestată în decursul a cîtorva secole, conflictul deschis dintre creştini şi musulmani, când Kosovo a făcut parte, la început, din Imperiul Sârb sub dinastia Nemanjici (sec. XII), integrat ulterior în Federaţia Iugoslavă, condusă de Tito, s-au acutizat profund după obţinerea independenţei statului kosovar, moment bine pregătit şi susţinut în timp de state şi instituţii europene şi americane care au favorizat radicalizarea terorismului islamic din această zonă.

U.C.K – mişcare separatistă militarizată

O întrebare gravă încă nu şi-a primit un răspuns general acceptabil: cum a fost posibil ca cele mai importante ţări ale lumii, cu democraţii consistente, să susţină şi să participe la crearea unui stat islamic în chiar inima Europei?

Din ce raţiuni şi interese au fost animate aceste state în demersul lor atât de periculos şi duplicitar pentru relaţiile internaţionale şi echilibrul puterii în lume?

Pe ce baze U.C.K, organizaţie teroristă recunoscută, a beneficiat de o complexă expertiză politică germană, americană, engleză etc?

Grup separatist-terorist, U.C.K a fost sprijinit mulţi ani de diverse instituţii şi firme specializate din străinătate, cercuri de lobby din Congresul american, state musulmane (Iran, Albania, Yemen, Arabia Saudită, Bosnia), guverne, personalităţi politice (Ayatollahul Ali Khamenei, Klaus Kinkel, Richard Halbrooke, Madelaine Albright), organizaţii extremiste (Al Quaeda).

U.C.K s-a aflat la originea unor acţiuni teroriste în Kosovo, încă de la începutul conflictului, cînd, în perioada ianuarie 1991 – iulie 1998, au iniţiat 797 de atacuri armate şi 663 în a doua jumătate a lui 1998, împotriva unor secţii militare, cetăţeni sârbi, gospodării private, înregistrându-se sute de

morţi şi răniţi sârbi, muntenegreni, macedoneni, ţigani.

Teheranul a sprijinit, începînd cu 1997, toate acţiunile teroriste ale U.C.K, în numele protecţiei comunităţii musulmane din zonă, în vederea consolidării aşa-zisei axe "Săgeata verde" Sarajevo-Tirana prin expedierea în Kosovo de echipamente militare, armament, aparatură de supraveghere şi comunicare. În plus, gărzile revoluţionare iraniene au antrenat o bună parte din combatanţii U.C.K, iar foştii luptători iranieni din Bosnia s-au alăturat organizaţiei din Priştina.

Şi Germania a contribuit efectiv la inflamarea periculoasă a situaţiei din Balcani, prin acordarea de asistenţă militară albanezilor kosovari. Prestigioasa publicaţie *Frankfurter Algemeine Zeitung* relata în 1999, că U.C.K era susţinută de Berlin pentru a declanşa o "criză umanitară", care, ulterior, să se constituie într-o justificare a intervenţiei N.A.T.O în regiune.

În conformitate cu dezvăluirile din *Le monde diplomatique*, serviciile secrete germane puneau la dispoziţia luptătorilor U.C.K. uniforme şi echipament militar din depozitele fostei STASI. Mai mult decît atît, BND (serviciul secret german), Militarmschirmdienst, şi K.S.K. (Kommando Spezial Krafte) au oferit organizaţiei teroriste albaneze armament şi logistică, iar Reiner Kesselring, directorul B.N.D., fiul generalului Luftwaffe care bombardase Belgradul, în 1941, provocând moartea a 17.000 de civili şi militari, a organizat, prin sprijin K.S.K, activităţi de antrenament ale combatanţilor islamişti U.C.K la o bază militară germană din Turcia.

În 1997, Departamentul de Stat al S.U.A. considera U.C.K ca o organizaţie teroristă, ulterior, opţiunea militară s-a schimbat, catalogând-o "mişcare de eliberare", iar conducătorii acesteia din "criminali de război" au fost numiţi "luptători pentru libertate" şi, apoi, lideri politici, cum este

cazul lui Hashim Thaci, ajuns prim ministru al noului stat independent.

Duplicitatea americană s-a relevat şi în faptul că multe cadre militare de conducere, ofiţeri U.C.K, au fost antrenaţi în S.U.A în cadrul Planului de Pace, demers care s-a soldat ulterior, cu apariţia unei forţe militare redutabile, capabilă să opereze eficace în zonele de conflict deschis, ocupate de populaţia de origine sârbă.

Un factor destabilizator din Kosovo l-a constituit şi atitudinea exagerat de tolerantă a autorităţilor engleze care au favorizat radicalizarea acţiunilor etnicilor albanezi. În cartea *The Coming Balkan Caliphate*, apărută în 2007, autorul, Christopher Deliso atrage atenţia că "Societatea Islamică albaneză din Londra, condusă de şeicul kosovar Muhammed Stubla, a făcut un lobby activ şi a procurat fonduri pentru U.C.K.". Încă din 1998, în capitala Angliei, la moscheea "Finsbury Park", se făceau recrutări masive de luptători islamici pentru "războiul sfânt" din Kosovo, sub conducerea şeicului Omar Bakri Muhammed, membru al Al-Qaeda.

Există voci care susţin că serviciul secret britanic M16 era la cunoştinţă de intenţiile şi acţiunile unor lideri musulmani din Anglia, îndeosebi ale lui Omar Bakri care declara că "noi, islamiştii, nu facem distincţie între civilizaţi şi non-civilizaţi, inocenţi şi non-inocenţi. Singura distincţie pe care o facem este între musulmani şi necredincioşi. Viaţa unui necredincios în Islam nu are nici o valoare."[1]

Este de-a dreptul incalificabilă atitudinea tolerantă a unor guverne occidentale în legătură cu acţiunile teroriste ale lui Agim Ceku, cel care a condus operaţiunea "Storm" (Furtuna), soldată cu exodul a 250.000 de civili sîrbi şi uciderea a 15.000 de civili. După încheierea operaţiunii "Mistral" din Vestul Bosniei, generalul Agim Ceku a revenit în Kosovo, devenind comandantul U.C.K., iar în 2006 a fost numit prim-ministru al Kosovo, deşi era acuzat de crime de război.

Baza "Bondsteel" şi interesele americane în Balcani

Pe bună dreptate se întreabă Adrian Iancu, în articolul „Kosovo, începutul unui alt război rece", "de ce" destrămarea fostei Iugoslavii s-a făcut în "trepte": mai întâi Slovenia, apoi, Croaţia, apoi, după doi ani Bosnia-Herţegovina, în fine, după alţi ani, Kosovo. Dacă relaţiile interetnice ar fi fost, în 1990, atât de dramatic ireconciliabile, nu era normal ca dezmembrarea să aibă loc aproape simultan?"[2] Nu cumva, declararea unilaterală a independenţei Provinciei Kosovo face parte dintr-un scenariu amplu, bine structurat, şi pus în practică de unele state occidentale, susţinute consistent de S.U.A? Or, chiar guvernul de la Washington se afla la originea acestui plan pentru a-şi asigura accesul la petrolul caspic şi la uriaşele resurse din această parte a secţiei?

"Operaţiunea Status", denumită de americani ori "Planul Athisaari", propusă de O.N.U., evidenţiază mecanismul şi strategia guvernului american de a penetra într-o zonă geostrategică şi geo-economică extrem de importantă, în care rutele balcanice, europene şi asiatice se întretaie, iar conflictele de aici pot fi uşor negociate şi limitate. Spiritul Războiului Rece şi diminuarea cooperării între S.U.A şi o Europă mai unită au dovedit că prezenţa americană pe bătrânul continent nu mai reprezintă un deziderat ori o necesitate.

Repetatele eşecuri ale comunităţii internaţionale în probleme majore ce trebuiau gestionate de O.N.U. (a se vedea capul Iugoslaviei, al Irakului) reclamă un alt fel de tip de reacţie din partea marilor puteri, o abordare nouă a protecţiei şi impunerii propriilor interese în lume. Dar, care sunt aceste interese americane în Kosovo?

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Există voci care reclamă că, după 1990, specialiştii americani au elaborat planul Kosovo, iar acordul de la Rambouillet, din martie 1999, de ocupare a spaţiului kosovar de către forţele N.A.T.O, precum şi bombardarea ulterioară a Iugoslaviei, începând cu 21 martie 1999, sunt doar consecinţe fireşti ale acestei strategii politico-militare de sorginte americană, de penetrare într-o zonă extrem de importantă pentru S.U.A.

Ulterior, acest proiect a fost confirmat de construirea, în acest perimetru, a celei mai mari baze americane după războiul din Vietnam, "Camp Bondsteel", cu scopul declarat de a securiza oleoductul AMBO (Bulgaria, Macedonia, Albania), care asigură transportul de petrol din Marea Caspică, prin Marea Neagră, Bulgaria, Macedonia şi Albania, până în portul albanez Vlora de la Marea Adriatică şi de aici înspre S.U.A.

Acest nou oleoduct, cu o lungime de 913 km, va transporta zilnic 750.000 de barili, atât pentru S.U.A., cât şi pentru unele state occidentale europene. Construcţia lui a fost finanţată de cele mai mari companii petroliere din lume: Chevron şi Exxon-Mobile, iar terminalul din portul albanez Vlora va asigura tancurilor petroliere un transport de aproximativ 300.000 tone.

După încetarea bombardamentelor asupra Iugoslaviei, S.U.A au intrat în posesia a 500 ha de teren lângă localitatea Uraševac şi au construit cea mai mare bază militară, sub conducerea a 1000 de ingineri de la firma "Kellog, Brown and Root Corporation", condusă până în 2000, de Dick Cheney, fost vicepreşedinte al S.U.A.

Una din explicaţiile apariţiei acestui obiectiv militar major în Balcani rezidă în existenţa în zonă a unor consistente resurse minerale de argint, aur, zinc, cărbune, localizate în perimetrul Stari Trg. Aici se află a treia exploatare de zinc din lume, Kosovo fiind un alt Kuweit al Balcanilor, un El Dorado al timpurilor actuale, în

regiune fiind identificate rezerve de 7 miliarde de tone de cărbune, cantităţi uriaşe de zinc şi plumb. "Potrivit experţilor, susţine Vladimir Alexe, rezervele de lignit din Kosovo ar fi suficiente Europei în următoarele 13 secole. "

În aceste condiţii ne întrebăm încă o dată, care a fost adevărata miză a S.U.A., susţinând cu frenezie gruparea U.C.K. şi acţiunile secesioniste ale acesteia? Interesele majore americane într-o zonă geostrategică şi geo-economică importantă ori accesul la substanţialele resurse de aici?

"Rezultatele acestor războaie afectează structurile economice, sociale şi ideologice ale societăţilor individuale ca şi structurile sistemului internaţional"[3], crede Robert Gilpin.

Aserţiunea sa este valabilă şi în cazul Kosovo, căci prin independenţa unilaterală acordată acestei provincii s-a creat un precedent extrem de periculos, cît şi o anomalie în Balcani, susţine Liza Karpova de la publicaţia moscovită *Pravda*: existenţa reală şi concretă a două state albaneze, ca şi perspectiva de a fi trei, într-un viitor nu prea îndepărtat, prin probabila cerere a albanezilor din Macedonia de a-şi crea propriul stat, iar dacă, pe criterii etnice, albanezii din Bosnia vor fi sprijiniţi în tendinţele lor separatiste, vom asista la apariţia celui de-al patrulea stat albanez, situaţie fără precedent în Istoria Europei.

Aşadar, *cui prodest* noua realitate politică din Balcani?

Note
[1] Vladimir Alexe, "Kalifatul mafiot Kosovo, în Ziua", 15 martie 2008, anul XI, nr. 501, p. 11.
[2] Adrian Iancu, *Kosovo,* "Începutul unui alt război rece", în *Săptămâna financiară*, 3 martie 2008. p. 12.
[3] Robert Gilpin, *Război şi schimbare în politica mondială*, Ed. Scrisul Românesc, Craiova, 2000, p. 260.

Drepturile socio-economice ale cetățenilor europeni

Cezar AVRAM, Roxana RADU

Abstract: *The most important element that stands at the basis of European construction are people, seen as subjects of all community actions. European citizenship gives them a series of rights which permit the exercise of the four fundamental freedoms: the free movement of workers, services, goods and capitals. Socio-economic rights are essential for community social policy whose central core is to be found in questions relating to employment, industrial health, the social costs of industry, labour mobility and the role of social spending in social affairs. Besides the Treaties of Paris, Rome, Maastricht and Amsterdam, Lisabona Treaty both widened responsibilities and consolidated the fundamental rights and liberties, among which social and economic rights play an important role. The Treaty gurantees the application of the European Cart of Fundamental Rights and open the way of adhesion to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The most relevant principle is the principle of solidarity which stands at the base of some socio-professional rights such as: the right to consultation and information, the right to collective bargaining and actions, strike inclusive, the right to social security benefits etc.*

Keywords: *right, citizenship, freedom, solidarity, employment.*

Elementul fundamental care stă la baza construcţiei europene este reprezentat de oameni, cetăţeni ai Uniunii, ca subiecţi ai tuturor acţiunilor comunitare. Realizarea importanţei oamenilor şi a rolului pe care îl joacă cetăţenii în existenţa prezentă şi viitoare a Uniunii a dus la extinderea competenţelor comunitare în domeniul social şi la introducerea noţiunii de cetăţenie europeană, ca o extindere într-un plan mai înalt a legăturii dintre cetăţeni şi statul integrat în organizaţia europeană. De altfel, motivul care a stat în spatele noţiunii de "cetăţenie europeană" a fost acela că o uniune politică cere o asumare a responsabilităţii pentru condiţia socială a cetăţenilor care nu pot sprijini o Uniune dezinteresată de nevoile lor. Acest motiv a apărut ca justificat atunci când nepopularitatea construcţiei europene a ieşit la suprafaţă odată cu dez-

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baterile asupra ratificării Tratatului de la Maastricht, ceea ce a adâncit convingerea că UE trebuie nu numai să facă mai mult pentru publicul larg, dar și să fie văzută făcând mai mult. O mai mare transparență a acțiunilor comunitare, un efort mai mare de a informa publicul asupra a ceea ce ce se întâmplă, a lua decizii cât mai favorabile oamenilor și a-i implica cât mai mult în procesul de luare a deciziilor au devenit scopuri bune de urmat pentru a asigura o cât mai mare publicitate, relații mai strânse cu organizațiile de voluntariat și punerea în aplicare a procedurilor Acordului social anexat Tratatului de la Maastricht[1].

Conceptul de "cetățenie a Uniunii" a fost introdus prin Tratatul de la Maastricht, conform căruia "Orice persoană având naționalitatea unui stat membru va fi cetățean al Uniunii. Cetățenia Uniunii va fi un complement și nu va înlocui cetățenia națională. Cetățenii Uniunii se vor bucura de toate drepturile conferite de acest tratat și vor fi subiect al obligațiilor impuse de acesta"[2]. Opt din statele membre UE au acceptat dubla cetățenie: Portugalia, Irlanda, Marea Britanie, Olanda, Belgia, Franța, Italia și Grecia[3].

Cetățenia europeană înglobează atât aspecte de ordin economic, cât și politic, ea conferind titularului, cetățean al unui stat membru al Uniunii Europene, indiferent de statul pe teritoriul căruia și-a stabilit domiciliul sau reședința, anumite drepturi civile și politice.

În primul rând, drepturile de care beneficiază titularii cetățeniei europene se referă la cele patru libertăți fondatoare ale UE care stau la baza creării pieței unice, instituite prin Tratatul de la Roma: libera circulație a mărfurilor, persoanelor, serviciilor și capitalurilor. Cele patru libertăți nu pot exista însă decât într-o strânsă interdependență, fiecare dintre ele vădindu-și importanța proprie în realizarea obiectivelor principale ale Uniunii Europene. Numai dacă sunt

înfăptuite toate cele patru libertăți se poate vorbi de realizarea pieței unice. Libertatea de circulație a persoanelor nu poate fi considerată realizată pe deplin dacă mărfurile, capitalurile și serviciile nu pot circula fără restricții sau interdicții ori nu există posibilități de transfer al sumelor dobândite într-o altă țară printr-o activitate desfășurată potrivit legislației comunitare. Tot astfel, libertatea de a furniza servicii implică, în majoritatea cazurilor, circulația persoanelor către țara primitoare, dar aceste persoane nu urmăresc accesul pe piața muncii din această țară.

În al doilea rând, cele patru libertăți nu pot fi realizate fără o puternică afirmare a drepturilor fundamentale ale cetățenilor europeni, în special a drepturilor de natură socială și economică care conferă acestora posibilitatea de a pune în practică aceste libertăți. Printre celelalte drepturi individuale și politice care le permit cetățenilor Uniunii să-și exercite cele patru libertăți sau să și le apere, dacă le sunt încălcate se numără: dreptul de a circula și de a locui liber pe teritoriul statelor membre; dreptul de a vota și de a fi ales în cadrul alegerilor municipale și europene, din statul membru unde își are reședința, în condiții egale cu ceilalți resortisanți ai statului; dreptul de protecție diplomatică și consulară în terțe țări; dreptul de a adresa petiții.

Tratatul de la Amsterdam, care a intrat în vigoare în 1999, a contribuit la consolidarea drepturilor fundamentale ale cetățenilor europeni. Acesta a introdus o procedură de sancționare a statelor membre care violează drepturile fundamentale ale cetățeanului. De asemenea, aria de aplicare a principiului non-discriminării, limitată până atunci la naționalitate, a fost extinsă la sex, rasă, religie, vârstă și orientare sexuală. În concluzie, Tratatul de la Amsterdam a îmbunătățit politica de transparență a Uniunii și le-a permis cetățenilor un acces mai larg la documentele oficiale ale instituțiilor europene.

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Angajamentul Uniunii Europene în favoarea drepturilor cetăţenilor a fost subliniat în mod solemn în anul 2000, la Nisa, prin proclamarea Cartei Drepturilor Fundamentale a Uniunii Europene. Această Cartă a fost elaborată de către o Convenţie formată din membri ai parlamentelor naţionale şi ai Parlamentului European, reprezentanţi ai guvernelor statelor membre şi un membru al Comisiei Europene.

Unul dintre aspectele importante introduse de Tratatul de la Lisabona de modificare a Tratatului privind Uniunea Europeană şi a Tratatului de instituire a Comunităţii Europene, în scopul asigurării unei protecţii sporite pentru cetăţenii europeni, este reprezentat de consolidarea şi garantarea drepturilor omului şi libertăţilor fundamentale. Astfel, Tratatul a introdus art. 1a, conform căruia "Uniunea se întemeiază pe valorile respectării demnităţii umane, libertăţii, democraţiei, egalităţii, statului de drept, precum şi pe respectarea drepturilor omului, inclusiv a drepturilor persoanelor care aparţin minorităţilor. Aceste valori sunt comune statelor membre într-o societate caracterizată prin pluralism, nediscriminare, toleranţă, justiţie, solidaritate şi egalitate între femei şi bărbaţi". În plus, pe lângă faptul că garantează punerea în aplicare a Cartei Europene a Drepturilor Fundamentale, care devine obligatorie din punct de vedere juridic (art. 6 alin. 1), deschide şi calea pentru Uniunea Europeană de a adera la Convenţia Europeană pentru apărarea drepturilor omului şi a libertăţilor fundamentale (art. 6 alin. 2).

Chiar dacă nu figurează în textul tratatelor, Carta Drepturilor Fundamentale este inclusă printr-o referire expresă în formularea dată articolului 6 în Tratatul de la Lisabona: "Uniunea recunoaşte drepturile, libertăţile şi principiile prevăzute în Carta drepturilor fundamentale a Uniunii Europene din 7 decembrie 2000, astfel cum a fost adaptată la 12 decembrie 2007, la Strasbourg, care are aceeaşi valoare juridică cu cea a tratatelor". Conform Declaraţiei nr. 1, Carta drepturilor fundamentale a UE "confirmă" drepturile fundamentale garantate prin Convenţia europeană pentru apărarea drepturilor omului şi a libertăţilor fundamentale şi care rezultă din "tradiţiile constituţionale comune statelor membre". Aceasta înseamnă că, în măsura în care Carta recunoaşte drepturi şi principii fundamentale, astfel cum rezultă acestea din tradiţiile constituţionale comune statelor membre, aceste drepturi şi principii trebuie să fie interpretate în conformitate cu tradiţiile menţionate[4]. De asemenea, în această declaraţie se precizează că aceeaşi cartă nu extinde domeniul de aplicare a dreptului Uniunii în afara competenţelor Uniunii, nici nu creează vreo competenţă sau sarcină nouă pentru Uniune şi nu modifică competenţele şi sarcinile stabilite de tratate.

O altă noutate pe care o introduce noua formă de prezentare a Cartei în cadrul Tratatului de la Lisabona este situaţia Regatului Unit şi a Poloniei[5]. Articolul 6 prevede aplicarea şi interpretarea cartei de către instanţele Poloniei şi ale Regatului Unit în strictă conformitate cu explicaţiile menţionate la articolul respectiv. Înaltele Părţi Contractante, luând notă de intenţia Poloniei şi a Regatului Unit de a clarifica anumite aspecte ale aplicării cartei şi dorind să clarifice aplicarea cartei în ceea ce priveşte actele cu putere de lege şi acţiunile administrative ale Poloniei şi ale Regatului Unit şi capacitatea acesteia de a fi invocată în faţa unei instanţe în Polonia şi în Regatul Unit, au încheiat Protocolul privind aplicarea Cartei Drepturilor Fundamentale a Uniunii Europene în Polonia şi în Regatul Unit, în care au convenit: "Carta nu extinde capacitatea Curţii de Justiţie a Uniunii Europene şi a niciunei alte instanţe a Poloniei sau a Regatului Unit, de a considera că actele cu putere de lege şi actele Administrative, practicile sau acţiunile administrative ale Poloniei sau ale Regatului Unit

sunt incompatibile cu drepturile, libertăţile şi principiile fundamentale pe care aceasta le reafirmă. În special şi pentru eliminarea oricărei îndoieli, nicio dispoziţie din titlul IV al cartei nu creează pentru Polonia sau pentru Regatul Unit drepturi care să poată fi invocate în faţa unei instanţe decât în măsura în care Polonia sau Regatul Unit a prevăzut astfel de drepturi în legislaţia sa naţională". De asemenea, "atunci când o dispoziţie a cartei face trimitere la legislaţiile şi practicile naţionale, aceasta se aplică Poloniei sau Regatului Unit numai în măsura în care drepturile şi principiile pe care le conţine sunt recunoscute de legislaţiile sau practicile din Polonia ori din Regatul Unit". De asemenea, acest protocol nu aduce atingere punerii în aplicare a cartei în celelalte state membre şi nici nu aduce atingere celorlalte obligaţii care revin Poloniei şi Regatului Unit în temeiul Tratatului privind Uniunea Europeană, al Tratatului privind funcţionarea Uniunii Europene şi al dreptului Uniunii în general.

Dacă Tratatul de la Lisabona, ca şi Tratatul de la Nisa, continuă să proclame aderarea UE la Convenţia Europeană pentru apărarea drepturilor omului şi a libertăţilor fundamentale (art. 6 alin. 2), regulile de adoptare a deciziilor privind punerea în aplicare efectivă a acestei adeziuni sunt modificate: Consiliul hotărăşte cu unanimitate (şi nu cu majoritate calificată), iar decizia trebuie aprobată de statele membre "în conformitate cu regulile lor constituţionale"[6].

Alcătuită din şase capitole – Demnitatea, Libertăţile, Egalitatea, Solidaritatea, Drepturile cetăţenilor, Justiţia – Carta conţine 54 de articole care definesc valorile fundamentale ale Uniunii, precum şi drepturile civile, politice, economice şi sociale ale cetăţenilor europeni. Aceste drepturi se inspiră în mare parte din alte instrumente internaţionale, în principal din Convenţia europeană a drepturilor omului, Tratatul de

la Lisabona oferindu-le o formă juridică în cadrul Uniunii.

Printre cele mai importante drepturi se numără drepturile sociale şi economice. Tratatul de la Lisabona nu constituie doar un pas înainte pe calea întăririi protecţiei acestor drepturi prin garanţiile obligatorii, din punct de vedere juridic, prevăzute de legislaţia comunitară, ci introduce şi alte drepturi suplimentare, care nu apăreau în Convenţia europeană a drepturilor omului, precum protecţia datelor cu caracter personal, bioetica şi dreptul la o bună Administrare. Un principiu cu relevanţă directă pentru domeniul socio-economic este principiul solidarităţii, care stă la baza unor drepturi economice şi sociale cum ar fi: dreptul la informare şi consultare a salariaţilor, dreptul de a negocia contracte/acorduri colective şi de a iniţia acţiuni colective (inclusiv dreptul la grevă), dreptul de a avea acces la servicii de plasare a forţei de muncă şi de protecţie împotriva concedierilor nejustificate, dreptul la securitate şi la asistenţă socială etc.

Dreptul care ocupă primul loc în ierarhia drepturilor fundamentale statuate de Cartă este demnitatea umană pentru că din respectarea acestui drept, stipulat în art. 1, rezultă şi celelalte drepturi şi libertăţi fundamentale. Carta nu aduce însă în nici un fel atingere dreptului statelor membre de a legifera în domeniul moralităţii publice, al dreptului familiei, precum şi în domeniul protecţiei demnităţii umane şi al respectării integrităţii fizice şi morale a fiinţei umane[7].

Conform art. 15 din Cartă, orice persoană are dreptul la muncă, iar dreptul de a exercita o ocupaţie aleasă sau acceptată în mod liber este garantat. Dreptul la muncă exprimă „într-o corelaţie juridică necesară, exigenţele libertăţii cetăţeanului cu economia de piaţă şi cu caracterul social al statului"[8]. Spre deosebire de Codul muncii din România, care face referire la

noţiunea de libertate a muncii, Carta se referă la dreptul la muncă. Considerăm că formula adoptată de legiuitorul român este preferabilă întrucât ideea de drept presupune existenţa unei obligaţii corelative, în timp ce noţiunea de libertate nu presupune cu necesitate existenţa unei atare obligaţii. Corelaţia dintre dreptul la muncă şi libertatea muncii constă în aceea că dreptul la muncă reprezintă posibilitatea exercitării în concret a libertăţii muncii, prin obţinerea unui loc de muncă. Exerciţiul libertăţii muncii nu se impune ca o obligaţie a cetăţeanului, ci presupune doar exprimarea opţiunii juridice de a munci[9].

Orice cetăţean al Uniunii are libertatea de a-şi căuta un loc de muncă, de a lucra, de a se stabili sau de a presta servicii în orice stat membru. În ceea ce priveşte condiţiile de muncă, orice lucrător are dreptul la condiţii care să respecte sănătatea, securitatea şi demnitatea sa. De asemenea, orice resortisant al unei ţări terţe, autorizat să lucreze pe teritoriul unui stat membru, are dreptul la condiţii de muncă echivalente acelora de care beneficiază cetăţenii UE. Autorităţile comunitare au depus eforturi susţinute pentru a armoniza, în sânul statelor membre, condiţiile de angajare şi de muncă. Aceste condiţii sunt de o mare diversitate deoarece ele depind nu numai de sistemul juridic în care se înscriu, ci şi de nivelul de dezvoltare economică şi socială al fiecărei ţări. Intensificarea concurenţei antrenează însă în mod inevitabil uniformizarea costurilor muncii şi, prin consecinţă, şi a condiţiilor de muncă. Intervenţia comunitară vizează stimularea progresului social şi impulsionarea legislaţiilor naţionale de a se alinia la standarde cât mai înalte. Cu toate acestea, "trebuie să existe totuşi o parte ireductibilă de specificitate naţională, condiţiile de angajare şi de muncă fiind produsul echilibrelor şi tradiţiilor proprii fiecărei ţări"[10]. În vederea protecţiei sănătăţii, securităţii şi demnităţii lucrătorilor,

Carta recunoaşte, în art. 31 alin. 2, dreptul la o limitare a duratei maxime de muncă şi la perioade de odihnă zilnică şi săptămânală, precum şi la o perioadă anuală de concediu plătit.

Organizarea timpului de muncă este reglementată de Directiva Consiliului 93/104/CEE care stabileşte norme minimale de securitate şi sănătate în domeniul organizării timpului de muncă. Durata medie de lucru pentru fiecare perioadă de 7 zile nu va depăşi 48 de ore, având în vedere şi orele suplimentare. Statele membre UE pot impune respectarea regulii de 48 de ore pe săptămână în cadrul unei perioade de referinţă care poate atinge 4 luni. În ţările Uniunii Europene, durata normală a timpului de muncă este în medie de 40 de ore pe săptămână şi puţin mai lungă în ţările aflate în procesul de aderare. Există discrepanţe enorme între lucrătorii cu normă întreagă din statele membre UE, pornindu-se de la Franţa cu 35 de ore/săptămână şi până la 43,5 ore/săptămână în Regatul Unit al Marii Britanii şi al Irlandei de Nord (unde nu există o reglementare de principiu în acest domeniu).

De asemenea, de Directiva nr. 93/104/CEE se referă la unele aspecte ale muncii de noapte. Timpul de lucru normal pentru lucrătorii de noapte trebuie să nu depăşească în medie 8 ore dintr-o perioadă de 24 de ore. De asemenea, lucrătorii de noapte a căror muncă implică riscuri deosebite sau tensiuni psihice ori mentale importante nu vor lucra mai mult de 8 ore în cursul unei perioade de 24 de ore, când aceştia execută o muncă de noapte. Având în vedere riscurile deosebite şi tensiunile psihice ori mentale inerente muncii pe timpul nopţii, statele membre trebuie să ia măsurile necesare pentru a asigura un sistem de evaluare gratuită a sănătăţii, precum şi un nivel adecvat de protecţie şi de sănătate a muncii. Totodată, trebuie luate măsurile necesare astfel încât angajatorul

care recurge în mod frecvent la lucrători de noapte să informeze în această privinţă autorităţile competente, la cererea acestora.

În plus, angajatorul care urmăreşte să organizeze munca în conformitate cu un anumit ritm, trebuie să ţină cont de principiul general de adaptare a muncii la om, în special pentru a atenua munca monotonă şi munca cu o cadenţă predeterminată în funcţie de tipul de activitate şi de exigenţele în materie de securitate şi de sănătate, mai ales în ceea ce priveşte pauzele pe durata timpului de muncă. Directiva 89/391/CEE privind introducerea de măsuri de încurajare a îmbunătăţirilor în domeniul securităţii şi sănătăţii lucrătorilor în muncă atribuie angajatorilor responsabilitatea prevenirii bolilor profesionale, printre care şi cele cauzate de hărţuirea morală.

Directiva nr. 93/104/CEE nu aduce atingere, conform art. 15, prerogativei statelor membre de a aplica sau introduce dispoziţii legislative, normative sau administrative mai favorabile lucrătorilor sau de a favoriza sau permite aplicarea unor convenţii colective sau acorduri încheiate între partenerii sociali mai favorabile protecţiei securităţii şi sănătăţii lucrătorilor. Art. 17 al Directivei permite o serie de derogări, dar cu luarea unor măsuri compensatorii adecvate. Prevederile acestei directive se aplică tuturor sectoarelor de activitate, cu excepţia transporturilor aeriene, feroviare, rutiere, maritime, fluviale, lacustre, pescuitului maritim, altor activităţi maritime, precum şi activităţii medicilor în formare.

În ceea ce priveşte dreptul la odihnă, Directiva 93/104/CEE prevede că orice lucrător trebuie să beneficieze, în cursul unei perioade de 7 zile, de o perioadă minimă de repaus neîntreruptă de 24 ore. Prin urmare, săptămâna de lucru este de 6 zile, iar repausul săptămânal de 24 de ore. Aceeaşi directivă prevede că, în cadrul unei perioade de 24 de ore, salariatul trebuie să beneficieze de un repaus zilnic de cel puţin 11 ore consecutive. În cazul în care timpul de muncă zilnic este mai mare de 6 ore, orice lucrător trebuie să beneficieze de o pauză a cărei durată şi caracteristici vor fi stabilite prin contractul colectiv de muncă sau prin acorduri încheiate între partenerii sociali, ori, în lipsa acestora, prin legislaţia naţională. Potrivit art. 7 alin. 1 al Directivei 93/104/CE, statele membre trebuie să ia măsurile necesare de o asemenea manieră încât orice lucrător să beneficieze de concediu anual plătit de cel puţin 4 săptămâni, conform condiţiilor de obţinere şi de atribuire prevăzute prin legislaţii şi/sau practici naţionale. Perioada minimă de concediu anual plătit nu poate fi înlocuită printr-o indemnizaţie financiară decât în cazul încetării contractului individual de muncă.

Conform art. 9 din Carta drepturilor sociale fundamentale, orice muncă trebuie să fie remunerată în mod echitabil (just). De aceea se impune ca, fie prin lege, fie prin negociere colectivă la nivel naţional, regional, interprofesional, sectorial sau la nivel de întreprindere, să se instituie un salariu decent, să se instituie reguli care să permită asigurarea, pentru muncitorii supuşi altui regim de muncă decât cel al contractului pe durată determinată, un salariu de referinţă echitabil, iar salariile să nu facă obiectul nici unei reţineri, urmăriri sau cesiuni decât în conformitate cu dispoziţiile naţionale, fără a-l priva niciodată pe salariat de mijloacele necesare pentru asigurarea întreţinerii sale şi a familiei sale. În programul său de acţiune, Comisia a estimat că UE nu are atribuţia de a fixa un salariu de referinţă decent, ci de a propune şi de a emite, după consultarea statelor membre, un aviz referitor la acest subiect. De asemenea, s-a statuat că salariaţii trebuie să fie protejaţi împotriva riscului insolvabilităţii angajatorului. Textul comunitar care reglementează protecţia salariaţilor în cazul insolvabilităţii angajatorului este Directiva

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Consiliului nr. 80/987/CEE din 20 octombrie 1980 care se aplică tuturor lucrătorilor salariați ai căror angajatori fac obiectul, conform dreptului național, în ceea ce privește patrimoniul lor, unei proceduri care vizează despăgubirea colectivă a creditorilor lor[11].

Art. 12 din Cartă recunoaște dreptul la întrunire pașnică și asociere la toate nivelurile, în special în domeniile politic, sindical și civic. Principala formă asociativă bazată pe criteriul profesional o constituie sindicatele. Sindicatele se constituie în scopul apărării drepturilor și promovării intereselor profesionale, economice, sociale, culturale și sportive ale membrilor acestora (salariați, funcționari publici sau persoane care prestează o activitate în baza unui raport juridic de muncă). Unul dintre principiile fundamentale care guvernează dreptul muncii este principiul negocierii, negociere care poate fi individuală sau colectivă. Dreptul la negociere este recunoscut, în art. 28 al Cartei, atât lucrătorilor, cât și angajatorilor, în conformitate cu dreptul Uniunii și cu legislațiile și practicile naționale.

Pe lângă dreptul de a negocia și de a încheia convenții (contracte) colective, art. 28 prevede și dreptul de recurge la acțiuni colective, inclusiv la grevă. De-a lungul timpului, în funcție de țară și de circumstanțe, greva a îmbrăcat diferite forme: libertate (în sensul că încetarea prestării muncii, în condițiile legii, nu atrage nici o sancțiune disciplinară sau penală), drept (și, în consecință, absența oricărei culpe pe care angajatorul ar putea-o invoca pentru a pune capăt contractului de muncă sau pentru a aplica altă sancțiune), mijloc de acțiune sindicală recunoscut și lucrătorilor individuali[12]. Uneori dreptul la grevă nu este un drept fundamental distinct. El intră în compunerea libertății sindicale, care înglobează libertatea de a forma sindicate, libertatea în interiorul sindicatului și libertatea acțiunii sindicale[13]. Dreptul la grevă

constituie însă un mijloc de apărare a intereselor profesionale care aparține indivizilor, nu sindicatelor. Aceasta este o consecință a principiului egalității care impune un echilibru, o "necesară conciliere între dreptul la muncă și dreptul la grevă"[14].

Solidaritatea presupune, de asemenea, dreptul de acces la prestațiile de securitate socială și la serviciile sociale care se acordă în caz de maternitate, boală, accident de muncă, dependență de alte persoane sau bătrânețe, precum și în caz de pierdere a locului de muncă, în conformitate cu normele prevăzute de dreptul Uniunii și de legislațiile și practicile naționale. Securitatea socială este definită ca fiind "protecția pe care societatea o acordă membrilor săi printr-un ansamblu de dispoziții publice contra mizeriei economice și sociale care îi amenință în caz de pierdere sau reducere importantă a câștigurilor datorită bolii, maternității, accidentului de muncă, șomajului, invalidității, bătrâneții sau decesului, precum și acordarea de îngrijiri medicale și de alocații familiilor cu copii"[15]. Astfel, orice persoană care are reședința și se deplasează în mod legal pe teritoriul UE are dreptul la prestații de securitate socială și la avantaje sociale. De asemenea, orice lucrător are dreptul la protecție împotriva oricărei concedieri nejustificate în conformitate cu dreptul Uniunii și cu legislațiile și practicile naționale.

Dreptul lucrătorilor la informare și la consultare în cadrul întreprinderii este un alt drept care derivă din principiul solidarității. Astfel, lucrătorilor sau reprezentanților acestora li se garantează, la nivelurile corespunzătoare, informarea și consultarea în timp util, în cazurile și condițiile prevăzute de dreptul Uniunii și de legislațiile și practicile naționale. Prin Directiva 94/45/CE s-au pus bazele unei Comitet european de întreprindere și a unei proceduri în întreprinderile și grupurile de întreprindere de dimensiune comunitară în vederea

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informării şi consultării lucrătorilor. Conform Secţiunii I, art. 2 al Directivei, "întreprinderea de dimensiune comunitară" este o întreprindere cu cel puţin 1000 de salariaţi în statul membru sau are cel puţin 150 de salariaţi pentru fiecare stat, dacă întreprinderea există în cel puţin două state membre. Instituirea unui comitet de întreprindere european sau a unei proceduri de informare şi consultare a salariaţilor este menţionată de Secţiunea II, art. 4, direcţia centrală fiind responsabilă de crearea condiţiilor şi mijloacelor necasare în vederea instituirii comitetului european sau a unei proceduri de informare şi consultare. În art. 5 se menţionează etapele constituirii comitetului european de întreprindere din propria iniţiativă sau prin iniţierea unor negocieri sau consultări cu cel puţin 100 de salariaţi, sau cu reprezentanţii acestora, în cazul în care respectiva întreprindere este prezentă pe teritoriul a cel puţin două state membre.

Un domeniu prioritar al UE în ceea ce priveşte protecţia drepturilor salariaţilor îl constituie cel al concedierilor colective, reglementat de Directiva 98/59/CEE din 20 iulie 1998 privind armonizarea legislaţiilor statelor membre referitoare la concedierile colective. Potrivit acestei directive, prin "concedieri colective" se înţeleg concedierile efectuate de un patron pentru unul sau mai multe motive ce nu sunt legate de persoana lucrătorilor. Fiecare stat membru are dreptul de a stabili numărul sau procentajul concedierilor care, în raport cu perioadele definite, constituie concediere colectivă. În cazul în care un patron preconizează efectuarea unor concedieri colective, acesta are două obligaţii principale: informarea şi consultarea reprezentanţilor lucrătorilor; efectuarea concedierilor potrivit procedurii prescrise de Directivă. Procedura de informare şi consultare cu reprezentanţii lucrătorilor are ca scop evitarea sau reducerea concedierilor colective, precum şi atenuarea consecinţelor prin recurgerea la măsuri sociale care au ca obiectiv redistribuirea sau reconversia lucrătorilor disponibilizaţi[16]. În acest sens, în conformitate cu legislaţiile şi/sau practicile naţionale, statele membre pot să prevadă posibilitatea consultării unor experţi. Textul Directivei nu exclude dreptul statelor membre de a elabora dispoziţii legislative sau administrative mai favorabile lucrătorilor sau de a permite aplicarea dispoziţiilor contractuale mai favorabile lucrătorilor.

Un aspect inovativ al Tratatului de la Lisabona constă în introducerea, în art. 32 alin. 3, a dreptului la concilierea vieţii de familie şi a vieţii profesionale în baza căruia orice persoană are dreptul de a fi protejată împotriva oricărei concedieri din motive de maternitate, precum şi dreptul la un concediu de maternitate plătit şi la un concediu parental acordat în urma naşterii sau adopţiei unui copil.

De asemenea, Tratatul reafirmă măsuri importante vizând eliminarea discriminării, prin măsuri de prevenire şi combatere a rasismului şi a xenofobiei. În definirea şi punerea în aplicare a politicilor şi acţiunilor sale, Uniunea, ca şi instituţiile sale, trebuie să respecte drepturile înscrise în Carta drepturilor fundamentale, fiind interzisă orice discriminare pe motive de sex, rasă sau origine etnică, religie sau convingeri, handicap, vârstă sau orientare sexuală" (art. 5 b). Art. 21 din Carta drepturilor fundamentale interzice discriminarea de orice fel, bazată şi pe alte motive decât cele prevăzute de art. 5b din Tratatul de la Lisabona, respectiv: culoare, origine socială, caracteristici genetice, limbă, opinii politice sau de orice altă natură, apartenenţa la o minoritate naţională, avere sau naştere. De asemenea, în domeniul de aplicare a tratatelor şi fără a aduce atingere dispoziţiilor speciale ale acestora, se interzice orice discriminare pe motiv de cetăţenie. Curtea de Justiţie va garanta aplicarea corectă a Cartei.

Punerea Cartei pe picior de egalitate, ca valoare juridică, cu tratatele constitutive ale Uniunii Europene nu modifică atribuţiile Uniunii, dar are o semnificaţie covârşitoare deoarece oferă drepturi consolidate, mai multă libertate şi egalitate cetăţenilor, inclusiv persoanelor care aparţin minorităţilor.

Note

[1] Ali M. El-Agraa, *The European Union. History, Institutions, Economics and Policies*, Prentice Hall Europe, 1998, p. 396.

[2] Ex-art. 8 a-e din Tratatul CE, în prezent art. 17-22.

[3] Cetăţenii celor 27 ţări ale Uniunii sunt nu numai actori ai construcţiei europene, ci reprezintă scopul final, chiar dacă nu-şi dau întotdeauna seama de impactul pe care îl au deciziile luate de către instanţele de la Bruxelles asupra vieţii lor profesionale şi personale. Comitetul Adonnino (Comitetul de reflecţie, după numele celui care l-a prezidat) alcătuit de Consiliul de la Fontainebleau (iunie 1984) a pus la punct un program de lucru privitor la libera circulaţie a persoanelor. Felipe Gonzales (primul-ministru spaniol) a avansat în 1990 „instaurarea unei cetăţenii europene". A se vedea Ferreol Gilles, *La Personne Citoyenne,* IPRESCO / IHEDN / CRDP, Poitou Charentes, Poitiers, 1998.

[4] A se vedea Declaraţia Republicii Cehe cu privire la Carta drepturilor fundamentale a Uniunii Europene (Declaraţia nr. 53).

[5] Conform Declaraţiei nr. 62, Polonia declară că, având în vedere tradiţia mişcării sociale „Solidaritatea" şi contribuţia sa semnificativă la lupta pentru drepturi sociale şi de muncă, respectă pe deplin drepturile sociale şi de muncă stabilite prin dreptul Uniunii şi, în special, pe cele reafirmate în titlul IV din Carta drepturilor fundamentale a Uniunii Europene (Declaraţia Republicii Polone cu privire la Protocolul privind aplicarea Cartei drepturilor fundamentale a Uniunii Europene în Polonia şi în Regatul Unit).

[6] M. Hubert Haenel, *Raport d'information fait au nom de la délégation pour l'Union européenne sur le Traité de Lisbonne*, http://www.senat.fr/rap/r07-076/r07-0761.pdf, p. 8.

[7] Declaraţia Republicii Polone cu privire la Carta drepturilor fundamentale a Uniunii Europene (Declaraţia nr. 62).

[8] M. Constantinescu, I. Deleanu, A. Iorgovan, I. Muraru, F. Vasilescu, I. Vida, *Constituţia României – comentată şi adnotată*, R. A. „Monitorul Oficial", Bucureşti, 1992, p. 95.

[9] Raluca Dimitriu, *Noul Cod al Muncii. Privire asupra principiilor fundamentale*, în Raporturi de muncă nr. 3/2003, p. 50.

[10] N. Catala, R. Bonnet, *Droit social européen*, Éditions Litec, Paris, 1991, p. 141.

[11] Jean Boulouis, Roger-Michel Chevallier – *Grands arrêts de la Cour de justice des communautés européennes*, tome 2, Dalloz, Paris, 1997, p. 501.

[12] J. M. Servais, *Droits en synergie sur le travail. Éléments de droits international et comparé du travail*, Bruylant, Bruxelles, 1997, p. 53.

[13] M. Duverger, *Éléments de droit public,* PUF, Paris, 1983, p. 200, citat în I. Dogaru, D.C. Dănişor, *Drepturile omului şi libertăţile publice*, Editura Zamolxe, Chişinău, 1998, p. 220.

[14] Simina Elena Tănăsescu, *Principiul egalităţii în dreptul românesc*, Editura All Beck, 1999, p. 305-306.

[15] Bureau International du Travail, *La sécurité sociale*, Genève, 1995, p. 4.

[16] Art. 2.2 din Directiva 98/59/CEE din 20 iulie 1998 privind armonizarea legislaţiilor statelor membre referitoare la concedierile colective.

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EU competences in the field of public administration of Member States and Candidate Countries

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Abstract: *The article discusses the reasons that determined the European Commission to evaluate administrative capacities of its Member States and to take them into account as criteria for EU membership. The main conclusion that can be drawn is that the EU has little direct competences in the field of public administration of its Member States and Candidate Countries, though it appears that high administrative capacities are among the priorities of EU accession requirements. As regards Member States, the article discusses the appearance of principles of good administration in several EU documents.*
Keywords*: acquis communautaire, administrative capacities, European Union, principles of good administration, public administration, Member States.*

Introduction

The present article is aimed at providing an answer for the following question: What were the reasons that determined the European Commission to evaluate the public administrations of Member States and Candidate Countries? Curious as it may seem, with some few exceptions when Member States were demanded the use of certain administrative structures in various sectors[1], the Union has not legislated in the field of public administration, but has allowed public administration to be managed by the national authorities, according to the subsidiarity principle and in such a manner so as to reach the purposes established by

the Union[2]. In an effort to diminish the intricacies in their administrations caused by excessive European legislation, Member States and the European Commission have jointly come to the solution of an Action Program whose results should be visible by 2012[3].

The provisions issued by the European Councils of Copenhagen (June 1993) and Madrid (December 1995) stand at the foundation of the Commission's *Avis* of July 1997, regarding each application for EU membership, each *avis* being accompanied by recommendations containing rather general guidelines. The political criteria set up in Copenhagen spoke of the possession by EU applicants of "stable institutions guaranteeing

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democracy, the rule of law, human rights and respect for and protection of minorities", while the Madrid decision invited Central and Eastern European Countries to prepare for the "adjustment of their administrative structures".

Administrative capacities as prerequisites for EU membership

The provisions set out in Copenhagen and Madrid were not the only ones stating the importance of administrative reform as an indicator of willingness to become full member of the EU. In its *Avis* of July 1997, the Commission claimed that administrative capacity is a condition for EU membership[4] since, once admitted, new Member States have only a short period of time in which to transpose the huge body of European law – the *acquis communautaire* – within their national legislation, a demand viewed by some as a rather new condition, that was not on the Commission's agenda regarding the countries which had acceded in the first waves of enlargement[5].

Actually, what interested the Commission was the Member States' ability to transpose EU policies and legislation at home. This task could only be accomplished through an efficient public administration. The EU has no European administrative law, nor does it have a public administration of its own, but depends on national public administrations that function under the subsidiarity principle[6]. And since the EU depends on each of its Member States' administration to put its decisions into practice, just as each of its Member States depends on the other to implement every piece of Community legislation, it thus becomes very clear why the Commission has emphasized the relation between EU membership and performing national public administrations.

As a result, Member States are not restricted in their rights to organize their public administration as they consider appropriate. Furthermore, the idea is that the Commission does not have the right to impose any firm demands regarding the manner in which the national public administration is organized, but encourages national authorities to operate into their administrations according to the subsidiarity principle; however, with differences from country to country, which represent genuine characteristics of each administration, the state has to meet what it is styled as "performance requirements" or "obligation of results"[7].

The Copenhagen Summit in June 1993 witnessed the building of the criteria and conditions of EU membership for Central and Eastern European Countries:

> "Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union"[8].

The accession negotiation procedure contains issues related to public administration. The procedure comprises three phases: Accession Partnerships, for which the general framework is prescribed at Community level; national programs for the implementation of the body of EU law that applicants are obliged to meet; and finally, Institution Building Plans that settle the measures that need to be adopted in relation to public administration[9].

As regards Candidate Countries, their obligation of meeting special requirements for public administrations was laid down

as early as in May 1995, by the Cannes White paper on "preparation of the associated countries of Central and Eastern Europe for integration into the internal market of the Union", which stated that the Commission will evaluate not only the "paper work" accomplished in what the implementation of Community legislation is concerned, but also the resourcefulness for putting Community law into practice in the respective countries[10]. The following excerpt provides for the "Conditions necessary to implement and enforce legislation":

> "3.25. The main challenge for the associated countries in taking over internal market legislation lies not in the approximation of their legal texts, but in adapting their administrative machinery and their societies to the conditions necessary to make the legislation work. This is a complex process requiring the creation or adaptation of the necessary institutions and structures, involving fundamental changes in the responsibilities of both the national administrative and judicial systems and the emerging private sector.

> 3.26 The presence of the necessary enforcing authorities is crucial to provide certainty of other Members of the Community that legislation is properly implemented. The proper operation of these administrative, judicial or private sector structures in turn depends on training and education facilities for the personnel concerned".

The requirements stipulated in the Cannes White Paper add to the institutional demands of the membership criteria established by the European Council in Copenhagen[11]. The pre-accession strategy comprises four units: the Europe agreements, the structured relations/structural dialogue with the institutions of the Union, the PHARE Program and the program established through the Commission's White Paper for integration into the EU internal market. This latter element was designed to outstretch the phase of implementing the legislation referring to the common market, being pointed at boosting administrative capacities demanded precisely in order to facilitate the transposition of Community legislation. The Commission's Agenda 2000 would unite these four units under a new form of pre-accession strategy[12].

In another document, the *European Commission Opinions Concerning the Accession of the Central and Eastern European Countries to the European Union,* on the efforts made by former Candidate Countries, at present Member States, on the road to accession, the Commission did not impose a model, but rather general guidelines for solving public administration issues, while its responses to Member States have always been centered on continuing the reform process[13]. Public administration, political and economic issues and the capacity to take over the demands of EU membership have remained a constant preoccupation for the Commission as regards Candidate Countries. Jacques Fournier (1998) found that the Commission has dedicated an entire chapter to the issue of public administration capacities, an issue which has also been dealt with in other areas:

- "in the section on political criteria, which describes the functioning of institutions and of the executive in particular and discusses the judicial system, local government and the civil service;

- in the section on the obligations of membership, financial questions and control mechanisms are discussed"[14].

Moreover, Jacques Fournier considered that the following statements could best

describe the Commission's belief as regards the civil service:

- "the Commission urges countries to pass an act dealing specifically with the civil service;

- it is implicitly but unmistakably in favour of a career civil service;

- it emphasises the need to ensure that the public administration is independent of the political authorities;

- it stresses the importance of training, especially in the fields covered by Community legislation;

- it implicitly favours bringing public sector pay into line with that in the private sector"[15].

Principles of good administration in a Council of Europe Resolution

What is being now operational as the right to good administration has started its existence with it being introduced into a Council of Europe resolution, appearing in the case law of the European Court of Justice, the Charter of Fundamental Rights of the European Union and in the Ombudsman's Code of Good Administrative Behavior[16]. Later, the right to good administration has found its way to the new Constitutional Treaty in Article III-398, the envisaged ideal public administration being referred to as "open, efficient and independent administration"[17]. Moreover, Article III-398 reads as follows:

"1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.

2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of Article III-427, European laws shall establish provisions to that end".

In 1977, the Council of Europe noted in its *Resolution 77(31) on the protection of the individual in relation to the acts of administrative authorities* that since the evolution of the modern state had resulted in a rise of public administrative practices, individuals have come more often across difficulties in administrative procedures. Also, the Council argued that "The protection of the citizen with regard to procedural aspects of administrative matters affecting him is part of the protection of the individual's fundamental rights and freedoms, which is one of the principal tasks conferred on the Council of Europe by its Statute"[18]. Consequently, the Council's Committee of Ministers thought to enlarge the organization's sphere of preoccupations by approaching the analysis on the protection of people as regards their contacts with administrative structures at national level.

Thus, in its Resolution 77(31), the Council of Europe "recommends the governments of member states (…) to be guided in their law and administrative practice by the principles annexed to this resolution"[19] and provides the following five principles: the right to be heard, access to information, assistance and representation, statement of reasons and indication of remedies. For many, the importance of the Resolution resides in the fact that it laid the foundation of institutionalizing the notion of good administration and provided the first five principles that have gradually become the most referred to when it comes to the right to good administration[20].

Furthermore, in its recommendations and resolutions the Council of Europe was concerned not to hamper or set bounds to its members in their approach of selecting the most appropriate measures to reach their administration-related targets, so it

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advised member states "to be guided by" the principles contained in its resolutions and recommendations[21].

Yet, the Council of Europe has not limited itself to the five principles reminded above, but actually resumed its effort of introducing principles of good administration. In this sense, its Committee of Ministers has even delegated the Project group on administrative law (CJ-DA) to gather all principles related to good administration contained in the Council's Recommendations and Resolutions and draft a model code of good administration[22]. In a working paper, the Project group catalogues 36 principles of good administration from the Member States of the Council of Europe collected from diverse recommendations in which they were also connected to good administrative practices[23].
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Principles of good administration in the Charter of Fundamental Rights of the European Union

The Charter of Fundamental Rights of the European Union, signed in Nice on 7 December 2000, contains a couple of principles of good administration such as the right to good administration and the right of access to documents. Article 41 provides for the right to good administration:

"1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

2. This right includes:

a) The right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
b) The right of every person to have access to his or her file, while respecting the legitimate interests of

confidentiality and of professional and business secrecy;
c) The obligation of the administration to give reasons for its decisions.

3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.

4. Every person may write to the institutions of the Union in one of the languages of the Constitution and must have an answer in the same language."

Moreover, the right of access to documents is provided in Article 42:

"Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to European Parliament, Council and Commission documents".

Some authors believe that since Article 41 is actually a creation of the European case law that has provided the principles related to good administration, the right to good administration is in fact a sum of rights whose number is likely to increase, due to the evolution of the same case law that has laid its foundations[24].

European Code of Good Administrative Behavior

Another document containing principles of good administration is the European Ombudsman's Code of Good Administrative Behavior, a document materializing the Ombudsman's efforts of providing some regulation on good administration[25]. At Community level, the European Ombudsman is the institution designed by the Treaty of Maastricht to tackle with the complaints relating to maladministration issues in the

actions of EU institutions and bodies. On September 6th, 2001, the European Parliament adopted a resolution containing a slightly-changed Code of Good Administrative Behavior destined to regulate the relations between the EU institutions and bodies and the public.

Moreover, the resolution invited the European Commission to suggest a regulation containing the Code of Good Administrative Behavior, using Article 308 of the Treaty establishing the European Community as a legal instrument. Although one hoped that by issuing a piece of legislation containing the Code it would increase the legal power of the good administration principle, the implications for Member States of using Article 308 overweighed the expected results. In most cases, building upon Article 308 of the EC Treaty – also styled the "flexibility clause", as it permits Community powers to match the objectives of the Treaty, should it not stipulated the means of action in that direction – is a subject of concern for some Member States as they believe it to be a means of increasing the competences of the Union in the detriment of their own[26].

The most important principles of good administration were thought to be lawfulness (Article 4), non-discrimination (Article 5) and proportionality (Article 6)[27].

The issues that have occurred in the ratification process of the new Constitutional Treaty (with its Article III-398 regarding the administration of the EU) do not add power to the principle of good administration, but on the contrary; moreover, one must have in view the fact that the two other documents in which the principle was previously legislated, the Charter of Fundamental Rights of the European Union and the Ombudsman's Code of Good Administrative Behavior, had no legal instruments to force to conformity; many hoped that the ratification of the Constitutional

Treaty could ratify the uncertain legal status of the good administration principle[28].

Conclusions

It is time we returned to the question our study began with: what were the reasons that determined the European Commission to evaluate the public administrations of its Member States and Candidate Countries? The answer lies in the huge body of legislation that has to be harmonized throughout the Union and which requires a performing and efficient public administration, as regards both the system and the human resources that operate in it[29].

Since the EU has no administration of its own, but relies on its Member States' administrations to implement its decisions, the last decade has witnessed an interesting and positive phenomenon, the building of a so-called European administrative space[30], putting together in a rather complementary manner the administrative practices of Member States, a space in which public servants of Member States actually meet to share information and experiences in addressing the issues they come across. Boosting communication and gathering comparable data and information and examples of good practice in other Member States are also utile concerns. A EU-wide administrative space acting under the subsidiarity principle that can effectively and efficiently transpose every piece of legislation originating from the Union and whose efforts help boosting economic growth are the main lines to describe the prerequisites of this administrative space[31]. It thus rests with both Member States and present and future Candidate Countries to develop their administrative capacities so as to meet the EU requirements in the matter.

The issue of the Cannes White Paper has brought into the limelight the need for perseverance into administrative reform for countries applying for membership.

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The main conclusion that can be drawn is that the EU has little direct competences in the field of public administration of its Member States and Candidate Countries, though it appears that high administrative capacities are among the priorities of EU accession requirements. However, European membership does not depend solely on administrative reform, although an efficient and performing administration is needed to ensure the smooth transition to the status of Member State. In the future it would be highly interesting to find precisely how many of the principles of good administration can be discovered into effective national legislation of the EU Member States[32].

In a nutshell, although the Commission has stressed that good administration is a condition for membership as it shows the state's capacity to implement EU decisions and ensures the easiness of the integration process, a condition that gained importance since the accession of Central and Eastern European Countries, this condition is of a far less importance than economic performance, democracy and the capacity to implement the *aquis*[33].

Notes

[1] Jacques Fournier, *Administrative Reform in the Commission Opinions Concerning the Accession of the Central and Eastern European Countries to the European Union*, in *Preparing public administrations for the European administrative space*, SIGMA Papers, No. 23, 1998, p. 111.

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[3] Christoph Demmke, Thomas Henökl, Timo Moilanen (European Institute of Public Administration), *What are Public Services Good at? Success of Public Services in the Field of Human Resource Management*, a Study Commissioned by the Slovenian EU Presidency Report to the 50th Meeting of the Directors-General of Public Services of the Member States of the European Union, 2008, p. 5.

[4] *Preparing public administrations for the European administrative space*, p. 10.

[5] *Ibidem*, p. 13.

[6] *Ibidem*, p. 13.

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[8] European Council in Copenhagen, 21-22 June 1993, *Conclusions of the Presidency*, p. 14.

[9] *Preparing public administrations for the European administrative space*, p. 14.

[10] Jacques Ziller, *EU Integration and Civil Service Reform*, in *Preparing public administrations for the European administrative space*, p. 138.

[11] Les Metcalfe, *Meeting the Challenges of Accession*, in *Preparing public administrations for the European administrative space*, p. 43.

[12] *Ibidem*, p. 46.

[13] *Preparing public administrations for the European administrative space*, pp. 13-14.

[14] Jacques Fournier, *Administrative Reform in the Commission Opinions Concerning the Accession of the Central and Eastern European Countries to the European Union*, in *Preparing public administrations for the European administrative space*, p. 111.

[15] *Ibidem*, p. 113.

[16] Agency for Public Management, *Principles of Good Administration in the Member States of the European Union*, Stockholm, 2005, p. 7.

[17] *Ibidem*, p. 10.

[18] *Resolution 77(31) on the protection of the individual in relation to the acts of administrative authorities,* adopted by the Committee of Ministers on 28 September 1977 at the 275th meeting of the Ministers' Deputies

[19] *Ibidem*.

[20] Agency for Public Management, *op. cit.*, p. 11.

[21] *Ibidem*, p. 16.

[22] *Ibidem*, p. 12.

[23] Working Party of the Project Group on Administrative Law (CJ-DA), *Principles of good administration in Council of Europe member states*, Strasbourg, 2004.

[24] Agency for Public Management, *op. cit.*, p. 14.

[25] *Ibidem*, p. 14.

[26] *Ibidem*, p. 15.

[27] *Ibidem*, p. 17.

[28] *Ibidem*, p. 15.

[29] Jacques Ziller, *op. cit.,* p. 137.

[30] Jacques Fournier, *Governance and European Integration – Reliable Public Administration*, p. 121.

[31] *Ibidem*, p. 121.

[32] Agency for Public Management, *op. cit.*, p. 16.

[33] Tony Verheijen, *The European Union and Public Administration Development in Central and Eastern Europe*, in Randall Baker (ed.), *Transitions from authoritarianism: the role of the bureaucracy*, Greenwood Publishing Group, 2002, p. 250.

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Management of public institutions' changes in the European Union integration

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Abstract: *As a result of EU integration, many changes are neaded in public institutions in Roumania, both from the organisational and personnel view. In this paper, we decided to talk about organisational change, as well as the most important ways to identify „need-for-change" and the risk forecasting. At the same time, we are trying to underline the important role of a realistic approach of human resources in an institution and the need for a right estimation of time and the vision of completing organizational change.*
Keywords: *public sector, leadership, management, organizational change, strategy.*

The public sector influences in many ways Economic life. There is no economy in which the public sector can not be found, more or less, directly or indirectly, among the factors influencing and guiding the economic and business activity.

Public sector, defined according to the form of ownership, is characterized by two elements: size and intensity.

The size of the public sector varies from country to country, depending on the ideology of political leadership at the government and expresses areas where intervention manifests itself.

The intensity of the public sector is different not only from one economy to another, but also from one area to another, and expresses the magnitude of the actions taken in one field of the economy.

Although today the public sector faces a smaller size of its economical acceptance, its presence in the economic life is permanent and even meets an extension through regulations aimed at the market in general and at the companies and private property in particular.

Therefore, not only the public enterprises have a "public" character, but also expenses, finances, assets, choices of individuals, utilities, regulations, interests, opinions, relationships, debts, budget, etc. Understanding these issues provides a deeper knowledge about the public sector.

Culture, power crisis and the power of the public sector

Generally speaking, the public sector is related to government and state intervention in the economy. There are many aspects of our life that have a "public" character and therefore are correlated with the public sector: public education, public

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goods, public expenditure, public finance, public choice, public opinion, public relations, public interest, public services etc.

Many other economic activities reflect the relationship that exists between the public and private sectors, such as providing quality to food-related products, manufactured by private companies, under the control of public inspectors.

Justifying a change in the strategic approach of public companies should be carried out essentially based on a new vision of them. The process must aim a long period of time and rely on involvement in new and important areas, which are to support each other through technology. For example, the issue of public transport, so often brought to attention today, whose problem solving can be found in optimal and reliable partnerships between the public and private sectors.

Correlating the above presented theory with the practice needed to be achieved in the future, regarding the public sector in Romania, I can identify two main areas of strategic factors influencing first, the government organizations, and second, changes in the public sector:

1. Size-reduction – normally, in the Romanian public sector, where the management system is multi-layered, it is considered that a manager can only control a certain number of people – which is his field of control – often between 5, 7 or 10 people. Therefore, several hierarchical levels of management were necessary for a person of higher rank to control several hundred people with lower ranks in the hierarchy of the organization.

2. Reorganization of the business process – this method refers to the use of computer technologies for radical simplification of how the organization manages its administrative tasks. In my opinion, this process should be completed at lower hierarchical levels of the organization, and not at the superior ones, such as for managerial positions.

Both processes presented above are based on several strategic directions to be best implemented in public organizations:

- Implementation of computerized control systems and operating with telecommunications can provide a manager the ability to effectively coordinate 30 people. This would reduce the need for a large number of hierarchical levels and would allow cutting unjustified maintenance costs and allocating resources to certain areas of sustainable development.

- Rigorous planning through the following: examination of documentary routines; measures to be taken gradually, but only once; examination of bureaucratic system – a system which is required at certain levels – and reduce its size in the fields that do not require this.

- Reorganizing should address areas that have related activities, such as customer management, disputes resolution management, order management, controls, etc.

The specific objectives of in the public domain reorganization:

- Developing skills and competences of officials from local government in project management and access to EU funds or other international funds, necessary to finance investments and local infrastructure;

- Improving knowledge about European affairs in the local government;

- Developing skills in training selected local European affairs experts, in order to create a core group of local trainers, able to take over the task of future trainings in this area.

Target groups

Change management, developed and sustained by European policies and instruments,

is dealing with the needs of two distinct categories of people:

- Officials in public administration in Romania;
- Local trainers, who will participate as key experts in implementing the strategy.

Organizational change is based on several basic principles, which reflect the best internationally recognized practices in human resources development, and the main idea is that no training is ever an end in itself. In fact, the objective of a training program is to facilitate learning, in order to enhance the competences and performances of completing tasks. Formation (theory) and activity at work (practice) go hand in hand.

For this reason, organizational change must be accompanied by an effective training model, which involves passing beyond the training sessions to the actual development at work.

Thus, transferring and using gained knowledge in the concrete work would underline the effectiveness of training. Change efficiency, targeted and implemented change through various programs at the level of either European funded projects or strategic-level structures of the various institutions, public or private, depending on the impact that it has – that is the extent to which increases the power of employees to their place work.

There are three elements of particular importance, which are presented as a result of interaction between:

- The person who holds the post;
- Job requirements;
- Working environment / institutional environment.

Change management aims to identify any training needs required by the reference terms, but this is achieved through a process which gives a lot of attention to relevant issues and problems related to the work of future students.

Information presented above as an example and proposed for discussion in conjunction with the latest directives brings to attention the training needs of an entire sector of public activity in Romania. This is a vast and diverse group in terms of shape, size, function, capability, vision and experience.

Hierarchy and public sector segmentation now identify through an intended strategy of training and change which that should coordinate with any strategy in human resources at the level of national government. The ideal plan for training at local level should be adjusted to the training plan at the central level.

Lately, it is often brought to attention the concept of increasing economic performance and best invested resources, regarding the development of human resources with a sustainable character and identified by flexibility and the concept of "open-mind" society. Each element of this concept is a strategy for the development and improvement of human capital through organizational change and a strategy for training.

We have considered as a priority the influence determined by a strategy for accession to EU structures, given the fact that, currently, public authorities are promoters of sustainable development and are organized as "management authorities" for the process of implementation of European standards and directives at different levels in an economy. This way, the impact on the human resources strategies and training comes to front, giving us the possibility to try to show how, generally speaking, the future strategy for the public institutions in Romania may look like.

We need to recognize that, given the absence of a larger infrastructure, the most practical response is an approach as simple and self-standing as possible, and the aim is not only to identify specific training

needs but also to include a broader perspective on human resources development, by examining the problems of the working environment that could have an impact on the success of knowledge transfer at work.

It was also possible to shape an image of the environment that integrates staff activities dealing with high responsibility operations, the routine one, the simple flows, for example, and how clearly defined these tasks are and what is the level of support exists in completing their tasks. These issues have a great influence on the organization and the place where the individual exercises his activity.

For example, numerous studies have shown that the lack of a clear definition of tasks is a major factor of influence, which leads to poor performance at work. Similarly, lack of positive support from management leads to lower levels of performance. Training has a vital role; however, training by itself is a solution to all problems.

Size, poor resources and lack of personnel structure make it very difficult to build knowledge and skills in a planned way, in the public administration. In addition, lack of knowledge about available programs and opportunities for the local economical and social development can become an obstacle for both the internal and external progress.

Another identified gap concerns the lack of cooperation between various concerned institutions and organizations (stakeholders). Participation and partnership are essential for a sustainable development and developing strategic projects. These skills are needed throughout the sector of local public administration.

Research methods mentioned lately have brought to attention the optimal way to achieve a balanced coverage, not only for the whole local government, but also for the regional element – as all are important players in the general process.

Motivating staff, as a result of the desire to develop and increase public organizational structures, comes as a must in addressing strategic change. In fact, the civil servant carries, by definition, the responsibility of reinforcing the public organization.

However, training itself is not a panacea. It must first determine an improvement in work performance for later results. This way, it is also necessary, for the success of the program, the development of modern management skills to create a working environment to support and facilitate learning

But this is still not enough. Other factors, less obvious, can influence the general autcome. For example, the availability of funding for training activities and assistance in the workplace is often an important condition for operation under current rules.

In the above presented context, organizations do not change just to be changed, but because they are part of a wider development program and they should respond to new changes in the environment, to restrictions, requirements and opportunities in this area.

More than that, companies and organizations generate changes in the external environment, by creating and selling new products and technologies, that later become dominant and widely used. Thus, they change the technological environment, both national and international. In this context, organizational change becomes the guiding lines that determine the nature and direction of the organization and represents a vision of the future image of the organization. Operational planning provides a structure of the daily decisions, taken at lower levels of the organization.

Identifying the organization's mission is an essential part in the process of strategic planning; strategy effectiveness relies on the attachment on the strengths

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that come from the organization's identity. An effective mission statement is feasible, informative, and reflects the values of the organization. Many organizations are unprepared when facing future changes. In an economic, competitive, constantly changing environment, the key to success is defined not only by the quality of operational planning, but by the clarity of strategic thinking. For a company, it is essential to understand the type of business they carry out and the place they want to have at some point the future (strategic planning), but also the way they can achieve these goals, which represents the responsibility of operational planning and decision making.

The change is intended to describe the image that an organization wants to have in the future and is focused on what the organization wants to do, and not on how the organization wants to act.

If we consider the process of organizational change in an organization, in a realistic and time-based way, I consider that there is a need to bring to front the process of Romania's accession to the European Union structures, due to the focus on Human Resources Development, in the general view of strategic development consolidation.

Thus, the European Council, the highest for the European Union has recognized and expressed support for the accession of Romania to the EU until 2007 and granted significant financial support through the instruments of accession, stating that Romania had an urgent need to strengthen its own capacity to absorb and effectively use these funds. Human resource development was and still is a fundamental element in achieving this goal.

The strategy has a framework to identify the capacity of local government to benefit, in the best way possible, from the funds offered by the EU. Knowledge and skills regarding European Affairs and Project Cycle Management (PCM) represent the basis for strengthening such capacity.

Change programs often fail to determine in advance how to measure success or failure. The ideal plan should be carefully monitored to assess the real impact of taken actions on those involved. Evaluation can refer to reviewing productive performances for a period of time, tracking work absences, or a new survey on organizational attitudes and climate. All these can lead to the conclusion that the problem still exists because the initial diagnosis and planning were erroneous or that new factors, which require a different approach, have emerged.

The manager may be interested in changing a person's performance or the average level of performance achieved by a group of people. If the "target" represents a single person, the general effort involved to make a change may be different than the one needed for a collective change. In an attempt to change the behavior of certain people, it is necessary to know certain things about the individual, and the change must be adapted according to his needs, values or interests. But, if the target is the performance of a group (the results of daily activities, presence and absence to work, income etc.), the strategy should be oriented towards collective changes in the designated group.

A large number of people and organizations face the issue of collective changes versus individual changes. For example, traffic safety officials are concerned with the rate of accidents and deaths during holidays (a collective aspect) and, at the same time, all these people are concerned with the safety of their own children (an individual aspect).

All strategies involving changes, either at an individual or collective level, have special people-adapted characteristics. When

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a change is needed, this happens because the general performance is falling down. Still, an organization is an abstract entity - the organizations do not change their behavior, although a change in the organizational structure or processes may have an impact on organizational behavior. In fact, it is all about a group of people who share conscious or unconscious, the same common guidelines and decide to change their behavior. Thus, making a change is always oriented towards influencing human behavior.

In a change period, the human resource – the most important and uncertain resource – should have access to continuous training. Thus, the organization's ability to change must be evaluated fairly, in all its aspects. The evaluation need to identify individual or collective resistances to change, before actually implementing change. The change process requires a massive commitment of resources. The organization should identify all sources for resistance, if the change process is to be successful.

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The Bush Doctrine: The Foreign Policy of Republican Empire

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Abstract: *The dominant narrative concerning the Bush Doctrine maintains that it is a dangerous innovation, an anomaly that violates the principles of sound policy as articulated by the Founders. According to the conventional wisdom, the Bush Doctrine represents the exploitation of the 9/11 terrorist attacks, by a small group of ideologues – the "neoconservatives" – to gain control of national policy and lead the United States into the war in Iraq, a war that should never have been fought. But far from a being a neoconservative innovation, the Bush Doctrine is, in fact, well within the mainstream of U.S. foreign policy and very much in keeping with the vision of America's founding generation and the practice of the statesmen in the Early Republic. The Bush Doctrine is only the latest manifestation of the fact that U.S. national interest has always been concerned with more than simple security.*

Keywords: *doctrine, principle, tradition, power, realism, neo-conservative, republican, foreign affairs.*

Our true situation appears to me to be this – a new extensive Country containing within itself the materials for forming a Government capable of extending to its citizens all the blessings of civil and religious liberty – capable of making them happy at home. This is the great end of Republican establishments. We mistake the object of our government, if we hope or wish that it is to make us respectable abroad.

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Conquest or superiority among other powers is not or ought not ever to be the object of republican systems. If they are sufficiently active and energetic to rescue us from contempt & preserve our domestic happiness and security, it is all we can expect from them – it is more than almost any other Government ensures to it citizens.

<div align="right">Charles Pinckney, speech to the Federal Convention,
June 25, 1787</div>

It had been said that respectability in the eyes of foreign nations was not the object at which we aimed; that the proper object of republican Government was domestic tranquility & happiness. This was an ideal distinction. No Government could give us tranquility & happiness at home, which did not possess

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sufficient stability and strength to make us respectable abroad.

<div align="right">Alexander Hamilton, speech to the Federal Convention, June 29, 1787</div>

If any one therefore wishes to establish an entirely new republic, he will have to consider whether he wishes to have her expand in power and dominion like Rome, orwhether he intends to confine her within narrow limits.

<div align="right">Niccolo Machiavelli, *Discourses*, I. 6.</div>

Besides, to recede is no longer possible, if indeed any of you in the alarm of the moment has become enamored of the honesty of such an unambitious part. For what you hold is, to speak somewhat plainly, a tyranny. To take it perhaps was wrong, but to let it go is unsafe.

<div align="right">Pericles, Funeral Oration</div>

When he was elected to the American presidency in 2000, George W. Bush gave every indication that he, like his father before him, was a conventional "realist" in foreign affairs, committed to a grand strategy of selective engagement and critical of the open – ended nature of the Clinton doctrine and its indiscriminate use of military force in instances not involving vital national interests. In his speeches, Bush stressed foreign policy retrenchment and military "transformation" in preparation for the emergence of a future large peer competitor in the vein of the Soviet Union during the Cold War. Neither Bush nor his advisers, most notably national security adviser Condoleezza Rice and Secretary of State Colin Powell, spoke of spreading democracy throughout the world.

Then came 9/11. To the surprise of almost everyone, the president abandoned his realism and embraced an approach to foreign affairs that seemed to be nothing short of revolutionary. The "Bush Doctrine" was first enunciated in a speech he delivered on September 20, 2001, only nine days after the attacks, and then refined and elaborated in three more speeches over the next nine months.

The dominant narrative concerning George W. Bush's foreign policy – especially his doctrine of preemptive war and his emphasis on the spread of democracy – is that it represents a radical break with the American past. According to this narrative, U.S. foreign policy was originally based on the principle of non – intervention; the American Founders are often invoked in support of the claim that the default position of U.S. foreign policy is isolationism. Who has not heard the argument that Washington's Farewell Address counsels "virtuous isolationism," that in the words of John Quincy Adams, while America is "the well – wisher to the freedom and independence of all," she is the "champion and vindicator only of her own," going "not abroad, in search of monsters to destroy," and that the Monroe Doctrine represents a ratification of this "isolationist" principle?

But, the narrative continues, while isolationism and non – intervention prevailed during the eighteenth and nineteenth centuries, circumstances required the United States to abandon this posture at the beginning of the twentieth century. Yet even then, America did so only reluctantly in response to threats to U.S. national interests. Thus, with the exception of the failed effort by Woodrow Wilson to base U.S. foreign policy on idealistic principles and George W. Bush's quixotic effort to impose democracy on the Middle East, the United States has normally adhered to the principles of foreign policy "realism," a theory based on the idea that the driving force in international politics is national security, which can be ensured only by possessing sufficient power relative to other states.

According to the conventional narrative, neoconservatives are dangerously moralistic and idealistic when it comes to world affairs.

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They believe in America's exceptional role as a promoter of the principles of liberty and democracy, they are committed to the preservation of American primacy, they are suspicious of international institutions, and they favor the unilateral use of power, especially military power, in order to defend and advance democracy.

But the conventional wisdom is wrong. While all are entitled to their opinions concerning the wisdom or folly of the Bush Doctrine, they are not entitled to make up their own facts regarding its place in the American foreign policy tradition. And the fact is that all of the elements of the Bush Doctrine have been observable in American foreign policy since the inception of the Republic.

As Walter Russell Mead observes, the idea of America's "virtuous isolationism" is an historical myth. Far from a being a neoconservative innovation, the Bush Doctrine is in fact well within the mainstream of U.S. foreign policy and very much in keeping with the vision of America's founding generation, as well as the practice of the Early Republic's statesmen. The Bush Doctrine is only the latest manifestation of the fact that U.S. national interest has always been concerned with more than simple security – it has always had both a commercial and an ideological component.[1]

When it comes to the Bush Doctrine, the main issue – as is the case with foreign policy in general – is *prudence*, which Aristotle described as deliberating well about those things that can be other than they are (means). According to Aristotle, prudence is the virtue most characteristic of the statesman. In foreign affairs, prudence requires the statesman to adapt universal principles to particular circumstances in order to arrive at the means that are best given existing circumstances. In fact, the Founders and the statesmen of the Early Republic were not isolationist but prudent.

The Bush Doctrine

The most concise statement of the Bush Doctrine can be observed in George Bush's Second Inaugural Address: "it is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world."[2] While this statement captures the essence of the Bush Doctrine, it is useful to examine the principles upon which it is based.[3] The first of these is the rejection of "moral equivalency" in international affairs. The Bush Doctrine unapologetically asserts the need for – and the possibility of – moral judgment in international affairs. As a species of what Robert Kaufman has called Moral Democratic Realism, the Bush Doctrine holds that liberal democratic regimes are superior to tyrannies.[4]

The second principle of the Bush Doctrine is the repudiation of the "social work" theory of terrorism: the belief that economic factors – poverty and hunger – are the "root" causes of the phenomenon. The Bush Doctrine is founded on the contention that the terrorism that spawned 9/11 and its precursors, both against the United States and Israel, is a murderous ideology aimed at the destruction of Western liberalism. Accordingly, this ideology is as dangerous as fascism/nazism and communism. According to the Bush Doctrine, the fountainhead of 9/11 and similar aggression is "the culture of tyranny in the Middle East, which spawns fanatical, aggressive, secular, and religious despotisms." The remedy for this is democratic regime change.

The final principle of the Bush Doctrine is the recognition that after 9/11 the traditional approaches to threats – deterrence, containment, and ex post facto responses – are inadequate when dealing with terrorists and rogue regimes seeking to acquire weapons of mass destruction.

Thus, under the Bush Doctrine, the United States reserves the right to undertake preventive war. While international law and norms have always acknowledged the right of a state to launch a preemptive strike against another when an attack by the latter is imminent, it has rejected any right of preventive war. President Bush argued that in an age of globalization, catastrophic terrorism, and weapons of mass destruction, this distinction had become meaningless. If an attack is imminent, it is now too late to preempt it.

As a policy or grand strategic approach to international relations, the Bush Doctrine is a species of *primacy*, based on the intersection of hegemonic *stability theory* and the *theory of the democratic peace*. Hegemonic stability theory holds that a "liberal world order" does not arise spontaneously as the result of some global "invisible hand."[5] Instead, such a system requires, in the words of Ethan Barnaby Kapstein, a "hegemonic power, a state willing and able to provide the world with the collective goods of economic stability and international security."[6] The United States, as Great Britain before it, took up the role of hegemon not out of altruism but because it is in its national interest to do so.

Primacy can be caricatured as a "go – it – alone" approach in which the United States intimidates both friends and allies, wields power unilaterally, and ignores international institutions. But while some may mock the term, the Bush Doctrine, in fact, represents "benevolent" primacy, an approach in keeping with the liberal political traditions of the United States but which recognizes the world as a dangerous place in which a just peace is maintained only by the strong.

This form of primacy is based on the assumption that U.S. power is good not only for the United States itself but also for the rest of the world. The argument is that the United States can be fully secure only in a world where everyone else is also secure. The existence of liberal institutions is not sufficient. Donald Kagan observes that history seems to indicate

that good will, unilateral disarmament, the avoidance of alliances, teaching and preaching the evils of war by those states who seek to preserve peace are to no avail.

What seems to work best . . . is the possession by those states who wish to preserve peace of the preponderant power and of the will to accept the burdens of an responsibilities required to achieve that power.[7]

Such a liberal world order is possible only if the United States is willing and able to maintain it. In the words of Samuel Huntington,

– the maintenance of U.S. primacy matters for the world as well as for the United States
– A world without U.S. primacy will be a world with more violence and disorder and less democracy and economic growth than a world where the United States continues to have more influence than any other country in shaping global affairs. The sustained international primacy of the United States is central to the welfare and security of Americans and to the future of freedom, democracy, open economies, and international order in the world.[8]

According to the theory of hegemonic stability, the alternative to U.S. power is a more disorderly, less peaceful world. The precedent for the United States is the decay of *Pax Britannica*, which, many believe, created the necessary, if not sufficient conditions for the two world wars of the twentieth century. As British hegemony declined, smaller states that previously had incentives to cooperate with Britain "defected" to other powers, causing the international system to fragment. The outcome was depression and war. The decline of American power could lead to a similar outcome.[9]

The "democratic peace" is based on the idea, popular among liberal interna-

tionalists, that liberal democracies do not fight one another.[10] The concept originated with Immanuel Kant, who argued in Perpetual Peace that the spread of constitutional republics was a necessary, if not sufficient, cause of peace among states. While Bush has invoked the idea on numerous occasions, he is not alone. In his 1994 State of the Union address, President Bill Clinton said: "Ultimately, the best strategy to ensure our security and to build a durable peace is to support the advance of democracy elsewhere. Democracies don't attack each other."[11] In 2005, Congress passed legislation introduced by Senators John McCain and Joe Lieberman, the Advance Democracy Act, which states: "Wars between or among democratic countries are exceedingly rare, while wars between and among nondemocratic countries are commonplace, with nearly 170,000,000 people having lost their lives because of the policies of totalitarian governments."[12]

Far from representing a "neo-conservative" innovation in American foreign policy, the Bush Doctrine is in the tradition of the Founders and statesmen of the Early Republic, as well as Franklin Roosevelt, Harry Truman, and Ronald Reagan. The Bush Doctrine represents a continuation of a policy that fuses American security and the "American Mission." The "ultimate goal of ending tyranny in our world" has been a cornerstone of American foreign policy since the earliest days of the Republic.

The Early Republic and the Genesis of the 'American Mission'

As suggested earlier, critics of the Bush Doctrine dismiss it as the work of a cabal of "neo-conservatives" who co-opted U.S. foreign policy in the wake of 9/11. So-called neo-conservatives have indeed frequently supported the Bush Doctrine because, as Francis Fukuyama observes in his recent book, *America at the Crossroads*, neo-conservatives, unlike realists, believe that "the internal character of regimes matters and that foreign policy must reflect the deepest values of liberal democratic societies." And unlike liberal internationalists who seem to believe that international law and institutions alone are sufficient to achieve peace, neo-conservatives contend that there are certain problems that can be addressed only through the prudent exercise of American power.[13]

But the suggestion that the Bush Doctrine is an innovation attributable to neo-conservatism alone is simply a – historical. After all, Andrew Bacevich's description of the neo – conservative enterprise as "fus[ing] American power to American principles, ensuring the survival of those principles and subsequently their propagation to the benefit of all humankind" applies to American statecraft since the beginning of the Republic.[14]

The principles of the American founding have always been at least as important a determinant of U.S. foreign policy as "interests" in the narrow realist sense. An implication of this argument is that there is linear progression from the Declaration of Independence to President Bush's attempt to mid – wife the creation of an Iraqi democracy.

As Walter Russell Mead has shown in *A Special Providence*, U.S. foreign policy cannot be understood in terms of the two dominant schools of international relations theory, *realism* on the one hand and *liberalism* or *liberal internationalism* on the other. In essence, the debate between academic realists and liberal internationalists is little more than a sterile dispute between Machiavelli and Kant that only serves to illustrate the poverty of academic international relations theory.

Realism stresses the importance of power and military security in international affairs

and is most concerned about maintaining stability and a peaceful balance of power. For the realist, the state's most vital interest – and its only meaningful goal, no matter its form of government or what it says for public consumption – is to maintain enough power to ensure its security. Realists ban economics, morality, and democracy from high politics. In contrast, liberal internationalists contend that the goals of actors within the international political system transcend power and security to include peace and prosperity.

For realists, liberals are too abstract and place too much emphasis on the "good side" of human nature. For liberals, realists are too pessimistic and cynical. In addition, their theory is too parsimonious; it fails to explain enough in the world.

The fact is that American principles have been at least as important in shaping U.S. foreign policy as the raw pursuit of power beloved by realists. America's westward expansion and rise to global power have been inextricably linked to the idea that liberal democracy is the best form of government, not only for the United States, but also for the world at large. American "realism" has always been shaped by economic and moral considerations.

For Americans, geopolitics, economic and commercial interests, and political principle have always been inseparable. Accordingly, Americans have seen the spread of liberalism as very much a U.S. interest. This desire to expand the "American way" has transcended partisan differences.

For instance, both Jefferson and Hamilton agreed that the United States was to be a republic, but they differed concerning the sort of republic that it would be. Jefferson and those who shared his views sought an agrarian republic and hoped to instill in Americans agrarian civic virtue. Hamilton, on the other hand believed the Untied States should be a commercial republic and sought to unleash among his countrymen modern freedom. Jefferson was an advocate of Sparta, Hamilton an advocate of Athens.[15]

Despite their differences, both Jefferson and Hamilton agreed nonetheless that the new Republic was destined for greatness. Remarkably, both Jefferson and Hamilton envisioned an American polity that combined the principles of republic and empire, despite the dominant view of the eighteenth century that viewed the two as incompatible. Thus Hamilton sought a "republican empire"[16] while Jefferson envisioned a vast "empire of liberty" spreading west, north, and south across the continent.[17] For both Jefferson and Hamilton, an American empire would be an innovation, not based on conquest, as had empires of old, but instead constitute a "new order for the ages."

For the founding generation, the principles underlying the American Empire were universal in application. As Robert Kagan has argued, in an age of monarchy and despotism, such universal principles by their very nature made America a "dangerous nation" because by liberating human potential, they would "capture the imagination and the following of all humanity."[18] Realists in the tradition of Hans Morgenthau have criticized the "crusading spirit" in foreign relations, but American foreign policy has often been motivated by the belief that the United States stood in opposition to tyrannical power and despotism.

American foreign policy has often been criticized for being "moralistic." But it is important to note that before the American founding, all regimes were based on the principle of interest or advantage alone – the interest of the stronger. That principle was articulated by the Greek historian Thucydides in his description of the conversation between the Athenians and the rebellious Melians: "Questions of

justice arise only between equals. As for the rest, the strong do what they will. The weak suffer what they must."[19] Inequality, whether between master and slave or between aristocrat and commoner were simply part of the accepted order of things.

The United States was founded on different principles – justice and equality. No longer would it be the foundation of political government that some men were born "with saddles on their backs" to be ridden by others born "booted and spurred." In other words, no one had the right to rule over another without the latter's consent.[20]

While the United States has not always lived up to its own principles, it has nonetheless created the standard of justice in both domestic and international affairs. For instance, the stated desire of the United States to free Cuba from a despotic Spain, which helped to bring about the Spanish-American War, can be traced Abraham Lincoln's speech on the Dred Scott Decision of 1857, a speech that illustrates the logic of liberty. "I think the authors of [the Declaration of Independence] intended to include all men, but they did not intend to declare men equal in all respects. They did not mean to say that all were equal in color, size, intellect, moral developments, or social capacity. They defined with tolerable distinctness, in what respects they did consider all men created equal – equal in 'certain inalienable rights, among which are life, liberty, and the pursuit of happiness."[21]

Lincoln also argued that the Founders:

did not mean to assert the obvious untruth, that all men were then actually enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit. They meant to set up a standard maxim for a free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere.[22]

Such rhetoric informed both American domestic and foreign policy. And it was not limited to the nineteenth century. As Kagan has observed, "the twentieth century, of course, rang with the rhetoric of greatness, moralism, and mission."[23]

For instance, the Republican Party's campaign platform of 1900 made Lincoln's argument explicit with regard to the recently concluded war with Spain. According to this document, the Spanish – American War had been fought for "high purpose." It was a "war for liberty and human rights" that had given "ten millions of the human race" a "new birth of freedom" and the American people "a new and noble responsibility… to confer the blessings of liberty and civilization upon all the rescued peoples."[24]

It is important to recognize that Woodrow Wilson did not invent the rhetoric of a foreign policy shaped by moral purpose. Accepting the Republican vice-presidential nomination in 1900, Theodore Roosevelt asked, "Is America a weakling to shrink from the world work of the great world – powers?" He replied to his own rhetorical question by proclaiming: "The young giant of the West stands on a continent and clasps the crest of an ocean in either hand. Our nation, glorious in youth and strength, looks in the future with eager eyes and rejoices as a strong man to run a race."[25]

Statesmen of both parties saw the Civil War as America's first great moral crusade and World War I as its second. It was not Wilson but Roosevelt who declared: "As our fathers fought with slavery and crushed it, in order that it not seize and crush them, so we are called on to fight new forces." It was not Wilson but

Henry Cabot Lodge who called World War I "the last great struggle of democracy and freedom against autocracy and militarism." These same statesmen of both parties justified U.S. military interventions in the affairs of Latin American and Caribbean peoples, as a means of spreading liberal principles abroad.[26]

This is not to suggest that expanding liberal democracy was the only motive for U.S. actions during the nineteenth and twentieth centuries. It was most certainly not. But far from reflecting the conventional narrative of "virtuous isolationism" – the idea that the United States was an exemplar of liberty and nothing more – the statesman of these periods embraced the mission of spreading liberal principles for the betterment of not only Americans but also of the peoples of the world.

American Security in the Early Republic and the 'American Mission'

As important as the American mission may have been in the formulation and practice of U.S. foreign policy during the Early Republic, promulgating American principles depended on the security of the American regime. The United States could not be an exemplar of liberty unless it could survive in a hostile world. U.S. foreign policy must always be seen as a prudent balance between principle and power. Actions in support of American principles undertaken when the United States was weak looked different than those undertaken when the United States was strong.

As Hamilton wrote in Federalist, the United States established a constitution for governance based on "reflection and choice," rather than "on accident and force." But to create such a constitution, it was necessary for the Americans to survive, first during the Revolution and then during the dangerous period of the Early Republic when the new nation was surrounded by hostile powers. To paraphrase Thomas Hobbes, without security, American principles were but words. Without a successful Revolution and the consolidation of American power on the North American continent, the principles of the American Founding would have been stillborn.

As early as 1778, George Washington foresaw the strategic problem that the young Republic would face in the years following the Revolution. As he explained to Henry Laurens, he opposed a combined French–American offensive against Canada because he was concerned that the price of cooperation with the French in this case would be the reestablishment of French power in Canada, leading to a situation in which the United States would subsequently be hemmed in by a combination of Europeans and Indians.

France acknowledged for some time past the most powerful monarchy in Europe by land, able now to dispute the empire of the sea with Great Britain, and if joined with Spain, I may say certainly superior, possessed of New Orleans, on our Right, Canada on our left and seconded by the numerous tribes of Indians on our Rear from one extremity to the other, a people, so generally friendly to her and whom she knows so well how to conciliate; would, it is much to be apprehended have it in her power to give law to these states.[27]

As John Lewis Gaddis has argued, the American response to threats to its security differed from the approach of most nations – to seek safety by retreating to a defensive posture – although this is arguably what the United States had done during the Jefferson and Madison administrations. The result was a British invasion and the burning of the capital in 1814.

The attack on the American homeland in 1814 demonstrated that liberty was vulnerable to attack if the United States relied on a defensive posture. Thereafter, Americans "generally responded to threats – and particularly to surprise attacks – by

taking the offensive, by becoming more conspicuous, by confronting, neutralizing, and if possible overwhelming the sources of danger rather than fleeing from them."[28] Having established a "beachhead for liberty in a world run by tyrants,"[29] the security of liberty required that the beachhead be expanded. This approach led Americans to adopt an expansionist grand strategy based on three principles: hegemony, unilateralism, and preemption. Gaddis attributes this grand strategy to John Quincy Adams, whom Gaddis characterizes as "the most influential American grand strategist of the nineteenth century."[30]

Hegemony was based on the idea that the Republic's safety precluded any sharing of power on the North American continent. North America constituted the United States' sphere of influence. The United States would not accept a balance of power in the Western Hemisphere but sought to ensure a predominance of power.

Both the Founders and the statesmen of the Early Republic recognized that the real danger to American security and independence was the inability of a weak United States to prevent European quarrels from being transplanted to the American continents. The farsighted among them understood that the antidote to such a possibility was a strong and viable Union. The alternative, approved by some who opposed the Constitution, was a series of smaller confederacies. But as John Jay observed in his contributions to *The Federalist*, the consequences of a weak and divided America, "split into three or four independent and probably discordant republics or confederacies, one inclining to Britain, another to France, and a third to Spain, and perhaps played off against each other by the three…" would constitute a "prey to discord, jealousy, and mutual injuries…," inviting strife because these polities would be "*formidable only to each other.*"[31]

John Quincy Adams was equally adamant in rejecting the possibility that the United States could coexist with any other great power in North America. As he wrote in 1811, the choice was between "an endless multitude of little insignificant clans and tribes at eternal war with one another for a rock, or a fish pond, the sport and fable of European oppressors" or "a nation, coextensive with the North American continent, destined by God and nature to be the most populous and most powerful people ever combined under one social compact."[32]

Unilateralism, which accepted the need for international cooperation in the form of treaties but rejected alliances as an unnecessary limit on American action, has often been confused with isolationism. The French alliance of 1778 demonstrated to most Americans the dangers of agreeing to "commitments to act in concert with other great powers against future contingencies which no one could foresee."[33]

The tendency to confuse unilateralism and isolationism has contributed to long-standing misperceptions of Washington's Farewell Address. For instance, after the passage that everyone misuses to prove that the real policy of the United States should be isolationist – "…it must be unwise in us to implicate ourselves… in the ordinary vicissitudes of [Europe's] politics, or the ordinary combinations and collisions of her friendships and enmities" – Washington continues:

If we remain one People, under an efficient government, the period is not far off, when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisition upon us, will not lightly hazard giving us provocation; when we may choose peace or war, as our interest guided by justice shall Counsel."[34]

Far from a universal admonition against intervention, the Farewell Address represents a prudential combination of interest and principle, to be pursued unilaterally by the United States.

The Monroe Doctrine represents an extension of the unilateralist principle. When it became clear in the early 1820s that the newly independent Latin American republics might not be able to defend their sovereignty against Spain, possibly assisted by the reactionary monarchies of France, Austria, and Russia, Great Britain suggested a joint Anglo-American statement opposing future European colonization in the western hemisphere. While President James Monroe, along with former presidents Jefferson and Madison, liked the proposal, Adams, Monroe's secretary of state sought to transform it into a unilateral statement, in order "to avow our principles explicitly" rather than "to come in as a cock – boat in the wake of the British man-of-war."[35]

As Gaddis observes, Adams realized that the United States lacked the means to enforce the policy, but "he shrewdly calculated that Great Britain, with its navy, did have such means, and that its own interests in this instance would complement those of the United States even in the absence of a formal commitment." The Monroe Doctrine permitted the United States to avoid the dangers illustrated by the French alliance of 1778 – the obligation to align American long – term interests with those of another state, or to provide assistance when those interests were threatened. Unilateralism characterized American foreign policy right up until World War II. As Gaddis notes, the Bush Doctrine does not a represent new approach to foreign affairs but a return to an older one.[36]

Preemption arguably has been a part of an American grand strategy since the Revolution, justifying early steps to prevent an adverse outcome in the future. U.S. actions in Florida after the War of 1812 constitute the clearest example of preemption during the Early Republic.

Karl Walling has argued that the Declaration of Independence represents an even earlier example of preemption. After all, when the Declaration was issued, only Massachusetts and New York had been subject to direct attack by the British and were, therefore, justified in making "an unambiguous claim to be fighting in self – defense." Walling observes that

the delegates [to the Continental] Congress were essentially ambassadors from the separate colonies sent to deliberate on common policy and strategy to oppose the British efforts to centralize power in Parliament during the decade after the Seven Year's War. In other words, Americans declared their independence more as a coalition of independent states than a single nation, with all the problems incident to coalition war for the rest of the conflict with Great Britain and the subsequent peace, until 1787, when they shifted from a coalition toward something new, with its exact nature to be worked out over time.

One of the many rhetorical purposes of the Declaration, argues Walling, was to demonstrate to the people of colonies not under attack that they soon would be and that they all had "no choice but to fight the British before it was too late to do so, that is, before it used its military power to subdue the colonies one by one." By warning of British tyranny to come, the Declaration called for the colonies to preemptively unite before Great Britain could divide and conquer them.[37]

The Early Republic faced many threats, including a continuing European presence in North America – Great Britain in Canada and Spain in Florida and Texas – and what we would today call "non-state actors": marauding Indians and pirates, ready to raid lightly defended areas on the frontier. These threats were exacerbated by the weakness of what Adams called

"derelict" provinces (today we would call them "failed states"), which provided an excuse for further European intervention in the Americas, and sanctuary for hostile non – state actors. In 1818, Florida provided an occasion to address such threats.

After Creeks, Seminoles, and escaped slaves launched a series of attacks on Americans from sanctuaries in Spanish Florida, General Andrew Jackson, acting on the basis of questionable authority, invaded Florida, not only attacking and burning Seminole villages but also capturing a Spanish fort at St. Marks. He also executed two British citizens whom he accused of aiding the marauders.[38]

Most of Monroe's cabinet, especially Secretary of War John Calhoun, wanted Jackson's head, but Adams came to Jackson's defense. He contended that the United States should not apologize for Jackson's preemptive expedition but insist that Spain either garrison Florida with enough forces to prevent marauders from entering the United States or "cede to the United States a province… which is in fact a derelict, open to the occupancy of every enemy, civilized or savage, of the United States, and serving no other earthly purpose than as a post of annoyance to them." As Adams had written earlier, it was his opinion "that the marauding parties… ought to be broken up immediately."[39]

As Gaddis observes, Adams believed that the United States "could no more entrust [its] security to the cooperation of enfeebled neighboring states than to the restraint of agents controlled, as a result, by no state."[40]

This reasoning informed U.S. foreign policy in Latin America and the Caribbean through the nineteenth and early twentieth centuries. One of the reasons the United States was keen to annex Texas was the fear of British designs on the American Southwest. The United States intervened in Haiti and Nicaragua in the early twentieth century because it feared that European powers would use the "dereliction" argument as an excuse to intervene in the Caribbean. Such American fears were validated in the 1860s when France took advantage of the American Civil War to establish Maximilian I as emperor of Mexico.

The principles of American statecraft – linking principle to power – that shaped U.S. foreign policy with respect to the American continent are logically expandable to the global arena. The logic of security is expandable as well.

For instance, while critics of the Bush Doctrine argue that its emphasis on expanding liberal democracy, mocking this enterprise as "muscular Wilsonianism," the expansion of like regimes can be found in Thucydides, who noted that an important goal of both Athens and Sparta was to establish and support regimes similar to their own, democracies in the case of Athens and oligarchies for Sparta.

Indeed, the Bush Doctrine endorses this very Thucydidean perspective on a global basis. As the president declared during a June 2004 speech at the Air Force Academy:

Some who call themselves "realists" question whether the spread of democracy in the Middle East should be of any concern of ours. But the realists in this case have lost contact with a fundamental reality. American has always been less secure when freedom is in retreat and more secure when freedom is on the march.[41]

The Bush Doctrine is based on the recognition that, as Thucydides understood, the security of a state is enhanced when it is surrounded by others that share its principles and interests.

American Foreign Policy and the American Character

The persistence of the American mission – the tendency toward expansion,

the belief that the globe can be trans-formed on the basis of the universal principles articulated by the Declaration of Independence, and what critics call the "messianic" impulse – is no aberration but represents the mainstream of American opinion regarding foreign policy. Of course, as many scholars have noted, it is not the only foreign policy tradition. Another is what Walter Russell Mead has called the "Jeffersonian" or "Old Republican" school.[42] This school was adumbrated by Charles Pinckney, who, as an advocate of the dominance of domestic over foreign affairs, can be properly described as isolationist.

Old Republicans such as John Randolph of Roanoke and John Taylor of Caroline were deeply suspicious of centra-lized power and its corrupting effects on the people who wield it. They opposed the War of 1812, calling it merely "war for honour," a "metaphysical war" that could not be justified by American interest and which, by requiring a strong federal government to wage it, would end in "the destruction of the last experiment in… free government." The Old Republican argument is today embraced by many on the right of the political spectrum, especially so-called libertarians and "traditionalist" conservatives but concerns about the impact of war on growth of centralized governmental power can also be observed on the political left as well.[43]

There is also the aforementioned "realist" school, which criticizes the tradition that includes the Bush Doctrine. Realists stress the importance of power and military security in international affairs and are most concerned about maintaining stability and a peaceful balance of power. For the realist, the state's most vital interest – and its only meaningful goal, no matter its form of government – is to maintain sufficient relative power to ensure its security.

Insofar as they are the heirs of Hans Morgenthau, realists also reject the "crusading spirit," eschewing ideology and defining the state's interests as narrowly as possible, making it less likely that they will come into conflict with the interests of other states.[44]

But these other foreign policy approaches, as well as others, have never been able to supplant the idea of an American mission, despite the recurrent fervent hopes of critics, and despite frequent disappointments and setbacks. Critics who hope that the Iraq War will lead the United States to abandon the "expansive, moralistic, hubristic American approach" to foreign policy will be as disappointed as Pinckney, John Randolph of Roanoke, John Taylor of Caroline, the "America Firsters" of the mid – twentieth century, and assorted pacifists and socialists before them.

The reason for this is the combination of the intuitive American commitment to universal principles articulated in the nation's founding documents, and an abiding belief by the American public at large in the legitimacy of liberal democracy, on the one hand, and their desire for power and wealth, one the other. This drive led Gouverneur Morris to describe his fellow-countrymen as "the first-born children of the commercial age."

As Robert Kagan observes:

The expansive, moralistic, militaristic tradition in American foreign policy is the hearty offspring of this marriage between Americans' driving ambitions and their overpowering sense of righteousness. These tendencies have been checked at times by overseas debacles, or by foreign powers too big and strong to be coerced into acceptance of the American truth. At those times, the counter – traditions have been able to assert themselves and take temporary control of American policy, as in the 1930s or in the 1970s. But these victories have been fleeting. The story of America's first century is not one of virtuous restraint but of an increasingly powerful nation systematically eliminating all competitors on the North American continent. The story of its second century is not one

of caution and a recognition of limits but of a steady and determined rise to global dominance.[45]

American foreign policy has always reflected this American character. The description of the Athenians by the Corinthians in Thucydides' Peloponnesian War is applicable to Americans as well: active, innovative, daring, quick, enterprising, acquisitive, and opportunistic. Like the Athenians, Americans "were born into the world to take no rest themselves and to give none to others."[46]

The most astute critics of the Bush Doctrine recognize that attributing foreign policy decisions to the manipulation by nefarious individuals or groups or to deception, as has been charged in the case of both Vietnam and Iraq, is seriously at odds with the historical record. As they see it, the real problem is the American character itself. As Andrew Bacevich writes in *The Limits of Power*, "The impulses that have landed us in a war of no exits and no deadlines come from within. Foreign policy has, for decades, provided an outward manifestation of American domestic ambitions, urges, and fears." For Bacevich, the Bush Doctrine represents continuity, not innovation, reflecting "the accumulated detritus of freedom, the by – products of our frantic pursuit of life, liberty, and happiness."[47]

While Bacevich's jeremiad is unlikely to change the American character, it does provide a useful cautionary note. As the case of Athens illustrates, states and nations can overreach, to their detriment. The Bush Doctrine is well within the mainstream of American foreign policy and as such, is likely to outlive the administration that gives it its name, but as with any approach in international affairs, it must be guided by prudential considerations.

Notes

[1] Walter Russell Mead, *Special Providence: American Foreign Policy and How It Changed the World* (New York: Alfred A. Knopf, 2001), pp. 3-29.

[2] George Bush, Second Inaugural Address, January, 20, 2005.

[3] See Norman Podhoretz, *World War IV: The Long Struggle Against Islofascism* (New York: Doubleday, 2007. Cf. Michael Abramowitz, "Many Versions of 'Bush Doctrine': Palin's Confusion in Interview Understandable, Experts Say," *Washington Post*, September 13, 2008; p. A01.

[4] Robert G. Kaufman, *In Defense of the Bush Doctrine* (Lexington: University Press of Kentucky, 2007), pp. 87-99.

[5] Robert Gilpin, *The Political Economy of International Relations* (Princeton: Princeton University Press, 1987), pp. 72 – 80 and 85 – 92 and Gilpin, *Global Political Economy: Understanding the International Economic Order* (Princeton: Princeton University Press, 2001), pp. 93 – 100.

[6] Ethan Barnaby Kapstein, *The Political Economy of National Security: A Global Perspective* (New York: McGraw – Hill, 1992), p. 3.

[7] Donald Kagan, *On the Origins of War and the Preservation of Peace* (New York: Doubleday, 1995), p. 570.

[8] Samuel Huntington, "Why International Primacy Matters", *International Security*, Spring, 1993, pp. 82-93.

[9] Robert Gilpin, *War & Change in World Politics* (Cambridge: Cambridge University Press, 1981); Joseph Greico, *Cooperation Among Nations* (Ithaca: Cornell University Press, 1990); and Charles Kindleberger, *The World in Depression: 1929-1939* (Berkeley: University of California Press, 1973).

[10] See Michael W. Doyle, "Kant, Liberal Legacies, and Foreign Affairs," *Philosophy and Public Affairs*, Vol. 12, No. 3, Summer, 1983, pp. 205–235 and "Kant, Liberal Legacies, and Foreign Affairs, Part 2," *Philosophy and Public Affairs*, Autumn, 1983, pp. 323–353, as well as Doyle, *Ways of War and Peace* (New York: W.W. Norton, 1997). For a critique, see Christopher Layne, "Kant or Cant: The Myth of the Democratic Peace," *International Security*, Autumn, 1994, pp. 5–49.

[11] Bill Clinton, State of the Union speech, Jan. 25, 1994, http://www.washingtonpost.com/wp – srv/politics/special/states/docs/sou94.htm.

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[12] 109th Congress, 1st Session, S. 516, *Advance Democracy Act*.

[13] Francis Fukuyama, *America at the Crossroads: Democracy, Power, and the Neoconservative Legacy* (New Haven: Yale University Press, 2006), p. 48.

[14] Andrew Bacevich, *The New American Militarism: How Americans Are Seduced by War* (New York: Oxford University Press, 2005), p. 71.

[15] Cf. Leo Strauss, *The City and Man* (Chicago: The University of Chicago Press, 1978).

[16] See *Federalist* Number 1, in which Publius (Hamilton) addresses the issue concerning "the fate of an empire in many respects the most interesting in the world. It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force." Cf. Karl – Friedrich Walling, *Republican Empire: Alexander Hamilton On War and Free Government* (Lawrence: University Press of Kansas, 1999) and Patrick Garrity, "Foreign Policy and The Federalist," in Charles Kesler, ed., Saving the Revolution: The Federalist Papers and the American Founding (New York: Free Press, 1987).

[17] Thomas Jefferson to George Rogers Clark, December 25, 1780, in Julian P. Boyd, ed., *Papers of Thomas Jefferson*, Volume 4 (Princeton: Princeton University Press, 1951) pp. 237-238. Cf. Robert W. Tucker and David C. Hendrickson, *Empire of Liberty: The Statecraft of Thomas Jefferson* (New York: Oxford University Press, 1990).

[18] Robert Kagan, *Dangerous Nation: America's Place in the World From Its Earliest Days to the Dawn of the Twentieth Century* (New York: Knopf, 2006).

[19] Robert B. Strassler, *The Landmark Thucydides: A Comprehensive Guide to the Peloponnesian War* (New York: Free Press, 1996), Book 5, section 89, p. 352.

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[21] Lincoln, "The Dred Scott Decision," Speech at Springfield, June 26, 1857, Roy Basler, ed., *Abraham Lincoln: His Speeches and Writings* (New York: Da Capo, 1946), p. 360.

[22] Ibid., p. 361.

[23] Robert Kagan, "Neocon Nation: Neoconservatism c. 1776," World Affairs Journal, Spring 2008, http://www.worldaffairs journal.org /2008%20 – %20Spring/full – neocon.html.

[24] Republican Party Platform of 1900, June 19, 1900. http://www.presidency.ucsb.edu/ws/ index.php?pid=29630.

[25] Louis Auchincloss, ed., *Theodore Roosevelt: Letters and Speeches* (New York: Library of America, 2004).

[26] Cited in Kagan, "Neocon Nation."

[27] To Henry Laurens, November 14, 1778, in Jared Sparks, ed., *Washington's Writings*, Vol. VI (New York: Harper and Brothers Publishers, 1847), p. 108.

[28] *John Lewis Gaddis, Surprise, Security*, and the American Experience (Cambridge: Harvard University Press, 2004, p. 13.

[29] Gaddis, "Ending Tyranny: The Past and Future of an Idea," *The American Interest*, Vol. 4, No. 1, September/October 2008. http://www. the-american-interest.com/ai2/article.cfm?Id=4 59&MId=21.

[30] Gaddis, *Surprise, Security, and the American Experience*, p. 15.

[31] *Federalist* Nos. 4 and 5.

[32] To Abigail Adams, June 30, 1811, Worthington Chauncey Ford, ed., *Writings of John Quincy Adams* (New York: Macmillan, 1914), Vol IV, p. 128.

[33] Gaddis, *Surprise, Security and the American Experience*, p. 24.

[34] "Farewell Address," September 19, 1796, in William B. Allen, ed., *George Washington: a Collection* (Indianapolis: Liberty Classics, 1988), pp. 524-525.

[35] Quoted in Samuel Flagg Bemis, *John Quincy Adams and the Foundations of American Foreign Policy* (New York: Knopf, 1949), p. 385.

[36] Gaddis, *Surprise, Security, and the American Experience*, pp. 24-26.

[37] Walling, e-mail to the author. Walling argues that the logic of preemption found in the Declaration originates in John Locke's *Second Treatise on Government*.

[38] Daniel Walker Howe, *What Hath God Wrought: The Transformation of America*, 1815-1848 (New York: Oxford University Press, 2007), pp. 111-116.

[39] Adams to Don Luis d' Onis, July 23, 1818, in Ford, *Writings of John Quincy Adams*, Vol. VI, pp. 386 – 394; and Adams to the President, July 8, 1818, Ibid., p. 304.

[40] Gaddis, *Surprise, Security, and the American Experience*, p. 18.

[41] George Bush, Graduation Speech at the US Air Force Academy, June 2, 2004, http://www.whitehouse.gov/news/releases/2004/06/20040602.html.

[42] Meade, *Special Providence*, pp. 174 – 217.

[43] On the Old Republicans, see Norman K. Risjord, *The Old Republicans: Southern Conservatism in the Age of Jefferson* (New York: Columbia University Press, 1965).

[44] Examples of realist thought, both classical and "neo," include Kenneth M. Waltz, *Theory of International Politics* (Reading MA: Addison – Wesley, 1979); Stephen M. Walt, *Taming American Power: The Global Response to US Primacy* (New York: Norton, 2005); John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: Norton, 2001); Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, 6th edition, Revised by Kenneth Thompson (New York: Knopf, 1985); George F. Kennan, *Realities of American Foreign Policy* (Princeton: Princeton University Press, 1956); and Henry A. Kissinger, *Diplomacy* (New York: Simon and Schuster, 1994).

[45] Kagan, "Neocon Nation."

[46] Strassler, *The Landmark Thucydides*, Book 1, Sec. 5, p. 40.

[47] Andrew J. Bacevich, *The Limits of Power: The End of American Exceptionalism* (New York: Metropolitan Books, 2008), p. 5.

Learning from the Obama Campaign:
reply to W. Frederick Zimmerman
(A historical and political lesson plan)

Anca Parmena OLIMID

Abstract: *The present article discusses the context of the presidential campaign in the United States in 2008. in particular, the analysis examines the implications of the campaign of candidate of the Democratic Party, Barack Obama, starting from the experiment of W. Frederick Zimmerman in his paper "Should Barack Obama Be President?". The author's analysis looks at three essential aspects: the identity of the future president; the particular aspects of his speech on the occasion of the Democratic Convention of 2004 and the organization of the campaign.*
Keywords: *presidential campaign, community, political behavior, public opinion, participation.*

Barack Obama is among the youngest U.S. presidents. A growing body of scholarly literature examines the political context of Obama's election. Much of this research examine the implications of Obama's presidential campaign for public opinion and political life. In particular, an experiment by W. Frederick Zimmerman showes that Obama's exposure to public opinion enhanced voters' confidence in their ability to under-stand political change. In his book *Should Barack Obama Be President?* (Nimble Books LLC edition, 2006), Zimmerman makes a simple but very important analysis of all arguments *pro* and *con* on the subject of Senator Obama's sustainability for the office of President of United States. The author claims that "this is a <living> book", offering new information and new perspectives. He continues that "each short chapter heading, like the one above, is a simple statement of fact about Barack Obama, carefully phrased to be (mostly) politically neutral: e.g. <His name is Barack> or < He is the Senator from Illinois>"[1].

The pro-arguments that Obama should be President are written by Ned Roots, an optimistic Democratic blogger. Overall, in response to Zimmerman's book, the present article also takes seriously the perspectives and objections raised by Trog L. O'Dyte (an intensely Republican blogger to pro arguments raised by Ned Roots). Zimmerman's analysis raises a fundamental question: *Should Obama Be President?,* providing innovative materials on "special" topics like:

1. Barack Obama is African-American. In particular, Zimmerman reviews John

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McWhorther's essay in *New York Sun* identifying the key issues of this topic: "The key factor that galvanizes people around the idea of Obama for president is, quite simply, that he is black…Take away Mr. Obama's race and he's some relatively anonymous rookie…"[2];

2. Barack Obama is Irish-American ("*That's Mister O'Bama To You!*"). *Times* London identified that "United States has a long tradition of presidential hopefuls drawing on their Irish connection to win votes"[3];

3. Barack Obama gave the keynote speech at the 2004 Democratic Convention[4];

4. Barack Obama had a well organized and publicized clash with John McCain.

At the same time, Eilleen Appelbaum offers a tough, but more important, a special theory on Obama's unexpected appeal across traditional American political model: "The election of Barack Obama on November 4th to serve as the next president of the USA was a triumph of hope over history for America… This is widely recognized as a transformation moment in the history of the USA and perhaps, the world. The neo-liberal model – which views greed as good and wealth as reward for virtue, which belives that markets possess infinite wisdom and regulation and unions can only detract, and which discredits every objection to rising inequality and upward redistribution of income as an unwarranted assault on the class that creates prosperity"[5].

With all these in mind, the present article proposes the following hypothesis about the relationship between the exposure to public opinion and political participation in presidential elections: exposure to Internet and technology is positively related to political participation. Our analysis takes into account the potential influence of "self-identification factors" in campaign in two ways: *first*, we review all major challenges involved in Obama's ascension to the Presidency that captured public attention over time and *second*, we analyze Obama's presidential campaign by reviewing the past challenges across different new perspectives[6].

So far it has been suggested that there are distinctive features of the Barack Obama campaign. Minimally, a number of authors have recognized the importance of methods of increasing voter participation in American low and moderate income communities in 2004 election.

Equally, there is no clear answer "*Was there a particular presidential model campaign?*". In his article *Case Study: Chicago-The Barack Obama Campaign*, published in *Social Policy*, Toni Foulkes argues that Obama started building the base of his campaign years before (the race for U.S. Senate in 2004). He also argues that there were two central dimensions of the leadership training sessions: the involvement of active volunteers around the 2004 March primary elections; the evolution of Obama's campaign from a "nonpartisan electoral work" to an "increasing voter participation".

In 2004, Foulkes also notes that in "the March primary was not particularly important for the presidential race, as Kerry was just in the process of clinching the Dem presidential campaign nomination. But it was critical in the U.S. Senate race. On March 16th, State Senator Barack Obama won the right to represent the Democratic Party in the U.S. Senate campaign… Sen. Obama went on a keynote the Democratic Convention in July and was catapulted to the national stage"[7]. Next, it might be argued that still underdeveloped, the African-American communities are becoming increasingly important. Nevertheless, as Foulkes observed, distinctively in Chicago, such communities exerted a positive impact on voters' knowledge about Obama's campaign. For instance, ACORN is active on the south and west sides of Chicago, in the south

suburbs and the east side of Springfield, the state capital. Moreover, ACORN makes provision for the African-American communities, with a growing Latino presence in Chicago's Little Village and the suburb[8].

As noted before, in the case of African-American communities, open and responsive are synonyms. Foulkes argues that the voting patterns in these communities paint a somewhat optimistic picture of increasing participation in 2004 March primary campaign. Commenting on March primary campaign, Foulkes notes that ACORN was involved in there distinctive activities (*first*, block captains were identified and "provided with lists of registered and unregistered voters and voter registration materials"; *second*, block captains went to work to turn out vote"; *third*, in some precincts in the 15th ward, it was possible "to hire canvassers to work on voter turnout"[9] (see Figure 1).

Figure 1. *Voter Turnout, Chicago Primaries 2003-2004*[10]

WARD/ TOTALS	Registered 04	Ballots 04	Turnout	Registered 03	Ballots 03	Turnout	Change in Number of Voters	Voter Turnout Percentage Change
ALL 15TH WARD	24956	7832	31%	27602	6572	24%	19%	31,8%
ALL 24TH WARD	30259	11137	37%	34763	9376	27%	19%	36,5%
CITY WIDE	1334909	51248238%	38%	1436286	483993	34%	6%	13,9%

Other research has examined the implications of "watching" Obama's political life and career for public opinion. On the basis of this finding, Dupuis and Boeckelman reveal a new challenge for exploring such complexities: "Barack Obama is both icon and enigma, which may explain his instant appeal in American culture"[11]. Overall, the authors also capture the early political career of President Obama culminating in his meteoric political race for the U.S. Senate. Dupuis and Boeckelman analyze the evolution of his distinctive rhetorical style and the patterns of the political evolution developed between 1996 and 2004 and the presidential campaign between 2007 and 2008. The authors take a deliberate tack toward "a broader definition of political action that includes but is not limited to electoral politics, social and political movements, interest group activities, and the role of voting blogs in American elections"[12]. Finally, Dupuis and Boeckelman expose the role of Internet in 2008 elections and the influence on political interest. Moreover, the authors argue that the use of Internet and high technology revolutionized the universally model of political campaign. Obama's presidential campaign mobilized Internet resources in ways never imagined. Additionally, it used technology to its fullest reflecting the realities of the real America. Dupuis and Boeckelman test their arguments by focusing on public opinion polls/surveys conducted by the The Pew Internet and American Life Project[13].

Is Dupuis and Boeckelman's argument persuasive? The Pew Research and American Life Project report that with the 2008 elections, 46% of Americans used the Internet, text messaging, e-mail, cell-phones to obtain information about the 2008 presidential campaign; also 35% preferred to watch online political videos, 10% say thay have used social networking sites such as Facebook or Myspace, and 39% of online Americans have used the Internet to access "unfiltered" campaign materials[14].

Finally, amongst the multiple comments, one useful article to read is from the *Campaign Strategy Newsletter 46 November 2008*[15]. On the other hand, the first comment is to draw attention to the limits that the *Campaign Strategy Newsletter* set on its dependence to networking (see Duane Raymond article on *FairSay*[16]). At this point, the author argues that it is worth taking considering how Obama Campaign's networking was able to raise $650milion USD[17]. Furthermore, Duane's article leads us to a simple but important conclusion. And as many had pointed all along, this "Obama Campaign's networking" developed a *seven steps campaign strategy*:

1. Interest on collecting email and/or personal contact;
2. Data stored in databases in order to easy targeting;
3. A complex campaign networking from donating to organizing;
4. The total support of volunteers and staff;
5. Focusing on recruiting supporters and mobilizing them on election day;
6. Initiative to ask for small donations from new and existing donors;
7. Use of internet as "a system that harvests video, accompanying media and sets of temporal and social contextual information"[18].

Roxannna Harlow, former Associate Professor of Sociology at McDaniel College in Westminster, Maryland is hard to dispute in respect of the Democratic nominee for president of Barack Obama and the historical significance for the black community of the election of Jane Byrne - Chicago's first female mayor. In fact, contrary to Obama's assertion that "a view that sees white racism as endemic" is " a profoundly distorted view of the country", Harlow argues that "social science has conclusively established that racism is, in fact, endemic; it is an existing structural phenomenon, not simply an individual level occurrence of the past. Racism consists of the beliefs and institutional arrangements that reinforce the superiority and the inferiority of one racial group relative to another"[19].

Regarding the matters of social equality and full citizenship, Harlow's article contains a synthesizing reference to history, culture and tradition: "… the possibility of Mr. Obama as the first black president presents a feel good scenario that people want to embrace; however the symbolic representation of racial equality/national healing that he provides is simply that – symbolic, not real"[20].

In other words, Harlow's article examines the sources of Obama's 2008 Democratic nominee for president. In addition, it sizes across space and time the experience of the American Dream fulfilled by describing the temporal dynamics in his political evolution. Harlow then discusses that changing entrenched social and economic inequality does nothing to remove the structure of inequality that exists in United States. Harlow reports that certain features of constitutional design had a significant effect on the existing structural phenomenon of "systemic racism".

As Harlow observes, these representations represent "a feel good scenario" that people, the world over will embrace in order to reestablish the illusion of racial diversity. One example that partially illustrates this logic is the Obama's nomination, a

real proof of the fulfillment of the promise of freedom and justice for all American citizens. Nevertheless, Harlow's normative conclusions regarding racism within the context of the American political philosophical theory are significant because they contribute to eliminate the disparities "in the long history of discrimination in the criminal justice system"[21].

Consequently, more different opinions are rediscovered and codified by political agents and analysts of the present. From this perspective of temporality, the American "dialogue" about race has to move in a way that real and significant[22]. Analyzing the temporal aspect of Obama's primary campaign, Carmen R. Lugo-Lugo and Mary K. Bloodsworth-Lugo report three different phenomena related to time, history, culture that need to be distinguished:

1. The Democratic nominee of Barack Obama served as "canvas over which constructions of terrorism, post-September 11th anxieties and fears of renewed terrorist (and anti-American) threats"[23];

2. The disturbing pattern in which the image of Barack Obama was used to maintain "a climate of fear of the browned anti and un-American body"[24].

In regard to the relationship between political behavior and the individual experience, Wanda V. Parham-Payne makes a case for interpreting the 2008 elections according to the individual experiences or conditions of black women. Overall, the author argues that while focus group participants acknowledged in general the historical importance of Clinton's candidacy, "participants contended that the gains and successes of the Obama campaign are of even greater, historical importance"[25].

Numerous studies show the relationship between self-identification to the community and the political participation. As mentioned before, Martin Dupuis and Keith Boeckelman argue that Obama's campaign included larger themes like citizenship and political engagement, advocating that American citizens have a civic responsibility to go beyond the vote and gain a deeper and complex understanding of the political debate[26].

Ceaser, Busch and Pitney report that there are two main questions flowing from the results of the 2008 elections. The *first* regards why the election of Barack Obama in 2008 spell the end to nearly thirty years generally referred to as the Reagan era? And the *second* question regards the effects of these elections for the beginning of a long-term electoral realignment in favor of the Democratic Party[27]. Without judging the performance of the future president, the authors discover six keys to the success of Barack Obama:

1. Barack Obama combined *the two major themes* in 2008 election which were *change* and *post-partisanship*. The 2008 presidential campaign elaborated major issues as the economy, the national security, health reform proposals, but also it was notable for the absence of an appeal to the programmatic level[28]. The authors observed that neither Obama or McCain adopted "an ideological label akin to Clinton's New Democratic Agenda or to Bush's compassionate conservatorism"[29];

2. Barack Obama was an *individual candidate* by comparison with recent candidates for the presidency – Bob Dole, Al Gore, John Kerry or George W. Bush who proved by the end of the campaign an extraordinary and remarkable flexibility. Looking back the authors argue that Obama first impressed a national audience in 2004 Democratic convention. Yet Obama's speech prefigured the message for unity shifting his position on issues as the

position on guns, the revion of the Foreign Intelligence Surveillance Act etc.;

3. The *innovation in campaign organization.* As mentioned before, Obama's staff recruited only quality staff creating a tactical network across regions. Obama's agenda included more readily issues available to be organized such as "college youth, highly educated professional, and issues activities who opposed the Iraq War"[30].

A Pew Center Research Center for the People & the Press released in November 2008 reported that voters award very high marks to Obama's campaign and the Democratic Party organization:

  - The survey reports that the marks awarded to the Democrat candidate

are the highest for a candidate and a party since the Pew Center first asked the voters to grade the candidates and their parties in 1988;

- Overall, two-thirds of voters say they were of fairly satisfied with the choice of candidates in 2008 (95% of Obama's voters say they are satisfied with their choices and nearly 69% of his Obama's report very satisfied)[31];

- Furthermore, 76% of voters who gave a mark to Barack Obama said he earned an A or B the way he organized himself the presidential campaign[32] (see Figure 2. *Campaign Ratings* - Among voters who gave an answer[33]).

Figure 2. *Rating the Parties*-Among voters who gave an answer
(**%** Who Rated Each an A or B)

Legend: Barack Obama, Democratic Party, John McCain, Republican Party
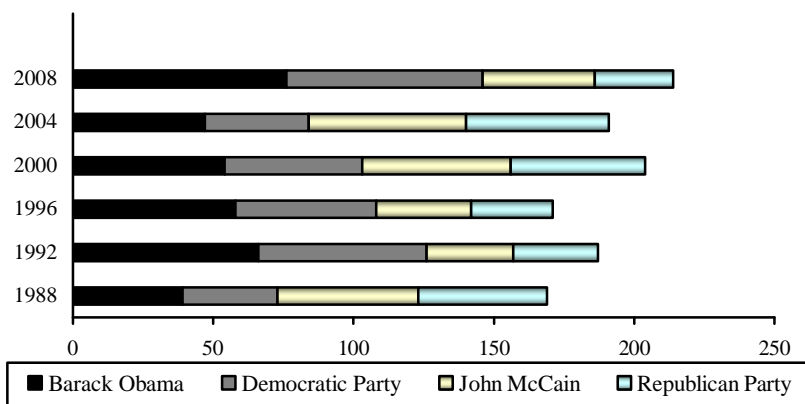
4. *The question of identity* as the central theme of his personal development. Many authors argued that Barack Obama chose the African-American identity. This element of the key in the presidential equation: at the outset of the 2008 campaign, many analysts raised questions about Obama's real support for the black community; moreover, Obama had to deal with comments regarding the need to be

identified as the Democrat candidate "who also happened to be black"[34]. Talbot adds that "his oratory renowned and his presidential campaign ware filled with inspirational talks to tens of thousands of supporters"[35].

5. Obama's *speech about race.* Many commentators considered Obama's speech as the starting point for the great "dialogue" about race in United States. The racial aspect was the posi-

tive argument in Obama's campaign in two important dimensions. *First*, it was the crucial support inside the Democratic Party in difficult primary moments such as South and North Carolina. *Second*, it provided the sentiment of moral authority. Also the sense of commitment to religious pluralism inspired the idea of the progressive instinct in the present injustice[36]. Talbot argues that in a Pew Research Center Poll conducted in March 2008, 80% found Obama inspiring and 78% found him honest, patriotic and down-to-earth[37].

6. In conclusion, Barack Obama enjoyed *the support of the three television network and four principal national newspapers* (*Time*, *Newsweek* and the *New York Times* and *Washington Post*). Furthermore, a study released by the Pew Research Center's Project for Excellence in Journalism in October 2008 looked at the media's 2008 coverage and found that McCain received a more negative than positive media coverage between the GOP convention and the final debate. The study also reported that media favored the Democratic candidate over the Republican (See *Most voters Sat News Media Wants Obama To Win. "Joe the Plumber" a Top Campaign Story*, released October 22, 2008).

Table 1. Most voters Sat News Media Wants Obama To Win. "Joe the Plumber" a Top Campaign Story, released October 22, 2008[38] .Question ≠ 1: Who Does Media Favor in the 2008 Election? (Based on Registered Voters)

Who does most reporters want to see win?	1992	1996	2000	2004	2008
	%				
Obama/Democrat	52	59	47	50	70
McCain/Republican	17	17	23	22	9
Neither	5	3*	6	6	8
Don't know	26	21	24	22	13
			100		

Notes

[1] W. Frederick Zimmerman, *Should Barack Obama be president? Dreams from my father, the audacity of hope, Obama in '08?*, Ann Arbor, Nimble Books LLC, 2007, © 2006, pp. iii-xiv.

[2] John McWhorter, *The color of His Skin* in "New York Sun", September 21, 2006 available on the *New York Sun* website, http://www.nysun.com/opinion/color-of-his-skin/40050/. See also Ron Walters, *Barack Obama and the Politics of Blackness* in "Journal of Black Studies", Vol. 38, September 2007, pp. 7-29; Radhika Parameswaran, *Facing Barack Hussein Obama: Race, Globalization, and the Transnational America* in "Journal of Communication Inquiry", Vol. 33, July 2009, pp. 195-205; Charlton D. Mcllwain, *Perceptions of Leadership and the Challenge of Obama's Blackness* in "Journal of Black Studies", Vol. 38, September 2007, pp. 64-74.

[3] W. Frederick Zimmerman, *op. cit.*, p. 22.

[4] See Babak Elahi, Grant Cos, *An Immigrant's Dream and the Audacity of Hope: The 2004 Convention Addresses of Barack Obama and Arnold Schwarzenegger* in "American Behavioral Scientist", Vol. 49, November 2005, pp. 454-465; Deborah F. Atwater, *Senator Barack Obama: Rhetoric of Hope and the American Dream* in "Journal of Black Studies", Vol. 38, November 2007, pp. 121-129.

[5] Eilleen Appelbaum, *The Obama Moment* in "Intereconomics", Vol. 43, No. 6, November 2008, pp. 314-315.

[6] See also, Randolph Burnside, Kami Whitehurst, *From the Statehouse to the White House?: Barack Obama's Bid to Become the Next President* in "Journal of Black Studies", Vol. 38, September 2007, pp. 75-89.

[7] Tony Foulkes, *Case Study: Chicago - The Barack Obama Campaign* in "Social Policy", Winter 2003, Vol. 34, No. 2, Spring 2004, Vol. 34, No. 3, pp. 49-52.

[8] *Ibidem*, p. 50. See also Bart Schultz, *Obama's Political Philosophy: Pragmatism, Politics, and the University of Chicago* in "Philosophy of the Social Sciences", Vol. 39, June 2009, pp. 127-173.

[9] *Ibidem*.

[10] The figure is an adaptation after the figure *Voter Turnout, Chicago Primaries 2003-2004*. For more see, Tony Foulkes, *op. cit.*, p. 51.

[11] Martin Dupuis, Keith Boeckelman, *Barack Obama, the new face of American politics*, (*Series Foreword*), Westport, Conn., Praeger, 2008, pp. ix-xii.

[12] *Ibidem*; Jerry Harris, Carl Davidson, *Obama: the new contours of power* in "Race & Class", Vol. 50, April 2009, pp. 1-19.

[13] *Ibidem*, p.70.

[14] Lee Rainie, Aaron Smith, *The Internet and the 2008 election.* Read full report on Pew Internet & American Life Project website http://www.pewinternet.org/Reports/2008/The-Internet-and-the-2008-Election.aspx.

[15] See full version on line *Campaign Strategy Newsletter. Learning From The Obama Campaign* http://www.campaignstrategy.org/newsletters/campaignstrategy_newsletter_46.pdf.

[16] For more details about the subject, see Duane Raymond, *Obama's Win and the Power of Networking* on http://fairsay.com/blog/obamas-win-and-the-power-of-networking.

[17] In 2004, Obama strategically conserved all his resources for the media challenge in the last few weeks of the campaign being "able to garner the public's attention in the beginning of 2004". Also in January 2003, when Obama first announced his campaign, he had already raised close to $290.000 (For more details concerning the funds raised in Obama's campaign see Martin Dupuis Keith Boeckelman, *op. cit.*, pp. 37-55).

[18] For more about online digital video hosting and sharing sources in 2008 US Presidential Election Videos in Chirag Shah, Gary Marchionini, *Preserving 2008 US Presidential Election Videos* (http://ils.unc.edu/vidarch/Shah-IWAW2007.pdf). The authors are interested in analyzing the correlation between the user behavior on such sites and the actual social trends and patterns. The emerging framework of the study focuses on 2008 US Presidential Election and *YouTube* as the video source.

[19] Roxanna Harlow, *Barack Obama and the (In)Significance of His Presidential Campaign* in "Journal of African American Studies", Vol. 13, No. 2/2009, pp. 164-175.

[20] *Ibidem*, p. 164.

[21] *Ibidem*, p. 168.

[22] For more details see Lawrence D. Bobo, Camille Z. Charles, *Race in American Mind: From the Moynihan Report to the Obama Candidacy* in "The ANNALS of the American Academy of Political and Social Science", Vol. 621, January 2009, pp. 243-259.

[23] For more references see Carmen R. Lugo-Lugo, Mary K. Bloodsworth-Lugo, *Black as Brown: The 2008 Obama Primary Campaign and the U.S. Browning of Terror* in "Journal of African American Studies", Vol. 13/2009, pp. 110-120.

[24] *Ibidem*, p. 111.

[25] Wanda V. Parham-Payne, *Through the Lens of Black Women: The Significance of Obama's Campaign* in "Journal of African American Studies", Vol. 13/2009, p. 137.

[26] Martin Dupuis, Keith Boeckelman, *op. cit.*, p. 34.

[27] James W. Ceaser, Andrew Busch, John J. Pitney, *Epic journey: the 2008 elections and the American politics*, Lanham, Rowman & Littlefield Publishers, 2009, pp. 7-14.

[28] *Ibidem*, p. 15.

[29] *Ibidem*.

[30] *Ibidem*, p. 22.

[31] More about the subject, The Pew Center Research Center for the People & the Press, *High Marks for the Campaign, a High Bar for Obama*, Section 1: *Report Card on the Campaign*, November 13, 2008. Full report available on The Pew Center website http://people-press.org/report/?pageid=1425.

[32] Moreover, Obama's ratings are compared to those of past Democratic candidates and McCain's ratings are compared to those of past Republican candidates.

[33] *Ibidem*.

[34] *Ibidem*, p. 26.

[35] John Talbott, *Obamanomics How Bottom-Up Economic Prosperity Will Replace Trickle-Down Economics*, New York, Seven Stories Press, 1st edition, 2008, p. 17.

[36] James W. Ceaser, Andrew Busch, John J. Pitney, *op. cit.*, p. 27.

[37] John Talbott, *op. cit.*, p. 17.

[38] See more about the subject The Pew Research Center for the People & the Press, *Most Voters Say News Media Wants Obama to Win. "Joe the Plumber" a Top Campaign Story*, October 22, 2008. Full report available on http://people-press.org/report/463/media-wants-obama. *Includes 1% who responded Perot.

China's Power and Will:
The PRC's Military Strength and Grand Strategy

June Teufel DREYER*

Abstract: *China's international behavior exhibits elements of both threat and peaceful intentions. Greatly increased defense budgets, the acquisition for more advance weapons systems, and certain pronouncements of the leadership argue for the threat scenario. Beijing's efforts to enhance the PRC's soft power, its more active participation in international problem-solving activities, and certain pronouncements of other leaders can be taken as evidence for more peaceful intentions. Even assuming that the leadership's motives are not benign, a combination of domestic weaknesses and foreign resistance could thwart them. The future is not predictable.*
Keywords: *economic development, decollectivization, capabilities, trade, foreign affairs.*

China does not seek hegemony or predominance in world affairs. It advocates a new international political and economic order, one that can be achieved through incremental reforms and the democratization of international relations.[1] China's actions, most notably its military buildup, have caused observers to question he validity of such statements.[2]

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Since some of the PRC's actions indicate movement in one direction and others, sometimes simultaneously, in another direction, it becomes difficult to distinguish trend from countertrend. Consequently, it is easy for an analyst to find evidence that fits his or her previously held opinion. Is China peacefully rising, as the author of the first quote argues, or is China a threat, which is implicit in the second?

Military Spending and Social Costs

Certainly, evidence exists for the threat scenario. Beginning in 1989, Chinese military budgets have risen by double-digit amounts every year except 2003. In that year, the increase was "only" 9.6 percent. Moreover, significant military-related expenditures do not appear in the announced defense budget at all. These invisible costs

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include weapons procured from abroad; subsidies to the defense industry; funding for paramilitaries – including the People's Armed Police and the militia; some defense-related construction projects; and certain administrative costs such as payments to demobilized personnel. It is difficult to calculate how large these items are. And analysts disagree over purchasing power parity conversion.[3] Most estimates cluster around defense expenditures that are two to three times the reported total. These increases, moreover, occurred at the Cold War's end, a time when, defense budgets in most other countries were decreasing dramatically. Since no foreign power showed interest in invading the PRC, the country faced no external threat that would justify these costs. The most recently announced defense budget, up 17.8 percent to 350 billion yuan or about 45 billion over 2006 figures, puts the PRC's military expenditures second only to the United States', although far behind it.

Money spent on defense means that fewer funds are available for China's many internal problems. The country's agricultural areas face serious problems, including a growing gap between urban and rural incomes; peasant anger at taxes and other proliferating fees; misappropriation of their land by developers and local officials; and a shortage of rural credit. In urban areas, the economic restructuring that occurred when the PRC abandoned the planned economy, in favor of a market-based system, ended the previous regime of virtually guaranteed employment. While "breaking the iron rice bowl" helped make the economy more efficient, tens of millions of workers were displaced into tight job markets. The newly unemployed often found that their pensions had disappeared as well. Often they were evicted from their homes by ambitious development efforts, and could not find comparable accommodations.

Rapid economic development meant increased pressure on the already-beleaguered environment. More factories produced more pollution, and concerns with short-term profits typically outweighed concerns about long-term consequences such as deteriorating air quality, drinkable water, and the expansion of deserts.

The health care system, which ranged from barely adequate in urban coastal areas to almost non-existent in rural locales, further deteriorated with agriculture's de-collectivization. And where the one-child family planning policy succeeded, the population began to age. Demographers consider a population aged if those over 60 years of age exceed 10 percent of the population; for China, the percentage is 11.3 percent.[4] Older citizens create greater demands on the medical system, as do the growing environmentally related health problems. Beijing's leadership has acknowledged that these problems exist. Yet while the Chinese government has stated frankly that it lacks sufficient funds to adequately address these health concerns, it has continued to authorize larger military budgets.

The government has justified growing defense expenditures by arguing that it is only compensating for the country's rising inflation. However, the increments in defense spending have occurred even when the economy has experienced deflation, and have usually exceeded inflation rates. During the decade ending in 2006, defense spending increased by double digits annually – an average of 13.7 percent – after accounting for inflation. The cumulative effect of the decade was to virtually quadruple real defense expenditures.[5]

Military Capabilities
The mere expenditure of funds does not guarantee a more powerful military.

However, a consensus exists that the People's Liberation Army (PLA, the term includes naval, air force, marine, and missile forces as well as ground troops) has increased its capabilities dramatically in many areas. Pay raises and improved living conditions for officers and men have enhanced the attraction of military service. Training exercises have become more sophisticated. But nowhere have the expenditures been more visible than in the PLA's equipment budget. Between 1997 and 2006, annual spending on equipment increased from 3.1 billion to 12.3 billion – i.e., quadrupling in real terms, just as the defense budget did. During this period, the Chinese military acquired new surface combatants and submarines; modern fighter jets; air-to-air refueling aircraft; satellites; unmanned aerial vehicles; and a variety of ballistic, cruise, and tactical missile systems.

According to the 2006 U.S. Department of Defense annual report on the PRC's military power, China's acquisitions suggest that it is generating capabilities that are applicable to various regional contingencies including Taiwan, other territorial disputes with several countries that include U.S. allies, and access to natural resources.[6] Foreign naval analysts describe the PRC as an emerging maritime power, pointing out that emphasis on photogenic platforms, like new submarines, may have distracted attention from more mundane but potentially lethal progress in areas such as mine warfare. They assess that, relying heavily on sea mines, the People's Liberation Army Navy (PLAN) is already fully capable of blockading not only Taiwan but many other crucial sea lines of communication in the western Pacific area. Assisted by other emerging capabilities, these advances in mine warfare amount to a deadly serious challenge to American power in East Asia.[7]

While it has been fashionable to conclude such analyses by pointing out that, for all its increased capabilities, the PLA is no match for the United States military, this is to argue the question in the wrong way. The Chinese government has no intention of challenging the United States in a global confrontation. One analyst, whose study focused on the navy but could be generalized into a broader scenario, points out that on any given day, American forces in the western Pacific may be surprisingly weak, depending on maintenance status and commitments in the Indian Ocean and Persian Gulf. Windows of opportunity would be available for Beijing to benefit from its new naval power.[8]

Other events that underscore the progress of military modernization include the PLA's unveiling of its newest fighter jet, the multirole J-10, and its successful test, in January 2007, of a ground-based medium-range ballistic missile to destroy a weather satellite orbiting more than 500 miles in space. The J-10, introduced with great fanfare the same month, was described as a role reversal in the global arms industry, with analysts expressing surprise at China's speed in moving from an arms-importing country to one with real promise as a producer of cutting-edge military technology.

By contrast, there was no initial announcement of the anti-satellite test. News was leaked to the magazine Aviation Week and Space Technology, presumably by sources within the U.S. Department of Defense. Beijing's confirmation came only after American officials hinted that the PLA might have carried out the test without the knowledge of high-ranking government officials.

At the same time, the PLA's National Defense University was hosting a ten-day conference on informationized military training.[9] Since the Gulf War of 1991, its

journals have discussed the need to be able to fight a technologically superior enemy that possesses aircraft carriers. Most observers consider the United States the only plausible foe fitting the general strategic rubric of "fighting and winning local wars under conditions of informationalization."[10]

The U.S. Department of Defense Report describes the PLA as targeting surface ships and submarines at longer ranges, and notes that some Chinese analysts have stated that, if they can seize Taiwan, the navy could move its maritime defensive perimeter further outward and influence regional sea lines of communication.[11] This possibility caused concerns among the several PRC neighbors who have territorial disputes with China. Japan has been most vocal among them, with the policy chief of Prime Minister Abe Shinzo's governing coalition, Nakagawa Shoichi, publicly stating that

…[Japan] might also become just another Chinese province within twenty years or so. If Taiwan is placed under [China's] complete influence, Japan could be next. That's how much China is seeking hegemony.[12]

In February 2007, testifying before the Senate Armed Services Committee, Director of National Intelligence Michael McConnell stated that China's aim inmodernizing its militarywas to achieve paritywiththe United States. Headded that as this modernization increased, so would China's threat to America.[13]

Economic Growth

The PRC's economic growth arouses at least as much apprehension as its enhanced military capabilities. There are concerns that, either through military or economic domination or some combination of the two, China intends to become the global hegemon of the 21st century. Although the PRC's economic growth has lagged behind the country's defense budget, economic advances – hovering around ten percent per annum for most of the last 25 years – are cumulatively spectacular. These have wrought great changes, many of them positive. Shanghai's futuristic skyline is regularly featured in collages advertising "the Asian century," and those who witnessed Shenzhen transformation from vistas of water buffalo and lotus ponds to seemingly limitless rows of gleaming high-rises continue to marvel at the speed with which this process was accomplished.

Energy Concerns. Problems have occurred as well, however. Since economic growth is believed to blunt growing social discontents, the Beijing government must continue to provide high growth rates or face, what it delicately refers to as, "social instability." Securing the resources necessary to enable factories to keep turning out goods at a high speed has impelled China onto world markets for energy and raw materials, as well as to seek buyers for its products. While sellers of primary products typically are delighted to have new customers, and former colonies or quasi-colonies are glad to have an alternative to the mother country, concerns remain that the country may just be exchanging one imperialist overlord for another.

Regarding energy, especially after sharp rises in oil prices in 2005, worries surfaced about the rapid rise in the PRC's imports. In 1985, the PRC was self-sufficient in energy and a net exporter of crude oil. In 1993, with demand growing and domestic production virtually flat, it became a net importer. By 2003, China had surpassed Japan in becoming the world's second largest petroleum consumer, amid predictions that in future decades its imports would exceed those of the United States. China's purchases were not solely responsible for the spike in oil prices. There were disruptions in supply due to instability in producer states and rising demand in other

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large countries, including India, Brazil, and the United States.

But it was China's purchases which captured the most attention, since other countries worried that both the PRC's size and purchasing power might deprive them of what they considered their fair share. This was a particular concern for India, with its own huge population and impressive recent growth trajectory. Critics pointed to Chinese companies' penchant for purchasing equity oil – oil that the firms had a proprietary right to as a result of equity ownership in development projects – rather than purchasing it on the international market. In an exceptionally blunt speech in September 2005, then-U.S. Deputy Secretary of State Robert Zoellick accused Beijing of exhibiting signs of mercantilism in seeking to lock up energy supplies. He advised its government to take concrete steps in addressing what he called "a cauldron of anxiety" in the United States, and elsewhere about Chinese intentions. The path to energy security, said Zoellick, was not through arousing anxieties.[14]

Trade Frictions. Zoellick was responding, in part, to concerns about the PRC's trade surpluses with the rest of the world, which increased an astounding 74 percent in 2006, to 177.5 billion. America's largest trade imbalance is with China, and reaches new highs – over 212.7 billion in 2006 – each year. Some complain that Beijing just is not playing fair. Charges include that it keeps the country's currency at artificially low rates, and that it condones gross violations of intellectual property rights costing developed countries billions of dollars each year. A study published by the European Commission complained that

...securing reciprocal free and fair market in access in China is crucial. Here, a range of obstacles to market access and skewed conditions of competition need urgent attention.

The European Union's trade deficit with the PRC was €106 billion in 2005.[15]

How to act on these complaints is unclear. For example, a bill that has languished in the U.S. Senate for several years would impose a tariff of 27.5 percent on all Chinese goods entering the United States. This tariff would represent the midpoint of a currency that is variously estimated to be undervalued between 15 and 40 percent. One of the reasons this bill has not proven successful is that American economists fear that it might be worsen the problem. Consumers like the low prices of Chinese goods, and would object to paying more if the PRC's currency were revalued upward. Additionally, China has invested much of its foreign exchange holdings in U.S. Treasury bills, which in essence subsidizes low mortgage rates for American homeowners. Should Beijing choose to divest these, the result would be a depressed housing market and further weakening of the dollar.

The Asian 'Colossus of the North'

Nowhere is the issue of China's rise more sensitive than among its near neighbors. With India a salient exception, most are dwarfed by China's size. Much as the United States is regarded by Latin America, China is the "colossus of the North" to Southeast Asia. While respecting their larger neighbor and desiring the benefits of trading with it, Southeast Asian states are aware at the same time that their economies may be swallowed up by the PRC's. There is also a legacy of uneasiness due to past relationships with China under the tribute system of the imperial past. "Barbarian," (i.e. non-Chinese) rulers performed the ritual ketou (kowtow) of three kneelings and five prostrations of obeisance to the emperor, confirming one's vassal status. In return, one's position as

ruler of one's people was confirmed, and costly gifts were given.

Some Asians see parallels with the current practices. In 2004, when the PRC excoriated Singaporean leader Lee Hsien Loong for visiting Taiwan before taking over as prime minister, there were angry – albeit brief – outbursts from its citizens that their country could not be "bullied into kowtow politics." A few years later, addressing Beijing's attitudes in general, a Singapore commentator said

Contemporary Southeast Asian states did not fight long and hard for their independence only to be dominated by an external power again. They are vigilant in guarding their political sovereignty . . . for ASEAN [The Association of Southeast Asian Nations], the main factor shaping its attitude will be Beijing itself, that is, whether China sends clear signals that it desires win-win ties based on mutual respect and benefit. ASEAN does not want an expansionist, hegemonic China.[16]

North and South Koreans, typically at loggerheads over almost everything, reacted in angry harmony in 2004 after no less than five papers published by the PRC's Northeast Asia Project asserted that the ancient kingdom of Koguryo was a minority kingdom of northeast China and Han Chinese in origin. In Japan, critics of what they considered the excessively accommodationist attitudes of the China School in the Ministry of Foreign Affairs referred to its practices as dogeza gaiko, or kowtow foreign policy.[17]

Into Africa

China has invested billions of dollars in African oil production, mining, transportation, electricity production and transmission, telecommunications, and other infrastructure. In 2004 alone, China's direct investment in Africa represented 900 million, or six percent, of the continent's total of 15 billion. In the decade ending in 2005, its trade with Africa had jumped from 4 billion to 40 billion. Columbia University economist Jeffrey Sachs, whose statement that "African governance is poor because Africa is poor," is quoted widely, described China's role in the continent as "extraordinarily positive and important... [Beijing] has a pragmatic approach. It gives fewer lectures and more practical help. The overwhelming feeling from African leaders is gratitude toward Chinese support."[18] Beijing often describes its policies as aid without strings attached.

The truth, however, is more nuanced. Many African leaders, as distinguished from African nations, have good reason to be grateful to Beijing. Among those with most reason to be thankful for Beijing's generosity is Zimbabwe's president Robert Mugabe. Local news media have reported that China provided him with money to build a mansion, even equipping it with a multimillion dollar "security radar" system. Mugabe has also purchased a dozen Chinese airplanes, with no obvious pressing need. With Zimbabwe's economy having contracted by a third since the 1990s, massive inflation, and an unemployment rate estimated at 70 percent, the president's domestic critics denounced expenditures on such extravagances.

Many less highly-placed Africans are angry and disappointed. Workers cheered when Chinese companies first invested in Zambia's struggling copper mines, but quickly began to complain both about pay that was substantially lower than other foreign-owned mines, as well as unsafe working conditions. In 2005, 49 miners died in an explosion at the Chinese-owned Chambishi mine in northeast Zambia. The accident was blamed on lax safety standards. In the following year, the police shot five mine workers while quelling a riot over working conditions. Comparable complaints came from the Chinese-owned Collum iron mine in southern Zambia. The Mulungushi Textile Mill shut down, victim

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of competition from Chinese goods. Chinese-made textiles and shoes are said to be less sturdy than their locally-made competitors, but sell for far less.

Chinese immigration into Zambia, as into several other African states, also caused frictions. Natives charge that Chinese laborers and small business owners are taking jobs from Zambians. There is disagreement over the size of this immigrant community: President Levy Mwanawasa told parliament that there are 2,300; local economists estimate that they number at least thirty thousand. Chinese influence became a major issue in Zambia's October 2006 presidential election. After challenger Michael Sata accused his opponent of allowing the country to become a dumping ground for Chinese migrants, crowds attacked and looted Chinese shops in Lusaka. Although Mwanawasa easily won election, Sata ran well ahead in areas that had been affected by Chinese influence. When President Hu Jintao visited the country the following February, a planned visit to the country's Copperbelt Province was cancelled to avoid protests.

Issues in other African states were variations on common themes. In South Africa, after the expiry of a global textile agreement allowed less expensive Chinese goods to flood in, thousands of textile workers lost their jobs. The Chinese products even included machine-made copies of traditional African patterns. Jerseys and caps bearing the logo of the Springboks, pride and joy of South African sports fans, were also made in China. President Thabo Mbeki warned of recolonialization. In Gabon, the Chinese oil company Sinopec was charged with illegal exploration after it was discovered to be prospecting for oil in the Loango nature reserve. The company was accused of dynamiting and polluting the park, tearing up the forest to create roads, and destroying the habitat in which

Loanga's plants and animals survive. The country's environment ministry denied ever approving Sinopec's environmental impact statement.

Human rights groups have charged China with showering aid on corrupt regimes, and perpetuating their powerful leaders. Nowhere has there been more concern over this than in Sudan, where slavery and genocide are endemic. China backs the reprehensible Sudanese regime, whose militias use Chinese-made helicopter gunships based at airstrips maintained by Chinese oil companies to murder the country's black citizens. Professor Sachs's analysis notwithstanding, rather than help Africa emerge from poverty, the PRC's policies actually help strengthen and perpetuate the kleptocracies – governments of thieves – that have contributed so heavily to African poverty.

Save that there are no concerns about China's support of genocidal dictators, most of the praise and criticism of the PRC's relationships with Latin and Caribbean countries are remarkably similar to those involving Africa. In the late 1990s, the PRC in one case, involving Haiti, threatened to cast a UN Security Council veto, and in a second case, with regard to Guatemala, did veto but later withdrew its vote, to obtain Latin American states' compliance with its views on Taiwan. In the former case, which involved extending a peace-keeping mission to Haiti, a rare coalition of Latin/Caribbean states – including the PRC's staunch ally Cuba – argued that this issue must be decided on the basis of what Haiti, as a sovereign state, needed rather than on external factors.

Nonetheless, undoubtedly Latin America and the Caribbean have commodities for which there is a market in the PRC. Over the past five years, the PRC has signed various energy, natural resource, economic, and tourism agreements intended to secure

access to needed materials, as well as to bolster its regional presence. Latin and Caribbean producers of these commodities were delighted to cooperate with Beijing, which was not only an eager buyer for their products but pledged to upgrade regional infrastructures, while providing a counterweight against Washington as well. Producers of primary products such as soybeans and wool were especially pleased. Two-way trade has grown by an astounding average of 25.4 percent annually over the past five years, to 50.5 billion, with the greatest increases in the most recent years. Latin and Caribbean states typically enjoyed favorable trade balances.

Concerns remain, however, that the stronger PRC-Latin/Caribbean relations might be pushing the region on to a regressive path. Many Latin American countries have made strenuous, and costly, efforts over the past half century to diversify away from what they regard as excessive reliance on commodity production. This production is subject to unpredictable sharp swings in supply and demand, resulting in price volatility that complicates economic planning. It also leaves little room for advances in labor productivity, more unbalanced social structures, and greater disparities in income distribution.

China has been buying the region's raw materials and sending back manufactured products that it can turn out more cheaply than regional producers. This pattern is eerily reminiscent of the *dépendencia* theorists analyses of the 1970s: that imperialist powers were forcing less developed nations into specializing in commodity production. Hence, these nations would never be able to generate the self-sustaining capital needed to achieve economic take-off, remaining permanently poor and dependent on the imperialist powers.

Mexico, fearing Chinese competition, was the last country to agree to the PRC's accession to the World Trade Organization. Its government's fears were quickly borne out. The *maquiladoras*, factories that imported both components and raw materials duty-free from the United States and then reexported the finished products to America, were forced out of business by lower Chinese wages that produced lower-priced goods, even after transportation costs had been included. Factories relocated to the PRC. Even such iconic products as the national flag and statues of the country's patron saint, the Virgin of Guadaloupe, virtually all were being imported from the PRC.

Factories have closed in Central America for similar reasons. Brazil also has lost several hundred thousand lower-end jobs to China. Manufacturers of higher-end products are concerned as well. After the Brazilian government agreed to recognize China as a market economy, the influential Industrial Federation of São Paolo criticized the action as a political decision that could leave the country's economy in a vulnerable position and bring "prejudicial consequences" to various sectors.

As if in confirmation, Brazil's trade surplus with China decreased by 51 percent in the months following its grant of market economy status (MES) to the PRC. Other adverse consequences could follow. Under World Trade Organization rules, it becomes more difficult to impose penalties on MES countries for dumping goods. Brazilian businesses worry not only about the PRC's inroads into the domestic market, but also about their country's ability to continue exporting products like shoes and automobiles that Brazil has had previous success with.

Argentina, which also granted MES to China during Hu Jintao's November 2004 visit, saw its imports from the PRC increase by 70 percent while its exports expanded only 20 percent. In retaliation, in

August 2005, President Néstor Kirchner's government enacted licensing requirements on Chinese shoes and toys.

In many cases, Latin American critics have charged, investment funds that were promised do not materialize. Where they have, charges have been leveled that the infrastructure construction serves the PRC's needs, not those of the recipient country. Complaints abound that the Chinese bring in their own labor rather than hire local people, and that the infrastructure projects pay no attention to the destruction they wreak on the environment. In 2006, China's exports to Central and South America exceeded its imports for the first time. The imbalance in the PRC's favor is expected to grow in 2007.

Assuaging Fears

China is aware of the concerns raised by its rapidly increasing international profile, and has made efforts to assuage them. After it discovered that the term "peaceful rise" was not having the desired effect, Beijing replaced it with "peaceful development." Chinese premier Wen Jiabao, speaking to a gathering of Southeast Asian states, described his country as a "friendly elephant."[19] Efforts have been made to use soft power to dispel the image of an emerging military and economic juggernaut. Confucius Institutes now exist in a number of countries. These institutes provide introductions to traditional Chinese culture, including a version of the great sage's teachings that presents his native land positively. In this endeavor, Confucius's advocacy of a datong, or great harmony, is set forth as China's hope for the international community. The institutes also assist the host country's educational institutions to offer courses in the Chinese language. There have even been discussions in the Chinese media about replacing the dragon as the symbol of the country with an animal with a more

internationally benign image, such as the panda.[20] Spokespersons also describe the PRC's development as being helpful to those countries that cooperate with it.

China has sought to establish its image as a responsible world citizen in other ways, as well. Beijing agreed to host the six-party talks on North Korean nuclear proliferation which, after protracted negotiations, reached a tentative settlement in February 2007. Reversing its long-standing objections to United Nations' peacekeeping activities as constituting interference in the affairs of sovereign states, the PRC currently has more than 1,600 personnel stationed in ten countries, making it the 13th largest contributor to UN peacekeeping forces.

In November 2006, Beijing hosted a lavish and well-publicized summit meeting with 48 African nations. Leaders pledged to form a "new strategic partnership," and Hu Jintao vowed to address the PRC's large trade imbalance with the continent. Millions of dollars in debt would be forgiven, and aid would be increased. Hu's February 2007 trip to eight African states sought to address criticisms that China offered sweeteners in order to seal trade agreements which subsequently proved to have been detrimental to the other signer's best interests. The Chinese president averred that his country had always been, and would continue to be, respectful of the sovereignty of other countries: it believes in mutual benefits to all parties concerned. The PRC has also promised to try to persuade the Sudanese government to work with the international community to improve the human right situation in areas like Darfur. Some voices among the complaining countries acknowledge partial responsibility for their own plight: they do not work as hard as the Chinese. Algerians who resent Chinese taking jobs, nonetheless, admit that Chinese workers will be

a part of their labor market unless and until their country improves its own labor skills. And a Chinese employer, who says that he employs fifteen Zambians for every Chinese, says he prefers the latter because

...Chinese people can stand hard work. This is a cultural difference. Chinese people work until they finish and then rest. Here they are like the British; they work according to a plan. They have tea breaks and a lot of days off. For our construction company, that means it costs a lot more.[21]

Chinese companies have also rejected charges that they are exploiters, pointing out that they take risks in investing in markets in Southeast Asia, Africa, and Latin America where other countries' companies would be reluctant to go. This volatility includes political turbulence, potential terrorist attacks, and changeable investment environments. To some extent, they have been forced to deal with less savory regimes to obtain oil supplies. When a Chinese company attempted to purchase American-owned UNOCAL in 2005, it was a U.S. uproar which forced a cancellation of the negotiations.

China's supporters point out that, however much the PLA's abilities have increased, it is no match for the United States, and will not be for the foreseeable future. Moreover, it is natural for a country to want to provide for its defense. More than half of the country's oil comes through the Straits of Malacca: if these should be interdicted in time of war, China's economic lifeline would be threatened. The PLA Navy must prepare against such a contingency, as well as to protect the PRC's other growing commercial interests.

Skeptics believe these soothing words disguise more militant future intentions. The PRC leadership's grand strategy, they believe, is to build its economy and military while denying any but peaceful intentions. When China becomes strong enough to dominate the established world

order, it will do so. Those who are suspicious of Beijing's intentions point to the advice paramount Leader Deng Xiaping gave to PRC foreign and security policy-makers in the early 1990s. Known as the 24 character strategy, it admonishes Chinese to "observe calmly; secure our position; cope with affairs calmly; hide our capabilities and bide our time; be good at maintaining a low profile; never claim leadership." The phrase, "make some contributions" was added later.[22] A few years after, in a 1999 speech that was interpreted as trying to restrain the country's militants from a more aggressive international posture, President Jiang Zemin made a statement with a similar meaning, arguing that although it may be

…perfectly obvious that the wolf [unspecified, but almost certainly meaning the United States and its liberal democratic allies] is going to attack man, we still need to deal with the wolf. That is, we must 'dance with the wolf. This is the reality we must face and the diplomatic strategy we must adopt.'[23]

A military strategist, who has closely examined the historical, i.e. pre-1949 record, observes that Chinese strategic thought is characterized by a long tradition of denial and deception. Finding resonances of this tradition in contemporary military doctrine and outright assertions by Chinese officials, he concedes that these "may simply be a concatenation of possibilities with no assignable probability."[24] However, for the U.S. policymaker who must deal with the near term, concatenations of possibilities with no assignable probability are of scant help.

Conclusion

We cannot be sure whether to take Beijing's words about its peaceful intentions at face value, or whether to interpret its actions as indicative of a coordinated military and economic strategy for world domination. Without certainty about the

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actual nature of Chinese strategy, one should hope for the best but plan for the worst. For example, there are areas such as energy research and environmental improvement where the PRC and the United States have been cooperating for the benefit of both.[25]

Although there is a natural tendency to give credence to protestations of peace, such credence does not mean that these views are either well formulated or widely held among the factions that comprise the PRC's dominant authorities.[26] As noted by Moeletsi Mbeki, deputy chairman of the South African Institute of International Affairs, China is simultaneously a tantalizing opportunity and a terrifying threat.[27] In securing the resources it needs to continue a grand strategy of rapid military and economic development, the PRC must perform a delicate balancing act between playing its revolutionary role versus its capitalist role – that is, acting as the ally of those who want a counterweight to pressures from more powerful external states versus acting as a traditional commercial stakeholder much like those very same powerful external states.

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[18] Quoted in Benjamin Robertson, "Into Africa," South China Morning Post (Hong Kong), September 20, 2006.

[19] Jason Leow, "Wen Spells Out China's 'Friendly Elephant' Role, *Straits Times*, March 15, 2004.

[20] See, e.g. Benjamin Robertson, "Dragon Debate Reflects Beijing's Growing Sense of Image," *South China Morning Post*, January 4, 2007.

[21] Lui Pin, cited in McCreal, February 7, 2007.

[22] The statement can be seen in its entirety in a number of venues, most recently *Annual Report…* 2006, p. 9.

[23] Ching-shengYu, "Jiang Zemin Repeatedly Expounds China's Domestic and Foreign Policies in Three Internal Speechs Giving a Quick Response and Winning the Support of the Public," *Ching Pao*, July 1, 1999, pp. 24–26, trans. in Foreign Broadcast Information Service/China, July 9, 1999.

[24] Ralph D. Sawyer, "Chinese Strategic Power: Myths, Intent, and Projections," *Journal of Military and Strategic Studies* (Winter 2006/07), p. 62.

[25] See June Teufel Dreyer, "Sino-American Energy Cooperation," *Journal of Contemporary China*, Spring 2007, forthcoming.

[26] Sawyer, p. 61.

[27] Paul Mooney, "China's Wooing of a Coy Africa," *South China Morning Post*, January 5, 2006.

Taiwan's Presidential and Legislative Elections

Shelley RIGGER*

Abstract: *Taiwan's newly-elected president, Ma Ying-jeou, is determined to relax the tension that has gripped the Taiwan Strait for more than a decade. His positions during the election campaign were calculated to reassure both the Beijing government and the Taiwanese people. On the one hand, he made it clear that he would remove barriers to improved relations and reach out to the Chinese leadership. At the same time, he was equally clear in his commitment to protecting Taiwan's interests. Ma's positions strike a balance between preserving Taiwan's de facto political independence and moving toward a more constructive relationship with the mainland. This approach enjoys widespread popular support in Taiwan. Still, the devil is in the details, and implementing Ma's ideas will require cooperation from Beijing, and from other political actors within Taiwan itself.*
Keywords: *independence, unification, election, popular preference, foreign relations.*

Taiwan's 2008 elections delivered an unequivocal result: The Kuoming(M)p,fy political power than at any time since fully-democratic national elections were instituted in the early 1990s.[1]

In January, KMT candidates captured 53.5 percent of the vote and 81 out of 113 seats in Taiwan's national parliament, the

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Legislative Yuan.[2] In March, the party snatched the ultimate prize, Taiwan's presidency, when KMT nominee Ma Ying-jeou polled 58.5 percent of the vote, winning majorities in 18 of the island's 23 municipalities. KMT-backed executives also run seventeen municipalities, to the Democratic Progressive Party's (DPP's) six.

The recent victories confer on the KMT leadership both a popular mandate and the institutional backing to implement a broad range of policy initiatives. Although the election results undoubtedly reflect colossal public dissatisfaction with two-term incumbent president Chen Shui-bian, they also represent a significant affirmative vote for the KMT. The KMT's opponents in both

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races, mainly candidates of Chen's Democratic Progressive Party (DPP), were at pains to distance themselves from Chen. There was no shortage of criticism for then President Chen and his policies among his party brethren, and many DPP candidates (including the party's presidential nominee, Frank Hsieh) espoused positions closer to Ma's than Chen's. Nonetheless, large majorities preferred KMT candidates in both elections.

The KMT's commanding position for the next four years raises many questions, three of which are addressed here:

• What policy changes will the new administration likely enact regarding relations with the United States and mainland China?

• How well does President-elect Ma Ying-jeou's approach to cross Strait relations and U.S.-Taiwan relations mesh with the Taiwan public's preferences?

• How likely is Ma to succeed in implementing his policies? What challenges will he face from the United States, Beijing and his own, potentially fractious, party

Ma Ying-jeou's approach to cross-Strait relations and US-Taiwan relations:

KMT nominee Ma Ying-jeou held his campaign themes-including his position on cross-Strait relations-remarkably steady throughout the long presidential campaign. His mainland policy centered on a promise to improve economic and political relations with the PRC while preserving Taiwan's fundamental interests-most importantly, its de facto independence as the Republic of China. Given the sensitivity of the issue and the (perceived) competitiveness of the race, the temptation to temporize must have been substantial, but Ma never retreated from his core positions. In insisting on these positions, Ma sent costly signals – signals that could have jeopardized the election – to both the Taiwan electorate and the PRC government.

Ma's determination to deepen economic engagement with the mainland was best illustrated by the high-profile plank in his platform that calls for a cross-Strait "common market." The common market idea-originally associated with Ma's running mate, Vincent Siew – attracted intense criticism from the DPP camp. According to Hsieh's campaign, Ma's policy would create a "one China market" that would flood Taiwan with low-wage, socially-inferior Taiwan's Elections mainland Chinese workers and dubious Chinese capital. In the last week of the campaign, the Hsieh camp ran a newspaper ad showing three men urinating in public; the text read "With a One China market, our public parks will turn into public toilets." In addition to the common market proposal, Ma also promised to open direct transport links between Taiwan and China and lift investment restrictions that have driven many Taiwan companies to withdraw from the Taiwan stock exchange.

On political engagement, Ma's central campaign theme was his determination to reopen dialogue with Beijing based on the "1992 consensus,"[3] an idea even more controversial than the cross-Strait common market. President Chen has attacked the concept many times, and his would-be successor did the same throughout the campaign. The DPP rejects the 1992 consensus both on procedural grounds, claiming that it is a fraud that never actually happened, and on substantive grounds, arguing that any formulation that binds Taiwan to a one China framework is harmful to Taiwan's interests. Given the high number of DPP attacks against the 1992 consensus in the 16 years since it was (allegedly) concluded, for Ma to insist upon this point was risky; it would have been safer for his presidential campaign to set the consensus aside and focus on other issues or to obfuscate the matter.

One might imagine that such calcu-

lations were unnecessary, given Ma's strong lead in the polls, but in fact, KMT leaders were never fully confident he would win. Their experiences in 2000 and 2004, when the KMT saw huge leads evaporate just weeks (or hours) before the voting-combined with the high number of voters calling themselves undecided in pre-election polling-convinced KMT strategists to take nothing for granted. In the last days before the election, Ma's campaign staffers drove themselves to distraction imagining DPP dirty tricks to "steal" the election - which is how they believe Chen won in 2004. On March 21, the New York Times reported "The suppression of Tibet protests by Chinese security forces, as well as missteps by the Nationalist Party, which Beijing favors, have nearly erased what had seemed like an insuperable lead for Ma Ying-jeou, the Harvard-educated lawyer who has been the front-runner in the race."[4] The fact that Ma refused to retreat from the 1992 consensus, even in this perilous political environment, underscores his determination to establish its legitimacy as the basis for dialogue with Beijing.

The DPP pointed to Ma's commitment to the 1992 consensus as one of many signs that the KMT candidate was more committed to unification than to protecting Taiwan's interests. Hsieh's campaign rallies rang with accusations that Ma and the KMT were preparing to "sell out Taiwan" to the PRC. To make their case, however, DPP speakers needed to ignore or dismiss the many public statements in which Ma warned Beijing to keep its expectations low regarding unification. These messages constituted a second costly signal-one that could delay or derail the progress on cross-Strait relations Ma needs to prove his mettle as president.

Ma has never denied that the KMT's long-term preference is for unification, but he regards unification as one of several options Taiwan might adopt – not an inevitable solution. As long as decisions about Taiwan's future result from a democratic process, he avers, he can accept any outcome. To reinforce this emphasis on democracy as the basis of policy, Ma says there is no chance Taiwan would unify with a non-democratic People's Republic of China. To qualify as democratic, he has said, the PRC government must meet stringent criteria – including reversing its verdicts against the Tiananmen Square protesters of 1989.

Ma's campaign message regarding unification centered on two themes. First, he flatly stated that unification would not be a topic for dialogue during his term of office. This unequivocal statement, reiterated regularly throughout the campaign, put Beijing on notice that moving too quickly to press Taiwan on unification would back-fire. It also reassured Taiwanese voters that electing Ma would not result in precipitous changes to Taiwan's status. Ma's second campaign theme was his "three nos" formula: no unification, no independence, no armed conflict. This statement offers reassurance to the PRC and to the Taiwan electorate, as it addresses the deepest fears of each side.

Just in case Beijing might have missed the point, Ma added a stinging coda at the end of the campaign. On March 18, with violence raging in Tibet, Ma issued a statement that touched on every one of Beijing's sore spots. The statement began, "The Republic of China is a sovereign independent democratic state. The future of Taiwan should be decided by Taiwan's 23-million people, and no intervention by the PRC is to be tolerated." After calling PRC Premier Wen Jiabao's assertion that mainland Chinese people should have a role in determining Taiwan's status "not only rude, irrational, arrogant, and absurd, but also self-righteous," the statement des-

cribed the crackdown in Tibet as "a savage and stupid act." Ma reiterated his support for Taiwan's reentry into the United Nations and urged Beijing to "open a dialogue with the Dalai Lama." Finally, as if to make sure that no sacred cow would escape the blade, Ma concluded, "If the PRC continues its crackdown on the Tibetan people, and if the situation in Tibet continues to deteriorate, I will not, if elected President of the Republic of China, rule out the possibility to stop sending our delegation to the 2008 Beijing Olympic games."[5]

If Ma's campaign message to Taiwan's voters was that they should expect him to move aggressively toward tighter cross-Strait economic relations and to seek better political relations under the 1992 consensus framework, the message to Beijing was equally blunt: don't expect me to deliver Taiwan on a silver platter if I win. By making both messages plain and unequivocal, Ma earned the credibility he needs to move toward a dialogue while taking unification off the agenda.

That said, it is fair to ask what the content of this vaunted dialogue will be. Here again, Ma's campaign made his intentions clear. Ma's agenda for dialogue is rooted in an agreement KMT chair Lien Chan and CCP General Secretary (and PRC president) Hu Jintao reached in Aprilie 2005. The two leaders' joint statement reads, in part, "It is the common proposition of the two parties to uphold the 'Consensus of '92', oppose 'Taiwan independence,'[6] pursue peace and stability in the Taiwan Strait, promote the development of cross-strait ties, and safeguard the interests of compatriots on both sides of the strait."

The statement also called for enhanced economic cooperation – including "all-round, direct and two-way 'three links'" and expressed the two sides' shared desire to "promote a formal ending to the cross-

strait state of hostilities, reach a peace accord, and build a framework for the peaceful and steady development of cross-strait ties, including the establishment of a military mutual trust mechanism, to avoid cross-strait military conflict." The leaders also agreed to "promote discussion on issues of participation in international activities, which concern the Taiwan public, after cross-strait consultations are resumed, including priority discussion on participation in the World Health Organization's activities." Ma's campaign emphasized this last point in its promise to work with the PRC to achieve a modus vivendi on Taiwan's international space.[7]

To call for dialogue while excluding the issue about which one's negotiating partner ostensibly is most eager to talk, as Ma has done, would seem to guarantee failure, but the Lien-Hu agreement provides fodder for years of negotiations without ever raising the issue of unification. (The closest the agreement comes to mentioning unification is a call for a "virtuous circle of cooperation… so as to bring about brilliant and splendid prospects for the Chinese nation.") Using interim steps – the economic agreements and peace accord – to facilitate dialogue while postponing the day of reckoning on unification is an important part of the Ma Ying-jeou/KMT approach to cross-Strait relations-one that appears likely to meet Beijing leadership's expectations (which has signed onto this strategy already) and the Taiwanese people's.

Ma's plan for cross-Strait dialogue also meshes well with Beijing's current grand strategy, which emphasizes avoiding conflict and preventing Taiwan from moving farther toward de jure independence, while allowing the forces of economic integration and political amity to pull Taiwan more deeply into the PRC's orbit. The current PRC leadership appears to place greater importance on neutralizing Taiwan

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as a threat to Chinese sovereignty than on coercing Taiwan into early unification.[8]

Ma's Cross-Strait Policy and Popular Preferences

The easiest way to argue that Ma's cross-Strait policies enjoy popular support is to consider the landslide victories he and his party have won this year. The electorate gave 58.45 percent of its votes to Ma after a campaign in which his positions on cross-Strait relations were challenged daily in the strongest terms his opponents could muster. Still, there were many reasons for Ma's success, including poor performance by the DPP incumbent, a strong desire for political change, widespread reluctance to embark on another four years of gridlock (given the KMT's legislative majority), powerful KMT organizations in many districts, Ma's own personal charisma and popular hopes for an economic turnaround. In short, we need more evidence than Ma's performance in the election to be confident that Taiwan voters truly welcome his cross-Strait policies.

In recent years, foreign observers have worried that public opinion in Taiwan was moving in a dangerous direction. In 1998, Ted Galen Carpenter noted an "inexorable" trend toward independence that would lead inevitably to military conflict. This claim was the basis for his 2006 book, America's Coming War With China: A Collision Course over Taiwan.[9] Although the percentage of Taiwanese telling pollsters they support immediate independence has increased little over the past decade, and large majorities prefer to maintain the status quo, it is difficult to determine how much of a role China's threats play in keeping support for de jure independence low.

Some observers argue that a better measure of their "true preferences" is the percentage who identify themselves as "Taiwanese," rather than "Chinese" or "both

Taiwanese and Chinese." If we gauge support for changing Taiwan's status by that metric, the trend is very different. According to surveys conducted by the Election Studies Center at National Chengchi University, the percentage calling themselves Taiwanese has more than doubled since 1992, from about 17 percent to over 43 percent. The percentage claiming a Chinese identity has plunged from 26 percent to under 5 percent.[10] Many observers look at these figures with alarm. But the political scientist Yun-han Chu draws a different conclusion, noting "for the silent majority, the two identities were not mutually exclusive… [and] the younger generation ...turned out to be the least susceptible to the incubation of an exclusive Taiwanese identity."[11]

It seems logical that the rise in Taiwanese identity would make islanders more resistant to integration and engagement with the mainland, but this is in fact often not the case. As the percentage claiming a Taiwanese identity has risen, support for de jure independence has remained flat, while support for cross-Strait engagement has risen sharply. Since 1992, the percentage of Taiwanese who say the pace of cross-Strait exchanges is too slow has increased from 19 percent to 35 percent (with another 41 percent saying the pace is "just right" in 2008).[12] In the same period, support for tougher regulations on cross-Strait exchanges fell from 57 to 44 percent, while support for loosening the rules more than doubled, from 20 percent to 42 percent.[13] Meanwhile, direct transportation links have the support of about three-quarters of Taiwanese.[14] As Yu-shan Wu wrote of public opinion in the 1990s, "the rapid nativization of ethnic consciousness is only partially reflected in positions on national identity and the independence/unification question, and its influence on concrete policy positions [related to cross-

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strait economic relations] is even more limited…Put simply, the trend toward Taiwanization in basic ethnic consciousness has not evolved into a political demand for Taiwan independence."[15]

One of the most interesting and useful ways of studying these issues is a method developed by Yun-han Chu that measures conditional preferences. In these surveys, respondents are asked whether they would agree with these statements:

- If the social, economic and political conditions in the mainland become comparable to Taiwan, the two sides should become unified.
- If Taiwan can maintain peace with mainland China after declaring independence, Taiwan should become a new nation (state).

Respondents who agree with both statements Chu defines as "open minded rationalists." Those who disagree with both are "strong believers in the status quo." Those who agree with one but disagree with the other are "committed believers" in either unification or independence. In the 2006 survey, 29.8 percent qualified as principled believers in independence (which is to say, they would prefer independence if it came at no cost, and they would not support unification even if the two sides were very similar) and 15.1 percent were principled believers in unification. What is most interesting, however, is the largest group – 33.3 percent – who were open-minded rationalists, willing to accept either outcome under favorable conditions.[16]

Chu's conclusions – which are supported by a several other studies – suggest that the mainland China policy Ma Ying-jeou and his party are promoting aligns well with popular preferences on the island.[17] As Chu puts it, "my analysis does not support the view that cross-strait relations are on the verge of a major departure from the status quo. While the prospect of peaceful reconciliation has turned more promising, a negotiated peace between the two sides is still far off… Democratization has reinforced the Taiwanese quest to retain charge of the island's own future, making the threshold for constructing a winning coalition for reunification extremely high."[18] If this is the case, it is not surprising that Taiwanese voters would endorse a policy aimed at promoting engagement and dialogue while deferring a conversation about unification to the distant future.

Implementing the Ma Ying-jeou Platform for Cross-Strait Relations

Now that Taiwan's electorate has spoken, implementing Ma's platform will require cooperation from three other important constituencies: Beijing, Washington and the KMT. Ma's campaign laid out a new approach for the KMT, one that emphasizes Taiwan's (or the ROC's) democratic nature. The "old KMT"-under the leadership of Chiang Kai-shek and Chiang Ching-kuo was a Chinese nationalist party (its full name, Zhongguo Guomin Dang, means "Chinese Nationalist Party"). This identity fueled suspicions that it would be willing to sacrifice Taiwan to the unificationist imperative in Chinese nationalism. It also reinforced the sense of the KMT as an alien political force imposed upon Taiwan, which inspired the DPP to embrace a competing ethno-nationalist vision of Taiwan's future, that of an independent Taiwanese state.

The "new KMT," populated by former president Lee Teng-hui's ethnically-transcendent "New Taiwanese," downplays ethno-nationalism in favor of democracy. Ma Ying-jeou's statements on cross-Strait relations project a civic nationalist blueprint, one in which Taiwan's (or the ROC's) national identity is defined by its democratic political system, not the ethnicity – Chinese or Taiwanese – of its

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citizens. By declining to play the ethno-nationalist game, Ma is able to set aside the long-standing anxiety about whether he is capable of being an authentic representative and leader for the Taiwanese people. His positions on cross-Straits issues establish him as a politician who puts Taiwan first, one who treats Taiwan as an end in itself, and not as a means to a Chinese nationalist end.

The first practical test of Ma's new approach will be whether he is able to jumpstart cross-Strait economic liberalization. The economic components of his plan should be the easiest to implement, not least because Beijing already gave them its blessing in the 2005 KMT-CCP agreement. During the campaign, Ma promised quick action on direct links, investment liberalization and bringing PRC tourists to Taiwan. The most difficult of these is the first, since the others can be accomplished almost entirely by unilateral action. But the 2005 agreement sets direct sea and air links as a goal, along with increased trade and investment, as well as opening mainland markets to Taiwanese agricultural products. Negotiating a common market agreement is a longer term step, but again, the CCP agreed to do this in the 2005 KMT-CCP pact.

During Ma's first month as president, he made significant progress toward these practical goals – enough to alarm some Democratic Progressive Party supporters. Between the election and inauguration, Vice President Vincent Siew met with Chinese President Hu Jintao in Boao, China. As soon as Ma and Siew took office, dialogue between the two sides' quasi-official representative groups resumed, proving that the ill-defined 1992 consensus is, in fact, sufficient grounds for talks. By mid-June, less than a month after the inauguration, the two sides had signed agreements to permit weekend cross strait charter flights and increase the number of Chinese tourists in Taiwan. Many more issues remain to be resolved, but as long as the dialogue continues, the economic issues, at least, will be addressed.

Achieving progress on political issues-including reducing tensions, implementing military confidence building measures, normalizing relations and signing a peace accord – will be a bigger challenge. Here again, though, the two sides already have agreed in principle to pursue these goals. Perhaps more importantly, Beijing currently defines its core interests in the Strait as stabilizing relations with – and neutralizing – Taiwan as a potential flashpoint for conflict by minimizing the chances it would make a lunge for de jure independence. Because easing cross-Strait relations is consistent with Beijing's overall strategic goals, the chances for positive steps are good.

Still, Beijing and Taipei have missed opportunities to improve their relationship before, and there is no shortage of potential roadblocks ahead. To begin with, it is crucial that both sides keep their claims modest on behalf of the 1992 Consensus. Ma has spoken of the pact as "mutual non-denial" – not mutual recognition. For Beijing to commence dialogue under this formula implies a retreat from its past insistence on the far-stricter "One China principle." Nonetheless, hopes are rising that the 1992 Consensus, loosely interpreted, will be enough. According to news reports, Hu Jintao told President George W. Bush on March 26 that the 1992 Consensus means "both sides recognize there is only one China, but agree to differ on its definition."[19] Beijing has long insisted the consensus was not an agreement to disagree, so this shift in interpretation is noteworthy, and encouraging.

If optimism tempered with caution is in order when assessing the chances of

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progress in Beijing-Taipei relations, the order of the day in U.S.Taiwan relations may well be optimism unrestrained. Relations between Washington and Taipei deteriorated badly during the Chen presidency, especially in his second term. Richard Bush, who headed the American Institute in Taiwan under presidents Clinton and George W. Bush, began a December 2007 speech in Taiwan by saying, "Today I wish to speak about why U.S.-Taiwan relations have sunk to such a low point," then later asked, "Why… did the [George W.] Bush Administration start as the most Taiwanfriendly administration since the termination of diplomatic relations (or since World War II) and end up as probably the most hostile?"[20]

In the speech, Bush offers a nuanced answer, citing the inevitable tension in any security partnership, especially one between democratic states. Bush provides a comprehensive explanation, but most analysts focus on the visible manifestations of the tension between Taiwan and the United States: poor communication, policy surprises (such as Chen's "one country on each side" statement, or George Bush's open criticism of Chen's government at a White House meeting with Chinese premier Wen Jiabao), Taiwan's failure to complete arms purchases and the myriad initiatives the Chen administration undertook, known in Washington as "salami slicing tactics" (including everything from renaming the Chiang Kai-shek International Airport to promoting a new constitution and orchestrating referenda on sensitive issues).

After more than four years of growing tension, U.S. officials were hard pressed to stifle cries of relief when Ma won the presidency by a decisive margin. Add to that the KMT's near three-fourths majority in the legislature and the voters' forceful rebuke of controversial referenda. Under these circumstances, the diplomatic restraint reflected in President Bush's statement on election night seems positively admirable. On June 19, Secretary of State Condoleezza Rice touched on the issue in an interview with the Wall Street Journal. Rice denied that U.S.-Taiwan relations had been bad under Chen Shuibian, but she acknowledged that the Bush Administration had been "concerned that some of the things that Chen Shui-bian tended to do were just outright provocative." Rice seemed intent on balancing the ledger. She noted that while the United States was happy to see cross-strait relations improving under Ma, it was important for Beijing to remember that its own "provocative behavior" would meet opposition from the United States.

While the mainstream view in the United States holds that the nation's interests are served by stability and diminished tension in the Taiwan Strait, not everyone will welcome improved Taipei-Beijing relations with equal fervor. There is a faction within the U.S. foreign policy community, known variously as the Blue Team or the Neo-Conservatives, who believe Taiwan's separation from China benefits the United States. In their view, too much amity between Taipei and Beijing would strengthen the PRC, which would no longer be required to focus its military preparations on preventing Taiwan independence, thereby posing an increased threat to the United States. Most recently, this view surfaced in a post-election report by the Congressional Research Service (CRS). Observers in Taiwan – including many who have argued this logic for some time – noticed the report. The pro-DPP English-language Taipei Times editorialized, "…Taiwan may perhaps be growing too close to China, which, as the CRS report stated, could threaten U.S. interests in the region and have a negative impact on weapons sales to Taiwan. All of a sudden, peace no longer seemed to be such a good

thing."[21]

The third constituency Ma must persuade, before his cross-Strait agenda can be fully implemented, is his own party. Here again, cautious optimism is warranted. On the one hand, with the KMT in control of nearly three-fourths of the legislature, Ma should have an easy time passing legislation to execute his policies. On the other hand, the KMT's large majority makes the historically-fractious party, which only this year repaired schisms of more than a decade, harder to discipline than ever. Ma's ability to lead the KMT when it was out of power was a matter of debate; now that the party is back in control, reining in its worst impulses will require a firmer hand than he has demonstrated in the past. Still, KMT legislators are not an ideological bunch; it may be possible to secure their cooperation on cross-Strait policy by providing side-payments of more immediate and material benefit to them and their districts.

As the reopened cross-Strait dialogue began to bear fruit in the first month after Ma's inauguration, the KMT legislative leadership raised the issue of legislative involvement in the negotiating process. Speaker Wang Jin-pyng raised the possibility that the legislature might pass a bill guaranteeing the body representation in negotiations. While Wang's proposal met with a stern reaction from the executive branch, the Premier Liu Chao-shiuan affirmed that cross-Strait agreements would be submitted for legislative ratification. It is important for the two branches to work out a balance of executive autonomy and legislative oversight; the fact that they do not automatically agree is probably a healthy sign. Nonetheless, these debates are fodder for claims that the KMT is internally divided.

Conclusion

Taiwan's relations with Beijing and Washington have deteriorated over the past eight years. There is blame on all sides – Beijing's inflexibility and Washington's distraction certainly played a role. Still, a major contributing factor was Chen Shui-bian's determination to spend much of his presidency – especially his second term – strengthening Taiwan's resistance to closer engagement with the PRC. Many of his undertakings in this direction were perceived in Washington as gratuitous and in Beijing as provocative. Whether a new DPP president would have continued those policies is beside the point now that the election is over.

Ma Ying-jeou's election augurs well for improvement in relations both across the Strait and across the Pacific. His approach to cross-Strait relations offers a balanced mix of engagement and restraint, dialogue and self-protection. His policy platform is consistent with the preferences of a substantial majority of Taiwan's people, and he enjoys their confidence as well. To win over the forty percent who did not vote for him, Ma must prove his sincerity in putting Taiwan's interests first. If he diligently pursues the policy agenda he laid out during the election campaign, then that should not be an impossible task.

Notes

[1] When Taiwan's national legislature, the Legislative Yuan, was first subjected to comprehensive reelection in 1992, KMT-nominated candidates won 63 percent of the seats with 53 percent of the votes. In the first direct presidential election, held in 1996, KMT nominee Lee Teng-hui captured 54 percent of the vote.

[2] KMT-nominated candidates captured 53.5 percent of the votes in the voting for district and Aboriginal representatives. The KMT party list won 51.2 percent of the votes allocating 34 seats on the basis of proportional representation. The other major party, the Democratic Progressive Party (DPP), won 38.2 percent of the district and Aboriginal votes, resulting in 13 district seats,

and 36 percent of the party list vote, for a total of 14 seats. Candidates not affiliated with either major party won five district/Aboriginal seats, and no proportional seats.

[3] The "1992 Consensus" refers to talks between Taipei and Beijing in 1992, when the two sides agreed to set aside the problem of national sovereignty in order to discuss practical issues. In essence, they agreed that trying to find a mutually-acceptable definition of each side's sovereignty would make a dialogue on the practical matters impossible, so they would agree that both sides believed in "one China," and leave the discussion there. The KMT describes the 1992 consensus as "one China, different interpretations," with the Taiwan side interpreting "one China" to mean the Republic of China. In short, the KMT holds that the two sides reached an agreement to disagree. The DPP has consistently held that there was no consensus reached in 1992; it also rejects the idea that Taiwan is part of China under any interpretation

[4] Keith Bradsher, "China Tensions Could Sway Vote in Taiwan," New York Times, March 21, 2008.

[5] Ma Ying-jeou Statement, March 18, 2008. Accessed at: www.kuomintangnews.org (April 5,2008).

[6] The Chinese Communist Party and the KMT differentiate between Taiwan independence, which is unacceptable to both, and the independence of the Republic of China. The KMT has always insisted that the ROC exists as an independent, sovereign state. In theory, ROC independence is unacceptable to the CCP, but it has not challenged the KMT on this point in many years.

[7] The English translation of the KMT-CCP agreement from which these passages are excerpted is available at: http://news.bbc.co.uk/2/hi/asia-pacific/4498791.stm (accessed April 5, 2008). A complete Chinese text is available at: http://news.sina.com.cn/c/2005-04-29/19065787389s.shtml (accessed April 7, 2008).

[8] For an account of China's emerging grand strategy, see Avery Goldstein, "The Diplomatic Face of China's Grand Strategy: A Rising Power's Emerging Choice," China Quarterly, Dec. 2001, pp. 835-864.

[9] Ted Galen Carpenter, "Let Taiwan Defend Itself." Cato Policy Analysis, August 24, 1998. Available at http://www.cato.org/pubs/pas/pa-313.html (accessed April 7, 2008).

[10] "Changes in the Chinese/Taiwanese Identity of Taiwanese as Tracked in Surveys by the Election Studies Center, NCCU (1992-2007). From the series "Important Political Attitude Trend Distribution." Available at http://esc.nccu.edu.tw/eng/data/data03-2.htm (accessed April 7, 2008).

[11] Yun-han Chu, "Taiwan's Politics of Identity: Navigating Between China and the United States," Power and Security in Northeast Asia: Shifting Strategies. Byung-Kook Kim and Anthony Jones, Eds. (Boulder: Lynne Rienner Publishers, 2007) p. 241.

[12] "The Pace of Cross-Strait Exchanges," Mainland Affairs Council. Available at http://www.mac.gov.tw/english/index1-e.htm (accessed April 7, 2008).

[13] "How should our government handle Taiwanese investment on Mainland China?" Mainland Affairs Council. Available at http://www.mac.gov.tw/english/index1-e.htm (accessed April 7, 2008).

[14] "Should we open up direct transportation links with Mainland China?" Mainland Affairs Council. Available at http://www.mac.gov.tw/english/index1-e.htm (accessed April 7, 2008).

[15] Wu Yu-shan, "Liangan guanxi zhong de Zhongguo yishi yu Taiwan yishi." Zhongguo Shiwu 4, April 2001, pp. 71-89.

[16] Chu, op. cit. p. 245.

[17] See Wu, op. cit.; Andy G. Chang and T.Y. Wang, "Taiwanese or Chinese? Independence or Unification? An Analysis of Generational Differences in Taiwan." Journal of Asian and African Studies, February-April 2005, pp. 29-49; Shelley Rigger, "Taiwan's Rising Rationalism: Generations, Politics and 'Taiwanese Nationalism,'" East-West Center Policy Studies #26 (2006); Gunter Schubert, "Taiwan's Political Parties and National Identity: The Rise of an Overarching Consensus." Asian Survey 44, July-August 2004, pp. 534-554.

[18] Chu, op. cit. p. 250.

[19] Katherin Hille, "Hopes Rise for Taiwan-China Dialogue," Financial Times, April 2, 2008.

[20] Richard Bush, "U.S.-Taiwan Relations: What's the Problem?" Brookings Institution web site, available at http://www.brookings.edu /speeches/2007/1203_taiwan_bush.aspx (accessed April 7, 2008).

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The National State and Global Politics

Petru Sorin Drăguşin

Abstract: *The withdrawal of the nation-state produces the risk of anarchy. The institutions of the nation-states are weakened by the erosion of sovereignty which means difficulty in imposing the rule of law on the internal level with impact on the international order. The influence of the whole on its components is not possible because the whole is not yet sufficiently welded; there is no procedural criterion to validate the global decisions and therefore there is the risk for the components to influence components. Deglobalization would mean the globalization of anarchy which functions in the best case according to the rule of escape goat, "the culprit" and which has the historical role of a negative solidarity.*
Keywords: *globalization, nation state, international community, sovereignty, economy.*

Globalization, characteristic of the time we live in represents an overwhelming challenge for the state-nation that emerged in Europe and that paralleled the signing of Westphalia Treaty. This one culminated with the Treaty of Trianon that is "a political work piece of a renewed world designed by both the states of Europe and The United States and leading to the peace based on the just collaboration of states represented for the first time by nations and not by the few imperial and imperialist elitist groups that had been ruling empires up to that point."[1] The Treaty of Trianon brought Europe back to the pattern according to which peace is a collective work of nations and national elite assembled under the label of national state.

We attempt to approach this issue by debating on the topic of the function played by the state and the national dimension of the human existence.

Regarding the state function, the main dispute of the previous century was held between the supporters of the total state on the one side and the supporters of the minimal state on the other. After the Second World War totalitarianism maintained in its left formula which originated from socialism and communism and which paradoxically relied on Marx's works for whom the state represented an instrument used by the exploiting class to submit the exploited class.

"The common goal of all the socialist movements was nationalization so that all the economic activity should be directed according to a detailed program towards a certain ideal characterized by social justice."[2] The common possession of the production means guaranteed the existence of a perfect

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society in which members produced for their necessities and not for profit.

The excess made about the rationalization of social life and centralism dramatically weighted on the rights and liberties of individuals and, consequently, it gave birth to abuses hard to delimit in the grandeur that accompanied the proclamation of the new man's project. Hayek identifies three main factors that contributed to the downfall of this utopia:

- "the growing recognition of the fact that the socialist organization of production wouldn't be more efficient, but less efficient than the private one;
- the more resolute recognition of the fact that instead of leading to what was conceived to be better social justice, it would signify a new hierarchy, more arbitrary and more difficult to elude than any other;
- awareness of the fact that it would lead to a new despotism, instead of the promised freedom"[3].

The bankruptcy of the centralized economies marked also the end of the eschatological ideologies, which considered the state as the active principle of personal happiness.

Because the world was bipolar (East and West), the exit from the totalitarian rule was made through the entry into the minimal state, considered as a last option, and even perfect by some people. We could say that man left himself prey to a new mirage: a society able to operate by itself, with a self adjusting economy through the common game of demand and supply. The state? Minimal, with a decorative role, convinced of the good faith of all individuals. To paraphrase J. J. Rousseau we could say that post communism embraced the belief that "man is good by nature, but he is perverted by the state." Therefore, there was a tendency to reduce the size of state sectors (in our country governments' performances were quantified in the number of successful privatizations!) and pass the functions that had been adopted improperly to the market or civil society.

The narrowing of the statehood was also connected to the globalization of the economy which had been increasingly eroded the autonomy of the sovereign states-nations by increasing the mobility of information, capital and labor. The world identified more and more with an interconnected global order, with a system in which the focus moved from the actors (states) to interdependencies.

In the new economy, capital works in real time, moving quickly through the global financial networks. In these networks, it is invested in all types of economic activity, and most of what comes in the form of profit is channeled back into the network of financial flows. "Profit margins are much higher on the financial markets than in most direct investments and, therefore, all cash flows converge in the end in the global financial networks in search of higher gains."[4] Globalization of the economy is closely linked to informatics and technological development that allowed the virtualization of the financial products. But there is also a departure from the real economy, investors' attention moving towards the value of shares. "In the new economy, the most important objective of the game is not maximizing profits but maximizing the value of shares."[5] Thus the premises of a speculative spiral with many interconnections are created which becomes a mystery as long as it works.

Politics, in the sense that Blackwell Encyclopedia defines it – "a process by which a group of people whose views and interests are initially divergent, reach decisions and collective options, which impose to the group, symbolizing a common policy"[6] – globalizes bringing out a number of agencies, organizations, quasi-supranational institutions, such as the European Union.

Nevertheless, the exponential growth of the political scene begins to create great difficulties in decision-making.

This starts to be visible first in terms of security issues. The expansion of the nation-state, initially on behalf of human rights, then the effect of economic globalization, marked the beginning of new challenges. One of them is expressed in the newspaper *Adevarul* on 10 July 2001 by the journalist Romulus Căplescu in the title itself of the article that he wrote as it follows: *Could be there justice without borders?* Considering that "the tendency of foreign courts to excoriate the former heads of states or individuals who have held important positions in other countries, under charges of violations of human rights is closely related to the phenomenon of economic globalization," the journalist wonders about the viability of a concept such as global justice. Globalization of justice is considered to be questioned by the serious impediments in the way of a court with extensive powers. A difficulty is, for example, represented by the opposition of America which fears that its citizens might be tried by such court. "The American, one malicious participant commented to a roundtable organized by the BBC, enjoy the comfortable position of world policeman or judge, but not that of defendant." Meanwhile, the former secretary of state Henry Kissinger has argued his opposition to "justice without borders" in that it would seriously hamper the activities of foreign policy.

On the other hand, countries like China and India want the national judiciary to preserve its prerogatives in cases of overlooking human rights, not being too willing to accept the reduction of sovereignty.

To these reactions there is also added the dilemma of funding such a world court, when there is a conspicuous lack of enthusiasm from many countries to pay contributions to the UN. Under the circumstances of the financial and economic crisis that we cross there could take place the upheaval of values with no guarantee that they will not affect the impartiality and independence of judges. However, it is difficult to argue the existence of a *homo universalis* outside from any historical and national conditioning who could ensure a fair trial. And after all, we can ask ourselves: *What would a fair trial in this court mean*? *What should be the values and procedures in relation to which court would function?*

Far from being rhetorical, these questions can get answers, but the situation remains equally problematic because responses are not fully convergent.

As Francis Fukuyama shows, "Americans and Europeans have different opinions about the source of legitimacy at the international level; Americans consider that this is rooted in the will of the democratic majority in the constitutional nation-states, and Europeans tend to believe that it relies on the principles of justice which are higher than the laws and the wills of the nation-states taken separately."[7] The foundations of these views are found in their national histories, and from this point of view, things are understandable, because as it is expressed by Professor Neagu Djuvara at a conference held at University Al.I.Cuza of Iasi, "Americans are some Europeans who have evolved differently."

European vision could be substantiated by bringing into question the phrase "majority's tyranny"; this majority could take correct procedural decisions that might not respect the universal liberal values. Democratic majorities may decide to do awful things to other countries and they may violate human rights and decency standards on which their democratic order is based.

Fukuyama illustrates the dispute between the two perspectives on the worldwide legitimization through Lincoln-Douglas debates. Douglas claimed that he didn't care if people voted for or against slavery, as long as the decision reflected the decision of the people, while for Lincoln slavery itself violated the higher principle of equality among people on which the American system relied. The legitimacy of the actions of a democracy – and after all, globalization is the issue of global democracy whose players and beneficiaries are the states – is not based on procedural fairness, but on previous rules and rights that come from moral level higher than the legal order .

These arguments, theoretically sound, can be criticized on the grounds of practical impossibility. "The very idea that legitimacy is derived from the top down, from an international immaterial level and not allocated from the bottom up by the democratic and legitimate public in the nation-state virtually calls for abuses from the elite which become free to interpret the will of the international community according to their preferences."[8]

Impracticability is also amplified by the fact that when the laws and the existing international organizations could correctly reflect the will of the international community, law enforcement remains the competence of the nation-states.

"The international community" is inconsistent despite structuring the project, insofar as the capacity to implement depends entirely upon the action of the individual nation-states. History has shown so far that all the international organizations which have to deal with serious problems regarding security issues face problems of collective action which paralyze them.

It is enlightening in this respect Milosevic's Serbia, in which case, although the European Union as a whole confirmed the conflicting and undemocratic regime of Milosevic, any concerted approach failed to restore order and justice in the region.

So we can speak of two phenomena:
- on the one hand, the downfall of the nation-state;
- on the other hand, the no-naissance of the international community.

It is suggested the existence of a vacuum that can be correlated to an event similar with the one that took place on September 11th. "What filled this vacuum was in fact a motley collection of multinational corporations, NGOs, international organizations, mafia, terrorist groups and so on, which may have some power or certain legitimacy, but rarely one and another in the same time."[9]

The difficulty of decision-making stems therefore from a crisis of legitimacy, in the meaning given by S.M. Lipset - the ability of a system to contain and maintain the belief that the existing institutions are the most appropriate. The global system does not currently contain such institutions that can enjoy any credibility because none of them practically assume any responsibility. Meanwhile, the invisible hand thesis which should manage effectively the globalized economy proves devoid of realism, being increasingly challenged.

Globalization has resulted in perfect market timing. But after the enthusiasm in front of what seemed an economy of Swiss clock, this timing revealed another side, it proved to be a synchronization in crisis which led many analysts to accept that we are facing a minor recession, possibly cyclical, predictable and therefore controllable.

The new lesson which mankind lives is only an old lesson – history is not the earth of happiness, the way the philosopher K. Popper puts it, and therefore we should avoid building the paradise. The movement made by recoil from the total state towards the minimal state was mistaken for an

arrival. A Chinese proverb says "when you set eyes on a target there remains only one way to find direction," which could mean that the nobility of a target can be dimmed by a Pirus victory. One might say that the species' solidarity urges us to define us as citizens of the world, but on behalf of such a too ideal solidarity some of its intermediate levels could be eluded. In reality without family solidarity, local, national or regional solidarity there can be no global solidarity. It is true that these conditions are not sufficient since a solidarity "against" could develop, but they are necessary conditions.

In history there is no destination, only staging sometimes, because history is a challenge. This finding is just an urge to vigilance, to building a policy based on what is and not on what should be.

These could be reasons for rethinking the state's role in the context of globalization. It is necessary and its main mission is the structuring of the degrees of solidarity among individuals. We believe that this can be achieved if we try to learn from the last two lessons: that of the totalitarian state and that of the minimal state.

Currently many political actors still oscillate between a disjunctive-exclusive logic characterized by "or" – and an inclusive logic characterized by "and-and". According to the exclusive-disjunctive logic since the option for the minimal state has brought us to a financial and economic crisis, we should resign from it and adopt that of a heavily involved state regardless of the risks it would signify. Such guidance would make us repeat mistakes until we are able to learn from them.

It seems relevant in this case the fact that Russia's prime minister, Vladimir Putin himself, during the economic forum in Davos, recommended caution against the strong intervention of the state and expressed his reserves about the tendency to manage economy in response to the current crisis. Thus, according to Hotnews[10], "he warned against excessive reliance on the intervention of the state and protectionism when navigating on the" perfect storm" of a truly global economic crisis (...), launching such a warning about Washington and London, whose economic incentive packages could lead those states on the road Moscow walked once upon a time and which would do too little for the global economy. "

On the other hand the national side of states should be managed carefully, so that the chosen measures should not exacerbate extremist currents, because history demonstrated that the nationalist discourse was frequently an equally short and bloody path towards power.

The inclusive logic becomes desirable and it should be consistent with the new realities. Globalized economy is not possible without weakening the national state, but this must be able to replace it with global governance.

We share the view of the logician Rudolf Carnap that the "big issues of our time, of the age of industrialization, namely the organization of economy and of the world can not be resolved through a free play of faculties", but they require rational planning. To the organization of the economy, this means socialism in one form or another. To the world structure, this means a gradual development towards a world government.[11] It is essential assuming them procedurally and not as absolute purposes. History does not allow predictions, history is made, even when it repeats, which means that new items can appear anytime (and it is sufficient to think of September 11, 2001) which could not be taken into account, but which can not be ignored. The real purpose is to improve and enrich the lives of individuals and the education in their family, education between

friends, at work and in the national and global society. Such an enrichment of life means that all individuals are given the opportunity to develop their potential skills and to participate in cultural events and experiences. If when considering problems we have always this end in mind, R. Carnap thinks, we shall become aware of the danger of gradual increase in the state power. Meanwhile, this extension of the state power is necessary because the national states have to consist of larger units and because they have to take up many economic functions. "One of the most acute problems – probably the most important and difficult problem second after the urgency to avoid a world war - is therefore the task of finding solutions for society's organization which could provide a common denominator for personal and cultural freedom of individuals on the one hand, and the actual organization of the state, on the other."[12] Although the above ideas were written by Rudolf Carnap well before the end of the Cold War, their mentioning is justified by the new realities of the globalized economy. "We must create a framework for international governance, which we don't have for the moment. We must take into account the shortages on the global level. For a decade we have said that the current framework is inadequate", the British Prime Minister, Gordon Brown[13], declared and he also added that the financial markets would be first of its agenda at the G20 summit in London in April. "If what happens to a bank in one country can have devastating effects on the banks on another continent just in a couple of minutes, only a true international response from the part of policies and governance can be effective," Brown believes, and this does not necessarily mean a return to the protectionism of '30s. It must be stopped, for example, the tendency of banks to prevent foreign lending in favour of internal markets in order to avoid deglobalization with adverse consequences for all the economies. The British Prime Minister also warned that without an effective system of international financial regulation, there is the danger to deglobalize the global economy. This danger that Gordon Brown expects and which we would be happy to notice only in theory comes mainly from the reality of an unfinished and imperfect world. The withdrawal of the nation-state produces the risk of anarchy. The institutions of the nation-states are weakened by the erosion of sovereignty which means difficulty in imposing the rule of law on the internal level with impact on the international order.

The influence of the whole on its components is not possible because the whole is not yet sufficiently welded; there is no procedural criterion to validate the global decisions and therefore there is the risk for the components to influence components. Deglobalization would mean the globalization of anarchy which functions in the best case according to the rule of escape goat, "the culprit" and which has the historical role of a negative solidarity.

We conclude by claiming that, far from being outdated, the nation-state is an indispensable element in the new economic order in its capacity as guarantor of respect for human dignity. It does not oppose either to the individual or globalization, but it tries to make all these give identity to the individual. Globalization does not mean anonymity, but to paraphrase Wittgenstein, family similarities, we are not identical, but not radically different, too. Opposition is excluded. And this logic must also be conducted in what concerns states as actors of global politics. It is equally necessary and difficult to find a guarantor of it so that the old dilemma of Juvenalis: "Who is watching the guards?" be solved. Could a world government succeed to free itself

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from the historical conditioning in order to rise at the height of such a mission? It is difficult to formulate a response, but the nation-state could be a prerequisite.

Notes

[1] Ilie Bădescu, *Statul naţional în contextul globalizării*, în „Globalizare şi identitate naţională:simpozion: Bucureşti, 18 mai 2006", Bucureşti, Ed. Ministerului Administraţiei şi Internelor, 2006, p. 11.

[2] Friedrich A. Hayek, *Constituţia libertăţii,* Iaşi, Institutul European, 1998, p.268.

[3] *Ibidem*, p.269.

[4] Fritjof Capra, *Conexiuni ascunse:integrarea dimensiunilor biologice, cognitive şi sociale într-o ştiinţă a durabilităţii,* Bucureşti, Ed. Tehnică, 2004, p. 198.

[5] *Ibidem*, p. 200.

[6] *apud* Anton Carpinschi, Cristian Bocancea, *Ştiinţa politicului,* Iaşi, Ed. Universităţii „Al.I. Cuza", 1998, p. 54.

[7] Francis Fukuyama, *Construcţia statelor. Guvernarea şi ordinea mondială în secolul XXI,* Ed. Antet, 2004, p. 121.

[8] *Ibidem*, p. 122.

[9] *Ibidem*, p. 127.

[10] Hotnews.ro, 29.01.2009, 21:42

[11] *apud* Jan Riis Flor, *Rudolf Carnap. Filosofia ca sintaxă logică,* în Anton Hugli, Poul Lubcke, *Filosofia în secolul XX,* vol. II, Ed. ALL EDUCATIONAL, 2003, p. 179

[12] *Ibidem*, p. 180.

[13] Hotnews.ro, 27. 01. 2009, 23:17.

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Uniformizarea legislației la nivel european.
Studiu comparativ privind eroarea ca viciu de consimțământ în reglementările Statelor Membre

Irina Olivia POPESCU

Abstract: *This study aims to address a comparative analysis of the error as a vitiating factor in the continental law system and the system based on judicial precedent - the common law, from the perspective of the historical evolution of this concept. Error, in the continental system of law is a vitiating factor which consists of the misrepresentation of facts at the conclusion of the legal civil act. At the frontier of error – as a vitiating factor and fraud in the common-law system, is interposed the misrepresentation doctrine, a doctrine with direct application in tort but which has also incidence in what concerns the legal documents. Misrepresentation in this system of law defines a false statement, precisely addressed to a person by another, to determine this other person to enter a contract. This approach emphasizes the demarcations and interferences in terms of concept, structure, and the classification of error from the point of view of the two legal systems.*
Key words: *EU regulation**, legal act, consent, vitiating factor, misrepresentation.*

1. Considerații preliminare. Caracterul formalist al dreptului roman și ineficacitatea radicală a actelor juridice.

În dreptul roman, contractul reprezintă o convenție sancționată de dreptul civil care dă naștere la obligații, spre deosebire de convenția care stingea sau modifica un drept. Ca atare, convenția este genul iar contractul este specia[1]. Așa cum se poate observa, există o diferență fundamentală între concepția romană asupra contractelor și concepția contemporană, în care se consideră că o convenție legal încheiată are putere de lege între părțile contractante[2], în timp ce concepția romană este sintetizată de adagiul *ex nudo pactio inter cives Romanos actio non oritur.*

Contractul, pentru a fi valabil încheiat trebuia să îndeplinească două categorii de condiții și anume condiții de formare și condiții de validitate. În categoria condițiilor de formare a contractului intră capacitatea, o prestație susceptibilă de a face obiectul unei convenții și consimțământul[3].

Consimțământul, element esențial al oricărui contract, reprezenta manifestarea de voință a unei persoane în sensul pe care

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cealaltă parte îl dorea. Spre deosebire de dreptul modern, consimţământul părţilor nu era suficient pentru ca un contract să fie format, ci acesta trebuia să îmbrace formele prevăzute de lege. Ulterior, o dată cu apariţia contractelor consensuale, consimţământul părţilor devine suficient pentru ca un contract să fie valabil format cu consecinţa ca şi celelalte elemente ale acestuia, respectiv capacitatea şi obiectul să fie, de asemenea, îndeplinite. Totodată, acordul de voinţă al celor două părţi trebuia să îndeplinească trei condiţii[4] şi anume:

■ dualitate, numai întâlnirea a două voinţe constituind un consimţământ valabil, o voinţă unică rămânând ineficace în dreptul roman, o simplă policitaţiune;

■ concordanţa, întâlnirea celor două voinţe ale părţilor la un moment dat, chiar dacă acestea nu luau naştere simultan;

■ seriozitatea, consimţământul era valabil numai dacă era exprimat în mod serios, ci nu dacă era dat în glumă.

Concepţia dualistă a eficacităţii depline sau respectiv a ineficacităţii totale se regăseşte pregnant în materia consimţământului, în care jurisconsulţii romani disting între existenţa consimţământului sau absenţa acestuia, fără a acorda importanţă viciilor de consimţământ. Acest raţionament are drept consecinţă evitarea situaţiilor intermediare existente între validitatea deplină şi ineficacitatea totală. În ceea ce priveşte consimţământul, ca element esenţial al unei convenţii, romanii au stabilit câteva principii care reglementează regimul juridic al acestuia:

- consimţământul poate fi exprimat în mod verbal, dacă este însă exprimat în scris acesta nu va folosi decât ca mijloc de probă a convenţiei;

- consimţământul nu trebuie să îmbrace o formă solemnă şi nici nu trebuie să fie expres, putând fi şi tacit, dacă constă în efectuarea unor acte din care

rezultă în mod concret voinţa stipulantului[5];

- promisiunile acceptate de încheiere a unei anumite convenţii reprezintă convenţii valabile, *pacta de ineundo contractu vel de contrahendo*[6].

Dreptul roman cunoaşte anumite cauze în care acordul de voinţă nu există decât în aparenţă[7] şi care duceau astfel la inexistenţa consimţământului[8] şi pe cale de consecinţă acestea determinau inexistenţa contractului, acestea fiind:

■ Unul dintre contractanţi este nebun[9];

■ Manifestarea voinţei *per jocum* (neseriozitatea). Neseriozitatea determina inexistenţa consimţământului deoarece acesta era dat în glumă, neavând astfel ca scop intenţia părţilor de a se obliga;

■ Existenţa unei erori asupra identităţii contractului (*error in corpore*);

■ Existenţa unei erori asupra naturii contractului (*errror in negotio*);

■ Existenţa unei erori asupra persoanei cu care urmează a se contracta (*error in personam*);

■ Existenţa unei erori asupra cuantumului, atunci când acesta reprezintă un element esenţial al contractului (*error in quantitate*). Spre exemplu, într-un contract de vânzare-cumpărare, vânzătorul crede că este vorba de o sumă mai mare, în timp ce cumpărătorul crede că este vorba de o sumă mai mică[10];

■ Violenţa fizică exercitată asupra unei persoane pentru a o determina pe acesta să încheie o convenţie;

■ Existenţa unei simulaţii.

Vechii romani considerau că eroarea, dolul, violenţa şi simulaţia pot exclude sau vicia consimţământul.

Eroarea reprezenta falsa înţelegere a realităţii. Eroarea esenţială, *error essentialis* – care exclude consimţământul părţilor, este o cauză de inexistenţă a convenţiei. Împotriva unei astfel de convenţii nu putea fi exercitată o acţiune în nulitate, deoarece

nu poate fi anulat ceva care nu există, ca atare o *querela nullitatis* nu are sens deoarece din punct de vedere juridic părţile nu au realizat nimic şi ca atare fiecare dintre ele îşi poate conserva toate drepturile avute anterior. Instanţa în faţa căreia era invocată o astfel de convenţie nu făcea decât să constate inexistenţa ei[11].

În epoca romană, eroarea esenţială era împărţită în *error in negotio* – eroare asupra naturii actului juridic, *error in persona* – eroarea asupra identităţii persoanei, *error in corpore* – eroarea asupra identităţii lucrului şi *error in substantia* – eroarea asupra calităţilor esenţiale ale lucrului, toate acestea determinând inexistenţa contractului.

2. Ineficacitatea actului juridic în viziunea interpreţilor dreptului roman din Evul Mediu.

Confuzia care a înconjurat materia nulităţii nu ia sfârşit în epoca medievală. „Într-adevăr atât în ţările care se aflau sub influenţa dreptului roman, cât şi în acele unde aceasta era germană, principiile nu erau mai bine fixate, şi cum putea oare să fie altfel în acele timpuri sumbre şi neliniştite, când ştiinţa se întuneca din an în an?"[12].

Interpreţii dreptului roman din Evul Mediu au explicat instituţiile vechi *exceptio* şi *restitutio in integrum* ca fiind adevăratele corespondente ale conceptului de anulabilitate[13]. Astfel, suntem în prezenţa unei atenuări a teoriei bipartite, însă numai în plan teoretic, cu puternice implicaţii asupra procedurii: este inutil să anulăm un act nul, inexistent, pentru că acesta trebuie ignorat fără nici o altă formalitate. În ceea ce priveşte însă actul anulabil acesta trebuie anulat în justiţie şi numai ulterior poate fi ignorat. Spre exemplu, în ipoteza unui testament nul, moştenitorul *ab intestat* poate uza în mod direct de petiţia în ereditate, în ipoteza în care testamentul este doar anulabil, moştenitorul trebuie să obţină, anterior utilizării petiţiei în ereditate, anularea testamentului în justiţie[14].

Justificarea apariţiei acestui grad intermediar de ineficacitate, între validitatea totală şi ineficacitatea radicală (inexistenţa), şi anume anulabilitatea, a determinat apariţia a trei curente diferite. Primul a încercat explicarea anulabilităţii pornind de la distincţia realizată de vechii romani între *substantia* şi *effectus*; cel de-al doilea curent a încercat să justifice anulabilitatea pornind de la teoria aparenţei. Ultima categorie a fundamentat gradul intermediar al anulabilităţii pe baza interesului protejat[15].

3. Eroarea – viciu de consimţământ în sistemul legiuitorului român contemporan

3.1. Noţiune. În doctrina şi jurisprudenţa de specialitate se arată că eroarea reprezintă viciul de consimţământ care constă în *reprezentarea greşită a realităţii* cu prilejul încheierii actului juridic civil[16].

În conformitate cu art. 954 C.civ.: „(1) Eroarea nu produce nulitate decât când cade asupra substanţei obiectului convenţiei. (2) Eroarea nu produce nulitate când cade asupra persoanei cu care s-a contractat, afară numai când consideraţia persoanei este cauza principală, pentru care s-a făcut convenţia".

Astfel, în primul alineat este reglementată eroarea asupra calităţilor substanţiale ale obiectului actului (*error in substantiam*), iar în al doilea alineat se reglementează eroarea asupra identităţii ori calităţilor persoanei cocontractante (*error in personam*).

3.2. Structură şi condiţii. În alcătuirea erorii viciu de consimţământ intră *un singur element* (de natură psihologică) ce constă în *falsa reprezentare a realităţii*, de unde apare şi dificultatea dovedirii sale. Cu toate aceste, trebuie avut în vedere faptul că eroarea este un fapt juridic *stricto sensu*, deci poate fi dovedită cu orice mijloc de probă.

Pentru ca falsa reprezentare a realităţii la încheierea unui act juridic să constituie viciu de consimţământ, trebuie întrunite cumulativ două condiţii:

a) elementul asupra căruia cade falsa reprezentare să fi fost *determinant*, hotărâtor, pentru încheierea actului juridic, în sensul că dacă ar fi fost cunoscută realitatea actul juridic nu ar mai fi fost încheiat. Cel care invocă eroarea trebuie să probeze că tocmai elementul asupra căruia s-a înşelat el este cel care l-a determinat să încheie actul juridic, având o influenţă hotărâtoare asupra consimţământului său. Aprecierea importanţei elementului fals se face având în vedere un *criteriu subiectiv*, adică *in concreto*, în funcţie de circumstanţele în care s-a contractat şi persoana celui în cauză (vârstă, profesie, nivel de pregătire etc.). În mod excepţional, s-ar putea recurge şi la un criteriu abstract şi anume comportamentul oricărei persoane într-o situaţie asemănătoare.

b) în cazul actelor juridice bilaterale cu titlu oneros, este necesar ca partea contractantă să fi ştiut ori să fi trebuit să ştie că elementul asupra căruia cade falsa reprezentare este hotărâtor pentru încheierea actului juridic civil în cauză. Această condiţie este impusă de nevoia certitudinii operaţiunilor juridice care intervin în circuitul civil.

3.3. Clasificare.

3.3.1. În funcţie de criteriu *naturii realităţii fals reprezentate*, eroarea se clasifică în eroare de fapt şi eroare de drept.

Eroarea de fapt constă în falsa reprezentare a unei stări sau situaţii faptice legate de încheierea actului juridic. Ea poate afecta obiectul actului juridic, valoarea acestuia sau persoana cu care se contractează.

Eroarea de drept constă în falsa reprezentare a existenţei sau conţinutului unei norme juridice civile la încheierea unui act juridic.

În doctrină, nu există un punct de vedere unitare în ceea ce priveşte eroarea de drept. Ca atare, s-a exprimat o opinie, rămasă izolată potrivit căreia eroarea de drept este inadmisibilă ca viciu de consimţământ[17] având în vedere „obligaţia cunoaşterii legii", aşa încât nimeni nu poate invoca necunoaşterea legii *nemo censetur ignorare legem.*

Opinia majoritară este însă în sensul admisibilităţii erorii de drept[18], având în vedere că:

a) legiuitorul român prevede în art. 953 C.civ. nevalabilitatea consimţământului „când este dat prin eroare", fără a distinge între eroarea de drept şi eroarea de fapt, iar *ubi lex non distinguit, nec nos distinguere debemus*;

b) conform art. 1206 alin. (2) C.civ., mărturisirea judiciară poate fi revocată numai pentru eroare de fapt, de unde rezultă, *per a contrario*, că mărturisirea nu poate fi revocată pentru eroare de drept, de unde reiese că în celelalte cazuri eroarea de drept este admisă;

c) dacă se produce, efectele erorii sunt aceleaşi, indiferent dacă ne aflăm în prezenţa unei erori de fapt sau a unei erori de drept, iar *ubi eadem est ratio, ibi eadem solutio esse debet*[19].

3.3.2. În funcţie de *gravitatea* ei, eroarea poate fi de trei feluri: eroarea *obstacol*, care atrage nulitatea absolută a actului; *eroarea-viciu de consimţământ*, care atrage nulitatea relativă a actului; *eroarea indiferentă*, care nu afectează valabilitatea actului.

3.3.2.1. *Eroarea obstacol* (eroarea distructivă de voinţă) reprezintă forma cea mai gravă a erorii şi presupune că falsa reprezentare cade asupra:

a) *naturii actului juridic* ce se încheie (*error in negotium*), când o parte crede că încheie un anumit act juridic, iar cealaltă parte crede că încheie un *alt*

act juridic, ceea ce determină inexistenţa consimţământului;

b) *identităţii obiectului* (*error in corpore*), adică una dintre părţi crede că tratează cu privire la un anumit bun, iar cealaltă are în vedere un alt bun.

3.3.2.2. *Eroarea-viciu de consimţământ* (eroare gravă) presupune că falsa reprezentare cade fie asupra calităţilor substanţiale ale obiectului actului juridic (*error in substantia*), fie asupra persoanei cocontractante sau beneficiare a actului juridic (*error in personam*).

Atunci când vorbim despre substanţa obiectului, jurisprudenţa de specialitate a stabilit că aceasta este constituită din acele calităţi ale sale care au fost determinante pentru parte într-o asemenea măsură încât, dacă ar fi cunoscut lipsa acestora, actul nu ar mai fi fost încheiat[20].

Eroarea asupra persoanei atrage anularea convenţiei, numai în cazul actelor încheiate în considerarea unei anumite persoane (*intuitu personae*) identitatea sau însuşirile esenţiale ale persoanei pot atrage această sancţiune [art. 954 alin. (2) C.civ.]. În acest sens, art. 1712 C.civ. declară anulabilă tranzacţia când există eroare asupra persoanei cu care s-a încheiat.

3.3.2.3. *Eroarea indiferentă* reprezintă falsa reprezentare a unor împrejurări mai puţin importante la încheierea actului juridic, asupra unor elemente accesorii, care nu ţin de substanţa obiectului actului, cum ar fi eroarea asupra numelui persoanei sau asupra persoanei, când nu s-a contractat *intuitu personae*, eroarea de calcul sau eroarea de tehnoredactare. O astfel de eroare poate atrage cel mult o diminuare valorică a prestaţiei.

4. *Misrepresentation* în sistemul de drept *common-law*.

4.1. Noţiune. La limita dintre eroarea-viciu de consimţământ şi dol se interpune doctrina *misrepresentation* în sistemul de drept *common-law*, o doctrină cu aplicaţie directă în dreptul obligaţiilor dar care are incidenţă şi în sfera actelor juridice.

Reprezentarea greşită defineşte o afirmaţie falsă, precisă[21], adresată de către o persoană alteia, pentru a o determina, material, să intre într-un contract.

În jurisprudenţă s-a stabilit că simplele opinii exprimate cu privire la starea anumitor lucruri nu pot fi considerate ca îndeplinind condiţiile de mai sus[22]. Se admite însă ca excepţie situaţia în care cel care face afirmaţie are cunoştinţe superioare celui căruia i se adresează în legătură cu faptul expus[23].

În ceea ce priveşte eroarea de drept – admisă aşa cum am arătat mai sus în sistemul de drept continental, trebuie menţionat faptul că, în sistemul *common-law*, afirmaţiile despre existenţa sau conţinutul unei legi pot fi folosite ca bază a acţiunii pentru *misrepresentation* doar în situaţia în care aceste afirmaţii sunt realizate de un avocat către clientul său[24].

De asemenea, de cele mai multe ori, afirmaţia eronată este comunicată direct către cocontractant, cu toate acestea sunt îndeplinite condiţiile acestei acţiuni şi în cazul în care afirmaţia este realizată către un terţ cu intenţia de a ajunge la cocontractant[25].

În jurisprudenţă s-a stabilit că o persoană nu poate folosi această acţiune în cazul în care nu a crezut în veridicitatea afirmaţiei respective[26].

4.2. Clasificare. În funcţie de remediile juridice pe care le poate obţine victima, reprezentarea greşită a realităţii poate fi:

- frauduloasă, în situaţia în care se cel care a făcut afirmaţia ştia că aceasta este falsă, sau nu a crezut că aceasta este adevărată[27]. Aceasta oferă posibilitatea victimei de a opta între desfiinţarea contractului sau solicitarea de despăgubiri;

- neglijentă, care oferă posibilitatea victimei de a solicita despăgubiri[28];

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- indiferentă, în cazul în care afirmaţia făcută nu are influenţă decisivă asupra contractului încheiat[29]. Instanţele sunt reticente în a acorda despăgubiri în cazul unei astfel de reprezentări greşite.

Note

[1] É. Cuq, *Les institutions juridiques des romains. L'ancien droit*, tome I, Librairie Plon, Paris, 1904, p. 350-351.

[2] A se vedea art. 969 din Codul civil român potrivit căruia „Convenţiile legal făcute au putere de lege între părţile contractante. Ele se pot revoca prin consimţământul mutual sau din cauze autorizate de lege".

[3] P. Van Wetter, *Les obligations en droit romain*, Tomul II, Imp. C. Annoot-Braeckman, Paris, 1884, p. 47.

[4] C. Stoicescu, *Curs elementar de drept roman*, Ed. a II-a, Institutul de Arte Grafice Bucovina, Bucureşti, 1927, p. 279-280.

[5] În epoca romană, şi tăcerea putea avea efecte juridice *qui tacet, cum loqui potuit et debuit, consentire videtur*.

[6] P. Van Wetter, *op. cit.*, p. 103-112.

[7] É. Cuq, *op. cit.*, p. 351-352.

[8] E. Molcuţ, *Drept privat roman*, Ed. Universul Juridic, Bucureşti, 2004, p. 182.

[9] *Furiosus nullum negotium agere potest, quia non intelligit quid agit* (Un nebun nu poate face nici un act juridic, pentru că nu înţelege ce face) sau *Furiosi ... nulla voluntas est* (Nebunul n-are voinţă), D. Alexandresco, *Explicaţiunea teoretică şi practică a dreptului civil român*, Tomul IV, Atelierele Grafice Socec & Co, Bucureşti, 1913, p. 74.

[10] T. Sâmbrian, *Drept roman. Principii, instituţii şi texte celebre*, Casa de Editură şi Presă „Şansa", Bucureşti, 1994, p. 112-113.

[11] P. Van Wetter, *op. cit.*, p. 112-113.

[12] N. Em. Antonescu, *Nevaliditatea actelor juridice în dreptul civil, în materia nulităţilor*, Institutul de Arte Grafice România Nouă, Bucureşti, 1927, p. 214.

[13] S. Gaudet, *Inexistence, nullité et annulabilité du contrat: essai de synthèse*, McGill Law Journal, Montréal, 1995, p. 300 în lawjournal.mcgill.ca/abs/vol40/2gaude.html

[14] *Ibidem*, p. 300-301.

[15] *Ibidem*, p. 301-302.

[16] G. Boroi, *Drept civil. Partea generală. Persoanele*, Ed. Hamangiu, Bucureşti, 2008, p. 215; E. Chelaru, *Drept civil. Partea generală*, Ed. All Beck, Bucureşti, 2003, p. 117-120; V.V. Popa, *Drept civil. Partea generală. Persoanele*, Ed. All Beck, 2005, p. 100-108; A se vedea şi Trib. Suprem, col. civ, decizia nr. 231 din 25 februarie 1958, C.D. 1958, p. 175; Trib. Jud. Braşov, decizia civilă nr. 370/1974, R.R.D. nr. 12/1975, p. 46.

[17] Tr. Ionaşcu, *Curs de drept civil. Teoria generală a obligaţiilor*, E.D.P., Bucureşti, 1967, p. 49.

[18] D. Chirică, *Eroarea, viciu de consimţământ în materie contractuală*, Dreptul nr. 7/2005, p. 21-22; I. Deleanu, *Cunoaşterea legii şi eroarea de drept*, Dreptul nr. 7/2004, p. 49-61.

[19] J. Kocsis, *Unele aspecte teoretice şi practice privind eroarea de drept*, Dreptul nr. 8/1992, p. 39-42; Trib. Jud. Bihor, decizia civilă nr. 449/1981, R.R.D. nr. 8/1982, p. 38 şi urm.; Trib. Jud. Caraş-Severin, decizia civilă nr. 474/1985, R.R.D. 12/1985, p. 55 şi urm.

[20] C.S.J, decizia civilă nr. 160/1993, Dreptul nr. 7/1994, p. 84.

[21] A se vedea Cazul McInery v Banca Lloyds [1974] 1 Lloyd's Rep 246.

[22] A se vedea Cazurile Dimmock v Hallett [1866] şi Bisset v Wilkinson [1927] AC 177

[23] A se vedea cazul Esso Petroleum v Mardon [1976] QB 801.

[24] A se vedea cazul Benson v Consiliul Local Lincoln [1999].

[25] A se vedea cazul Banca Comercială din Sydney v RH Brown şi Asociaţii [1972] 2 Lloyds Rep 360.

[26] A se vedea cazurile Eurocopy v Teesdale [1992] BCLC 1067, Attwood v Small [1838] 6 Cl & F 232.

[27] A se vedea cazul Dery v Peek [1889] 14 App Ges 337.

[28] A se vedea cazul Howard Marine v Dredging Co Ltd v Ogden & Sons Ltd [1978] QB 574.

[29] A se vedea cazul Oscar Chess Ltd v Williams [1957] 1 WLR 370.

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Doctrina suveranității juridice
între sincronie şi diacronie

Radu RIZA

Abstract: *In the international law, as regards the importance criteria, the sovereign state is the first subject of law. However, one must add the fact that for the European states the sovereignty theory is built upon the rights/obligations binominal. In the present article we discuss the series of limitations to the states' territorial sovereignty, determined by the principles and norms of the UN Charter and the obligations assumed by member states.*
Keywords: *international law, sovereignty, international institutions, authority.*

Constituţiile statelor europene au reprezentat cel mai propice cadru pentru definirea şi afirmarea suveranităţii ca normă de drept intern, iar Carta ONU şi tratatele internaţionale şi europene au conferit noi valenţe acestei norme în dreptul internaţional, respectiv european. Astfel, constituţiile europene stabilesc că suveranitatea (unele adăugând şi sintagma „naţională"), sau puterea, aparţine poporului. Regăsim aceste afirmaţii în constituţiile Spaniei, Franţei sau Suediei. În accepţiunea altor constituţii, suveranitatea aparţine naţiunii, aşa cum apare formulat în textele românesc şi belgian. Instituţiile sunt chemate apoi să reprezinte poporul, apărându-i această suveranitate pe care tot ele au construit-o, legiferat-o şi afirmat-o. Pentru a servi cât mai bine interesele poporului, într-un sistem democratic puterea trebuie să-şi împartă atribuţiile în consacrata triadă a Executivului, Legislativului şi puterii Judecătoreşti. În doctrina Revoluţiei Franceze toate aceste puteri erau considerate fracţiuni ale suveranităţii naţionale. Jean Jacques Rousseau spunea, în *Contractul Social,* că „suveranitatea este inalienabilă şi indivizibilă"', dar recunoştea apoi că politicienii, „neputând împărţi suveranitatea în principiul ei, o împart în obiectul ei, o împart în forţă şi voinţă, în putere legislativă şi în putere executivă, în drepturi de impozite, de justiţie şi de război, în administraţie interioară şi în puterea de a trata cu străinul; uneori confundă toate aceste părţi, alteori le separă".

În dreptul internaţional, statul suveran este primul subiect de drept în ordinea importanţei. Statul are competenţe legale exprimate în sens material şi formal. Cele materiale sunt în primul rând de ordine interioară şi ţin de suveranitatea internă, şi anume capacitatea de a-şi organiza puterea sa politică, sistemul său economic şi social. Competenţele în sens formal se referă la jurisdicţia statului şi la capacitatea sa de a acţiona în vederea garantării respectării regulilor juridice edictate de el. Apoi, statele au o competenţa personală

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care se manifestă în acţiunea lor faţă de proprii cetăţeni, în vederea reglementării statutului cetăţeniei, protecţiei lor în străinătate şi acordarea corelativă a drepturilor şi a obligaţiilor. Totuşi, cea mai accentuată dintre competenţe a fost cea teritorială, acea putere generală, deplină şi exclusivă asupra gestionării teritoriului unui stat. Pentru controlul teritoriilor s-au dus războaie, s-au făcut alianţe, s-au promovat tratate de pace, s-au creat instituţii internaţionale. Până la inovaţia Uniunii Europene, competenţa teritorială părea a fi cel mai drag atribut al suveranităţii statelor europene, exercitat atât pe continent cât şi în multe colţuri ale lumii. Autonomia în abordarea acestor competenţe conferă statelor dreptul de a decide singure asupra folosirii lor. Ca atare, nu se exclude posibilitatea ca statele să delege unele competenţe sau materializarea lor, din proprie iniţiativă şi voinţă, potrivit angajamentelor asumate prin tratate. Este şi calea pe care au ales-o statele Uniunii Europene când au hotărât că unele atribute pot fi servite mai bine prin efortul comun, realizat sub tutela instituţiilor europene. Ne vom referi mai târziu la acestea, explicând şi raţiunile care au dus la demersurile amintite.

Trebuie reţinut, însă, că pentru statele europene, teoria suveranităţii se bazează pe binomul drepturi/obligaţii. În virtutea conţinutului teoretic acceptat de europeni şi de comunitatea internaţională, statele au dreptul la o personalitate internaţională, dreptul de a li se respecta integritatea teritorială şi dreptul la autoapărare, dreptul de a-şi stabili singure regimul social politic, dreptul de a-şi folosi resursele, de a-şi stabili sistemul economico-social şi legislaţia, dreptul de a-şi conduce în mod liber relaţiile cu alte state, dar şi obligaţiile corelative de a respecta personalitatea internaţională a celorlalte state şi suveranitatea acestora şi de a-şi îndeplini cu bună-credinţă obligaţiile internaţionale.

Abordarea din dreptul internaţional a căutat şi o identificare a suveranităţii cu independenţa. O speţă a Curţii Permanente de Arbitraj consfinţea chiar această similitudine: „Suveranitatea în relaţiile dintre state înseamnă independenţă. Independenţa în legătură cu un teritoriu este dreptul de a exercita asupra acestuia funcţiile statului, cu excluderea (drepturilor) oricărui stat". Pornind de la independenţă ca precondiţie a suveranităţii, aceasta din urmă, odată recunoscută, devenea garant al celei dintâi. Recunoaşterea calităţii de stat independent şi suveran avea loc numai la întrunirea cumulativă a trei condiţii constitutive: entitatea să aibă teritoriu, populaţie şi guvern. Trebuie remarcată şi aici preeminenţa politicului, care declanşa procedurile juridice de recunoaştere a unui nou stat, instrumentul fiind deseori folosit discreţionar de monarhii sau de guvernele unor ţări europene.

Un alt pilon a suveranităţii juridice îl constituie egalitatea în drepturi a statelor în relaţiile internaţionale, introdusă de Vattel prin *Le droit de gens,* publicată prima dată în 1758. Respectarea egalităţii suverane s-a dovedit a fi cea mai eficace modalitate de protejare a suveranităţii statale în sistemul internaţional.

Dreptul internaţional cunoaşte noi dezvoltări în secolul al XX-lea, cu precădere după cel de-Al Doilea Război Mondial. Este perioada în care apar organizaţiile internaţionale ca noi subiecte de drept, iar multitudinea tratatelor internaţionale impune această nouă formă de colaborare, care inventează o serie de norme stricte ce trebuiau respectate de către statele care aderau la respectivele organizaţii sau tratate. Membrii ONU, ai NATO sau ai UE erau şi sunt legaţi convenţional printr-un singur instrument juridic sau prin mai multe. Prin intermediul acestor înţelegeri internaţionale, prin care statele ajungeau la concluzii comune pe calea dialogului şi a negocierii, s-a ajuns la norme juridice cu caracter

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general şi au apărut noi ramuri ale dreptului internaţional. De exemplu, în această perioadă apare dreptul internaţional al căilor de comunicaţii, care s-a concretizat prin elaborarea regimurilor pentru marile fluvii internaţionale (Rin, Elba, Dunăre, Congo) şi statutele canalelor interoceanice (Panama şi Suez). Apoi securitatea colectivă este un concept definit în creuzetul NATO. Dreptul Comunitar e creaţia exclusivă a UE. Stabilirea unui regim internaţional pentru folosirea mării, concretizat în anii 1980 şi 1990, a întărit noua abordare a modului în care statele înţelegeau să relaţioneze în apele internaţionale. Zona Economică Exclusivă a prelungit controlul pe care un stat îl deţine asupra mării sale de la 12 mile la 200 de mile de la ţărmul pe care flutură steagul său. Noutatea acestui regim era că introducea o schimbare în modalitatea în care statele înţelegeau teritorialitatea ca element al suveranităţii. În Zona Economică Exclusivă statele au dreptul de exploatare şi de folosire a resurselor, dar nu au controlul asupra navigaţiei, aşa cum îl exercită în marea teritorială. Să reamintim aici şi că, în domeniul comerţului, recunoaşterea nevoii de liberalizare şi de facilitare a schimburilor la nivel internaţional a dus la înfiinţarea GATT.

Introducerea tratatelor care produceau efect şi pentru terţi a reprezentat un alt punct important pe calea colaborării internaţionale, dar în acelaşi timp a modelării unei conduite internaţionale care trebuie respectată de toate statele comunităţii internaţionale. Regimul internaţional al Antarcticii din 1959, cu privire la denuclearizarea acestei regiuni, tratatele de pace sau comunicaţii sunt câteva dintre exemplele grăitoare în acest sens. La fel, tratatele care constituie dreptul internaţional spaţial sau aerian, cele privitoare la strâmtori sau la canale maritime internaţionale, bazate toate pe denuclearizare şi demilitarizare, chiar dacă zonele respective includ teritorii aflate sub suveranitatea unor state.

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Probabil cea mai importantă contribuţie adusă teoriei suveranităţii în relaţiile internaţionale şi dreptul internaţional public, în secolul al XX-lea, a fost tocmai atestarea documentară că suveranitatea statelor nu poate fi absolută, iar guvernelor nu trebuie să li se permită abuzuri săvârşite la adăpostului „scutului" suveranităţii. În dreptul internaţional au fost introduse anumite limitări ale suveranităţii teritoriale a statelor, determinate de principiile şi normele Cartei ONU şi de obligaţiile asumate de statele-membre:

- statul trebuie să garanteze străinilor aflaţi pe teritoriul său drepturile prevăzute de normele cutumiare şi convenţionale ale dreptului internaţional public;
- statul are obligaţia să nu admită săvârşirea, pe teritoriul său, a unor acte care pun în pericol securitatea altui stat;
- statul are obligaţia de a respecta imunităţile statelor străine - în sensul că actele unui stat nu pot fi supuse jurisdicţiei interne a unui alt stat – şi imunităţile de execuţie de care beneficiază bunurile de proprietate ale altui stat aflate pe teritoriul său. Mai mult chiar, statele nu pot invoca imunitatea lor de jurisdicţie în cazul tranzacţiilor comerciale, contractelor de muncă încheiate între un stat şi o persoană fizică, în cazul acţiunilor de reparaţii pecuniare sau daune. Tribunalele unui stat nu pot lua măsuri de constrângere împotriva bunurilor unui stat străin.

În strânsă legătură cu acest aspect, dreptul internaţional public a marcat şi demitizarea teritorialităţii prin admiterea în practica internaţională şi în doctrină a excepţiilor *condominium*-ului, *servituţilor internaţionale* şi *cesiunii de teritorii*. Ilustrat de exemplul Andorrei, condominiumul presupune exercitarea autorităţii politico-jurisdicţionale de către două state, în mod

egal, asupra unui teritoriu terț determinat. Servituțile internaționale au consacrat restrângerea independenței unui stat pe al cărui teritoriu un alt stat exercită o competență de reglementare legislativă sau administrativă. Cesiunea de teritoriu reprezintă o operațiune juridică convențională pe baza căreia un stat renunța la suveranitate sa asupra unui teritoriu în favoarea altui stat care își întinde el suveranitatea asupra acelui teritoriu.

Nu în ultimul rând, statelor li s-a atras atenția, printr-o serie de acte internaționale (Carta ONU, Actul final de la Helsinki, Declarația drepturilor omului etc.), că drepturile omului nu pot fi și nu trebuie încălcate sub masca suveranității naționale. Toate aceste exemple vorbesc despre conferirea reciprocă a unor drepturi de folosire a căilor de comunicații sau ape internaționale, de limitarea *ad pactam* a suveranității naționale pentru binele omenirii, întărind convingerea că o colaborare pașnică va fi profitabilă pentru toți.

Cele mai importante imperative ale dezvoltării sistemului internațional în ultimele decenii au fost, pe de o parte, presiunea popoarelor pentru păstrarea păcii și evitarea catastrofelor de tipul pentru care statul „își arogă cu succes dreptul de a avea, în granițele unui anumit teritoriu, ... monopolul asupra constrângerii fizice legitime".

Una dintre cele mai complete interpretări contemporane ale suveranității a adus-o Stephen Krasner, profesor la Stanford University, care propunea o sistematizare a definițiilor anterioare într-o structură cvadripartită, vorbind despre *suveranitatea westfaliană* – care în accepțiunea lui se referă la organizarea politică bazată pe excluderea actorilor externi din procesul de exercitare a autorității asupra propriului teritoriu al unui stat, *suveranitatea internă* – referindu-se la organizarea formală a autorității politice în cadrul statului și abilitarea autorităților publice de a exercita

un control eficient înăuntrul granițelor sale, *suveranitatea externă* – care include practicile de recunoaștere reciprocă între entitățile teritoriale care au o independență juridică formală, și *suveranitatea interdependenței* – înțelegând prin aceasta abilitatea autorităților publice de a reglementa circulația informației, ideilor, bunurilor, populației, poluării sau capitalului dincolo de granițele sale. Nu toate statele se bucură de această structură complexă a suveranității. În unele state structura amintită poate fi doar bi- sau tripartită. De exemplu, Taiwanul poate fi considerat un stat suveran din punct de vedere westfalic, dar nu va trece examenul unei suveranități externe. La fel în cazul Andorrei, care continuă să fie sub suzeranitatea comună a Franței și a Spaniei, nu avem o latură externă a suveranității, cele două state amintite controlând securitatea micului stat și având dreptul să numească doi din cei patru membri ai Tribunalului său Constituțional.

Krasner face apoi o importantă distincție între autoritate și control, elemente care se regăsesc în cele patru laturi ale suveranității, explicând și relația dintre ele. Autoritatea implică un drept reciproc recunoscut actorilor în relațiile dintre ei (stat și societate; stat și alt stat; stat și sistem internațional) care le permite să se angajeze în diferite activități. Dacă respectivul actor dă dovadă de o autoritate eficientă, forța sau constrângerea nu vor fi niciodată exercitate.

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Legislaţie şi jurisprudenţă europeană
Analiză comparativă privind perchetiţia ca măsură procesual penală consacrată în Constituţie şi practica Curţii Europene a Drepturilor Omului şi a Curţii Europene de Justiţie

Alexandru ŞERBAN, Silviu Gabriel BARBU

Abstract: *The present article accomplishes an analysis of search from the constitutional perspective, highlighting the manner in which the provisions of the fundamental law find their projection in the Criminal Procedure Code. Also, there are listed the juridical norms stated by the Constitution and other organic or ordinary laws which create a regime which differs from the general established framework. The search is conditioned in these cases by obtaining some warrants from certain public authorities or is subjected to their control. Last, but non the least, search is analyzed in a comparative manner, in the view of the constitutions of other states and relevant practices of the European Court of Human Rights and of the European Court of Justice*

Keywords: *search, European Court of Human Rights, European Court of Justice, fundamental law, criminal procedure*.

Perchezitia este o măsură procesuală reglementată în Codul de Procedură Penală în titlul III - „Probele şi mijloacele de probă", capitolul II - „Mijloacele de probă", secţiunea VIII – „Ridicarea de obiecte şi înscrisuri. Efectuarea percheziţiei" de la art.100 până la art.111. Dacă procedura penală reglementează până la detaliu cazurile, condiţiile şi organele competente să autorizeze şi să pună în aplicare această măsură, Constituţia în schimb trasează liniile directoare pe care perchezitia trebuie să le respecte, având în vedere că o asemenea activitate presupune o intruziune a autorităţilor în viaţa unei persoane şi o restrângere a unor drepturi şi libertăţi fundamentale cum ar fi libertatea individuală sau inviolabilitatea domiciliului.

Art.23 alin.2 din Constituţie prevede astfel că „percheziţionarea, reţinerea sau arestarea unei persoane sunt permise numai în cazurile şi cu procedura prevăzute de lege." De asemenea, cu referire la inviolabilitatea domiciliului, art.27 alin.3 din acelaşi act normativ arată că „ percheziţia se dispune de judecător şi se efectuează în condiţiile şi în formele prevăzute de lege" , iar art.27 alin. 4 dispune că „percheziţiile în timpul nopţii sunt interzise, în afară de cazul infracţiunii flagrante".

Corespunzător acestei clasificări constituţionale, Codul de procedură penală, în

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art.100 alin.2, împarte percheziţia în corporală şi domiciliară, cele două modalităţi constând în cercetarea efectuată asupra îmbrăcăminţii unei persoane sau în locuinţa acesteia, în scopul de a găsi şi ridica obiecte sau înscrisuri cunoscute de organul judiciar, când se tăgăduieşte existenţa sau deţinerea lor, precum şi în vederea descoperirii altor mijloace de pro-bă necesare soluţionării cauzei penale[1]. De asemenea, un alt tip de percheziţie , dar care potrivit redactării textului de lege pare asimilat percheziţiei corporale este menţionat la art.100 alin.5 din Codul de procedură penală care stipulează că „ percheziţia corporală sau asupra vehiculelor poate fi dispusă, după caz, de organul de cercetare penală, de procuror sau de judecător." În doctrină s-a arătat, opinie la care ne raliem şi noi, că textul constituţional al art.23 se referă doar la percheziţia corporală, întrucât acesta face trimitere la percheziţia persoanei, ce se poate efectua numai în cazurile şi cu procedura prevăzute de lege[2].

Deoarece percheziţia implică restrângerea unor drepturi şi libertăţi fundamentale înscrise în Constituţia României cum ar fi libertatea individuală, inviolabilitatea vieţii intime, familiale şi private, inviolabilitatea domiciliului, inviolabilitatea corespondenţei sau inviolabilitatea proprietăţii, reglementarea ei în ceea ce priveşte efectuarea şi organele abilitate să o execute este amplu prevăzută în Constituţie, Codul de procedură penală şi alte dispoziţii legale. Întrucât textele constituţionale care fac referire la percheziţie au fost evidenţiate anterior, în continuare vom analiza prevederile din procedura penală care reglementează cele mai importante aspecte ale percheziţiei. Astfel, potrivit art.100 alin.1 din Codul de Procedură Penală, efectuarea unei percheziţii se poate dispune „când persoana căreia i s-a cerut să predea vreun obiect sau vreun înscris dintre cele arătate în art. 98 tăgăduieşte existenţa sau deţinerea acestora, precum şi ori de câte ori există indicii temeinice că efectuarea unei percheziţii este necesară pentru descoperirea şi strângerea probelor."

În doctrină s-a arătat că „prin efectuarea percheziţiei se caută, în anumite locuri, obiectele şi înscrisurile ce pot servi ca mijloace de probă în procesul penal şi, în caz de descoperire se ridică de la persoana sau instituţia la care se găsesc. Percheziţia poate fi efectuată ca urmare a refuzului de a se preda obiectele şi înscrisurile solicitate, dar poate avea loc şi distinct de ridicarea de obiecte şi înscrisuri"[3].

Percheziţia poate contribui la rezolvarea cauzelor penale prin obiectele şi înscrisurile pe care le poate da la iveală şi care pot avea relevanţă în elucidarea unor aspecte ale cauzei penale[4]. Foarte important de reţinut este faptul că percheziţia domiciliară poate fi dispusă numai de judecător şi numai după începerea urmăririi penale, aspect rezultat din coroborarea alineatelor 3 şi 6 ale art.100 din Codul de procedură penală. Din interpretarea *per a contrario* a textelor menţionate anterior mai reiese că percheziţia corporală sau asupra vehiculelor poate fi dispusă şi de alte persoane, cum ar fi procurorul sau organul de cercetare penală, şi chiar înainte de începerea urmăririi penale.

De asemenea, mai semnalăm regimul diferit al percheziţiei în funcţie de faza procesului penal în care este dispusă. Astfel, dacă aceasta a fost dispusă în cursul urmăririi penale se efectuează de procuror sau de organul de cercetare penală, însoţit, după caz, de lucrători operativi. În schimb, dacă percheziţia a fost dispusă în cursul judecăţii, instanţa are ea însăşi posibilitatea să procedeze la efectuarea percheziţiei cu ocazia unei cercetari locale. În celelalte cazuri, dispoziţia instanţei de judecată de a se efectua o percheziţie se comunică procurorului în vederea efectuării acesteia. (art.102 din Codul de procedură penală).

Un alt aspect important de care trebuie să se țină cont la efectuarea percheziției este timpul în care această activitate procesuală poate fi desfășurată**.** Astfel, procedura penală dispune că percheziția domiciliară se poate face între orele 6,00 – 20,00, iar în celelalte ore numai în caz de infracțiune flagrantă sau când percheziția urmează să se efectueze într-un local public. Percheziția începută între orele 6,00-20,00 poate continua și în timpul nopții (art.103).

După cum se poate observa, Codul de procedură penală reglementează expres timpul în care se poate efectua percheziția numai în cazul celei domiciliare, astfel încât regula aplicabilă percheziției corporale sau asupra vehiculelor nu poate fi aflată decât prin deducție. Argumentul *per a contrario* ne indică astfel faptul că percheziția corporală sau asupra vehiculelor poate fi efectuată oricând ziua sau noaptea, indiferent la ce oră a început și indiferent dacă este vorba de o infracțiune flagrantă sau nu.

Actul procedural al percheziției trebuie delimitat de alte procedee prevăzute de legislația în vigoare și care reprezintă activități extrapenale: controale și razii ale poliției efectuate în temeiul Legii nr. 218/ 2002 privind organizarea și funcționarea Poliției Române, controale vamale efectuate potrivit Regulamentului de aplicare a Codului vamal al României aprobat prin Hotărârea Guvernului României nr. 626/ 1997, controlul efectuat de grăniceri asupra bagajelor, în conformitate cu Legea nr. 56/ 1992 privind frontiera de stat a României ș.a.[5]

Prin ea însăși percheziția privește direct libertatea individuală și mai ales siguranța persoanei, de aceea se poate efectua numai în cazurile și în condițiile prevăzute de lege. Trebuie să adăugăm că revine procedurii penale stabilirea regulilor necesare, până la detaliu, privind încuviințarea, timpul, procedura de efectuare a perchezițiilor[6]. Dispozițiile art.23 alin.2 din Constituție

referitoare la efectuarea percheziției trebuie interpretate și aplicate în corelație cu prevederile art. 27 alin. 3 și 4 din Constituție privitoare la autoritatea competentă și la timpul de desfășurare[7]. Din interpretarea *per a contrario* a acestor din urmă dispoziții constituționale rezultă că perchezițiile corporale pot fi efectuate oriunde în locurile publice ori pe căile publice de circulație și oricând, ziua și noaptea. În cazul în care persoana care trebuie percheziționată corporal se află la domiciliul sau reședința sa, sunt aplicabile prioritar regulile art. 27 alin. 3 și 4 din Constituție, iar apoi, pentru realizarea percheziției asupra persoanei trebuie respectate prevederile art.23 din Constituție[8].

Dacă procedura penală consacră normele generale care disciplinează efectuarea percheziției la orice persoană fizică sau juridică, trebuie să menționăm că atît legea fundamentală cât și alte legi organice sau ordinare introduc anumite condiții sau precauții suplimentare în cazul unor persoane care ocupă înalte funcții de demnitate publică sau diplomatice. Referitor la acest aspect în doctrină s-au arătat următoarele: „în Constituție și legi sunt înscrise cazuri în care nici judecătorul, pentru perchezițiile domiciliare, nici procurorul și organul de cercetare penală, pentru perchezițiile corporale, nu pot dispune efectuarea lor fără o încuviințare din partea unei anumite autorități publice, precum și cazuri în care dispoziția de efectuare a percheziției, fie domiciliare, fie corporale, este supusă unui control din partea unei asemenea autorități."[9]

Astfel, Președintele României, în temeiul art. 84 alin.2 din Constituție, se bucură de imunitate și deci acesta nu poate fi supus percheziției, nici domiciliare și nici corporale. De asemenea, potrivit art.8 din Codul penal „ legea penală nu se aplică infracțiunilor săvârșite de către reprezentanții diplomatici ai statelor străine sau de

alte persoane care, în conformitate cu convenţiile internaţionale, nu sunt supuse jurisdicţiei penale a statului român." Ca atare, nici persoanele menţionate nu pot fi supuse percheziţiei, ele fiind protejate împotriva legii penale române în baza statutului diplomatic sau în baza obligaţiilor asumate de statul român prin convenţii internaţionale. O altă categorie de persoane cărora nu li se aplică regulile generale ale percheziţiei o reprezintă deputaţii şi senatorii. În privinţa acestora art.72 din Constituţie prevede că nu pot fi percheziţionaţi fără încuviinţarea Camerei din care fac parte, cu excepţia infracţiunilor flagrante, când pot fi percheziţionaţi, cu obligaţia ministrului justiţiei de a informa neîntârziat pe preşedintele Camerei Deputaţilor sau al Senatului. De asemenea, judecătorii, procurorii şi magistraţii asistenţi pot fi percheziţionaţi numai cu încuviinţarea secţiei corespunzătoare a Consiliului Superior al Magistraturii, iar în caz de infracţiuni flagrante percheziţia poate fi efectuată, urmând să fie informată neîntârziat secţia respectivă (art.93^1 din Legea nr. 303/2004). Tot o excepţie de la regulile generale ale percheziţiei o reprezintă şi instituţia Avocatului Poporului. Astfel, potrivit art.28 din Legea nr.35/1997, aşa cum a fost modificată prin Legea nr.233/2004, Avocatul Poporului nu poate fi percheziţionat fără încuviinţarea prealabilă a preşedinţilor celor două Camere ale Parlamentului, iar adjuncţii Avocatului Poporului fără înştiinţarea acestuia. În sfârşit, o ultimă categorie profesională care beneficiază de prevederi derogatorii de la regulile generale ale percheziţiei consacrate în Codul de procedură penală este aceea a avocaţilor şi consilierilor juridici. În conformitate cu art.33 alin.1 din Legea nr.51/1995 şi art.23 din Legea nr.514/2003, percheziţionarea persoanelor menţionate, a domiciliului, cabinetului sau locului de muncă se poate face numai de procuror în baza mandatului

emis de judecător. În practica judiciară, modalitatea de înfăptuire a percheziţiei la cabinete avocaţiale a atras inclusiv intervenţia Curţii Europene a Drepturilor Omului care a pronunţat mai multe decizii de speţă.

Astfel, în cazul Niemietz contra Germaniei (1992), Curtea Europeană a Drepturilor Omului a analizat efectuarea percheziţiei prin prisma art.8 din Convenţia Europeană a Drepturilor Omului, arătând că interpretarea cuvintelor „viaţă privată" şi „domiciliu" ca incluzând anumite localuri sau activităţi, profesionale sau comerciale, ar răspunde obiectului şi ţelului esenţial al art.8 : acela de „a asigura individul împotriva amestecurilor arbitrare ale puterilor publice". Când mandatul de percheziţie este redactat în termeni largi, ordonând cercetarea şi sechestrul de documente fără nici o limitare, la cabinetul unui avocat, percheziţia nefind însoţită de garanţii speciale de procedură, cum ar fi prezenţa unui observator independent, atunci acea percheziţie a încălcat secretul profesional şi a fost violat art. 8 al Convenţiei[10].

O decizie similară a pronunţat Curtea Europeană a Drepturilor Omului şi în cauza Kopp contra Elveţiei[11] instanţa de la Strasbourg statuând că sediile profesionale, cum ar fi cabinetele de avocat (în speţa de faţă cabinetul de avocaţi Kopp şi asociaţii), fac parte din domiciliul persoanei, fiind cuprinse implicit în noţiunea de viaţă privată. De asemenea, în doctrină s-a mai arătat că şi Curtea Europeană de Justiţie s-a aliniat la jurisprudenţa CEDO din cauzele Societe Colas Est ş.a. contra Franţei şi Niemietz contra Germaniei „extinzând protecţia conferită de dreptul la respectarea domiciliului şi asupra sediilor societăţilor comerciale în cauzele având ca obiect efectuarea unei percheziţii la sediile acestor societăţi cu ocazia investigaţiilor efectuate în materia dreptului concurenţei de Comisia U.E. Această dezvoltare a jurisprudenţei C.E.J. a avut ca scop asigurarea şi în drep-

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tul comunitar a unei protecţii efective împotriva intervenţiilor arbitrare sau disproporţionate ale autorităţilor publice în sfera activităţilor private ale persoanelor fizice sau juridice."[12]

Având în vedere importanţa valorilor protejate împotriva unei intruziuni arbitrare, subiective sau disproporţionate a puterilor publice – libertatea persoanei, inviolabilitatea domiciliului sau a proprietăţii – în multe state ale lumii percheziţia este reglementată, la nivel de principiu, prin norme juridice cuprinse în legile fundamentale ale respectivelor state.

În Constituţia Japoniei[13] termenul de „percheziţie" apare utilizat în art. 35 alineatele 1 şi 2 . Alin.1arată că „Dreptul oricărei persoane de a nu fi supusă percheziţiei domiciliare... dacă nu există un ordin emis pe baza unui temei legal...", iar alineatul 2 prevede că „Orice percheziţie sau sechestru se aduce la îndeplinire în baza unui ordin scris emis de un organ judiciar". În Constituţia Germaniei[14] termenul de „percheziţie" este folosit de art.13; în Constituţia italiană noţiunea de „percheziţie a persoanei" este menţionată în art. 13 alineatul 2 care arată : „ nu este admisă nici o formă de detenţie, de control sau percheziţie a persoanei..."; Constituţia Statelor Unite ale Americii[15] în Amendamentul IV (text marginal „Protecţia împotriva percheziţiilor şi confiscărilor nemotivate") arată că: „Dreptul persoanei de a se simţi în siguranţă în ceea ce priveşte persoana, domiciliul, documentele şi bunurile sale, împotriva percheziţiilor şi confiscărilor nemotivate nu poate fi încălcat...".

Ţara noastră nu face nici ea excepţie de la regula menţionată, percheziţia fiind reglementată, aşa cum arătam şi la începutul prezentei analize, în articolele 23 şi 27 din Constituţie, astfel încât putem concluziona că legislaţia românească, începând cu legea fundamentală, se conformează sub acest aspect atât normelor

cuprinse în constituţiile din ţări cu tradiţie democratică ale lumii cât şi exigenţelor decurgând din practica CEDO.

Note

[1] C. Bulai, „Ridicarea de obiecte şi înscrisuri. Efectuarea percheziţiilor", în *Explicaţii teoretice ale Codului de Procedură Penală*, vol. I, de Vintilă Dongoroz şi colaboratorii, Bucureşti,1975, p. 237-242.

[2] Gh. Iancu, *Drepturile,libertăţile şi îndatoririle fundamentale în România*, Ed. All Beck, Bucureşti, 2003, p.124.

[3] Grigore Gr. Theodoru, *Tratat de Drept procesual penal*, Editura Hamangiu, 2007, p. 387.

[4] Ion Neagu, *Drept procesual penal. Tratat*, Editura „Global Lex", Bucureşti, 2002. p. 370.

[5] Alexandru Ţuculeanu, „Ocrotirea drepturilor şi libertăţilor constituţionale în cazul percheziţiei corporale", *Dreptul*, nr. 1/ 1999, p. 43;

[6] Ioan Muraru, Simina Tănăsescu, *Drept constituţional şi instituţii politice*, ediţia a II-a, revăzută şi completată, Editura „Lumina Lex", Bucureşti, 2001, p. 204;

[7] Art.27 alin. 2 şi 3 din Constituţie prevede : „(2) De la prevederile alineatului (1) se poate deroga prin lege de la următoarele situaţii : a) executarea unui mandat de arestare sau a unei hotărâri judecătoreşti; b) înlăturarea unei primejdii privind viaţa, integritatea fizică sau bunurile unei persoane; c) părarea securităţii naţionale sau ordinii publice; d) prevenirea răspândirii unei epidemii". (3) Percheziţia se dispune de judecător şi se efectuează în condiţiile şi în forme prevăzute de lege."

[8] A se vedea Gh. Iancu, *op.cit.*, p.124-125.

[9] A se vedea Grigore Gr. Teodoru, op. cit. , p. 389.

[10] V. Berger, *op.cit.*, p. 425-426.

[11] A se vedea CEDO, hotărârea din 25 martie 1998, în cauza *Kopp contra Elveţiei*, parag. 50, 62 75.

[12] M. Udroiu, O. Predescu, *Protecţia europeană a drepturilor omului şi procesul penal român*, Ed. C. H. Beck, Bucureşti 2008, p. 203.

[13] *Constituţiile Statelor Lumii. Constituţia Japoniei*, Prezentare istorică, traducere Eleodor Focşeneanu, Ed. ALL Educational SA, Bucureşti, 1997.

[14] *Legea fundamentală pentru Republica Federală Germană*, Traducere, prezentare istorică Eleodor Focşeneanu, Ed. All Educational S.A, Bucureşti, 1998.

[15] *Constituţia Statelor Unite ale Americii*, Simina Tănăsescu, Nicolae Pavel, Ioan Muraru, Mihai Constantinescu – Traducere, Ed. All Beck, Bucureşti, 2002.

Libera circulație în Uniunea Europeană
Viziunea reformatoare a Anteproiectului de Cod European al Contractelor în materia nulității actului juridic

Irina Olivia POPESCU

Abstract: *This article aims to disclose the relationship between the free movements of goods, services, capital and persons and contract law, especially the remedies offered to non-performance of a contract. They are directly connected, since contract law provides the legal framework of the free movements. Nevertheless, the relevance of contract law for the internal market is reflected in the number of ECJ rulings. Primary, internal regulations concerning contract law may be divergent to the free movements. Lastly, the contract following the agreement of the parties may be divergent to a rule of national public law, which is a barrier to trade and must be eliminated. This will affect the rights and obligations of the parties to the contract. Moreover, the importance of Contract Law for the internal market is highlighted by the Principles of European Contract, the product of work carried out by the Commission on European Contract law, composed of a body of lawyers from all the Member States of the European Union. As it is shown in the preamble of PECL, the principles are „a response to a need of the Community-wide infrastructure of contract law in order to consolidate the rapidly expanding volume of Community law regulating specific types of contract".*

Keywords: *free movement, right, obligation, contract, nullity, legal acts.*

Considerații prealabile

Libera circulație a bunurilor, serviciilor, capitalului și persoanelor este direct legată de materia Dreptului Contractelor. La nivel comunitar, relația dintre cele două este marcată prin încercarea de a trasa reguli diriguitoare privind reglementarea relațiilor contractuale ce se pot stabili între părți contractante aflate în diferite State Membre. Anteproiectul de Cod European al Contractelor reprezintă un răspuns la necesitatea resimțită la nivel european de a consolida rapid reglementarea tranzacțiilor în creștere rapidă privind diverse tipuri de contracte.

Necesitatea de a reglementa aceste tranzacții izvorăște din faptul că reglementările naționale pot intra de foarte multe ori în discordanță cu reglementările comunitare, lucru care poate afecta grav piața internă, prin blocarea acesteia.

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Ineficacitatea contractelor în dreptul național.

În doctrina națională, neîndeplinirea condițiilor de validitate a unui act juridic civil este sancționată cu nulitatea.

Nulitatea reprezintă sancțiunea de drept civil care lipsește actul juridic civil de efectele contrarii normelor juridice edictate pentru încheierea sa valabilă[1].

La nivelul doctrine de specialitate s-au conturat următoarele funcții ale acestui grad de ineficacitate a actului juridic civil:

1. funcția preventivă, care constă în amenințarea cu înlăturarea efectelor actului juridic, în cazul în care acesta se încheie cu nesocotirea dispozițiilor normative ce reglementează condițiile sale de validitate.
2. funcția sancționatorie funcționează atunci când funcția preventivă nu și-a dovedit eficiența și constă în îndepărtarea efectelor ce contravin normelor juridice edictate pentru încheierea valabilă a actului juridic civil.

În funcție de *felul (natura) interesului* ocrotit prin dispoziția legală încălcată la încheierea actului juridic, nulitate este: absolută, care sancționează nerespectarea, la încheierea actului juridic, a unei norme de drept care ocrotesc un interes general, public și relativă, care sancționează nerespectarea, la încheierea actului juridic, a unei norme de drept ce ocrotește un interes particular, individual**.**

Nulitatea se mai clasifică în funcție de *întinderea efectelor* sale, ca fiind: totală – acea nulitate care desființează actul juridic în întregime și parțială – acea nulitate care desființează numai o parte din efectele actului juridic, care rămâne în ființă și își produce celelalte efecte, deoarece nu contravin legii.

În funcție de *modul de consacrare legislativă*, nulitatea este: expresă – acea nulitate ce este prevăzută, ca atare, într-o dispoziție legală și virtuală – acea nulitate pe care legea nu o prevede expres, dar care rezultă neîndoielnic din modul în care este reglementată o anumită condiție de valabilitate a actului juridic civil.

Anteproiectul de Cod European al Contractelor urmează linia clasică a împărțirii nulității în nulitate absolută și respectiv nulitate relativă, cu singura diferență că terminologia utilizată este aceea de *nulitate*, pentru cazurile de nulitate absolută și aceea de *anulabilitate* pentru cazurile de nulitate relativă.

„Articolul 140 din Anteproiect este intitulat simplu *Nulitate*, ceea ce ne-ar putea duce cu gândul, într-o primă fază, la ideea că aici sunt plasate problemele legate de nulitate în general, deci atât nulitatea absolută, cât și nulitatea relativă. La o privire mai atentă însă, din înșiruirea cauzelor care atrag nulitatea și din întreaga structurare a capitolului reiese că, atunci când vorbesc despre nulitate, autorii Anteproiectului se gândesc exclusiv la nulitate absolută"[2].

Având în vedere faptul că nu există o reglementare amănunțită a nulității în Codul civil, a revenit doctrinei de specialitate sarcina de a contura cauzele de nulitate absolută, printre acestea numărându-se: a) nerespectarea unei incapacități speciale de folosință a persoanei fizice, instituite pentru ocrotirea unui interes general; b) lipsa capacității de folosință a persoanei juridice; c) nerespectarea principiului specialității capacității de folosință a persoanei juridice; d) lipsa totală de consimțământ; e) nevalabilitatea obiectului actului juridic civil; f) nevalabilitatea cauzei actului juridic[3]; g) nerespectarea formei cerută *ad validitatem*; sau h) nerespectarea dreptului de preempțiune al statului (în cazurile stabilite de lege);

În același mod, s-au conturat cauzele de nulitate relativă, ca fiind: a) *nesocotirea regulilor privind capacitatea de exercițiu*: 1. actul juridic a fost încheiat de persoana

lipsită de capacitate de exerciţiu; 2.actul juridic de administrare s-a încheiat fără încuviinţarea ocrotitorului legal şi este lezionar pentru minorul între 14-18 ani; 3. actul juridic de dispoziţie s-a încheiat fără încuviinţarea prealabilă a ocrotitorului legal sau a autorităţii tutelare; 4.actul juridic s-a încheiat pentru persoana juridică în lipsa ori cu depăşirea puterilor conferite; b) *nerespectarea unor incapacităţi speciale de folosinţă*, instituite pentru ocrotirea unor interese individuale – interdicţia vânzării între soţi; c) lipsa discernământului[4] în momentul încheierii actului juridic; d) viciile de consimţământ; e) nerespectarea dreptului de preempţiune (în situaţiile prevăzute de lege).

În ceea ce priveşte regulile cărora le este supusă nulitatea absolută actului juridic civil trebuie menţionat că: 1. nulitatea absolută poate fi invocată de orice persoană interesată, chiar şi de partea care este vinovată de producerea cauzei nulităţii[5]; 2. este imprescriptibilă putând fi invocată oricând, fie pe cale de acţiune, fie pe cale de excepţie şi 3. în principiu, nu poate fi acoperită prin confirmare.

Problema posibilităţii de confirmare a nulităţii absolute apare ca o noutate în Anteproiectul de Cod European al Contractelor. Această afirmaţie îşi are izvorul în faptul că articolul legat de confirmare apare la problemele legate de nulitatea absolută.

Anteproiectul este însă clar în ceea ce priveşte imposibilitatea confirmării nulităţii absolute în cazul actelor juridice care încalcă ordinea publică şi bunele moravuri. Aşa cum se arată în alin. 2 al art. 143, în afară de contractele nule pentru motivele expuse, celelalte contracte nule pot fi confirmate[6].

Referitor la regimul juridic al nulităţii relative, trebuie subliniat că persoanele îndreptăţite să invoce nulitatea relativă sunt *persoana ocrotită* de dispoziţia legală,

succesorii universali[7], cu titlu universal, precum şi cei cu *titlu particular* ori *creditorii chirografari* ai persoanei ocrotite (avânzii-cauză), cu condiţia ca acţiunea în anulare să nu aibă caracter strict personal; *procurorul* în condiţiile art. 45 C.proc.civ.. Totodată, nulitatea relativă trebuie invocată înlăuntrul termenului de prescripţie extinctivă[8] şi poate fi acoperită prin confirmare expresă sau tacită de cel îndreptăţit să o invoce.

„Privit în oglindă Anteproiectul de Cod European al Contractelor şi legislaţia românească în materia prescripţiei nulităţii vom observa că deosebirile sunt notabile, pornind de la faptul că în Anteproiect termenul de prescripţie a acţiunii în nulitate este de 10 ani. Acest termen pare la prima vedere scurt, mai ales dacă ne gândim că în opinia multor autori din literatura şi practica judiciară română nulitatea absolută nu mai e considerată imprescriptibilă"[9].

Principii care guvernează efectele nulităţii în Codul civil român sunt: a) principiul retroactivităţii efectelor nulităţii actului juridic – regula de drept potrivit căreia *efectele nulităţii se produc din chiar momentul încheierii actului juridic civil*, adică nulitatea produce efecte şi pentru trecut (*ex tunc*), nu numai pentru viitor (*ex nunc*) în sensul că efectele nulităţii se produc din momentul încheierii actului juridic; b) principiul restabilirii situaţiei anterioare încheierii actului juridic (*restitutio in integrum*), - acea regulă de drept potrivit căreia *tot ceea ce s-a executat în baza unui act juridic anulat trebuie restituit, astfel încât părţile raportului juridic să ajungă în situaţia în care acel act juridic nu s-ar fi încheiat*; c) principiul anulării actelor juridice subsecvente – regula de drept potrivit căreia *anularea (desfiinţarea) actului iniţial (primar) atrage şi anularea actului subsecvent (următor), datorită legăturii lor juridice*.

Diferitele grade de ineficacitate a actului juridic civil în reglementarea națională și viitoarea reglementare la nivel comunitar: inexistența și nulitatea.

În doctrina națională s-a arătat că inexistența reprezintă sancțiunea civilă care declară ineficacitatea unui act juridic civil care a fost încheiat cu nesocotirea condițiilor esențiale prevăzute de lege pentru existența sa[10]. În materie s-a arătat că inexistența juridică este „ineficacitatea inițială, spontană, radicală și ireparabilă a unui act lipsit de vreunul din elementele sale esențiale, organice ori specifice, stabilite de litera sau spiritul dreptului pozitiv[11] pentru nașterea sa"[12].

Așa cum am arătat deja, nulitatea absolută este sancțiunea de drept civil ce se aplică actelor juridice întocmite cu nerespectarea unor dispoziții legale imperative care ocrotesc interese de ordin general, pentru a le lipsi de acele efecte care sunt contrare legii. Nulitatea relativă este sancțiunea de drept civil ce se aplică actelor juridice întocmite cu nerespectarea unor dispoziții legale imperative care ocrotesc interese de ordin individual ori personal pentru a le lipsi de efectele contrare legii.

De-a lungul timpului, au existat controverse în considerarea inexistenței ca fiind o instituție distinctă de cea a nulităților sau ca fiind o categorie a nulităților alături de nulitatea absolută și nulitatea relativă. Ca atare, o înțelegere superioară a ideii de inexistență juridică impune delimitarea acesteia de celelalte cauze de ineficacitate, în special de nulitatea absolută.

Distincția se impune imperios deoarece confuziile sunt inadmisibile datorită importantelor deosebiri de regim juridic.

Asemănarea dintre inexistență[13] și nulitate vizează faptul că ambele sunt cauze de ineficacitate a actului juridic civil.

Deosebirile dintre inexistență și nulitate sunt următoarele:

- inexistența presupune un act care are doar o existență materială și care nu are nici o existență juridică în timp ce nulitatea presupune un act juridic imperfect încheiat care conduce la invalidarea lui;

- în timp ce inexistența intervine pentru nesocotirea unor condiții fundamentale esențiale pentru încheierea unui act, nulitatea intervine pentru nesocotirea unor condiții de validitate la încheierea actului;

- actul inexistent este lipsit de orice fel de efecte juridice, în timp ce actul lovit de nulitate va produce efecte până când va fi declarată nulitatea de către instanța de judecată;

- actul inexistent nu poate fi confirmat, în timp ce actul anulabil poate fi confirmat; în cazuri limitativ prevăzute de lege chiar și actul nul poate fi confirmat;

- actul inexistent nu poate fi ratificat sau executat voluntar în timp ce actul nul este susceptibil uneori de refacere sau remediere.

Doctrina contemporană din țara noastră, spre deosebire de sistemele de drept din Uniunea Europeană, se pare că și-a concentrat toate eforturile pentru a nega teoria actelor inexistente. Nu de puține ori s-a afirmat că această teorie este atât ilogică[14], cât și inutilă[15]. Mai mult decât atât, teoria actelor inexistente, a fost de multe ori ignorată pur și simplu de doctrina contemporană[16], afirmându-se doar că *în literatura noastră de drept civil nu este agreată distincția dintre actul nul și actul inexistent*, întrucât în realitate, actul zis inexistent este lovit de nulitate absolută, având regimul juridic în întregime, al acestei nulități.

În pofida argumentelor prezentate, Anteproiectul de Cod European al Contractelor consacră principiul inexistenței actului juridic civil în art. 137-138[17].

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Astfel, inexistenţa este tratată în Titlul XI, intitulat „Alte anomalii şi remedii ale contractului", art. 137-138, alături de nulitate, caducitate, ineficacitate, inopozabilitate, simulaţie şi rezervă mintală.

Din plasarea inexistenţei în categoria anomaliilor şi a remediilor contractuale, şi nu în secţiunea dedicată „problemelor generale" sau „modalităţilor de stingere a obligaţiilor", reiese dorinţa autorilor Anteproiectului de Cod European al Contractelor „de a aşeza pe primul plan ideea de salvare a contractului prin eradicarea, eliminarea, purificarea acestuia de vicii şi vede numai ca o soluţie finală nimicirea actului. De altfel aceastã idee reiese şi din obligaţia ce incumbă părţilor de a purta negocieri prealabile pentru a rezolva problemele pe plan extrajudiciar"[18].

Mai mult decât atât, prin reglementarea distinctă a nulităţii în art. 140-152, autorii Anteproiectului au dorit să delimiteze inexistenţa de nulitate, a cărei clasificare urmează oarecum linia clasică a nulităţii absolute şi relative, terminologia folosită fiind aceea de *nulitate*, pentru cazurile de nulitate absolută şi *anulabilitate*, pentru cazurile de nulitate relativă.

Reglementarea unitară a gradelor de ineficacitate a contractelor în Statele Membre ale Uniunii Europene, lucru ce reprezintă principalul obiectiv al Anteproiectului de Cod European al Contractelor, reprezintă aşadar posibilitatea eficientă de eliminare a barierelor existente în ceea ce priveşte libera circulaţie în piaţa unică.

Note

1 I. Dogaru, S. Cercel, *Drept civil. Partea generală*, Ed. C. H. Beck, Bucureşti, 2007, p. 172-205 şi urm; Gh. Beleiu, *Drept civil român. Introducere în dreptul civil. Subiectele dreptului civil*, Ed. Universul juridic, Bucureşti, 2005, p. 219-243; G. Boroi, *Drept civil. Partea generală. Persoanele*, Ed. Hamangiu, Bucureşti, 2008, p. 297-340; V. V. Popa, *Drept civil. Partea generală. Persoanele*, Ed. C.H. Beck, p. 181-

229; I. Dogaru, *Drept civil român*, Tratat. Vol. I, Ed. Europa, Craiova, 1999, p. 206 şi urm.

2 V. V. Popa, op. cit., p. 201-202.

3 Trib. Suprem, decizia nr. 1815/1989, Dreptul nr. 7/1990, p. 66 (nulitatea absolută, pentru cauză imorală, a contractului de întreţinere încheiat în scopul menţinerii stării de concubinaj); Trib. Suprem, decizia civilă nr. 1912/1955, C.D. 1955, 1, p. 57 (este lovită de nulitate absolută, ca având o cauză ilicită, convenţia prin care un bărbat căsătorit se obligă a despăgubi pe concubina sa în situaţia în care nu divorţează de soţia sa).

4 A se vedea Decizia nr. 1988/1989 a secţiei civile a Trib. Suprem, în Dreptul nr. 7/1990, p. 66, în care se face diferenţa clară între lipsa discernământului şi lipsa totală de consimţământ arătându-se faptul că: „Consimţământul este unul dintre elementele esenţiale ale oricărui act juridic şi exprimă voinţa persoanei la încheierea actului. Lipsa cu desăvârşire a consimţământului face ca actul astfel încheiat să fie sancţionat cu nulitate absolută. Lipsa discernământului în exprimarea voinţei relevă însă nu inexistenţa consimţământului ci un simplu viciu al acestuia, deoarece în acest caz consimţământul există. Ne aflăm deci în faţa unui viciu de consimţământ, care nu atrage decât nulitatea relativă a actului, sancţiunea nulităţii fiind edictată de data aceasta, în vederea protejării persoanei interesate".

5 A se vedea şi Trib. Suprem, decizia civilă nr. 473 din 7 martie 1985, *I. Mihuţă*, Repertoriu de practică judiciară în materie civilă a Tribunalului Suprem şi a altor instanţe judecătoreşti, vol. 4 (1980-1985), Ed. Ştiinţifică şi Enciclopedică, Bucureşti, 1986, p. 12, nr. 2.

6 A se vedea pentru dezvoltări L. Mirea, *Nulitatea contractului. Viziunea reformatoare a Anteproiectului de Cod European al Contractelor privită comparativ cu legislaţia română şi franceză*, Analele Universităţii Oradea, Fascicula Drept, Ed. Universităţii din Oradea, 2001, p. 277-305.

7 Trib. Suprem, decizia civilă nr. 273 din 5 februarie 1977, C.D. 1977, p. 86 (anularea unui testament pe motivul lipsei de discernământ a dispunătorului poate fi solicitată de moştenitorii săi).

[8] Termenul curge, potrivit art. 9 din Decretul nr. 167/1958, pentru motiv de violenţă, de la data când aceasta a încetat, iar în caz de eroare, dol sau alte cauze de anulare, prescripţia începe să curgă de la data când cel îndreptăţit, reprezentantul său legal sau persoana care trebuie potrivit legii să-i încuviinţeze actele, a cunoscut cauza anulării, însă cel mai târziu de la împlinirea a 18 luni de la data încheierii actului.

[9] V. V. Popa, *op. cit.*, p. 208.

[10] O. Ungureanu, *Drept civil. Introducere*, Ed. All Beck, Bucureşti, 2000, p.185.

[11] Pentru dezvoltări a se vedea N. Popa, M. C. Eremia, S. Cristea, *Teoria generală a dreptului*, Ed. All Beck, Bucureşti, 2005, p. 73 şi urm.

[12] I. Dogaru, N. Popa, D. C. Dănişor, S. Cercel, *Bazele dreptului civil*, vol. I, Teoria generală, Ed. C.H. Beck, Bucureşti, 2008, p. 1070.

[13] Pentru dezvoltări privind *teoria actelor inexistente*, a se vedea I. Dogaru (coord.), Drept civil. Idei producătoare de efecte juridice, Ed. All Beck, Bucureşti, 2002, p. 380 şi urm; N. Em. Antonescu, *Nevaliditatea actelor juridice în dreptul civil, în materia nulităţilor*, Institutul de Arte Grafice România Nouă, Bucureşti, 1927, p. 200 şi urm.

[14] V. V. Popa, *op. cit.*, p. 201.

[15] *Ibidem*; G. Boroi, *op. cit.*, p. 228; P. M. Cosmovici, *Tratat de drept civil*, vol. I, Ed. Academiei, Bucureşti, 1989, p. 220; A. Pop, Gh. Beleiu, *Dreptul civil. Teoria generală a dreptului civil*, Bucureşti, 1980, p. 360.

[16] Gh. Beleiu, *op. cit.*, p. 227.

[17] V. V. Popa, *op. cit.*, p. 201.

[18] *Ibidem*, p. 193.

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Discours médiatiques sur l'immigration
(Etude comparée de la presse bulgare et française)

Snejana **POPOVA***

Abstract: *This article presents the results of a comparative study of media discourses on the immigration. The study reflects a concrete event context (2006): Bulgaria awaits its entrance to the EU; a more restrictive law on immigration is voted in France; in several countries of Western Europe some restrictive measures towards immigration are put to practice. The results of the linguistic study reveal two different images of immigration within the two media studied. At the same time, an in depth reading of the same results reveal a common point – the media of the two countries act according to the political requirements.*
Keywords: *media, immigration, semantic field, image, media discourse, political discourse.*

La représentation de l'immigration dans les médias reflète les processus sociaux, les volontés politiques et les comportements sociaux spécifiques pour chaque pays. L'objectif de cette recherche[1] est de relever les convergences et les divergences dans le traitement de ce problème par la presse bulgare et française. Le texte ne contient que les pistes principales de la recherche et quelques conclusions auxquelles elle a abouti.

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1. Objet et paramètres de l'étude

Période d'observation: avril-juillet 2006.

Contexte évènementiel : La Bulgarie attend encore son entrée à l'UE. Les enquêtes sociologiques sur les comportements sociaux montrent une approbation générale de l'adhésion (85%)[2], d'un côté, mais, de l'autre, la peur que les Bulgares n'y seront pas traités sur un pied d'égalité.

En France est votée la loi de N. Sarkozy, annoncée par lui-même comme une loi pour « une immigration choisie et pas subie ».

Les comportements sociaux dans les pays ouest-européens révèlent plutôt une orientation vers des règles plus sévères concernant l'immigration.

Aux Etats Unis on prépare une nouvelle loi tolérante sur l'immigration,

mais en même temps, pour limiter l'immigration illégale, on bâtit un mur de 600 km à la frontière avec le Mexique.

Journaux étudiés : « 24 tchasa/24 heures » – l'un des deux journaux bulgares aux plus gros tirages, dit par les experts « tabloïde hybride » du fait qu'il mélange vérité, sensation, divertissement. Propriété du consortium WAZ depuis 1996 ; « Dnevnik/ Journal » – considéré par les experts comme un quotidien bulgare de qualité ; « Sega/Aujourd'hui » – qui prétend être de qualité, neutre, mais qui ne se prive pas de certaines stratégies de la presse à sensation pour attirer plus de lecteurs ; « Monitor/ Moniteur » – porte-parole des nationalistes bulgares dans le passé (considérablement plus modéré après l'apparition d'un journal du parti nationaliste « Ataka » en 2004-2005). « Le Figaro » – le journal de la droite en France, lié aux idées politiques de l'Union pour un mouvement populaire; « Libération » – orienté à gauche et soutenant par tradition les droits des minorités ; « Le Monde » – journal reconnu de qualité.

Approche appliqué: Nous avons examiné les moyens linguistiques que les journaux bulgares et français ont utilisés pour créer les images de l'immigration.

Nous avons analysé *les termes* dont les journaux se sont servis pour désigner, d'un côté, l'immigration/les immigrants et, de l'autre, les actions produites ou subies par les immigrés. Nous avons cerné les *champs sémantiques prédominants* qui imposaient l'image de l'immigration dans l'espace publique bulgare et français.

L'étude était guidée par le « poids » (*la fréquence*) des lexèmes et des lexies dans le corpus.

Description du corpus : Nous nous sommes limités aux *titres*. Les titres annoncent la nouvelle ou son analyse, représentent souvent un condensé du texte. On peut les considérer comme des messages indépendants, car la lecture parfois ne va pas plus loin que le titre.

Nous avons étudié seulement les titres *qui portaient explicitement ou implicitement*[3] *sur le sujet « Immigration ».*

Le corpus bulgare compte 60 titres (« 24 tchasa » – 14 ; « Dnevnik » – 13 ; « Sega » – 15 ; « Monitor » – 18) et le corpus français compte 57 (« Le Figaro » – 40, « Libération » – 9, « Le Monde » – 8)[4].

La notion d'immigration : « Immigration » va de paire avec « émigration ». Les deux lexèmes précisent le terme plus général de « migration », en lui ajoutant l'idée de « frontière ». Dans l'opposition « le sien - l'étranger », « nous - eux », c'est « immigration » qui va dans le sens de « l'étranger » et de « eux ». Si « émigration » sous entend une diaspora (les nôtres dehors), l'immigration sous entend une *minorité*.

Les sociologues soulignent d'habitude que la notion de minorité est créée par la majorité. Du point de vue sociologique, la minorité est construite à la base d'une accentuation politique de l'importance de quelque trait dominant chez la minorité dont les porteurs s'avèrent *négativement marqués*[5].

Des études linguistiques aboutissent à une conclusion analogique. Dans son analyse de l'utilisation du lexème « immigration » vers 1984, Colette Guillaumin souligne quelque chose de très important : « Immigration, dans le meilleur des cas est un terme neutre […] il ne semble pas qu'il puisse être jamais « positif »[6].

Le traitement du problème de l'immigration par les médias est extrêmement important, car, comme nous le savons bien, les médias peuvent ajouter des connotations positives ou négatives aux mots en fonction du contenu qui leur est associé en contexte. Les médias peuvent utiliser aussi des mots appartenant au discours xénophobe qui entrent dans le discours populaire. Pierre Fiala analyse le terme

« Ueberfremdung »[7], créé en Autriche et traduit en français comme « surpopulation et emprise étrangère ». Colette Guillaumin réfléchit sur la lexie « immigration-sauvage »[8]. Des lexies analogiques continuent d'apparaître – Mathieu Valette mentionne « immigration incontrôlée », «immigration croissante », « immigration invasion »[9]. Ces derniers lexèmes sous-entendent le danger que cache la présence des immigrés.

2. Immigration 2006

L'analyse des deux corpus fait ressortir une convergence évidente et une divergence importante entre la presse bulgare et française :

La convergence : Les titres dans les deux presses représentent l'immigration/les immi-grants en général comme subissant les actions d'autrui (31 titres dans le corpus bulgare et 36 dans le corpus français).

La *divergence* est liée à l'utilisation du lexème de base « immigration ». Tandis que le corpus des titres bulgares l'utilise dans des cas isolés, pour le corpus français c'est le lexème dont la fréquence est la plus élevée. Dans les journaux bulgares prédominent des mots qui font partie de son champs sémantique – des personnages collectifs (ouvriers bulgares, immigrants, immigrants clandestins etc.).

Arrêtons-nous tout d'abord sur les lexèmes qui désignent les immigrants dans les titres de la presse bulgare.

2.1. La presse bulgare

Les termes préférés par la presse bulgare sont *ouvriers/bulgares/nos* (17 occurrences). Ces lexèmes apparaissent le plus souvent dans les lexies « ouvriers bulgares », « nos ouvriers bulgares et roumains », « les nôtres » ; l'accent est mis sur les raisons de l'immigration vers les pays plus développés.

Les journaux bulgares font une association entre l'immigration bulgare

d'aujourd'hui et celle de la deuxième moitié du 19 siècle où beaucoup bulgares partaient à l'étranger pour y gagner leur vie et la vie de leur famille. A l'époque on appelait ces Bulgares-là *gourbetchii*. Dans l'imagerie populaire le gourbetchia est un bon ouvrier, il souffre de nostalgie et revient toujours à la maison. Il se voit obligé de souffrir dans un milieu qui lui est hostile. Même si gourbetchia ne s'utilise pas dans le corpus bulgare, les lexies mentionnées fonctionnent en tant que ses synonymes.

Dans les titres les « ouvriers bulgares » sont présentés surtout comme *frustrés et rejetés* : « *Dublin arête nos ouvriers* » - Dnevnik ; « *L'Europe reste méfiante envers les ouvriers de l'Est* » - Dnevnik ; « *L'Irlande ne veut pas des ouvriers de la Bulgarie* » - Monitor.

Les sujets, ceux qui ne veulent pas « nos compatriotes » sont les Etats. L'étatisation de l'action dans le titre représente une pratique qui ne touche pas seulement le thème étudié. Cependant *l'étatisation de la restriction* dans le thème « immigration » confirme notamment cette peur bulgare que nous avons déjà mentionnée : l'Europe ne nous traitera pas sur un pied d'égalité.

L'utilisation *d'immigrants/immigratoire* occupe la deuxième position dans le corpus de titres bulgares (12 occurrences). Ces termes apparaissent en général dans des titres de textes parlant d'évènements hors de la Bulgarie (« *Une grève immigratoire a bouleversé les Etats-Unis* » - Sega, « *Un flux d'immigrants vers l'île Britannique* » - Dnevnik).

Lorsque les immigrants subissent des actions, ce sont de nouveau les États qui introduisent des restrictions : « *Un examen d'allemand pour obtenir une carte d'identité en Allemagne* » - 24 tchasa ; « *La France réduit le flux d'immigrants* » - Monitor) ;

« *Les Etats-Unis refusent la délivrance de visas* » -Dnevnik.

Lorsque les immigrants produisent une action (position de sujet), le lexème « immigrants » est souvent précédé de chiffres. Il s'avère que l'état principal des immigrants c'est « d'être nombreux » (« *191 millions d'émigrés vivent hors de leur patrie* » - Sega ; « *Les immigrés à l'UE dépassent cinq fois les attentes* » - Dnevnik). Par suite de l'accumulation de chiffres, une certaine *dramatisation du sujet* se fait parfois sentir.

La lexie « *é/immigrants illégaux* » (10 occurrences) se rencontre surtout dans sa variante lexicale « clandestins » soulignant exactement l'action illégale – « clandestin » et pas « illégalement entré » sur le territoire d'un certain pays. Bien que les médias probablement ne visent pas une telle suggestion, ils associent aux « clandestins » les gens qui traversent la frontière pour demander un statut de réfugié.

Comme l'image des immigrants, ainsi que l'image des immigrants illégaux dans la presse bulgare est au plus haut point *généralisée et dépersonnalisée*.

Voyons maintenant quelle est l'image de l'immigration qu'offre la presse française.

2.2. La presse française

La presse française préfère clairement le lexème « *immigration* » (21 occurrences). Les médias ont déjà cultivé chez leur public l'idée que les mots les plus soulignés dans le flux médiatique indiquent les problèmes principaux des sociétés. L'intensité de l'utilisation du mot « immigration » trace sa perception en tant que *problème* qui mérite de l'attention et incite au débat. L'utilisation fréquente de la syntaxe du titre "*Immigration:* … (10 occurrences) renforce une telle interprétation, par exemple, « *Immigration: La nécessité d'agir* » - Le Figaro, « *Immigration: 60% des français*

ne sont pas satisfaits des règles actuels » - Le Figaro).

En même temps, le vocable « immigration » reste quand même le terme le plus neutre dans les titres des journaux français. Dans la période observée la presse française suit le débat politique en France qui décompose l'immigration en deux types – admissible et rejetée. Pour en parler, la presse reprend les formules proposées par N. Sarkozy – « immigration choisie » et « immigration subie ».

Si on se fie aux titres dans les trois journaux français de la période analysée, la presse française a mis l'accent sur l'analyse de la loi en tant que telle – *projet/loi* (11 occurrences)[10], ainsi que sur l'« *immigration choisie* » (6 occurrences). La lexie « immigration subie » ne paraît qu'une fois, sous sa variante explicative « immigration familiale ». Les journaux français évitent la lexie « immigration subie » dans les titres.

Pourtant, de point de vue des lecteurs le terme « immigration choisie » va de paire avec « immigration subie », car ces deux termes dans la période étudiée s'utilisent dans les textes et circulent dans l'espace médiatique. Dans le corpus français l'immigration choisie est un *euphémisme* de la paire de termes.

« Projet », « loi », « immigration choisie » fonctionnent en tant qu' « unités textuelles non complètement lexicalisées »[11] et la perception leurs y ajoute sans obstacle le terme caché – le terme « immigration subie » (incontrôlé, dans le passé dite « sauvage »).

En tant qu'acte politique, la loi de N. Sarkozy est défendue et attaquée. Une part des titres annoncent la position de l'introducteur du projet (« *Sarkozy défend sa vision ferme et juste* » - Le Figaro, il « *muscle son discours* » etc.). Il a ses partisans (qui approuvent), ainsi que ses opposants (qui s'opposent etc.), un débat se déroule – par

exemple, le titre du « Monde » - « *Duel à distance sur l'immigration* ». Dans ce sens les titres fonctionnent comme un compte rendu de la discussion soulevée par le projet. La presse française parle d'immigration en utilisant surtout le *discours politique.*

La prédomination du *discours politique se raffermit* à travers les titres représentant des activités politiques internes et externes de la France :

- Durant ses visites dans de pays africains, Sarkozy « *explique* », *popularise* le sens da la loi. Le premier ministre « *s'engage à coopérer* ", il *négocie* (« *Sarkozy se démène pour lever les malentendus avec l'Afrique* » - Le Figaro). Cette couche de titres fait penser que l'immigration subie/familiale est surtout d'origine africaine.

- En France Sarkozy prend des précautions pour assurer une éducation aux enfants des immigrés – il *résout un problème* (« *Familles d'élèves sans papiers: deux mois pour se faire régulariser* » - Le Figaro).

La personnalisation de la loi et, pour cette raison, de la discussion est une autre particularité du corpus français. Le nom de Sarkozy assiste directement 11 fois, les positions « pour » et « contre » sont assumées par des personnes concrètes (Brigitte Girardin, Jean-Louis Debré, Philippe de Saint-Germain, Thierry Mariani, Kofi Annan, Philippe de Villiers, Dominique Strauss-Kahn etc.).

3. Synthèse et conclusions

Représentés en comparaison, les résultats relevés donnent à la réflexion un point de départ.

Presse bulgare	Presse française
Tendance vers une présentation de l'immigration en personnages collectifs;	Tendance vers une problématisation au niveau national ;
Dédoublement du discours : folklorisation du discours sur « les nôtres » ; généralisation des « autres », discours de distance ;	Consolidation du discours politique en tant que principal pour tous les développements du sujet ;
Dramatisation de l'immigration à travers le jeu des chiffres et les restrictions exercées par des Etats ;	« Esthétisation » du discours politique dans la direction du politiquement correct à travers de formes différentes de substitution et d'euphémismes ;
Etatisation de la restriction à l'égard des immigrants.	Personnalisation du débat sur l'immigration.

Le dédoublement du discours dans la presse bulgare se raffermit en tant que style de traiter les minorités. Dans le cas de cette recherche ce style permet une représentation positive de l'immigrant bulgare et une attribution des nuances dramatiques à l'immigration illégale, affrontée de la part des Etats, y compris la Bulgarie.

La pratique discursive prédominante de la presse bulgare convient parfaitement au média *d'un pays qui produit surtout des immigrants dans des pays autres et qui*

reste à la périphérie des grandes décisions concernant l'immigration.

Pour la presse française l'immigration est un problème dont les dimensions imposent des mesures politiques dans le pays. Puisque l'endurcissement du courant de la politique est bien accepté par la majorité en France (ce que les sondages témoignent), la presse s'efforce en général d'inventer des formes lexicales admissibles pour le représenter aux groupes concernés et à la société.

La pratique discursive prédominante de la presse française convient parfaitement au média *d'un pays qui abrite des immigrants et qui peut donner le ton des grandes décisions* du problème.

Les conclusions ci-dessus nous font penser avant tout de divergences importantes entre les deux presses. Bien qu'ils traitent du problème de l'immigration de deux points de vue différents, voire opposées, il existe un point commun entre les journaux français et bulgares : l'absence du *discours des droits de l'homme.* Les médias étudiés agissent en pleine adéquation avec les attentes politiques qui leur sont adressées. Les presses des deux pays traitent du problème en partant du point de vue des attitudes majoritaires dans le pays, des priorités nationales, des celles de l'Etats. Alors, on peut présumer que dans le cadre de cette étude, la presse bulgare et la presse française se sont montrées plus proches des valeurs de l'État national, que de celles de la société européenne postmoderne.

Notes

[1] La recherche est effectuée dans le cadre du projet « Contrastes et comparaison inter-langues: le discours journalistique en bulgare, polonais, français et anglais », programme franco-bulgare de coopération scientifique « Rila », 2007-2009.

[2] Eurobaromètre, octobre 2006.

[3] Deux titres qui portent implicitement sur le sujet comme exemples : «Londres attend 15 000 ouvriers bulgares » (le journal bulgare « Dnevnik ») ; « Près de ¾ des Français approuvent la loi de Sarkozy » (le journal français « Le Figaro »).

[4] En ce qui concerne la position du «Figaro », on peut supposer une activité considérable d'un journal à droit sur un sujet dit « droit », ainsi que des styles différents du titre dans les journaux différents.

[5] Grekova, M., *Minorité : construction sociale et expérience vécue* (*Maltsinstvo : sotsialno konstruirane i prezhivyavane*), Sofia : Kritika i humanisam, 2001.

[5] Guillaumin, C., 1984., „Immigrationsauvage", *Mots: L'autre, l'Etranger* (numéro spécial), Editions du CNRS, p.48.

[7] Fiala, P., 1984, „Le consensus patriotique, face cachée de la xénophobie", *Mots: L'autre, l'Etranger* (numéro spécial), Editions du CNRS, p.27.

[8] Guillaumin, C.. *op. cit*., p. 43.

[9] Valette, M. 2004., „Sémantique interprétative appliquée à la détection automatique de documents racistes et xénophobes sur Internet (en ligne)", Disponible sur www.revue-texto.net/ Inedits/Valette/Valette_Princip.pdf

[10] Dans la période d'observation le projet est devenu loi.

[11] Une analyse intéressante sur ce sujet in: Valette, M., *op. cit*.

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Techniques of rendering speech credible in today's Romanian press
Case Study

Xenia NEGREA

Abstract: *In this article we have examined how the stylistic mechanisms of credibility and persuasion worked in the Romanian press in the administration of a subject which not only generated huge audiences, but also led to the construction of a label and a linguistic mapping. Starting from the most popular theories regarding credibility and persuasion, we have shown how the call to the emotional side came first, at the expense of the rational fund, as a characteristic gesture of the approach of a topic in the press in Romania.*

Keywords: *journalism, writing techniques, credibility, persuasion, style, ambiguity, symbol, subjectivity, emotional background, staging, audience.*

1. Introduction

In this article we will examine how the stylistic formulas of credibility work and then the persuasion mechanisms for the configuration of a press fact, and implicitly, to attract an audience as large as possible. To do this, along with consulting the specialty literature, we looked at how the Craiova events during 2006-2008 were reflected in the written press in Romania[1], events that led to the creation of a "language map" for this locality. Secondly, we will see the pieces that were assembled to create a label.

The concept of "language map" has been developed as a difference from the concept of "territory". Researchers such as Langer, Korzybski, Larson, etc. observed and theorized that individuals operate with certain concepts by which they define and understand their reality. Thus, an individual's thinking is built on the basis of "inner perceptions". The term "territory" overlaps, in the vision of the same researchers, with reality itself. At the level of language maps persuasive agents[2] must act either to meet specific needs of persuaded patients or to change the perceptions of the latter[3]. Persuasive speech is built by speculating what semiotic researchers call "side-signal" which "represents reactions caused emotionally from symbolic acts, including the use of language, as they would occur in reality"[4]. In our study, we

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consider the symbolic acts produced with written language.

From the perspective of the approach to the event, the written press in Romania is classified by specialists as being part of the French school. Unlike the English school, built by the principle of "Facts are sacred", French school supports greater involvement of the journalist in the text, while retrieving and processing information. The subjective elements - comment, opinion, 1st person reports, subjective evaluative adjectives axiological and non axiological[5] - are not eliminated, but even cultivated. In the Romanian press, without a tradition of nude story, classical press material - news, story - takes many of the types of opinion, commentary, *i.e.* genders biased by excellence.

This premise, which is the starting point of our study, is accompanied by a second one, coming, this time, from the universal characteristics of the press, and we consider the functions and effects of mass media. The specialty literature records as general functions of the media: information, interpretation, cultivation, education, setting public agenda, etc. Regarding the mass media effects, they are reduced to the way society is influenced by this type of communicators.

In the case we proposed, the model "two steps flow" operates, proposed and theorized by Elihu Katz[6]. In this case, the material information does not move directly between journalist (news reporter) and receiver. It needs intermediaries - who are "leaders of opinion" - and the degree of involvement of the receptor is high. Between the written press reporter and the public television news and talk shows were interposed. Debates, comments, live transmissions fully contributed to enhancing the meanings of events and highlighting their interconnectivity. Television answered the "cultivation model", a model theorized by Georg Gerbner. The investigator noted

that for much of the public, television is the main source of information, even becoming a "family member". Gerbner called this type of public "heavy viewers", the type of public which are building their idea of the world, about the environment, about their social circumstances through the materials transmitted by television. From our point of view, in the case of the events studied, the function of interpreter which was fulfilled by television, along with the aggressiveness of the "cultivation model" made television "write the agenda" not just of the public, but also of the written press[7]. One of the effects of this involvement of television has been an increasing "audience"[8] of the written press. In this media mechanism, written press rather seems to have played the role of interpreting and fixing the information, and less of transmission of it. Televised news journals supplied information such as, newspaper reporters taking and deepening it in parallel with many programs like talk-shows that have accompanied the reconfiguration of this language map. Therefore, if with regard to the way in which televisions have treated this subject, we recognize the mechanism of the *magic bullet*[9], written press follows the "two steps flow" model. From this aspect results, by insistence and generalization, a second one: *the pack journalism*. When an event proposed by a press institution produces audience, it attracts and maintains the public's attention, that event will be also treated by other press institutions. Clearly, assaulted on more channels, for a longer period of time, the public will be convinced that the press event is a priority and a general interest event.

The press also used its function of interpretation. By this function, recognized by researchers as the main way to influence public opinion, press gives meaning to an event. The theory defines this function

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in that at the issuer level, thus at the level of press material for publication, several interventions are produced: selection, hierarchy, the context and commenting the news. By selecting the information that must reach the public a value judgment is also produced, which implies compliance with rules, representations, symbols, principles or of the intervention in order to correct them. Hierarchy, in turn, implies the layout of information selected according to their importance – importance also determined at the level of the issuer, of the issuing institution. Contextualizing and commenting is the main channel of intervention on linguistic maps, as new information is connected to what the public already knows.

2. Rhetorical mechanisms revealed

2.1. Mechanisms of credibility

Returning to media techniques, we will try to highlight the mechanisms that not only kept awake the public's interest for a press fact, but also generated a new linguistic map and produced a *label*.

In order to keep the public's attention, to convince him of the importance of the message, to generate an attitude, an opinion, a certain type of behavior, a press material, among other stylistic requirements, must have credibility.

Measured by pragmatic acceptability, credibility is built on the mechanisms of coherence and cohesion, and implies an attitude of the receptor – of acceptance or rejection. Credibility is one of the requirements to which a press material must respond to in order to maintain the receptor's attention and it involves the acquisition and evolution of a determined plan, defined as such by the specialty literature, described before all, by the consistency in the semantic, grammatical, logical argumentative level. As Sorin Preda observed: "Taken by itself, any claim is

credible. It all depends in the end on the context. [...] In journalism, only incredible out of control becomes deficient, resulting from a poor or inconsistent management of the details"[10]. At the level of creating credible significance, the issuer must comply with the principles of coherence, must comply with the premise from which it starts, must control the text at all three levels: textual, sub-textual and supra-textual. Also, the veracity of jour-nalism entails a combination of figures of speech. Thus, metaphorical distances are excluded, personifications, built on the identity, in favor of those built on inter-dependence, on contiguity[11]. In the latter category fall the metonymical structures. These structures have the advantage that they question an implied *meaning*, without climbing the system of signification, i.e. relying on semantics continuity. The main trop implication of this category is metonymy[12]. As we see in the examples selected by us, one of the methods intensely used to obtain credibility is the insistent use of the *cartridge lead*. This involves starting the material with the strongest element of the speech. We saw, on numerous occasions, beginnings such as "Shots in the streets and high tension in Craiova"[13], "Craiova cops still haven't succeeded"[14], "A Dolj counselor claims"[15], "Craiova is boiling"[16], "A bloody reckoning"[17] etc.

2.2 The methods of persuasion applied

Once credibility gained, the next step is convincing, persuading the public. They must be convinced that what they read is not only real, but also general and important. According to Aristotle's theory, persuasion may be based on source credibility (ethos), on emotional appeal (pathos) or the logic argument (logos) or a combination of the three. Aristotle believed that the strategy of persuasion is more effective when based on *common grounds* existing between the

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persuasive agent and the persuaded patient, enabling the first to start with some assumptions regarding the opinions and beliefs of the audience[18]. Kenneth Burke, continuing Aristotle's theory, believes that persuasion is an effect of the artistic use of a "resource of ambiguity". To Aristotle's common grounds, the theorist added the idea of creating a sense of identification. In order to create this sense, the issuer must use a language as close as possible to the linguistic register in which the receiver addressed functions. Larson goes beyond this definition, this requirement of the mechanisms persuasion and shows that "persuasion is the joint creation of a state of identification between source and receiver, as a result of using symbols"[19]. In our case, journalists felt that they must answer the public's *need for a superlative*. Titles and keywords of materials are extracted from the catalog of the means of achieving superlative, *i.e.* of achieving sensational, of production and maintenance of strong emotions, language selections being made solely by virtue of obtaining a thematic dimension, the creation and proliferation of some families of terms[20] to support the feeling, mood, to contribute in the shaping of an apocalyptic imaginary. Such words are "wars", "fight", "violent", "bloody", "mafia", "shoot-out", "have shaken" etc. The next step was the establishment of charismatic terms[21], such as "ferentarism", "mafia town", "shady", "brotherhood" etc. From this moment on, the issuer journalist takes the characteristics of the unifying persuasive agent[22]. Kenneth Burke also defines persuasion as an artistic use of "resources of ambiguity". To this Larson adds ambivalence, "speaking two-way" stylistic enthymeme, "dubitative speech" ("Enescu, possible victim of the mafia members"[23]), "euphemism" (the case of quantitative assessments of the participants in various reported events). In the publi-

cations cited by us, these concepts adjacent to persuasion are met with very often. For example, the title: "Gypsy Battle in Craiova"[24] on the one hand implies ethnic affiliation of the protagonists of the incident and, on the other hand, implies the type of alter-cation: unorganized, spontaneous, without legal support. The same newspaper uses the same technique in an inter-title as "The Interlopes shook hands"[25], by pointing on the one hand, to a pacifist message, on the other hand, to a possible complicity.

2.2.1. Dramatizing – the main means of rendering credible and persuading

With the general guidelines of the map established, reports on the scene are only to complement, emphasize and argument those set up at this time.

Argumentation, in this case, was done almost exclusively with *dramatic evidence*. In this sense, the words were selected according to their dramatic potential, following the Burke model, which has identified as the main narrative mechanism the dramatic penta-valence. It is composed of five central elements: scene, act, agent, agency and purpose[26]. We have distinguished that the scene was represented by the town of Craiova, the act: the system's inability to resist social violence, the agent: the news story and the purpose: creating the belief that there are serious deficiencies in the security system of the locality in question, with the possibility of them being generalized at national level.

Narrative materials are built on the same type of characters, from the same social category, on the same type of conflict. What varies is the identity, at superficial level, of participants and places where the conflict occurs. Thus, the participants in the conflict are people with a criminal history, coming from the Rrom ethnic group, or have close links with it, and are organized into "gangs" or "brotherhoods".

The only exception, however, is the son of a judge involved, in similar incidents. But the number of participants is always low. But his case served the argument that the entire system is *eiusdem farinae*. The conflicts were all held in public and involve the same logistics: guns, swords, axes, knives. The motivation is the same: solving in an irrational way some of family or individual conflicts. It is not attempted, however, from these data, to isolate a "world of street conflict", leaving the receiver to generalize alone. In their reports, journalists are trying to emphasize the omnipresence of such incidents and to transform them into *brands* of an entire locality. The frequency of such incidents could not sustain argumentatively the attention that the press gives to the matter. However, what individualizes and contributes to building credibility is the progression of the number of articles written on this topic. For example, in "Cotidianul"[27] from 6 July 2006 until 28 August 2008 we can follow an increase in the frequency of this theme – "Craiova". Thus, if in 2006 you can read two articles (July 6, November 16, September 11), in 2007 only one article (September 11), in 2008 the frequency grows considerably. There are ten entries, as follows: February 5 2008, February 12, April 29, April 30, May 8, culminating in August, precisely two days of this month, August 26 and 28, the first having two entries, the of the second, three. During this entire period, the rest of the articles on this locality came, in their vast majority, from the worlds of sports and, from time to time, about suspicious privatizations.

To the construction and illustration of superlatives were added the expression of the colloquial character, as a means of dramatizing the story. We find statements such as "them among themselves"[28], "has put them in a meeting"[29], etc. Many of the stories about the matter are built with common symbols, in Larson's acceptance, *i.e.* on allusions[30] to the imaginary world of film, especially in those Hollywood productions which have as themes the mafia and the Wild West. These are common grounds.

As will be seen in the analysis that follows, the success of the stories about this will be a constant one. Although in the first articles we selected the number of new views is of hundreds, in a short time, they will grow to several thousand. The readers' interest will remain constant despite the fact that publications do not supply materials daily, and sometimes between two materials there is a distance of several months.

2.3. "Cotidianul"

The story from July 6 reported an incident involving the son of a magistrate. The article was viewed 551 times (fig. 1). We identify here an adjacent theme, an affluent of the general theme. By elliptical transitivity, the main character is labeled as "Craiova's problem-child". On November 16 2006 "Cotidianul" published an editorial signed by Traian Ungureanu, entitled "Peak of the Ferentari underground". The article recorded 779 views. In turn, the editorialist tries to generalize and label this type of event with the term "ferentarism". Altercations on the streets are, according to the journalist, a true underground reality and represent the way in which whole social stratum exists: "Ferentarism has been reported in other parts. In Craiova, Galaţi, Târgu-Mureş. Every time we're talking about areas where the dirt hides things well thought-out. The world of these neighborhoods is the expert director of a way of life where delinquency leads to tacit cooperation with the authorities. Justice has released them, and the police closed their eyes to network chiefs and major incidents. Over time, these areas

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have realized that they can count on support that this way of living is, indeed, admitted and that official legal life is a form of travesty. That society is weak and that the carriers of this unexpected news are the peace-holders in uniforms and the dignitaries from the rostrum. Tuesday, when they were disturbed by the dis-connections, the Ferentarioţii protested in defense of precisely this way of life". This serves as a premise to the editorialist. *Ferentarismul* is unavoidable proof of the inefficiency of state structures, is the barometer of corruption, the course of an

entire country: "Ferentari doesn't need something like that because it set up its own order in which the state itself take parts, in lieu of complicity and fake guardian. Gigi Becali smelled the place well. The nose of the underground announced that he would spend, on the spot, four hundred thousand euro. Becali knows that the trampoline started to work: the circuit Vadu Rosca- Ferentari will swamp the voting box. The final descent of Romanian public world can be stopped only by an attack to the heads of the underground, to its direct and indirect patrons".
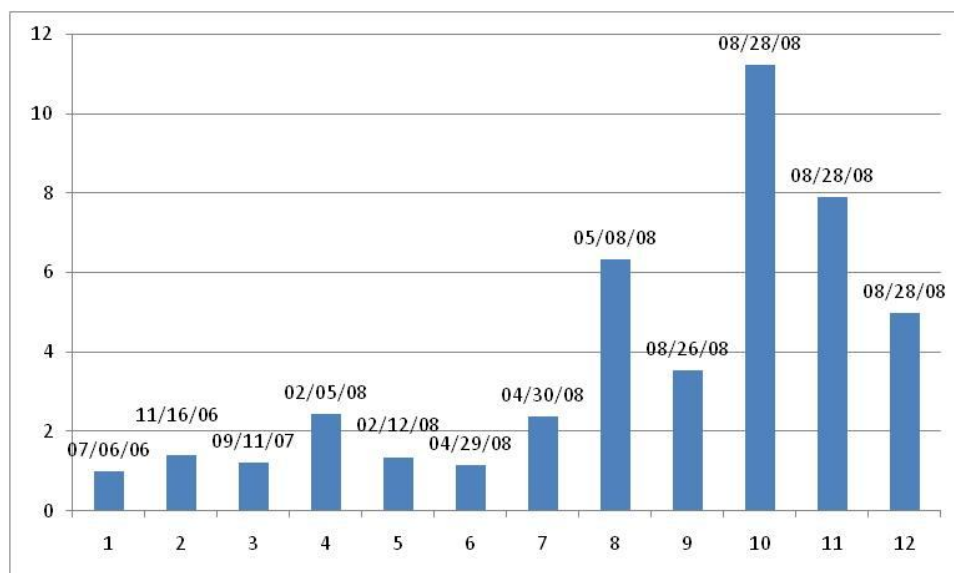
(Fig.1)

On September 11 2007 the news "Shots fired in the Craiova streets" is published. It was viewed 665 times. The material shows a street altercation between two groups of young people and is based on the story of a witness. The lead of the article and the ending are the ones that draw the attention. Although from the conclusive lead the reader is informed that "In just two weeks, in Craiova there were two armed attacks" in the article only one is told. Only the ending has a logic-

semantic relation with the beginning: "Two of them were involved in the scandal from IML Craiova two weeks ago, during which there was also a shot fired".

The article of February 5 2008, with 1339 views, entitled "Son of Craiova judge, involved in battles between the clans of the underworld" builds the case from the linkages between justice and the world of street conflicts. It is built on a contradiction. On the one hand, the attack said "Craiova police have not yet managed

to trace the authors of the scandal on Sunday", and on the other hand, inside the material is quoted as source the IPJ Dolj spokesman, saying: "the aggressors have been identified and are being looked for". The second part of the article is built metonymically highlighting links between members of the judiciary community and those involved in the altercation.

On February 12 2008, with 743 page views, "Cotidianul" published an article "tracking", essentially a speculation. An official proposes a scenario that the street actions were staged. The effect of this material is the deepening and the representation of Craiova as a space for the underworld. Without any rational evidence, the newspaper published in the form of a piece of news the politician's opinion.

On 29 April 2008, with 631 page views, there is already a standard approach formula to news from this area: "Craiova" – "underworld" – "gunshots" – "ambulance". Moreover, the frequency of reports is visibly increased, and the tension is fueled.

On 30 April 2008, with 1308 views, in the scene of events come in the authorities under the title: "Craiova Police was awakened in the 12th hour". In approximately 5700 words, from another incident, a reporter makes a retrospect of the events that led to the configuration of this tag. The "underworld" has vowed revenge, "rival groups", "scandal", "gunshots", "bats and swords". These are the key terms that characterize the *dominating evil*, as opposed to the *weak good*, represented by the state authorities. The words that characterize this part are quantitative "came dozens of policemen, gendarmes and masked policemen", "stopped traffic and the access routes for the police were blocked", "belts of police and gendarmes", "the II Crusade", "Joint patrols by police, gendarmes and community police". An order of "dismissals" is suggested. Although it seems that he wants to em-phasize the seriousness of events, however, the journalist is trying to do a pun, casting a shade of irony of the whole thing with the process of rememorizing "were often approached in the newspapers and the heads of two of the police chiefs fell".

On 8 May 2008, with 3483 page views, in the same ironic tone, they continue tracking the actions of officials. The material seems to suggest the dominance established by various local groups of offenders. This is done by ridiculing authorities. Thus, on the one hand, the journalist reported that "over 500 employees of the institutions have been checking", and on the other hand he designs/labels in apocalyptic language the gang actions: "acts of violence that have scarred Craiova lately". In emphasizing the same ideas, are the following paragraphs of news. Thus, by evocation, the inventory of incidents is: "Only this year in the county of Dolj there were 12 conflicts between members of the underworld, involving several dozen injured people, the «victims» of these fights were also the local police chiefs, Ion Constantin and Georgel Enescu, obliged to resign. Over 40 families suspected of being the perpetrators of violent crimes or of violations of the rules on the weapons and ammunition were searched".

On the other hand, the scale of the police action is described: "For this action we used BCCOA of Craiova, DPIR, Gendarme Mobile unit Craiova and IPJ Dolj". "The shaking is proven by involving the highest authorities, in the same ironic key: In the same action, police Quaestors Gheorghe Popa, head of the General Inspectorate of Romanian Police, visited the home of Vasile Velcu Năzdrăvan, the prefect's advisor on issues of the Rrom ethnic group, to whom he said: «I want you to understand that I no longer tolerate such events in Craiova. I want peace in

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this town! I have other important problems, than to come into this town early in the morning». In the neighborhood Faţa Luncii of Craiova police set up special surveillance in the last weeks".

The climax of the creation of this "language map", for this newspaper, is reached in August. Now appear in two days, August 26 and 28, no less than five articles.

On August 26, two accounts of the same event, providing contradictory data, both materials trying to give the idea of maximum tension. Thus, if one talks about the tension from the first line of attack: "Shots fired in the street shooting and high tension in Craiova...", in an article called "One of the heads of Craiova underworld was shot dead after a game of poker", the other suggests the tension from the title: "Craiova, a town under siege". Regarding the contradictory elements, they relate to the cause of death. Thus one of the articles states that "Shot several times in the head and abdomen", but in contrast, the other, citing an official source says: "The autopsy was performed and it determined that the victim was shot with one bullet in the chest area; the bullet entered one side and came out the other side".

The difference between the materials presented now and those in the past is the accumulation of data, the frequency of such incidents, even if they themselves are isolated. Because of this attempt to find continuity in the conduct of events, to expedite the qualification of the locality as a "city under siege" the journalists' arguments are syncopated. However, the articles recorded 1957 page views, and 2001 views respectively.

In the August 28 edition we identify the highest number of reader and the most articles devoted to the topic in the same edition of the publication. There are three materials on the same sub-theme, the funeral of the person killed in the game of poker, all three included in the same supratheme "Craiova – dangerous city". The three materials are of different types: a story, a news-story and an editorial and it was viewed 6183 times, the second 4350 and 2737, in the case of the editorial. The news – projective – is built around the following key terms: "street", "block", "luxury cars", "over 2000 people", "600 policemen and gendarmes". The story, in 6159 words, is entitled "Flowers were thrown over Caiac's coffin" and reported, building on the film imaginary, with allusions to the famous film "Octopus", from the scene at Mihai Pirvu's funeral. The announced number of participants amounts to "over 1000 people", and regarding the forces of order, the journalist found out from a direct source that „«In this moment the entire shift is on the street»". In subtext the journalist builds the atmosphere of a terrifying and grotesque ceremony. Every paragraph brings new arguments highlighting the state of terror, the threat that the participants intentionally provoke. Even in the attack, the reporter's intention is outlined. Thus, from the first word is underlined the deceased's membership to the "Brotherhood", and his position of leader within the group. It even suggests the idea of a paramilitary group, using terms from the specific army vocabulary "always supervised", "lieutenant". The idea of the attack is developed inside the article, by gradually building an image of mafia-type organizations. Thus, came to attend the ceremony "leaders" from everywhere in the country and abroad. Nick-names of some of the participants are given, which work rather like code names. The second paragraph reinforces the idea of playing an atmosphere of terror. Presenting the mood of the participants, "sad, resigned, with their heads down", the journalist immediately doubled these terms

with others to restore fully the specific of the event: the death of a leader of a mafia group "with sunglasses and black shirts". And in this paragraph the proximity to the army and terrifying behavior is emphasized: "They abruptly announced at the microphone: Go to the cars. We are leaving". The starting of the group coincides with the spread of the oxymoronic atmosphere of mourning terror: "blocking the street", "had no right to photograph neither the curious people now the patients from the hospital across the street, which had climbed the fence to see the Caiac. «Cameras down», said seriously one the guardians at Caiac's head, while he was being descended from the hearse". The novelty of that story is highlighting the hyper-receptiveness for this subject. The other citizens are involved, transformed into a species of human-antenna through metonymy (person for the capture of information): "Devices were quickly put away and mobile phones were closed immediately". They stop working, leaving the curious to contemplate the cortège from the windows, as reported by the journalist. Now, in the film of the attendance, is also inserted the relationship that the organizers have with the press.

Following numerous articles and televised debates, it drew attention to the event and not for those involved. Therefore, between those involved in the event and media, the relations are strained and tend to violence: "The journalists present at Caiac's home were cursed, spit upon and threatened by the close relatives of the deceased. Cameramen were prevented from filming, and reporters from two local newspapers were chased down the street, barely escaping the rage of the boys in black. «We were cursed, we were sprayed with water, then they chased us. We barely managed to escape», said one of them. At Caiac's home, several limousines with dark windows speeded very closely to the journalists, in an attempt to intimidate them. While these events were predictable, the forces of order, who claimed that were prepared to intervene in any situation, missed them entirely". Regarding the number of the forces of order involved, the reporter says there were on the street about 120 policemen from the public order service and 80 gendarmes". The story ends dubitatively, with a story from the hospital, where the other person involved in the original conflict, Catalin Mavrichie, was. This paragraph is based on confidential sources and assumptions: it is suspected that Mihai Pirvu had been shot by a third person involved in the conflict (as an element of novelty into the whole event), then it is suspected that the victim could have been saved if doctors had been announced in advance and, ultimately, the guilt of the survivor was not yet determined.

The Editorial, signed by Costi Rogozanu, re-contextualizes, with the intent to irony, this conflict, comparing him from the attack to events not at all similar from abroad: tense situation between Russia and Europe. In the second paragraph of the editorial, the reader's focus is moved on foreign affairs, on himself. In the opinion of the editorialist, what keeps the audience and the success of this event, and its cultivation in the media is the audience, is people's interest for the events reported by journalists, an interest so great that the editorialist compared it with the fascination and enthusiasm that is stirred by an entertainment event, the guidelines used by the author being hip-hop music bands, Dr. Dre and 50 cent, successful bands of the moment and which address mainly teenagers. The common point of two terms of comparison is, in the opinion editorialist, the interested crowd. The Editorialist builds his article on judgments based on symptoms[31], compared

judgments and analogy and on sophistic logic[32]. He used also the diversion technique[33]. Unlike reporters who sought to gain credibility in the "reports from the scene", the editorialist based his reasons on what "he saw on television", coming among those who perceived events exclusively mediated by the press. What the editorialist remembers are the "fierce faces, which take by force, are specialized in heists, corruption", metonymy which he converts, with a character-adjuvant[34], "a colleague" in a symbol of the entire country: "That's real Romania". The Editorialist does not clearly explain, although it appears that it is his aim, the source for the success of these materials. In the next paragraph, his vocabulary is increasing now by entering in the text a loud term[35] such as "hypnosis". The word covers, according to editorialist, the attraction that people have to "underworld". Thinking sophistication goes beyond, in the phrase immediately following, when he notes: "Some are dumb with wonder – not resentment – kwhen they see how an entire city is operated as dictated by a group of gentlemen with black blouses tight to the belly". Again, the editorialist forgets commented that what was mediated by a press attentive to the audience. Serious words used, hyperboles, only give more meaning to the picture constructed by the press. Although it seems to answer the demands of lucidity, required by the editorialist profession, when he approaches specific entertainment information through the phrase "fans-viewers", he goes on with the speculation with purely literary means (building allegories), seeing in the behavior of the specific entertainment public, in fact, a symptom of a human primary need of order. They, according to editorialist, found in the organized attitude and (apparently) dominating of the group, the need for predictability and order at national level. At the end of the material, Costi Rogozanu qualifies his journalistic intervention as "explanations" and concludes that this couple (the press and its audience) are struggling with "instinct". The Editorial we analyzed proves how the press has managed this event. The press event was built primarily on literary means: analogies, allegories, speculations, going further away exponentially from the nucleus of real information.
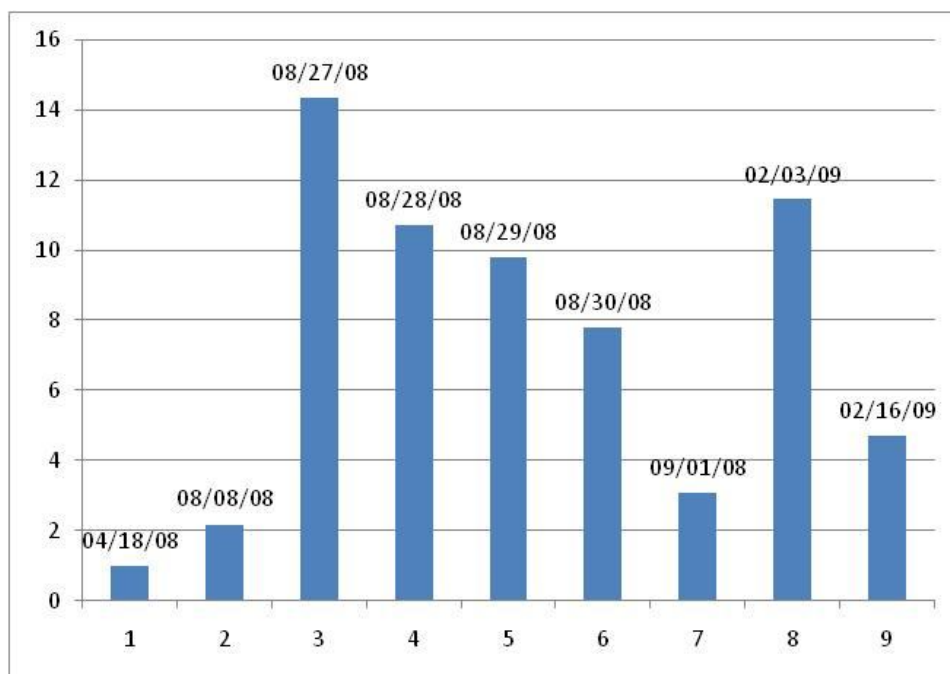
2.4 "Evenimentul zilei"

Another newspaper that has contributed significantly to shaping the linguistic map was "Evenimentul zilei"[36] (fig. 2), the daily newspaper with the largest circulation in Romania. This provided a wider space for the subject. Limiting to the time reference we will also follow this time how the subject has been treated. In late 2007 and early 2008, materials relating to the Craiova street altercations are usually short news. But in this case the elements of emotions, the bias are easy to observe. Thus, the material from October 1 2007, entitled "Battle of the Gypsy in Craiova", beyond compliance to the structure of classical news, the reporter added terms such as "rivals" or "warriors" to give more significance, more dramatics to the story, something to avoid when drafting news. But public attention is attracted. If the news of October has 127 hits, the one on April 18 has 2497. An explosion in the number of readers happens when the news of August 8 is published, when "the number of reads" is 5453, although the language is much closer to objectivity, the space is much higher: 2820 words compared to 1451 for the article in April.

On August 27, "Evenimentul zilei" made a synthetic material called "The most dangerous cities in Romania". The article occupied the first place among the most read materials from the log, res-

pectively, with 35805 reads. Craiova is, predictably, placed in the top ranking as the most unsafe city in Romania, a town in which "citizens' security is precarious because of the fights occurring between the underworld gangs". The article has 10486 words, of which approximately 5757 are granted to Craiova. The remaining signs go to towns such as: Constanta, Braila, Drobeta Turnu-Severin, Borşa (Maramureş). The style used by journalists for their argument boils down to epithet qualifiers, on superlatives and simple sentences. In the view of the journalists, the south of the country presents "maximum danger", and Craiova is "gunmen heaven". The rating is not based on any scientific research, and the argument is built on the irony of one of the altercations, and on listing street incidents known to the journalists concerned. In the case of the other localities, the arguments are summarizing.

(Fig.2)

The article on August 28 2008, "Caiac fingerprinted after death", ranks the I place of the articles read on the website "Evenimentul Zilei" with 26724 "reads". The attack simulates a call for calm: "The number of massive forces of order out yesterday in the street have made the city of Craiova quiet". In fact, the material is a recapitulation of events. A portrait is done, seemingly positive, of the victim, and throwing in the deeply ambiguous the image already created. He is presented as a family man, father of hard-working, rewarded students. We identify in this portrayal an attempt of the issuer to reverse the poles of *good-bad*, suggesting that the possible subliminal cause of this incident was not the low level of civilization of the victim and aggressor, but the impossibility of the system to contain such manifestations.

The article "The underworld parades at Caiac's funeral" of 29 August 2008, also takes I place among the most read

newspaper materials made in the day, with views of 24444. Designed as a story, the material describes the funeral procession of the victim, Mihai Pirvu. The lead, and the first paragraph marks a clear intention of the author to dramatize. He uses simple sentences. According to Weaver's Grammar, this method of expression has the advantage that it highlights a subject[37]: "Luxury cars. Timid policemen. Designer clothes. Tattoos. Manelists. Expensive sunglasses. «Boxing» people. Individuals with thick necks and full of muscles". The reporter will resume the nervous notation in the middle of the story, when he must emphasize the importance, the leadership of the victim in his social environment: "Some came from abroad. People he knew from all over the country". In shaping the painting of the participants, he uses terms such as "discreet presence", "parade, have paralyzed the traffic". Are listed, also the public figures who were present or manifested their compassion. In the second part of material, the journalist added the premises of opposition, by bringing into question the officials of that part of the Establishment which should be directly involved in the battle to calm down the situation, but who are carrying out a "slow inquiry": the Ministry of Interior, through its then Minister Cristian David. The other material from the same day, "David held a meeting with the chiefs of police", is a simple story, but it has 4123 views.

The article the following day, August 30, 2008, "Caiac makes victims after death" occupies first place among the newspaper's conducted pole with 19425 views. In this material, attention is centered on the system. The effect that is stresses is the national importance this altercation has acquired. Extensive quotes from Minister David are supported even by interventions of the Prime Minister of Romania. Suggesting an atmosphere of war, and a hierarchy of para-social structures (neighborhood gangs, organized criminal groups) create the image of a large bellicose fight.

The article from September 1 2008, "Caiac's killer, arrested in hospital pajamas", had 7732 views. Although the angle of approach and the title of the lead are announcing a story in an ironic key, the end of the article overturns the reading, opening speculation of the most alarming. Once argued that the forces of order know in detail this para-social coagulation ("19 neighborhood gangs, which amount to approximately 200 members"), the journalist chooses to leave the last word to anonymous sources, but from within the problematic groups. The message from the end of the article is alarming, announcing not the extinction of the phenomenon, but an extension: "It has gone too far. They are firing real guns. We will all get them and walk around on the terrace with bullet-proof vests".

On 3 February 2009, "Evenimentul zilei" published an extensive material called "Clean up the city mafia". It ranks second among the most read articles, with views of 28563. The article's message is aimed at demonstrating the incapacity of state organizations to cope with the phenomenon. From the lead, the reader is informed that: "The authorities have given yesterday, a frail sign". In apparent opposition is described the other term, the gravity of the situation: "the city of Craiova was the place where criminals had their way without being disturbed". In this direction, the argument that the altercations presented by the press are not isolated incidents and that this behavior tends to involve the entire country, the material is built. In approximately 10000 words are listed categories of facts that led to shaping a coherent picture: "Fraud of scale, attempted murder, bloody street battles". Then, *in extenso*, are

listed situation in which the system, justice seems complicit with this world. By suggestion, allusion is being built the idea that "Craiova mafia" came up on top of the Romanian political hierarchy, and that also the judiciary, through two of its Craiova institutions, Dolj Court Prosecutor and the Dolj Law Court are under the influence of the offenders. In support of the allegations, journalists do not bring proof, but they use *judgments based on coincidences*. They also published photos of the inauguration of a company, which show together some of the important members of the criminal community and some members of political and religious life. It is a remembrance of events that would warrant, according to journalists, the label on Craiova as "mafia town".

The last article we selected for illustrating the way in which this tag is constructed is of 16 February 2009 and it recorded 11764 views. Entitled "Craiova armed for war", the article opens with a hyperbolic image of the state of mind of the town: "From Craiova to the farthest common in the county, Dolj citizens seem to be always ready for «war», their arsenal ranging from the banal kitchen knife worn at the to until the gun illegally detained". The exaggerations only have the effect of loss of credibility. There new examples of incidents with weapons, this time without victims, but only games that police interpreted as examples of "criminal behavior". In the second part of the article, police are ridiculed because from excessive zeal during the raids, they stopped to check an ambulance.

2.5 "Gardianul"

Another newspaper whose material we have followed is the "Guardian"[38] (fig. 3). Typological, this newspaper is approaching the structure of the serious-popular press. Although its popularity lies in the numerous newspaper investigations and debates it publishes, stylistic structures were derived from practice. Materials recall, repeat, and reproduce. Each material repeats similar thread of events, repeating information from one material to another or within the same material or even replicate the entire phrase literally. The way of addressing this issue however is a good illustration of the press. It doesn't a very large circulation, or too many views, but we can see the same upward curve.

The first material we have selected was published on 2 February 2008 and is a story about a robbery at a currency exchange office. The article recorded 178 views and is prepared following the requirements of objectivity. The reporter does not sneak-in the text any sign of emotional involvement.

The article on March 4 2008, entitled "Five people involved in conflict in front of the Court of Appeal Craiova, sent to court" is also a story told objective. The number of accesses increased to 225.

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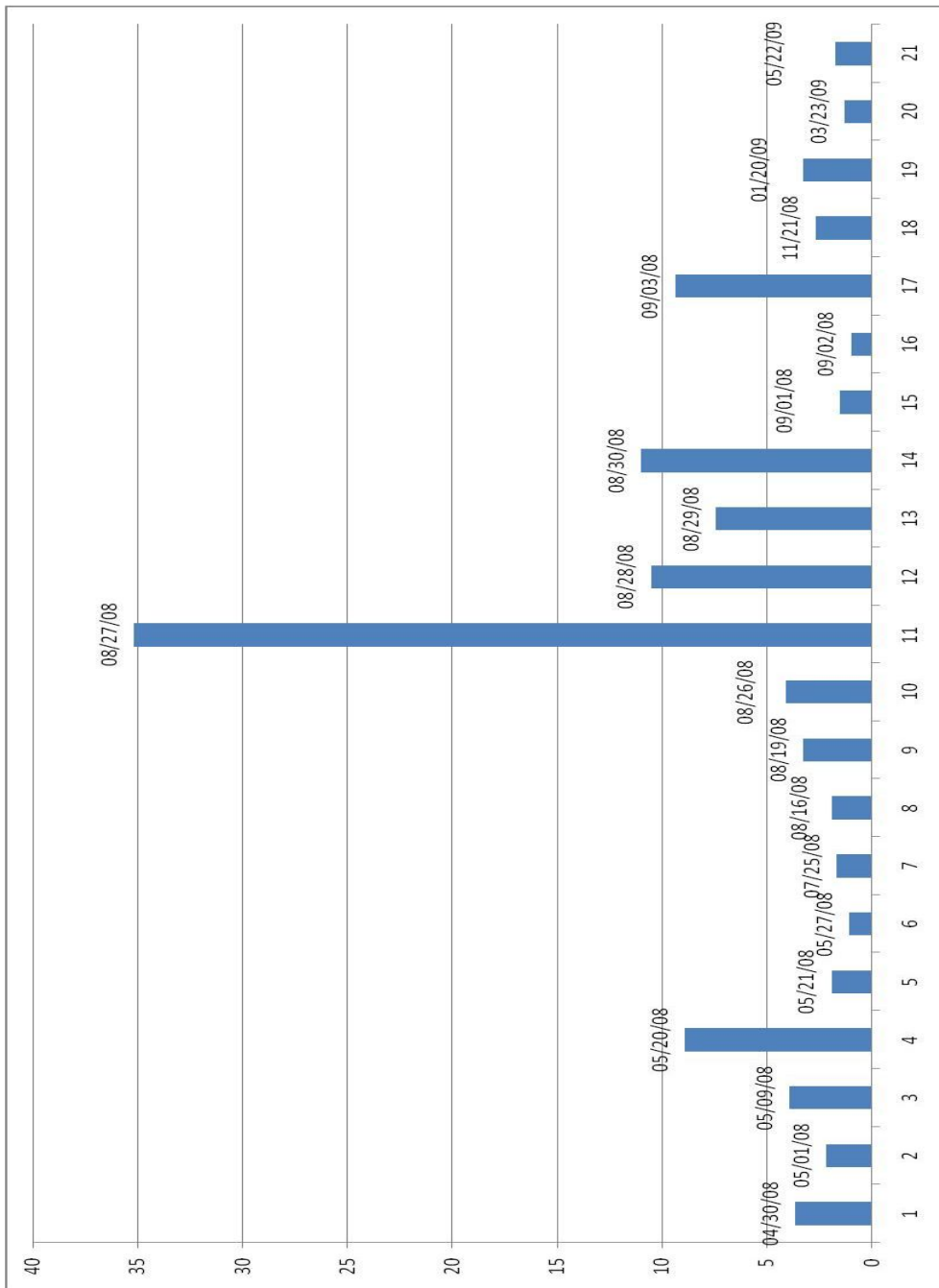
(Fig.3)

On 22 March 2008, a new story in the same field brings 352 views. This time, the title is no longer neutral. The journalist recourses to a title by decal: "Robbery Craiova smelled of gunpowder again". The material is much more dramatic. On the one hand, in the first paragraph, by means of narrative and detail, the incident

is shown. Then the reader is recalled similar events that occurred in this locality, culminating with the remembrance of the resignation of the Head Commissioner.

On 30 April 2008 the material on Craiova recorded 1290 hits. Built on paraphrase, the title warns the receiver of the seriousness of what is being transmitted: "Wild South. Gunshots inside the County Hospital Craiova". The particular kind of news is the story. In 4681 words two similar incidents are described. What intrigues is that the narration is kept in indetermination and ambiguity, the information being disclosed in steps. The actors are inserted by terms such as "a man", "a doctor" and only to end the reader can reconstruct the movie of the events, when they will reveal the identity of the aggressors, as well as the motive for the incident. The aggressor receives a grade of identity from the outset: "shady". By the fact that the issuer does not disclose the identity of the parties concerned from the beginning, trying to create tension by maintaining a state of confusion, we identify a sort of transparent *intentio auctoris*, an acute need of the issuer to create and follow a strategy of persuasion. In the end are other similar incidents which took place in Craiova are recalled, and is recalled that, after such altercations, the Head Commissioner resigned.

On 1 May 2008, "Gardianul" published the article "Craiova, wild west of Romania. The bullies arrested appealed". We identify here a stylistic hesitation published because publishers desire to impose a label by paraphrase. They identified events Craiova with the artistic movies in the years '50-'60, about the lifestyle of people in the western American continent. In this case, they found that the common grounds were the aggressiveness of the two lifestyles. The article has 775 visits, unlike another material from the same publication and in the same edition, on the same subject, but with different geographic data: "Matters settled and policeman beaten in Maramureş" (610 visits). The article follows the evolution of events on April 30, the incident in the courtyard of the County Hospital. It uses reverse narration, from present to past. Thus, at present, the aggressors are in custody. When the remembrance starts, so does the rush for expression. Thus, the confrontation is now interpreted in the caption as: "Emergency Hospital took by storm". But the remembrance goes further. The reader learns that there is a conflict between two families, conflict and violence shown in other occasions. He thereby discovers that the medical institution has no relevance in the title and that is simply a ploy to capture attention. Moreover, in the final paragraph with the inter-title "Six years of fights and 1600 warriors", the journalist's desire intervenes even more obviously to shape the interpretation so as to maintain the attention of the reader. In addition to the figure given for credibility, the journalist qualifies police actions, which, according to him, "lack firmness". The last sequence of the material brings into discussion other earlier incidents in the locality, involving people who have nothing to do with the reported subject, just justifying the journalist's desire to create a linguistic map.

Judging by the numbers of the accessing, we could say that attention of the readers was attracted. On 9 May 2008, "Gardianul" published a story involving yet another title from Craiova: "Minister Cristian David has ordered dozens of searches in Craiova". The article had 1392 hits. Although the desire for persuasion and the emotional involvement are not so obvious, the article focuses on the figures to illustrate the magnitude of the action. Thus, the first signs of lead are "over 2000 gendarmes and policemen". This number is then

supported by others, inserted in the text: "6 o'clock in the morning", "40 searches" "more", "40 people", "90 guns", "10 lethal weapons", "more than 50 arms".

On May 20 2008, "Gardianul" published the article: "Iustin Cove, son of Craiova magistrate, fined after having cursed the cops". The number of hits increased to 3145. The subject is constituted by an incident in which there is the same son of a Craiova Judge. He also produced several incidents covered by the law and which have not been resolved. The journalist resumes in detail and objectively the story. The element of subjectivity and exaggeration is in the end of the material, when he introduced the inter-title "Covei jr. makes the law in Craiova".

The newspaper's next attempted to improve the linguistic map it tries so shape and therefore have control over the information that reaches the reader, dates from May 21 2008, when it publishes the news: "Some of the money from the BRD Craiova fraud was meant for Hamas". But the journalist lost credibility right from the first word in the lead, placing the origin of the information it presents in the phrase "sources". The article is based on speculation, conditionals are used abusively and there are indeterminations throughout the material. As a result, the article had only 682 hits.

The following three materials are maintained at several hundred hits as follows: "Young man shot following a dispute in a bar of Craiova", 27 May 2008, is visited only 380 times; "Craiova underworld members detained by Dolj police after beating and robbing a man" of 25 July 2008, is visited 598 times, "A Craiova citizen, detained for trafficking weapons for the underworld", of 16 August 2008 recorded 674 hits.

On 19 August 2008, the daily newspaper published the material "Agitators have hassled spirits in Mogosoaia, Bucharest and Buzau, even attacking police. «Gypsy Halloween». Nightly scandals with beatings and masked men". It does not refer to Craiova, but it had 1156 hits.

On 26 August 2008, "Dolj Counselor Constantin Iancu, accused by Constantin Dâlgoci that he ordered the destruction of Mercedes, is investigated by DIICOT. The scandal of the arson of a Craiova businessman's car increases" gathered 1447 hits. The article presents the case of a political official, allegedly involved in illegal incidents. In the economy of our research, it works with the power of an argument to shape the label "city of the mafia".

On 27 August 2008, the article "Caiac, from Craiova, was killed by his right hand after a game of poker", "Gardianul" reach a record number of hits, namely 12421. The material describes in detail the movie of the events. Since the phrase "bloody reckoning" and "shady" in even the first words of the material, the journalist gives details of the most intimate nature, such as: "In the house were at the same time, Caiac's wife and children. They slept in another room". Noted for great attention to details, even if they do not coincide with those offered by other publications, "was shot under the left axils, and the bullet went right through the back, hitting the vital organs". An inter-title invites the reader to experience an almost cinematographic experience, promising they will see the "fight movie", a phrase that covers a description of the weapons used and the alleged moves the two would do. The ending belongs to the ritual remembrance. Thus we find out that the city has been studded by police and masked men. From this enthusiasm of labeling, there are some inconsistencies and contradictions. For example, the flow of remembrance overlaps two localities, otherwise distinct: "The latest scandal in Craiova took place in May this year when police fired to settle a

dispute with pitchforks and axes which broke out between members of two families from the village of Seaca de Padure". After this article, the number of accesses entered on a descending slope. The article in the next day, "Mavrichie, killer of Caiac, was heard on a hospital bed" recorded 3722 hits and repeats much of the information published so far on the case. Only two other articles recorded in May over two thousand hits and they are editorials published the same day, 29 August 2008. One of them, "Who wants to blow up Craiova?" was viewed 2622 times, and is written by Alecu Racoviceanu, a member of the editorial college, the forum with the highest degree of responsibility in the establishment of the newspaper. The editorialist absolves the press of responsibility, suggesting the idea that everything is a diversion. Moreover, he is the one that stresses the role of television in this over-fueling this case. This, when in the same edition, three reporters signed a material from the series of alarmist articles – "The militia". While underlining the fact that "the agitators" are "kids with hot heads", Racoviceanu takes over and strengthens the reporters' stories, stories built on the idea of solidarity and brotherhood and opens a series of speculations by asking rhetorically "Who has the interest that there be television images of new violence?" By this speculation, he opens a new stage in the perpetuation and reconfiguration of this *déjà fait* language map.

The other material article in this edition is called, for evocative purposes, "The Militia" and it attracted 4537 visitors. On a fairly large area, approximately 12 000 words, reporters evoke the thread of events. The starting point is that, at the funeral, the journalists were attacked by the participants to the procession, and police did not intervene. The term "journalists" is articulated, suggesting by it a generalization

and the aggression against them is reproduced several times, by repeating the same group of words: "Reporters were spit, cursed and threatened". On the other hand, the forces of order are evaluated quantitatively as follows: "Hundreds of policemen and gendarmes", and some lines below, in the sequence next to the article, the "hundreds" become "two hundred". In the same material is repeated the story of the shooting, the inability of the forces of order to cope with the situation is denounced, and an attempt by the authorities not to solve the case is suggested. "Gardianul" covers Craiova until May 22 2009, when the article, "Catalin Mavrichie, accused of killing Caiac, was sentenced to 25 years in prison", recorded 617 visits.

3. Conclusions

In carrying out this study we started from the main theories in the specialty literature that define credibility and persuasion and we tried to check the way they operate at the level of the Romanian press. Its model is equivalent to the French model, which accepts a high degree of subjectivity, of emotional involvement of the journalist in selecting and processing information. However, as noted before by the important researchers of the phenomenon of Romanian journalism, in this space journalism has a greater freedom in the use of means of expression and argumentative techniques. After we have presented the main ways to build credibility and persuasion, we chose three of the most important daily newspapers, in terms of visibility and popularity, and we watched how they have managed a press issue: street conflicts in Craiova. The analysis led us to several conclusions:

1. In managing this issue, the only rational evidence that journalists brought were their own observations on the scene,

eye witness reports and press releases of the officials;

2. The journalists' speech uses exclusively dramatic evidence, emotional, and not the rational ones;

3. When the subject was not placed in a simple story, the journalists' stylistic arsenal of persuasion involved: metonymy, allusion, analogy, ambiguity, repetition, enumeration, dubitative speech;

4. The role of the press shifted the emphasis on information, on the interpretation. This was revealed not only at the level of the editorials, but also at the level of stories and reports;

5. Once the mechanism of pack journalism set in motion with the help of television, the main argumentative support for building the linguistic map was the quantitative one: increased numbers of journalists who have approached this subject; the number of articles related to this theme increased, from edition to edition or in the same editions; the number of newspapers which gave space for more then one article on this issue increased;

6. The more titles and leads were expressive, the more grew the number of viewers to the website, outlining the portrait of the journalist as a unifying persuasive agent.

Notes

[1] In our analysis we found the online editions of newspapers cited

[2] We use in this article the terminology by Charles U. Larson, *Persuasiunea. Receptare şi responsabilitate,* Polirom Publishing House, Iaşi, 2003, Col. "Collegium" series "Public Relations and Advertising", translated by. Odette Arhip. He defines the persuasive agent as the one practicing persuasion and the patient is persuaded (cf. p. 16)

[3] See Larson, op. cit., p. 123

[4] idem

[5] Catherine Kerbrat-Orecchioni, *L'Énonciation. De la subjectivitè dans le langage*, Armand Colin, Paris, 1999, quatrième édition, p. 94

[6] Daniel Dayan, Elihu Katz, Media Events, Harvard University Press, Cambridge, 1992, in Mihai Coman*, Introducere în sistemul mass-media,* Polirom Publishing House, Iaşi, 2007, col. "Media" series "Collegium", Third edition revised and advised

[7] The "agenda" model that states the fact that the press, by values, hierarchies, meanings that it promotes influences public thinking. Hierarchy implies that it puts on the priority list a certain event at the expense of another. This time (and in many cases), the television made the agenda not only of the public but also of the media by giving value of news to a certain category of events

[8] We use this term, used to assess receptor in radio and television, because, in his study, we followed the metering of access and written press on the Internet. As the graphs prepared by the Romanian Audit Bureau of circulations (www.brat.ro), all circulations of the daily newspapers follow an upward curve of about ten years. On the other hand, however, the number of accesses increased for the pages of those newspapers on the internet.

[9] Formula was proposed by Melvin De Fleur. Under it, the media functions as a social behavior triggered by "programmed" through campaigns that organize and determine changes in behavior receptor. Cf Melvin De Fleur, Sandra Ball-Rokeach, *Theories of Mass Communication*, Longman, New York, 1982

[10] Sorin Preda, *Tehnici de redactare înpresa scrisă,* Polirom Publishing House, Iaşi, 2006, Col. "Media" series "Collegium", pp 48-51

[11] Cf. Umberto Eco, *Tratat de semiotică generală*, Ed Enciclopedică Scientific Publishing, Bucharest, 1982, Translated by Anca Giurescu and Cezar Radu, afterword and notes by Radu Caesar, p. 354.

[12] Cf. See Catherine Kerbrat-Orecchioni *La connotation*, Presse Universitaires de Lyon, 1977 and *L'Implicite*, Armand Colin Editeur, Paris, 1986

[13] „Cotidianul", 26 aug. 2008

[14] Idem, 2 febr. 2008

[15] Ibidem, 12 febr. 2008

[16] „Gardianul", 29 august 2008

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[17] Idem, 27 august 2008

[18] Larson, pp. 25-26

[19] Larson, op. cit., p. 26

[20] Larson, op. cit., p. 149

[21] Weaver defines "charismatic terms" as "words with a considerable expressiveness whose referees are impossible to discover. Their meaning seems inexplicable unless we accept assumptions of deriving the sense from an imperative of collective will that they mean something" (in Larson, p. 152)

[22] Unifying persuasive agents address people who already share their views. The unifying agent is more idealistic – they can be plethoric without risk that audience feel offended. He can appeal to feelings, being less objective than the one which faces an audience putting everything into question. Unifying agent focuses on his "there" and "when" - past and future – when things were great or when they will be ideal. Opinion is that everything will be better in the future, by comparison, especially with this. Although a few aspects related to unifying agent stimulate intellect, many others call for emotional background. Words and images provided by him are exactly what listeners are convinced they would have said if they were in the place of the speaker. Unifying agent is thus a kind of sound panel of the group, providing them with clues, but not the details of the message. The public collaborates to create a message, participate actively encouraging or yelling in chorus or repeating stereotyped phrases to emphasize words. (Larson, op. cit., p. 152)

[23] „Cotidianul", 12 February 2008

[24] „Evenimentul zilei", 1 October 2007

[25] Idem, 29 August 2008

[26] Cf. Kenneth Burke, *A Grammar of Motives*, Berkeley; Los Angeles; London; University of California Presse, 1969

[27] www.cotidianul.ro

[28] "Evenimentul zilei", 3 February 2009

[29] Idem, 29 august 2008

[30] According to Ben-Porot, the process of a reader's actualization of an allusion involves: recognition of marker; identification of evoked text; modification of the initial local interpretation of passage; activation of evoked text, in "The Mechanics of Allusion", no. 5, p. 109.

[31] Larson, p. 218

[32] Idem, p. 37

[33] Ibidem, p. 36

[34] See Algirdas Julien Greimas, *Despre sens. Eseuri semiotice*, Editura Univers, Bucharest, 1975, translated and prefaced Text Maria Carpov.

[35] Gianni Vattimo, "Dialectica, difference, weak thinking" in Gianni Vattimo - Pier Aldo Rovatti (coord.), *Gândirea slabă*, Pontica Publishing House, Constanta, 1998, Col. "Italian Library, Translated by Stefania Mincu

[36] www.evz.ro.

[37] "Simple sentences usually express a judgement or a completely singular aspect, they must have at least one subject or a noun and a word or a dynamic verb. These properties emphasize the subject in relation to a verb and object: see causes acting to achieve a result or effect" (in Larson, op. Cit., P. 139)

[38] www.gardianul.ro.

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The Main Music Radio Formats in Romania Today

Davian VLAD

Abstract: *The music radio formats most frequently found on the Romanian (and international) market nowadays are Contemporary Hit Radio (CHR) and Adult Contemporary (A/C), with all their variations. They both deal with the contemporary music, one oriented more on the hits (CHR is also known as Contemporary Hits, Current Hits or Top 40), the other one on adult, "serious" music which sometimes cannot make it to the charts because it is preferred mostly by a limited, more musically educated audience. The conclusion is that the Romanian radio market has its specific trends/developments, although there are strong similarities to what can be found in other European countries and, lesser, USA (where the rock-oriented stations are highly popular).*
Keywords: *radio, music, format, audience, market.*

The Process of Choosing the Right Format

Although the world-wide fast and furious spreading of cinema and especially television led to a continuous decrease of persons listening (more or less on daily basis) to the radio programmes, the end of radio as we know it has not happened and there are strong hints that it will not take place in the near future. The new means of distributing radio products (Internet, satellite, cellular phones), the permanent need of getting information rapidly and the human activities which do not allow us to stare at a screen (monitor) – e.g. while driving or working – can assure a safe future for "Marconi's wonder". Nevertheless, the ongoing fast changes of habits and concerns in the modern world forces the radio stations world-wide to adopt a more versatile strategy, in order to seize larger market shares and to gain more and more P1 listeners (constant listeners) to the detriment of the competition. That is why, in the last decades, the radio stations have been trying to focus on a niche, so nowadays the majority of the radio stations are specialized and they aim to at least

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preserve their current audience. This specialization is achieved by adopting the right format for a certain niche and it is a process of market research, proper designing and deployment, as well as an efficient management of feedback. Thus, you should find out which research tools and methods can you use for your radio station. This complex process of research, interpretation and implementation of a format (as re-presented in the figure below) must lead to

a certain image/ perception of the station (the listener should recognize at once the specific sound of the radio station). The process consists of three phases: design (defining the tasks and the methodology of the research); field work (data input and processing); interpretation (data analyzing and implementation).
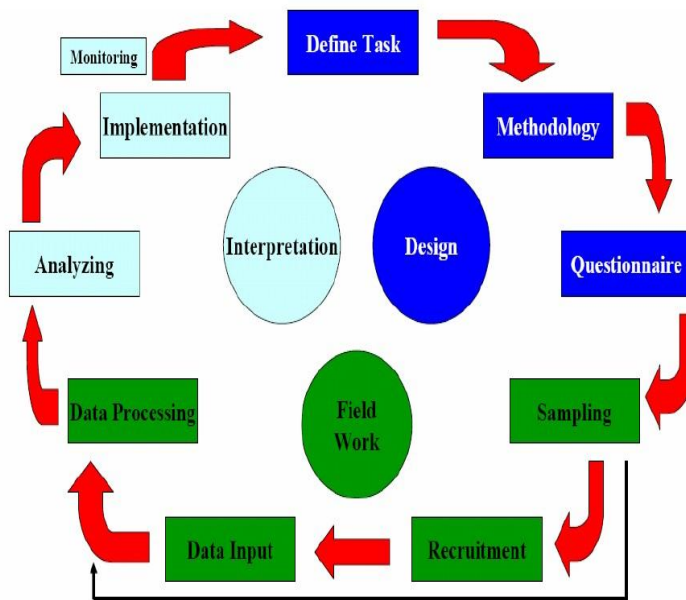

Figure no. 1; Source: Deutsche Welle & Steiner Media

The objective of this complex and costly process is the identification of the right format for a radio station and of the niche which should be targeted.

The most frequent answer to the question "Why do you listen to the radio?" is "For news and music". That is the reason

why the radio stations attempt to come on the market with the most successful strategies for news programmes and music. But it is not all about news and music: the radio formats bring with them different moods, and the listener will choose the station in accordance to their desires (preferred

moods). Though the format generally consists of structure + content + presentation, we can easily notice that music (as a mood setter) is the one which makes the difference between the (commercial mostly) radio stations of today, and it is located at the basis of a format (figure no.2).
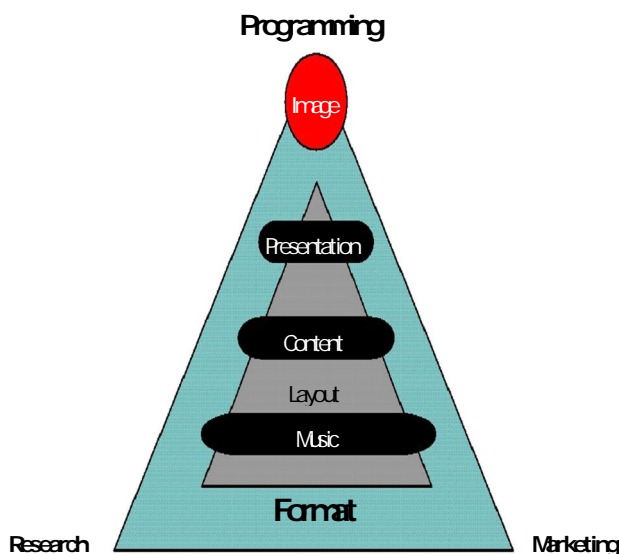

Figure no. 2

The public (state) radios have a different status, due to their specific mission (they are meant not only to inform and entertain, but also to educate), but they have to conceive a certain coherent music strategy (format), too. Usually, the most used music radio format by the European public stations is Soft/Mix Adult Contemporary (Soft/Mix A/C), as the mission of a public radio station cannot permit a strict specialization (this kind of stations broadcast also classical music, jazz, traditional music and so on, because it must meet the expectations of a variety of groups of population). As their meaning is to cater for all the interests and tastes, the public radios should be analyzed separately, though.

We can also notice easily that this specialization of the commercial radio stations is not as strict today as it once was (1960's – 1970's, in the USA especially). The formats intersected slightly or not even a bit in that period of time (figure no.3), but the trend today is the certain formats to overlap each other and hybrid formats to take shape (as shown in the figure no.4). This tendency can be explained

by the fact that the fine lines between music
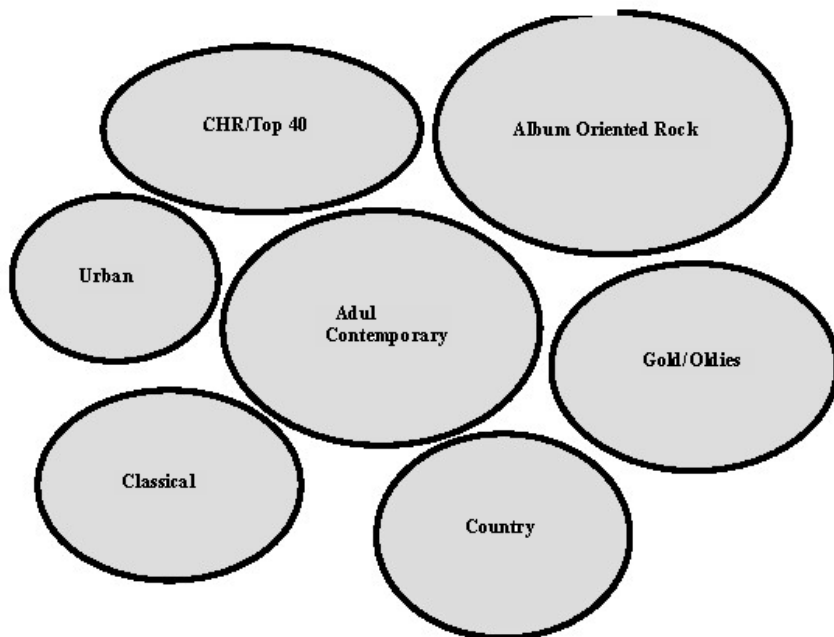genres themselves overlapped as well.
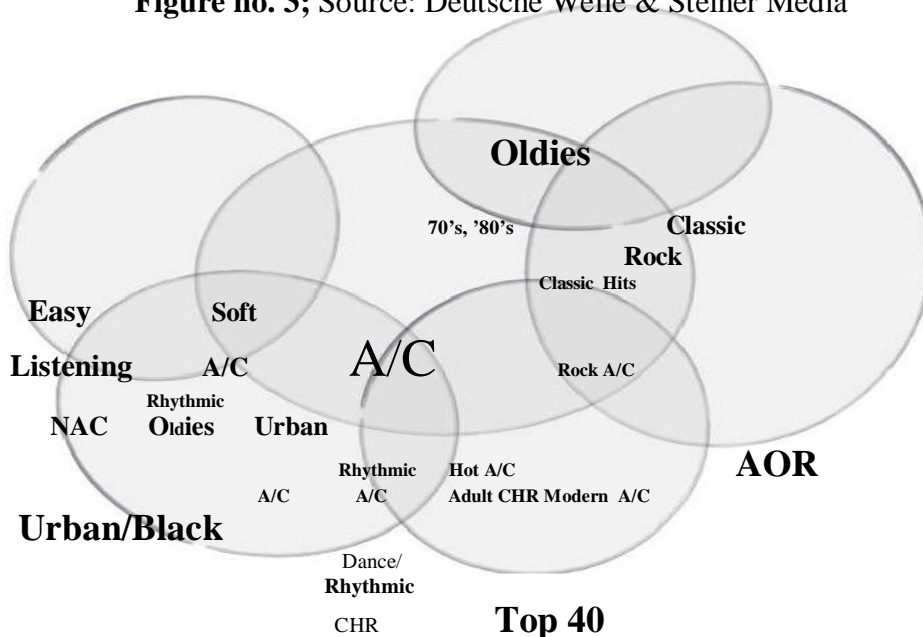

Figure no. 3; Source: Deutsche Welle & Steiner Media

Figure no. 4; Source: Deutsche Welle & Steiner Media

The Romanian Present Radio Market

The music radio formats most frequently found on the Romanian (and international) market nowadays are Contemporary Hit Radio (CHR) and Adult Contemporary (A/C), with all their variations. They both deal with the contemporary music, one oriented more on the hits (CHR is also known as Contemporary Hits, Current Hits or Top 40), the other one on adult, "serious" music which sometimes cannot make it to the charts because it is preferred mostly by a limited, more musically educated audience.

As its name suggests, the **Adult Contemporary (A/C)** radio format is intended for a more adult audience (from 25 to 45 years old). A/C radio stations play usually mainstream music with varying degrees of rock influence, excluding the cutting edge music, such as hard rock or hip hop. The subcategories of A/C (some of them not present in Romania) are: Mainstream Adult Contemporary (mixes current hits and recurrents without the dance or Urban hits), Hot Adult Contemporary (play more currents and less re-currents than Mainstream A/C), Soft A/C (mostly recurrent songs mixed with some soft currents), Urban Adult Contemporary (urban dance music mixed with R&B, Rap and Contemporary Hits), Adult Alternative or Adult Album Rock, also known as "Triple A"(adult alternative pop/rock), 80's A/C (mainstream 80's music and some compatible late 70's and early 90's), Modern A/C (mainstream pop-rock and some alternative or modern rock songs, but not hard-edged), New Adult Contemporary (jazz and New Age jazz), Christian A/C (adult contemporary music with an emphasis on religious themes) and Rhythmic Adult Contemporary (mainstream A/C with more dance oriented or rhythmic style).

Contemporary Hit Radio (CHR) is a music format focused on playing current and recurrent highly popular songs as reflected in the music charts (no matter the music genres). It is a format targeting mainly teen and young audience (up to 34 years old). The subcategories of this music radio format (not all to be found on the Romanian radio market) are: CHR/dance, CHR/rhythmic, Adult CHR (a hybrid of Contemporary Hits Radio and the Hot AC format), CHR/pop (also known as Mainstream CHR) and CHR/rock. Contemporary Hit Radio is very popular in Romania, too, and the most important stations to use this format are Kiss FM, Radio 21, Radio ZU and Pro FM. They play mainly current hits (on heavy rotation), recurrent hits (medium rotation) and, rarely, gold hits. The Nielsen airplay charts show that CHR radios manage to rotate intensively the brand-new songs (up to 10 times a day), songs which may or may not become hits or be included by other radio stations in their play-lists. We must emphasize that there is necessary at least 6 weeks of heavy rotation for a song to reach the hit phase. After further 10-12 weeks, the song should reach the end of its current life cycle; it becomes then a recurrent song, entering a phase in which it will be moderately rotated by the CHR radio stations.

The most recent rating poll made by IMAS – Marketing şi Sondaje SA and Mercury Research SRL between January 12 and April 12 2009 shows clearly that A/C and CHR music formats are the most popular in Romania nowadays. This is the situation at the national level (urban and rural):

Daily Reach (000) Market Share (%)

TOTAL	10682.2	100
Radio 21	1200.9	6.8
Radio Antena Satelor	789.5	7.8
Radio Europa FM	1864.9	12.4
Radio InfoPro	343.8	2.4
Radio Kiss FM	1829.6	10.9
Radio Magic FM	201.5	1.1
Radio Naţional FM	46.7	0.2
Radio Pro FM	862.3	5.2
Radio România Actualităţi	2447.7	17.2
Radio România Cultural	83.1	0.5
Radio România Regional	2055.3	14.6
RFI România	46.5	0.1
Radio ZU	1119.3	6.3
Alt post	2139.4	14.4

We notice that A/C radios (public radios included) have 42.8 market share, CHR/ Top 40 radios have 29.2 market share and 80'/ Classic Hits stations (Europa FM, Magic FM) have 13.5 (considering the frequent overlapping between genres, the figures might skip from one category to the other, but this is, in our opinion, the most accurate image of the Romanian radio market today). We can also notice that Album Oriented Rock (AOR), such as City FM, and Adult Album Alternative (AAA) stations, such as Radio Guerilla, have no significant market share in Romania. We must also emphasize that Radio Oltenia Craiova (part of Radio Romania Regional – Romanian Radio Broadcasting Corporation – RDR), a public station which adopted a Soft A/C music format, has a stunning 45.7 market share in its region (Oltenia), according to the same rating poll.This is the situation at the urban level:

Daily Reach (000) Market Share (%)

TOTAL	6163.9	100
Radio 21	824	7.7
Radio Antena Satelor	212	3.6
Radio Europa FM	1296	15
Radio InfoPro	187.5	2.1
Radio Kiss FM	1293.3	12.6
Radio Magic FM	165.3	1.6
Radio Naţional FM	34	0.4
Radio Pro FM	542.7	5.3
Radio România Actualităţi	1317.4	16.6
Radio România Cultural	63.9	0.6
Radio România Regional	621.1	7.4
RFI România	38.8	0.2
Radio ZU	907.8	8.6
Alt post	1497.8	18.1

At this level, CHR/Top 40 radios have an increased market share (34.2), the A/C stations drop to a 30.9 market share, while 80'/ Classic Hits stations gain 16.6 market share. The rock oriented radio stations have no significant audience at the urban level, too.

In conclusion, although the Oldies/ Classic Hits radios are present in Romania and have a significant public here, the most important music radio formats are A/C and CHR/Top 40 (with all their sub-categories). The rock-oriented radio stations are not very popular with the Romanian listeners. Thus, we can say that the Romanian radio market has its specific trends/developments, although there are strong similarities to what can be found in other European countries and, lesser, USA (where the rock-oriented stations are highly popular).

Vasile Boari - un vizionar european

Aurel Piţurcă

Licenţiat în filozofie în 1972 şi doctor în aceiaşi ştiinţă în 1978, decan al Facultăţii de Ştiinţe Politice şi Administrative din cadrul Universităţii Babeş Bolyai, în perioada 1995-2002 director fondator al revistelor *EAST* şi *EUROPOLIS*, director al Centrului de Analiză Politică al aceleiaşi universităţi, prof. univ. Dr. Vasile Boari este un nume cunoscut şi respectat de comunitatea ştiinţifică şi academică românească, autor a numeroase volume, studii şi eseuri de filozofie politică şi morală sau de filzofia culturii şi a moralei dintre care amintim *Dialectica raportului conştiinţă morală-conştiinţă politică*, *O perspectivă filozofică (1987)*, *Filozofia şi condiţia morală a cetăţii* (1991), *Noua Europă în căutarea identităţii* (Risoprint, 2009).

Europa a constituit şi constituie şi astăzi subiectul unor ample dezbateri şi meditaţii politice, economice, culturale, morale, etice sau chiar teologice. Asupra problematicilor sale s-au aplecat oameni politici şi de cultură, teologi, analişti ai teoriei şi practicii politice, guvernanţi, strategi militari. În toate perioadele şi epocile istorice, Europa s-a aflat în centrul preocupărilor şi dezbaterilor celor investiţi cu elaborarea şi realizarea destinelor sale.

De tensiunile şi framântările sale, de stabilitatea şi echilibrul său, a depins starea şi evoluţia umanităţii. Deşi a fost generatoarea a celor două mari conflagraţii mondiale, aceiaşi Europă a fost şi leagănul culturii şi civilizaţiei universale. De pe meleagurile sale au pornit marile descoperiri geografice, s-a născut revoluţia industrială şi noile tehnologii, tot de aici s-au creat marile teorii şi elaboratele doctrinare clasice şi neoclasice (liberalismul, conservatorismul, socialismul, neoliberalismul şi neoconservatorismul sau democraţia), teorii care stau la baza actualei dezvoltări social-politice, Europa a fost şi continuă să fie în centrul dezvoltării universale, o lume contradictorie şi controversată.

În cadrul acestor ample preocupări de analiză a noii construcţii europene, a spiritualităţii sale politice şi morale, dar mai ales a evidenţierii identităţii sale, se înscrie şi actualul volum al prof. Univ. Dr. Vasile Boari, *Noua Europă în căutarea identităţii*. Ca orice nouă entitate politică, Uniunea Europeană trebuie să-şi creeze şi să-şi stabilească propria sa identitate. Tema identităţii U.E. nu este nouă, dezbaterile de idei pe marginea acestei probleme au apărut încă din momentul punerii bazelor primei construcţii europene. Identitatea este un concept de bază şi referinţă în ştiinţele socio-umane, produsul conştiinţei colectivităţii, cel ce individualizează, particularizează o colectivitate, o entitate politică de alta, îi conferă substanţa, originalitatea, îi dă un suflet al său. Deşi volumul de faţă elaborat de d-l Vasile Boari, *Noua Europă în căutarea identităţii*, este constituit din trei eseuri, având iniţial destinaţii diferite, cum însăşi autorul precizează, el este o lucrare unitară aceasta fiind dată de tema comună abordată de-Europa şi cu precădere de Uniunea Europeană.

În studiul său, Vasile Boari realizează o analiză profundă şi detaliată a problematicii identităţii, evidenţiind diversitatea abordărilor, pornind de la tradiţionalişti care în definirea Europei pun accent pe factori primari; geografici, istorici, culturali, spiritali sau a constructiviştilor care afirmă că identitatea Uniunii Europene este în curs de realizare datorită, în principal, factorilor politici, ei neexcluzând participarea la acest proces şi a altor factori precum ar fi cei economici, culturali, spirituali şi chiar religioşi. In abordarea identităţii Europei, prof.univ.dr. Vasile Boari are în vedere şi impunerea unei definiţii din perspectiva axiologică, făcând apel la

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un set de valori în care regăsim statul de drept, libertatea, democraţia, responsabilitatea, toleranţa, factori specifici noii construcţii europene.

Interesat de o analiză pertinentă şi detaliată, autorul pune în discuţie stadiul realizării identităţii europene, mecanismele şi factorii care contribuie la realizarea sa. În acest sens, d-l Vasile Boari face o trecere în revistă a diferitelor păreri şi atitudini pornind de la cele care consideră că deşi Uniunea Europeană este o realitate a contemporaneităţii, aceasta nu dispune de o identitate proprie, clară, evidentă aducând ca argument lipsa unei Constituţii comune sau poziţia celor care apreciază că Noua Europă, s-ar afla într-un proces de creare a identităţii, dar că acesta cere timp, proces ce nu ar trebui să fie grăbit, ci lăsat să se înfăptuiască în mod natural.

Nu lipsite de inportanţă sunt şi opiniile celor care susţin că Uniunea Europeană ar beneficia de propria sa identitate asigurată de factorii politici. În opoziţie cu aceste păreri este însă autorul prezentului studiu care opinează pentru ideea că, de fapt, neam afla în situaţia unei crize a identităţii europene, aducând ca argument criza morală şi spirituală ce ar caracteriza noul edificiu european.

Un alt palier deosebit de important al studiului îl constituie relaţia dintre identitate europeană şi cetăţenia europeană sau identitatea naţională şi cea europeană. Referindu-se la primul aspect, profesorul Boari consideră că cetăţenia europeană este o componentă esenţială a noii identităţi, cea care asigură ataşamentul uman faţă de ea, o umanizează, îi dă substanţă, suflet. Relaţia dintre identitate europeană şi cea naţională este văzută de autor ca ceva nou. Astfel, identitatea europeană transcede formele tradiţionale naţionale, deşi aceasta din urmă este încă puternic prezentată atât ca manifestare cât şi ca sinbolistică.

Creator de şcoală politică universitară Vasile Boari este preocupat de a da *Noii Europe* o identitate fundamentată pe *Suflet*, aceasta fiind, de fapt, esenţa noii identităţi europene. Aceasta este o preocupare mai veche, ea regăsindu-se în însăşi gândirea fondatorilor Uniunii Europene, Robert Schuman şi Jacques Dolores, cel din urmă fiind şi creatorul sintagmei "*un suflet pentru Europa*".

Extrem de valoros pentru un demers teoretic este raportarea şi definirea identităţii din perspectiva istorică, politică, economică inclusiv spiritual-religioasă. Ca un element de noutate şi originalitate al studiului analizat îl constituie conferirea religiei, în speţă, creştinismului a unui rol determinant în configurarea şi ieşirea din criza identităţii europene, întrucât aceasta "poate garanta valori supreme, norme necondiţionate, precum şsi cele mai profunde şi înalte idealuri. Religia poate întări coeziunea unei societăţi, poate stimula solidaritatea oamenilor şi loialitatea faţă de comunitate. Religia poate oferi chiar bazele protestului şi rezistenţa împotriva condiţiilor injuste"[1].

Conferirea rolului determinant creştinismului în edificarea noii identităţi europene este argumentată prin rolul capital pe care acesta l-a jucat în făurirea istoriei sale, în forjarea spiritualităţii şi identităţii bătrânului continent. Acelaşi creştinism este singurul în măsură ce poate oferi "*pacea şi democraţia, toleranţa şi dragostea, valori care nu pot lipsi în identitatea Noii Europe*"[2].

În realizarea identităţii europene, dl. Boari are în vedere şi alţi factori ca cei economici care asigură fundamentul material al noului edificiu politic şi juridic şi care prin tratatele sale dau temeiul legal şi administrativ fără de care Uniunea Europeană nu ar fi o realitate politică, dar mai ales cel spiritual din el detaşându-se prin importanţă creştinismul, fapt ce face ca astăzi să

se vorbească de o "*Europă post-creștină*" sau de "*cristofobie*".

Valoarea lucrării este sporită și de analiza rolului jucat de Tratatele Europene care au avut o contribuție remarcabilă la crearea Uniunii Europene și a noii sale identități. Referindu-se la acest aspect, autorul precizează: "*Nici o altă Construcție n-a avut vreodată atât de multe tratate și reglementări, dar niciodată în istorie nu s-a pomenit ca un continent întreg, primul în întregime creștin să renunțe cu atâta nonșalanță la propria-i identitate, cum a fost Europa*"[3]. Fiind o construcție politică, gândită și înfăptuită de elitele politice europene, din perspectiva identității, Uniunea Europeană este o construcție politică, întemeiată pe valorile democrației. Pentru dl. Boari, aceasta fapt nu este însă suficient, cu siguranță – spune el – "*marea bătălie în viitor, va fi nu pentru identitatea politică, ci pentru identitatea spirituală, pentru Sufletul Europei*"[4].

Ideea de bază, mesajul principal care se desprinde din cele trei eseuri reunite, precizate chiar de autor este aceea că "*Noua Europă, Europa celor 27, reprezintă o nouă construcție identitară care este însă departe de a fi cristalizată, închegată, definitivă. Dimpotrivă, Uniunea Europeană se află într-o fază de căutare a identității sale*"[5].

Volumul dl. prof.dr. Vasile Boari, Noua Europă în căutarea identității, de o deosebită valoare și consistență teoretică, cu problematici noi și rezolvări originale ce vine să completeze sursele bibliografice ale științelor politice și nu poate lipsi din studiul celor care sunt preocupați de edificarea *Noii Europe* și de descifrarea noilor sale tendințe și direcții de dezvoltare.

Ea se înscrie totodată în eforturile generale de cunoaștere a noului edificiu politic și de impunere a identității sale. Aceasta face ca prezentul studiu să nu fie numai un simplu demers teoretic-explicativ ci

și unul cu importante variante praxiologice, fapt ce sporește și mai mult valoarea și importanța sa științifică și practică.

[1] Vasile Boari, *Noua Europă în căutarea identității*, Editura Risoprint, Cluj-Napoca, 2009, p.114.
[2] *Ibidem*, p.116.
[3] *Ibidem*, p186.
[4] *Ibidem*, p.191.
[5] *Ibidem*, p.192.

Economia barbară și actuala criză mondială

Mihai Ovidiu Cercel

Într-o incitantă lucrare, *L'Économie barbare*[1], se atrage atenția că omenirea se află deja, în plan financiar și uman, la limita unei fracturi ce va însemna o posibila catastrofă planetară, generată de o dezvoltare materială disproporționată și, în paralel, de o degradare profundă a ființei umane, însemnată de teamă, stres, lipsa moralului și a speranței, violență, consum de subproduse culturale, etc.

O societate, susține autorul acestei cărți, în loc să se preocupe de asigurarea bunăstării individului, participă la compromiterea acestuia prin multiple mijloace, pierzându-și rațiunea de a fi, în timp ce ordinea politică și publică dezvoltă propriul sistem evolutiv.

Economia barbară și globalizarea acesteia agresează orice tip de organizare politică, ca și cetățenii, în numele unei așa zise prosperități asiguratoare de confort personal și social, a libertății și a demnității cvasi-tutelare. Globalizarea de tip american aplatizează, de regulă, culturile și tradițiile naționale, propunând forma, comportamente și produse cu impact imediat în rândul populației, ignorându-se accepțiunea: „destinul Terrei reprezintă destinul omului!"

Sunt voci care susţin că globalizarea exportată din SUA se constituie, de multă vreme, într-un proiect tendenţios de demolare a marilor valori europene, indiene, sud-americane, ce nu se regăsesc pe noul continent încărcat de o tinereţe ireductibilă şi, drept consecinţă, nivelarea acestora, poate chiar dispariţia lor în timp este certă.

Fenomen ambiguu, globalizarea şi economia barbară se transformă într-o limită a libertăţii omului, înstrăinându-l de propriile valori, cunoscându-se faptul că „singurele limite pe care o libertate le întâlneşte se regăsesc în libertate", spunea Sartre.

Interesele economice au determinat întotdeauna evoluţia politicii naţionale şi internaţionale, constrângând şi influenţând acţiunea umană şi comportamentul social. Variabilele economice sunt purtătoare de efecte puternice asupra puterii şi a echilibrului acesteia în relaţiile internaţionale ce modifică, în unele situaţii, beneficiile şi costurile schimbărilor sociale şi politice.

De fapt, orice schimbare în plan economic creează stimuli şi obstacole într-o societate care îţi modifică regimul ori apartenenţa la un sistem politic. Promisiunea câştigurilor degajă energii uriaşe şi determinări consistente în expansiunea pieţelor, a implementării de societăţi şi organizaţii nonguvernamentale, de sisteme informatice şi tehnologii avansate. În aceste condiţii, la mentalităţi şi bunăstare nouă, noi constrângeri, căci orice schimbare şi dezvoltare restructurează mărimea şi distribuirea costurilor, precum şi asumarea unor obligaţii, uneori împovărătoare.

Creşterea economică şi a surplusului economic, mondializarea tehnologiilor, acumulările uriaşe de capital creează inegalităţi grave şi schimbări politice semnificative, ajungându-se la un punct sensibil şi periculos în evoluţia societăţilor cu o dezvoltare spectaculoasă. Istoria ne furnizează multiple exemple: cazul Greciei Antice, a Romei, când, după secole de prosperitate au intrat într-un declin profund, al Chinei Imperiale, al Egiptului faraonilor.

Creşterea amplă şi diferenţiată a economiei atrage după sine şi o realizare a puterii între state, o altfel de orientare în politica mondială. Există un principiu de bază al relaţiilor internaţionale care susţine că, pe măsură ce puterea unui stat creşte, acesta, în mod implicit va cunoaşte o schimbare de sistem. John Harsany atrăgea atenţia că, o posibilă explicaţie a acestor permutări politice şi economice trebuie să se facă "în termenii echilibrului puterii între diferitele grupuri sociale care fac presiuni pentru aranjamentele cele mai favorabile propriilor interese (incluzînd posibilele interese altruiste)"[2]. Aşadar, o societate cu un ridicat grad de prosperitate economică, poate produce restructurări serioase, atît în palierul politic naţional, cît şi internaţional, dar şi şocuri grave în societatea mondială şi în natura ei sistematică, şocuri care generează crize financiare de proporţii cum este cea prezentă în acest an, criză asemănătoare unei maladii contagioase de proporţii. Specialiştii sunt de părere că actuala criză este una a mondializării, în sensul unei reţele ample de electricitate care se scurt-circuitizează pe diverse trasee, fie din cauză de suprasolicitare, fie că sistemul nu permite acces egal la consum. Andrew Haldane, specialist în problema riscurilor la Banca Angliei propune, prin comparaţie, că distrugerea spaţiilor şi a speciilor ne duce cu gândul la criza financiară şi că omenirea trebuie să reacţioneze imediat în faţa acestui fenomen.

Alţii consideră că aceeaşi cauză a fost generată pe sol american, exportată în toată lumea, dar ea are şi un caracter indigen, fiind şi morală, într-o bună măsură,

pentru că întotdeauna *interdependenţa* se poate constitui într-un factor de risc.

Paul Krugman, laureat al Premiului Nobel pentru economie, în 2008 susţine că economia depresiei s-a accentuat în ultima perioadă, iar limitarea resurselor şi fluctuaţiile dintre cerere şi ofertă au procreat *Marea Depresie* care relevă o recapitalizare rapidă a băncilor, cît şi un anumit control exercitat de stat, identificat într-o naţionalizare temporară.

În noile circumstanţe, mondializarea *fericită*, ca şi *prosperitatea viciului*, sintagma propusă de Daniel Cohen, ce se referă la consumul exagerat al unor populaţii, sunt cauzele care au dus la o strangulare a intersecţiilor schimburilor economice, căci 85% din state se află în recesiune evidentă.

S-a edificat o altfel de civilizaţie, în numele unui ideal, a păcii şi a înţelegerii, ce s-a dovedit a fi nerealistă până la urmă. Banii obţinuţi uşor, sistemul asimetric al remunerării, imperfecţiunile sistemului locativ, confortul individual şi consumul exagerat ce produce efecte precum un drog sunt cauzele reale ce au generat un risc excesiv în plan economic şi financiar, în majoritatea statelor prospere. Andrew Clark şi Claudia Senik evidenţiază faptul că, în Franţa, bunăstarea a produs o bogăţie certă unora, care, în cele din urmă, s-a disipat foarte repede, în condiţiile în care, în ultimii ani, consumatorii francezi sunt de două – trei ori mai bogaţi ca părinţii lor, dar, tot de-atâtea ori, mai nefericiţi ca predecesorii lor.

Se poate afirma că ne aflăm într-o nouă vârstă a economiei depresiei, ce a generat o criză de proporţii în majoritatea ţărilor lumii şi nu există încă un remediu universal, un miracol, trebuind să fim conştienţi că niciodată nu ţi se oferă ,,o masă gratuită''. Reformarea radicală a sistemului financiar, recapitalizarea, intervenţia statului, restructurarea deficitului, echilibrul

competitivităţii, reformarea Euro în faţa bancnotei verzi sunt doar câteva remedii prognosticate de specialişti pentru ieşirea din această criză mondială devastatoare.

[1] Philippe Saint Marc, *L'économonie barbare*, Editions Frison-Roche, Paris, 1994.
[2] Robert Gilpin, *Război şi schimbare în politica mondială*, Ed. Scrisul Românesc, Craiova, 2000, pag. 204