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"ROMANIA'S TRANSFIGURATION" 20 YEARS AFTER THE DEATH OF EMIL CIORAN

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*Abstract: The idea of this article was born of an imperative of the decadent Romanian present, and what we suggest in order to get out of this paideic impasse is **an invitation to self-knowledge, to an examination of consciousness** for those of us who have chosen to remain here, whatever the vicissitudes, thus participating in the destiny of this nation. We bring forward, in order to support our analysis, in particular, some reflections of Emil Cioran, and, more precisely, some texts of his work "The Transfiguration"[1], whose title we consider to be prophetic, a necessity of the present and not a mere illusion. So, even if we do not fully share the ideas of the Romanian thinker from this work, through the issue he researched and analyzed, Emil Cioran remains present and faithful, over time, to the people who gave birth to him.*

Keywords: value, culture, destiny, self-knowledge, consciousness, sense of existence, transfiguration.

The self-consciousness of a human community, the consciousness of being part of a long history, and, above all, valuing life through this participation, all these are acts of a spiritual experience. Myths, apocalypses, historical missions which every nation claims have nothing to do with the biological or economic life of a human settlement.

Anchored by its very being in spirituality, a nation can only have one destiny: to create spiritual values. In other words, to impose its *universalism*[2] on all the other peoples. In the spiritual hierarchy, as in other hierarchies, this "universalism" is not accomplished through a mere synthesis of all virtues, through an amalgam of values as complete as possible. But, on the contrary, *universalism* is acquired by deepening to exhaustion the specificity of the place, its individuality. The act of true spiritual creation resides precisely in this full recovery of an act of individual experience.

"The Spiritual creations" of a nation are its own way of valuing life - through a new model of heroism, or justice, or salvation, or through a genial creation in

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[1] Emil Cioran, *Romania's Transfiguration*, Bucharest, Humanitas Publishing House, 1990.
[2] Mircea Eliade, *Romanian Prophetism, Romania in Eternity*, Bucharest, The Cardinal Publishing House, 1990, p.208.

the field of arts, etc. Thus, these creations never start from "universalism" but from a specific understanding, from a profound experience of the local realities, from a total exhaustion of an "ethnic" feeling, through the transfiguration of the genius, a new way of valuing life. We consider that such efforts of transfiguration can bear fruit only in a modern state in which human value matters, in which man rediscovers its fundamental problems: death, love, "sense", freedom and where the institutions and laws are respected.

The Sense of Existence with the Romanians

The whole history of the world is nothing but the history of the national myths and of the struggle among various ways of valuing life. Moreover, *the very existence of man is nothing but a long and tragic string of attempts to give sense to this existence.* As the highest glory of a man and the beginning of his salvation is to find a fruitful sense of its own existence, an act of spiritual creation - equally, *the greatest concern of a people is to find a proper sense of its historical existence*, in other words, capitalization of its own life, which is also an act of spiritual creation. Everything else is just economics, politics or biology, *history which is being consumed, not history which is being made*.[3]

In fact, what worries today's Romania is the confusion of plans and, implicitly, the confusion of values. Value judgments almost no longer exist or are due to a whim or abuse. What is even worse, is the fact that the political hierarchy automatically applied to all levels - including education and culture – primarily strikes the creative forces of the nation. So, instead of fighting for setting up an authentic hierarchy, which is the aim of any political action, namely to establish and defend the values, the interest is to promote those who adhere, sometimes barren and utterly mediocre people.

The rule of politics involves fighting for the establishment of a new hierarchy, a notion which assumes that of value. Nothing can really be built up unless it is based upon the notion of value, and this implies a creative force, a spiritual criterion, not a political one. *The only thing that matters in any of this world's hierarchy is creation – the faculty to produce, to trigger or to restore values.* Herein lies the paradox of any action based on the rule of politics – from an art or science of governing, politics becomes a means of accession to power for some people without culture, without education, without civic consciousness. This explains the alarming cases of corruption at the highest levels of the political and administrative hierarchy, illustrating the lack of responsibility and the confusion between aims and means in the leadership activity.

In a decadent society where honest people lose their sense of belonging, where value and performance are not appreciated, where trust and human solidarity have been replaced by cowardice and selfish individualism, the problem of the sense of existence appears to be a chimera. We recall that Nae Ionescu[4], the great professor of philosophy, argues that a nation can only survive through honesty to itself, through its courage of self-knowledge by means of authenticity. Therefore, when he raises the problem of the Romanian nation, he

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[3] Ibidem, p.197

[4] *Nae Ionescu's Influence* in Mircea Eliade, *cited works,* p.182.

knows that the existence of this nation is not based on laws or treaties but on its sincerity towards its own destiny, on its capacity to bear fruit. One cannot stop a nation from its natural course of history or one can, at most, delay its growth stages, and this delay will always be paid for.

The path towards one's own being starts with a great search of the self, but ends beyond oneself, in God or history. Authenticity without which nothing is valid requires to be oneself – but being so, you recognize it beyond oneself (love, mystics, music).

Romania's Cultural Destiny

As every human being has a particular mission in this world, equally, each nation has its own mission, otherwise everything would be meaningless.

"Romania will have a sense in the world only when each and every Romanian will realize the specificity and uniqueness of the Romanian condition"...[5] "When a nation becomes aware of itself, in order to alter its direction and the course of its existence, when at this crossroads it is able to capitalize on all its virtualities to get in tune with the great rhythm of history, only then it can approach its crucial moment, if not its pinnacle.

If Romania does not aim to reach its solemn moment, if everything this nation has lived in a past full of humiliations and a present full of compromises fails to revenge in the will of asserting and defining its destiny, then all is lost".

We have brought forward in our analysis Emil Cioran's ideas that we share because we consider them very deep and current. *The transfiguration* that Romania needs at this moment and in which Emil Cioran strongly believed does not refer to a change with socio-political connotations but to an effort of *transfiguration*, of *consciousness awakening*, of becoming aware of the mission we have in this corner of the world. Romania benefits from a huge creative potential, especially culturally, which cannot be exceeded even by countries with great claims, in which the pragmatism and utilitarism are dominant. Therefore, researching the texts of the Romanian philosophers[6] who wrote about the cultural destiny of Romania, we are entitled to assert that it is not part of our destiny to accept the idea that we cannot survive without loans from the IMF or to participate in a sham democracy, which has not even created the civic consciousness, due to the fact that pasivity and lack of responsibility have become dominant. Romania's destiny is, undoubtedly, a unique cultural destiny, capitalizing on the Romanian existence, on the "Romanian experience" through its spiritual creations. In *the Mioritic area[7], Lucian Blaga tried to find the stylistic matrix of these creative forces. Man becomes man only by trying to reveal the Mystery, that is creating culture, says Lucian Blaga. He has no nobler purpose in life. Even when trying to tear apart from life, history, and to "save" himself, to live "in the absolute" - even then he creates culture. For*

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[5] Emil Cioran, *cited works*, p.46-47.

[6] We consider it necessary to recall, first of all, the interwar philosophers - Nae Ionescu, Mircea Eliade, Lucian Blaga, Emil Cioran, Mircea Vulcănescu, Constantin Noica.

[7] Lucian Blaga, *The Trilogy of Culture*, Bucharest, The Printing House for Universal Literature, 1969, p. 119.

philosophies, human mystical religions, no matter how "absolute" the experience preceding them might be, are also cultural creations, namely they have a metaphorical character and are part of a stylistic matrix[8]... Both Lucian Blaga and Eliade believed in the cultural destiny of Romania and contributed to it, thus illustrating the universal Man prototype, in which they saw the mission of the Romanian culture. Not incidentally Noica advocated the paideic model in the Romanian culture[9]. Noica talks about man, that is the complete creator of the Romanian culture, seeing the complete cultural model into the European one[10], while he finds the accomplished Being in the Romanian spirit[11]. We are not beneath our neighboring countries, says Noica, and if the Romanians' potential for cultural creation, which is the most precious national asset, were better highlighted, we could outrun them. Not through economy or sport can we gain long lasting notoriety, but through the soundness and performances of culture, through great, bold projects which we should carry out seriously, with application and tenacity.

Romania's salvation resides in its hidden virtualities and possibilities...... Romania's vitality will have to find its expression once again, because we have humiliated ourselves too much in our past and present so as not to live a true metamorphosis in an explosion .... our entire political and spiritual mission must be reduced to the tense will of a transfiguration, to the exasperated and dramatic experience of our entire lifestyle metamorphosis.[12] The viability of these ideas invoked by Emil Cioran is astounding and we can only ascertain, along with the Romanian thinker, that "a total will of transformation has never existed in us, the dissatisfaction with our destiny and condition has exceeded the approximate shape of a skeptical attitude. Skepticism is the first step to be taken in a process of transformation, it is the first element that gives us the consciousness of our destiny. Through it we can be apart from ourselves, to measure our forces and establish a position of our own. Our superficiality derives from not being able to overcome this first form of being in the comfortable position of spectators of our inertia, of having ironically tasted our own agony. The Romanians mock at their own condition and scatter themselves in a facile and sterile self-irony. The fact that we have not become positive and creative, because in the process of outdoing ourselves we are not very far away, is a historical reality. We should all muse upon this solemn reality - *Romania is a country with the vocation of universality through its cultural, spiritual tradition, but that does not have very high aspirations for the fulfillment of its destiny in the world.* In order to have a destiny, a nation must be messianic, the same as Emil Cioran writes, that is to coagulate its energy around an idea, which they should view as universally saving and which they should impose on everyone. It is only "a historic leap" that could

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[8] Ibidem.

[9] G. Pohoață, *Constantin Noica or on a Possible Paideic Model in the Romanian Culture*, in *Romanian Educational Models in Philosophy,* Lambert Academic Publishing, 2012, p. 318-330.

[10] Constantin Noica, *The European Cultural Model,* Bucharest, Humanitas Publishing House, 1993, p.35-41.

[11] Idem, *The Romanian Spirit in the Course of Time. Six Maladies of the Contemporary Spirit*, Bucharest, The Universe Publishing House, 1978, p.130.

[12] Emil Cioran, *cited works,* p.49.

save the Romanianism from the bleak of wise lucidity and design it apocalyptically in a destiny.

Largely discussed and disputed, *The Transfiguration* .... was rarely understood in its spirit. Among its few lucid reviewers, Nichifor Crainic[13] wrote in February 1937 in the Thought – This book is a winced soul due to pain and crazy search of a destiny. (…) it's a bloody, pitiless massacre of Romania to this day, without any trace of remorse for the matricide and sacrilege. (…) denies the homeland in the misery of historical relativism in order to assert it in the absolute."[14]

Romania's Transfiguration remains a valuable hermeneutical reply to the interpretation of the Romanian spiritual profile proposed by Blaga, standing out by its analytical lucidity and prophetic pathos.

Instead of conclusion

Romania's transfiguration does not mean replacing a government with another one, it means primarily an internal change, because the miracle is in each of us. It can happen when we succeed, through reason, in overcoming our selfishness, envy, greed, strictly individualistic interests, in improving ourselves, in learning to really participate in the life of our city, in respecting mutually the individual freedom and dignity as a people. We need a new axiological education, an authentic system of values designed to reposition us both inside our country and abroad. Becoming aware of this imperative, through the desire for self-improvement and civic solidarity, we will succeed in accomplishing what Emil Cioran believed that could be achieved as early as 1936[15]. We can no longer postpone the transfiguration of Romania, because we risk being dissolved by the loss of our spiritual identity, in a Europeanized and globalized world dominated by hyper-consumption and irreconcilable conflicts. In this unstable and over-commercialized reality, **culture and education can save us**, so that we may find the place we deserve in this world.

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[13] Nechifor Crainic was the founder of the theological school, as Nae Ionescu was in the field of philosophy.

[14] *Dictionary of the Romanian Philosophical Works,* Bucharest, Humanitas Publishing House, 1997, p.198.

[15] This is the year when Emil Cioran wrote *Romania's Transfiguration*.

Noica, C., (1993), *The European Cultural Model,* Bucharest, Humanitas Publishing House;

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Pohoață, G., (2012), *Constantin Noica or on a Possible Paideic Model in the Romanian Culture*, in Romanian Educational Models in Philosophy, Lambert Academic Publishing.

THE DISCOURSE ON RELIGION IN NOWADAYS STUDIES ON DEVELOPMENT

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Abstract: The goal of this study is to show the difficult issues generated by the recent renewal of the interest for religion within the studies on development. Either if one refers to the difficulty of defining religion and development, or if the adjacent issues are more complex than one could believe (the sub-divisions of development, the idea of secularization and its critiques, the relation between fundamentalism and violence, the difficulties of the categorial pair sacred-profane, the relation of religion with modernity etc.), the burst of preoccupations towards the examination of the role of religion within development is, at first, the result of the evolution of some adjacent disciplines (especially anthropology and sociology of religion), but also the mark of a continuous presence of religion within the academic world and that of the agents of change.

Keywords: religion, development, secularization, modernization, religious NGO.

Under the influence of the Enlightenment, the Western world has confronted serious religious changes. These mutations were partially explained by the phenomenon of secularization, by separating religion from politics, at least in the case of Western democracies. This movement of secularization, some say, would have led to the separation from religion, to the spreading of the idea that religion is unable to restructure the social sphere, thus losing its traditional role of organizing it and becoming more a private matter.

More than a half of century ago, in social and human sciences, the idea of secularization was almost dogmatically used, representing the common place in which sociologists, historians, anthropologists, psychologists, philosophers and even the theorists of economic development met to announce, from the perspective of the culture of modernity and the rationality associated with it, the eclipse of religion, the disappearing of the sacred, briefly, the "disenchantment of

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the world", following a well-known formula of Weber and an important paper of Marcel Gauchet[1]. Considered as a sort of *taboo* within the discourse on development, religious beliefs and spirituality in general were not taken as having a result within the sphere of the economy. Max Weber's effort to examine the relevance of religion for the economic analysis, the relationship between the emergence of industrial society and the Reform, the following contributions of social Catholicism (beyond the classical sublimations of the eternal problem of poverty translated, during the 18th century, by "the minimal welfare that is indispensible for virtue") – all these have proven, beyond criticism, that the relationship religion-economic development is not a necessary contradictory one. But to clarify the relation between religion and development is a rather complicated task, due to the ambiguous and controversial character of the definitions of the two domains. The difficulty of defining religion, especially, made the theorists of the dominant stream of economic development that for more than a few years to leave the last place (or even eliminate) the relation that could exist between religion and development, which is a proof of carelessness that many people criticize nowadays.

Of course, within the early debates on this issue, the specialized literature used a series of stereotypes, one of them being that religion, taken as internal perfection and solitude, was identified with the suspension of all preoccupations for development, be it demographic (Judaism and Christianity consider reproduction as an evil in itself, due to the sin involved), or economic (by diminishing the material welfare, which affected commerce, industry, agriculture, etc.), or of consumption (decreased by culinary taboos or increased in the direction of prestige, magnificence, and sacrifice).

Be this as it may, the issue did not allow a monist approach, the researchers saying that this implies the answering to at least two questions: what is the effect of religion over development and what is the impact of development on religion. Generally speaking, the connections of religion with development were conceived as positive relations, as negative ones or as differentiated ones, sometimes even ambivalent. Is the relation was taken as positive, religion was presented as a factor of development, not a major one, but important enough for the studies on development to take it into account. Still, this had to be conditioned by some factors: interpretation or reinterpretation of religion, "adaptation" of religion, the resistance of religion if faced to a possible distortion of its specific content. Besides, the positive character of the relation religion-development was nuanced: either under the form of a superior ethical principle that ensures the collective solidarity and the individual discipline, or as a principle of collective o cultural organization, or, sometimes, as a principle of a pilot-experience of emancipation.

If the relation of religion with development was negatively conceived the critiques were always directed towards religion. Taken as a real hindrance for development, religion had to be removed from public life. Thus, all serious projects of development had to take into account the means that ensured the decline of religion and religious institutions. In this case, the common thesis

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[1] Marcel Gauchet, *The Disenchantment of the World*, Bucharest, Nemira Publishing House, 2006.

announced that religions are themselves the proof of the opposition against development, which is sustained by the fact that, in most of the cases, the development would have led naturally to the removal of religion. Following this viewpoint, religion was taken as an interdiction (a set of rigorist principles, of negative taboos, interdictions that paralyze production, consumption, and social relations at all levels), as a hidden ally (religious class bands together with the dominant one in order to block the social development and restructuration), as closed society (religion would generate this kind of opaque societies, which are less favorable to development), and as alienation (religion orients the praxis towards a set of "ideal" recipes of obtaining divine rewards, thus ignoring the realities of life).

There were also some less radical perspectives. In this type of interpretation, the relation of religion with development was an ambivalent and differentiated one. Although they are domains that seem separated enough, their relations, still possible, are conceived as depending on the type, phases, and degrees of evolution of religions and development alike. According to this paradigm, one was more oriented towards the developed and developing countries, towards the relation between generic religion and the religion from within a country faced to the same political option (Christianity or Islam in Lebanon, for instance) or towards the mutations from the area of a single religion. In this case, there were some other interesting adjacent debates: if religion is a field that can be reinterpreted, if it is solidary with the programs of development, if it is dominated by an "obscurantist" traditionalism, if it is linked to the customary conservatism or if it is interested in new structures and practices in order to survive.

If this was the case in the past, nowadays we notice a spectacular process of renewal of the interest for religion in the studies on development. Considered either the "taboo" of development[2], or the "forgotten factor" from the discourse on development, one can ask, together with Erica Bornstein[3], why the scientific papers on development removed from their analysis the "issue of religion" for so many years, in order to become now a strongly debated matter[4].

Humanities and social sciences foretold the revival of religion, but it is important to notice that the recent interest for the relation between religion and development is not an exclusively academic one, but one that comes from the industry of development. The 9/11 events and those associated to some other Islamist movement from today generate the integration of religion into strategies of development, as the World Bank has demanded, under the impulse of the former president James Wolfensohn. But we cannot say that specialized literature which is dedicated to the matter clearly separates the two domains. Besides, there are some authors who not only deny the revival of religion in the

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[2] K.A. Ver Beek, "Spirituality: A Development Taboo", in: *Development in Practice*, 10(1), 2000, pp. 31-43.
[3] Erica Bornstein, *The Spirit of Development: Protestant NGOs, Morality, and Economics in Zimbabwe*, New York, Routledge, 2003.
[4] I. Hovland, "Who's Afraid of Religion? Tensions between "Mission" and "Development" in the Norwegian Mission Society", in: G. Clarke şi M. Jennings (eds.), *Development, Civil Society and Faith-Based Organizations: Bridging the Sacred and the Secular*, Basingstoke, Palgrave Macmillan, 2008, p. 171.

studies on development, but also reclaim the fact that some religious concepts are not enough explained in order to adequately analyze the report of religion with development. On the other hand, there are some difficulties that come from the experts of development who do not always succeed in avoiding, within their research, a certain ideological *parti pris* which is noticeable when it is about the understanding of religion.

The main critiques are directed towards the profoundly political character of the studies on the relation between religion and development. Another controversy, very important within the literature regarding this relation, is related to the definition as such and the nowadays utilizations of the concept of religion. There are also studies that reclaim the fact that there is a support for a real cognitive mystification regarding religious organizations, and there is also much talk about the vast mythology regarding religious NGO's, if we adopt J. Ferguson's definition of the myth: a "falsified history" and a "means of constructing the meaning"[5]. Authors like William Cavanaugh or Timothy Fitzgerald refer to "the modern myth of religion"[6], which the other authors will use to throw over the dominant secularized ideologies the cloak of neutral normality and that of superior ethics[7].

W. Cavanaugh[8] sustains the careful analysis of the language used for religion, inasmuch as there were and are terrible conceptual disputes over the universal definitions of religion from the 17th century Europe. Recent research show with a vengeance that the manner of understanding religion as something impossible to define led to another regrettable error, i. E. To the imposing of the religion as a "construction of an academic discourse"[9] that does not allow the identification of its negative attributes: the fact that it is not a universal category and that is full with ideology[10] being related to fundamentalism and violence[11]. The definitions of religion are criticized mainly by the substantialists ones, which sustain that all religions have something in common and try to identify that trait. These definitions miss the religious diversity, as substantialist essentialize religion, assuming the existence of a "thing", a "fact" called "religion", always taken as differentiated, singular, and universal (identifiable in all circumstances)[12]. The

[5] J. Ferguson, *Expectations of Modernity: Myths and Meanings of Urban Life on the Zambian Copperbelt*, Berkeley, University of California Press, 1999, p. 23.

[6] T. Fitzgerald, *The Ideology of Religious Studies,* Oxford, Oxford University Press, 2003; **idem**, "Introduction", in: Fitzgerald, T. (ed.), *Religion and the Secular: Historical and Colonial Formations*, London, Equinox Pub., 2007, pp. 1-24; **idem**, *Religion and Politics in International Relations: The Modern Myth*, Londres & New York, Continuum, 2011.

[7] W. Cavanaugh, *Le mythe de la violence religieuse,* Paris, Editions de l'Homme Nouveau, 2009.

[8] W. Cavanaugh, "Does Religion Cause Violence?", in: *Harvard Divinity Bulletin*, 35(2-3), 2007.

[9] D. Dubuisson, *L'Occident et la religion: mythes, science et idéologie*, Bruxelles, Editions Complexe, 1998.

[10] W.C. Smith, *The Meaning and End of Religion*, London, SPCK, 1978.

[11] W. Cavanaugh, *Le mythe de la violence religieuse,* Paris, Editions de l'Homme Nouveau, 2009.

[12] Fountain, P. (2013), "Le mythe des ONG religieuses: le retour de la religion dans les études du développement", in: *International Development Policy|Revue internationale de politique de développement*, 4 (1), p. 15-40.

generalizations which the substantialist definitions use and which impregnate the studies on development have another shortcoming. In general, they favor the ignoring of the understandings and effects of the religious practices that are, still, very important for the understanding of the phenomenon of development. Either too general, or too rigid, the substantialist definitions generate what Benson Saler calls the understanding of religion as "a category of Western tradition"[13]. In this paradigm, the science of religions can formulate only Euro-centric hypotheses. This is why Christian religion (sometimes Judaism and Islam) is imposed as a norm by means of which, completely inadequate, all other religions are evaluated. If we add to this idea on religion – born as a result of European Enlightenment – the contaminations coming from the modern liberal theology, we can hardly say that this concept is a neutral or descriptive one.

John Milbank speaks about a true strategy in separating the domain of application of religion, with serious political implications: "Traditional and particular religions are thought to encode in a nonperspicuous fashion this priority of the social, and only insofar as this is recognized is religion itself universalized and brought to perfection [...] Nevertheless, this still universalizes religion in a different fashion: religion has its source in 'charisma' which interrupts instrumental reason in many ways, registered by sociology as negative deviation. Universalization is here a way of 'managing' the many particular religions, and of confining them to the private sphere, but charisma also appears in the public realm as the supra-rational purpose of the political whole which instrumental reason is unable to specify or adjudicate"[14]. By this veritable "policing the sublime" one made further possible the institutional restructuration of political relations and the creation of the modern European nation-state as a laic entity.

Another common point of the papers dedicated to the concept of religion is the analysis of the relation between the apparition of the new definitions of religion and the birth of secularism taken as non-religion or anti-religion[15], especially because the Western colonialism. There are some other reasons for which the clarification of the opposition relation between religion and secularism is meaningful. According to T. Fitzgerald, the construction of secularism is the meeting place of dominant values in Western societies and must be legitimated as a part of the real world of nature and of the rational development towards which all societies aim: "But how can so-called underdeveloped societies come to realize and conform to this natural reality in order to be considered fully rational? They can be helped by adopting the non-indigenous western division between the religious and the secular and by placing their traditional values in the department of 'religion', where they become objects of nostalgia a, thus clearing a cognitive space in their culture for putatively value-free scientific facts,

[13] B. Saler, *Conceptualizing Religion: Immanent Anthropologists, Transcendent Natives, and Unbounded Categories*, Leiden, Brill, 2000, xi.
[14] J. Milbank, *Theology and Social Theory: Beyond Secular Reason*, Malden, Wiley-Blackwell, 2006, p. 103.
[15] T. Asad, *Formations of the Secular: Christianity, Islam, Modernity*, Stanford, Stanford University Press, 2003; T. Fitzgerald, *Religion and Politics in International Relations: The Modern Myth*, Londres & New York, Continuum, 2011.

for the natural world of autonomous individuals maximizing their rational self-interest in capitalist markets, for liberal democratic institutions such as parliaments, for modern nation states, and so on"[16].

Thus, the problem of the relation religion-development also implies the manner of understanding the issue of modernization. There is no contemporary paper dealing with this subject that does not underline the fact that marginalization of religion was essential for the evolution of consumerist capitalism and liberal democracy. Furthermore, a secularized society is presented as politically neutral and morally impeccable. Despite all these, there are numerous researches that sustain the background idea that within laic nations one can normalize social practices that resemble to the fundamentalist religious ones: "in the Western world, the repulsion of killing an dying for religion is one of the main means through which we allow us to be convinced that the fact of killing and of dying for the nation-state is praiseworthy and correct"[17].

Regarding the manner in which one shout relate to religious NGO's, taking into account all elements presented so far, we find at Phillip Fountain a profound lecture of religion in the recent papers on the sociology of development, choosing three representative works for the dominant tendencies from this domain within the vast literature dedicated to religion and development. The first paper is called *Mind, Heart, and Soul in the Fight against Poverty*[18] and is written by K. Marshall and L. Keough, employees of the World Bank, and represent a study over the partnerships between the main organizations for development and various "religious communities throughout the world"[19]. Having the same *sui generis* definition, religion is, according to the authors, trans-cultural, (trans)historical and easily identifiable in all given contexts, associating with the ideas of spirituality, culture, tradition, value, and ethics. Marshall and Keough sustain the importance of the agreements between the laic development organizations and the religious ones. The book analyses the possibility of future improvement of the relation between "the two worlds, that of religion and that of development"[20], that were, so far, characterized by fragility, intermittences and conflict.

The positive and full of promises vision of the above-mentioned authors is opposed to that of Shawn Flanigan[21], who displays a complete lack of trust into the ability of religious organizations to sustain development. On the contrary, following the interviews with the leaders of some religious NGO's from Lebanon, Sri Lanka, and Bosnia and Herzegovina, Flanigan reaches the conclusion that

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[16] T. Fitzgerald, *The Ideology of Religious Studies,* Oxford, Oxford University Press, 2003, p. 8.
[17] W. Cavanaugh, *Le mythe de la violence religieuse,* Paris, Editions de l'Homme Nouveau, 2009, p. 9.
[18] K. Marshall şi L. Keough, *Mind, Heart, and Soul in the Fight against Poverty*, Washington, The World Bank, 2004.
[19] *Ibidem*, XV.
[20] K. Marshall and L. Keough, *Mind, Heart, and Soul in the Fight against Poverty*, Washington, The World Bank, 2004, pp. 1-2.
[21] S.T. Flanigan, *For the Love of God: NGOs and Religious Identity in a Violent World*, Sterling, Kumarian Press, 2010.

religious organizations not only generate and sustain situations of conflict, but also use coercive and discriminatory practices. The author draws attention on those religious NGO's that do not establish organizational directives and explicit directives regarding proselytism. In this case, also, the entire presentation is based on the opposition between the activities of religious organizations, which are illegitimate and immoral, and those of laic organizations, which are morally neutral and universal.

Another approach, which lacks the previous radical accents, belongs to J. Haynes[22]. Being aware of the difficulties that defining religion raises, the author says that he is trying to offer such a definition, given the fact that "there is no conception of religion that can safely be used in inter-cultural and/or inter-religious contexts outside of Europe and the West more generally"[23]. Despite the fact that he understands the danger of offering an "euro-centrist" definition of religion, which he considers to be inadequate and useless for the study of the relation religion-development, he will slip towards the same mistake: "religion can usefully be thought of as: (1) a system of beliefs and practices – often but not necessarily related to an ultimate being, beings, or to the supernatural, and (2) involving that which is sacred in a society, including beliefs and practices which are widely regarded as inviolate. For purposes of social investigation, religion may also be approached (1) from the perspective of a body of ideas and outlooks – that is, as theology and ethical code, (2) as a type of formal organization – that is, an ecclesiastical 'church', and/or (3) as a social group – that is, faith-based organizations. Religion can affect the world in two basic ways: by what it *says* and by what it *does*"[24]. Saying that the world religions "broadly share a set of theological and spiritual values"[25], he concludes that "a common metaphysical thread running through the world's major religions, encompassing a shared sense of 'oneness' of name and form that is believed to permeate our world"[26]. But the most important aspect of his vision pertains to the accent he places on the idea of planetary "religious resurgence" in international relations and development practices, such that the conventional religious problems have opened some breaches on the political and economic arenas. Taking into account that the world of religion and the secularized world are sustained by different ontologies, he states that "secular worldviews were the foundation of conventional development understandings and policy"[27]. For this very reason, for a "reclassification of the idea of civility that does not depend on its secularity", the laic character is synonymous with "multi-culturalism" and "pluralism".

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[22] J. Haynes, *Religion and Development: Conflict or Cooperation?*, Basingstoke, Palgrave Macmillan, 2007.
[23] *Ibidem*, p. 14.
[24] *Ibidem*.
[25] *Ibidem*. p. 39.
[26] J. Haynes, *Religion and Development: Conflict or Cooperation?*, Basingstoke, Palgrave Macmillan, 2007, p. 15.
[27] *Ibidem*, p. 104.

Haynes' ambivalent conception, following the line of R. Scott Appleby[28], is obvious: "the ambivalence of the sacred encourages a dual view of religion in relation to development that can be judged, normatively, as follows:

• *Positive* role, when religion motivates civil engagement in pursuit of socially and developmentally constructive goals;

• *Negative* role, when religion (1) seeks to exclude others, (2) perhaps resorts to conflict and violence, and (3) overall seriously undermines achievement of socially and developmentally constructive goals"[29].

As a conclusion, we notice that the nowadays disputes over the relation between religion and development are far from being solved. Either one refers to the difficulty of defining religion and development, or that the adjacent issues are more complex than we could believe (the sub-divisions of development, the idea of secularization and its critiques, the relation between fundamentalism and violence, the difficulties of the categorial pair sacred-profane, the relation of religion with modernity, etc.), there is one certainty: the burst of preoccupations for examining of the role of religion within development is, on the one hand, the result of the evolution of some adjacent disciplines (especially anthropology and sociology of religion), but also the indicator of the continuous presence of religion within the concerns of the academic world and the actors of development.

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[28] R.S. Appleby, *The Ambivalence of the Sacred: Religion, Violence, and Reconciliation,* Lanham, Rowman and Littlefield, 2000.

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CULTURAL RELATIVISM: AN IMPEDIMENT TO AFRICA'S DEVELOPMENT

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Abstract: There have been spates of reactions to the concept of cultural relativism which are based on the fact that every culture has its own peculiar norms and values that seemincompatible with one another. This, for many, has led to the traumatic experience of the modern Africa. The reason is, relativism has underplayed the influence of colonialism on Africa which has also engendered a new African personality. In other words, Africa is no longer comfortable with scholarship projection of cultural 'set apart' in the event of emancipation from poverty, hunger and diseases. This ultimately accounts for the reason Anthony Appiah and many other scholars support a Universalist approach to cross-cultural understanding.

This paper attempts a synopsis of the erosion and corrosion of African psyche as entrenched in colonialism which has necessitated a re-brand of the image. It also notes the impediments classified in relativism because it fails to provide avenues for people in other cultural orientations to effectively express themselves in proffering solutions to issues and problems. Ii further argues in line with Appiah for a Universalist cultural perspective, if Africamust chart a course in Human and technological development.

Keywords: Colonialism, culture, relativism and universalism.

Introduction

Many scholarly works on Africa and the African past dominated many literatures expressing the Eurocentric agenda of some of the authors. This, of course has led to the upsurge of intellectual responses to some of these misconceptions, myths and mythologies thereby raising some fundamental questions about the dynamics of African race and personality. The misconceptions have renewed the intellectual vigour of African scholars to showcase their intellectual prowess, capacity and also to project the cultural image and dynamics of the African race. In other words, African scholars are no longer comfortable with the views of earliest social anthropologists and their presuppositions about what constitutes the humanity and the identity of Africans. African intellectuals seem to be mostly preoccupied with the defence of a unique "Africanness" leading to a kind of deification and glorification of Africa's past. Much as the past is relished to reminiscent where and how Africans

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started the journey to civilization, basking on it cannot solve the myriads of problems confronting the contemporary Africa. In this way, the notion of a distinctive 'Africanness' or of cultural relativity that constitutes Africa as a continent 'set apart' may not augur well for the development and transformation that she desires and which is also germane to heradvancement among the comity of nations. This paper examines all and therefore urgesUniversalists integration in the continent.

The idea of cultural relativism

The notion of relativism has received different interpretations. But it seemsthat any position which affirms a denial of universality of rational procedure through which a cross-cultural understanding can be reached isa relativist's conception.

Relativism, therefore, is a concept which holds that any area of human endeavour that is cultural is essentially subject to varieties of interpretations. Different peoples and cultures across the globe hold different views and forms of rationality that are principally entrenched in the ethics and value system of a given community. In other words, a society's customs and ideas should be described objectively and understood within the logic and context of that society's problems and opportunities.

Much as the concept of cultural relativism remains a principal tenet in critiquing philosophical anthropology, it howevershared divergent opinionson the fundamental principles of the relativist's views. One form and a stronger form, for that matter, is advocated by Benedict and Herskovits; that the idea of morality is culturally bounded and therefore lacks universal imports hence the validity of all manners of cultural patterns can only be appropriate within the context of that given culture[1]. We must observe with suspicion the implications and the resultant multiplier effects of these wholesale cultural relativists' principles. If every culture is at variance with the other, morality and moral actions within the societies are context-dependent. If this is the case, then relativism seems to justify some obnoxious practices in our societies. This is the reason Carol R. Ember raises some questions in line with the shortcomings of cultural relativism andcontends that:

> What if the people practice slavery, torture, or genocide? If the strong doctrine of relativism is adhered to, then cultural practices such as these are not to be judged, and we should not try to eliminate them.[2]

From the foregoing, one may not be exaggerating to state that the modern society has witnessed phenomenal killings of various forms as a result of some relativist's cultural propagation culminating into a total breakdown of laws and order especially within the continent of Africa. However, the adoption of cultural

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[1] Vide: Carol, R.E. and Melvin, E., *Cultural Anthropology* Ninth ed. (New Jersey: Prentice Hall, 1999), P.21.
[2] Ibid. P.21.

relativism seems to be morally confusing since it does not allow easy passage of judgement on culturally motivated crimes within the human society and most importantly in the continent of Africa. This is the reason Carolyn Fluehr-Lobban writes:

> They have been unwilling to pass judgment on such forms of culturally based homicide as the killing of infants or the aged. Some have withheld judgement on acts of communal violence, such as clashes between Hindus and Muslims or Tutsis and Hutus in Rwanda.[3]

Lobban seems to be positing that relativism is opposed to humannature. This is because man is naturally disposed to express their feelings whenever situations demand. As a moral agent, it may be strange to refuse comment on some activities that constitute moral inadequacies within our societies, in that when comments are made in the event of unwholesome circumstances, such comments can eventually lead to a socio-cultural turn-around. "Relativism, by regarding the norms a culture already accepts as "valid" denies the possibility that something better can be hoped for or worked towards"[4]. Human nature is a dynamic one. As a result, new insights, new possibilities, innovations are equally another way of conceptualizing reality even within the horizon of a relativists' socio-cultural milieu. The dynamics of change arealternative way of attending to phenomenal problems. This is obvious and cannot be over-emphasized.

It is clear from the foregoing that cultural relativism has constituted a threat and predicament to how judgements are passed in matters of what constitutes the truth, morality, and socio-cultural norms expressible in a given milieu. This inability perhaps account for the reason Roger Sandall opines that cultural relativism is an "internal and corrosive enemy of the open society".[5] AmitaiEtzioni noted the damages that a relativistic position can brew when he opines; "if pushed to the extreme, it prevents one from making any moral judgments about others at all, and our moral senses strongly urges us to express our concerns...whenever they occur."[6] In other words, it seems that emphasis on distinctiveness, cultural nationalism of a people set apart as entrenched in the writings of some African philosophers and commentators to advance the notion of African cultural personality or identity will achieve little success especially within the clarion call for technologization and scientification

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[3] Carolyn Fluehr-Lobban, "Cultural Relativism and Universal Rights" in *The Chronicle of Higher Education* (9 June, 1995):B1

[4] Evanoff, R.J., "Universalist, Relativist and Constructivist Approaches to Intercultural Ethics" in *International Journal of Intercultural relations*.www.elsevier.com/locate/injintrel. (P.446)

[5] R. Sandall considers relativistic consciousness as inimical to growth and development of international politics and diplomacy especially in an era of trans-national collaboration. This position is echoed in David J.E. "Culture and Relativism" in symposium: *The Culture Cult. (*April 9th, 2008) P.270.

[6] AmitaiEtzioni, "The End of Cross-cultural Relativism" in *Alternatives, Vol.22. No2 (1997),* P.179.

paramount to the needs of modern Africa. It is a truism that the continent has had a notorious bashing of colonialism and much of the early works of anthropologists on Africa were meant to propagate the colonial hegemony culminating in series of responses by African scholars. It may suffice at this point to relive or reminiscent such reasons in African past.

Reasons for advancement of cultural relativism in Africa

> We belong to nations oppressed in the past by foreign domination and ravaged in the present by indigenous misgovernment. And our cultures have been distorted through long standing foreign blandishments, importunities and outright impositions.[7]

> Certainly imperialist domination calls for cultural oppression and attempts either directly or indirectly to do away with the most important elements of the culture of the subject people. But the people are only able to create and develop the liberation movement because they keep their culture alive despite continual and organized repression of their cultural life and because they continue to resist culturally, even when their politico-military resistance is destroyed.[8]

The key to understanding the mind-set of the two positions above is to delve into the African past experience which had its fount from colonialism and imperialism. The position reveals the obnoxious violation of the psyche and the incalculable damages done to the culture and personality of Africa. Colonialism truly, was like a ravaging pest that destroyed the cultural farmland of the continent (Africa). This necessitated the upsurge of cultural activities in order to restore the lost glories of our cultural traditions, which extremely led to cultural relativism or cultural re-alignment of Africa. Cabral tagged this activity "cultural renaissance"[9]. Another scholar, K.A. Owolabi, in a pensive cogitation onNationalists' intrigue responses to the subjugation of African cultural heritage, he contended that the plethora of such upsurge of cultural advancement by African scholars "emerged at a time when Africans were psychologically deflated. It was therefore a sort of psychological rearmament, a moral boosting enterprise

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[7] Olusegun O., *Conceptual decolonization in African Philosophy: 4Essays By KwasiWiredu, Selected and Introduced by OlusegunOladipo* (Ibadan: Hope publications, 1995) P.13.
[8] Amikar C., "Identity and Dignity in the Context of the National Liberation Struggle" in *I Am Because We Are: Readings in Black Philosophy*. (eds.) Fred Lee Hord (MzeeLasanaOkpara and Jonathan Scott Lee (University of Massachusetts Press, 1995) P.75.
[9] Ibid.

after a loss of battle in order to forestall the total loss of war"[10]. The machinery for such subjugation were set in motion by the utterances and intellectual positions of early western anthropologists and philosophers in Africa who wrote from afar to conclude illogically the logicalityof the world view of the continent. The German philosopher, Hegel for instance, posited that Africa is disengaged from the movement of the absolute spirit. He argues that the processis achieved through his notion of Thesis and Anti-thesis which generate synthesis and therefore, only the Europeans'world is in the process of becoming (perfection). Levy-Bruhl, on the other hand, prefers to convert and obvert African peoples and square them up with such derogatory adjectives, such as: pre-logicality, infantile mentality[11] as the only endowment bequeathed on to the continent.

It is obvious and logically entailed that some sort of reactions necessarily ensued from this misrepresentation of the picture of the continent and the mentality of its peoples.This again is part of the reason most of the early works of philosophers, ethnographers, African anthropologists were geared towards restoring the personality and dignity of a dehumanized race. It also behoves African scholars to look closely at the continent in search ofsome elements of our culture that can be universalized within Africa. Hence, the notion of African socialism seems to be a remedy to the malady imposed on Africa through colonialism. Oyeshile noted that:

> The African socialists wanted to differentiate the socialism of Africa from other kinds of socialism. It was the contention of African leaders of the socialist persuasion that they could forge common identity through this socialism. Hence, one can see Africa socialism as: Both a reaction against Europe and a search for a unifying doctrine.[12]

In the light of the above, one can understand the passion of these foremost scholars since culture shows special significance in the liberation from imperialist hegemony. The notion here is that culture can be a useful instrument in the struggle against Eurocentric domination. Hence, Oyeshile re-echoes the minds of these scholars by distinguishing indigenous African socialist ideology from other kinds of socialism. This is necessarybecause culture is one means of gathering a people together after some centuries of total disarray and disenchantment. Hence, the idea of cultural renaissanceis popular among African nationalists, who were bent on founding the emergent African states on the pre-colonial cultural footing in Africa. The position is also in line with the thought of Ruth Benedict and Melville Herskovits that "all general moral concepts are culturally determined; there are no fixed contents and so no single standard of evaluation is possible"[13].

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[10] Owolabi K.A., "Cultural Nationalism and Western Hegemony: A Critique of Appiah's Universalism", (Review Essay) in *African Development,* Vol. XX. No.2. (1995) P.118.

[11] Oyeshile O.A., "Humanistic Culture Universalism as a Veritable Basis for Africa's Development" in *CONCORDIA 51International Journal of Philosophy (2007)* Pp. 44-45.

[12] Ibid P.45.

[13] Vide: David J.E. Ibidem P.271.

Recounting the ordeals of colonialism, the Caribbean AimeCesaire contends in *Discourse on Colonialism* the racist disposition unleashed on the black nations and their cruel treatment from the hands of colonial masters. This, he believes, is a dehumanizing project meant to perpetuate western interests. For AimeCesaire, such statement as: "we aspire not to equality but to domination. The country of a foreign race must become once again a country of serfs, of agricultural labourers, or industrial workers. It is not a questionof eliminating the inequalities among men but of widening them and making them into a law"[14]. Therefore, the discourse provides a synopsis of the brutality systematised and experienced from a race believed to impose on her nature a certain kind of superiority over others as evidence in the practices of colonialism. From the foregoing, one may posit that some of these claims are naturally bound to generate responses especially from among the learned minds of the supposed 'salvage' people.

Feeling somewhat alienated from his ancestral traditional culture, Edward W. Blyden expressed his desperation and hope of a change that is imminent in Africa. He states:

> Our nature in this country is not the same as it appears and the lordly natives of the interior of Africa, who have never felt the trammels of a foreign yoke. We have been dragged into depths of degradation. We have been taught a cringing servility. We have been drilled into contentment with the most undignified circumstances. Our finer sensibilities have been blunted. There has been an almost utter extinction of all that delicacy of feeling and sentiment which adorns character. The temperament of our souls has become harder or coarser, so that we can walk forth here, in this land of indignities, in ease and in complacency, while our complexion furnishes grounds for every species of social insult which an intolerant prejudice may choose to inflict. But change is coming over us.[15]

We see in Blyden the lamentation of a groaning race under a tortuous experience of western generalissimo, abusing the sensibility of a captured race. For him, change is imminent because Europe is showing interest in the other form of trade (human trade is outlawed) and industrial revolution is gaining momentum, the air of freedom is blowing across Europe on African slaves. In his submission, only Africans can take their destinies into their hands since they had "talent, wealth and enterprise to form a respectable nationality."[16]

Any meaningful development in Africa can only be carried out by the Africans and for the African. This is why he believes in the authenticity of Africa

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[14] Aime C., "From Discourse on Colonialism" in *I Am Because We Are: Readings in Black Philosophy (1995) op.cit.,* P.165.

[15] Ibid. P.122.

[16] Ibid. P.125.

personality. For him, other races cannot respect Africa until there is an enthronement of a powerful nationality. This again is the reason he concludes "the heart of every true Negro yearns after a distinct and separate nationality."[17] Blyden's effort or commitment to this form of cultural relativism is therefore to re-discover once more, the already battered psyche, culture and personality of Africa through colonialism and this can only be re-cast through self-examination, self-definition and criticisms of Europeans'imposing ideologies that masterminded Africa's underdevelopment as succinctly described by Walter Rodney when he contends that "the limited social services within Africa during colonial times were distributed in a manner that reflected the pattern of domination and exploitation."[18]

Africa within the trajectory of modern challenge: the urgent need to transcend cultural relativism

It was Thabo Mbeki who once said African renaissance is upon us.[19]

The conviction of Mbeki, the former president of South Africa is a warrant for *Metanoia* (Change of heart) on the continent. This is because the problems confronting Africa needs urgent attention rather than the eulogy of an African personality or identity problem as romanced by some African scholars. Mbeki notes that the time has come for Africa to assert a redemptive orientation, that which is capable of salvaging the bizarre situation of the continent. The twenty-first century Africa should not be poised or disposed to such ethnocentric cultural eulogy, but must desire and develop the spirit of enquiry which will eventually lead to breakthrough from the myriads of socio-economic, political and cultural maladies that have infested the continent. This requires a conscious attention to shape the destiny of the continent through a project of emancipation. It means therefore, if Africa must emerge from the menace of poverty, hunger and diseases that has eaten deep into her system then, cultural uniqueness orrelativism may no longer be relevant to solve these problems. The reason is, if Africa is determined to improve her present situation, then a successful execution of this project will be to turn away from alliance with uncritical indulgence to traditional beliefs that makes Africa a continent set apart. On this Olusegun Oladipo emphatically maintains:

> The glorification of the "un-analytical cast of mind"
> which a conception of African philosophy as
> African folk thought encourages (or cultural
> nationalism; my own word) would not avail us the
> opportunity of taking advantage of the theoretical
> and practical benefits offered by these intellectual

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[17] Ibid. P.126.

[18] Walter R., *How Europe Underdeveloped Africa*. (London: L'OUVERTURE Publications, 1972) P.224.

[19] Thabo Mbeki, the former president of South Africa made this statement at one of African Leaders' summits when he noted the air of freedom and independence that is blowing across Africa.

procedures. It thus can only succeed in making the task of improving the condition of man in Africa a daunting one.[20]

What this seems to imply is that any genuine interest on the project must be propelled by a propagation of rational enquiry rather than uninformed beliefs in traditionalism, which can only ensure retrogression and backwardness which a relativists world-outlook guarantees. Oruka refers to such, as an obstacle to freedom[21]. The reason is, in a relativist's world, the possibility of comments, assessments and contributions from alien cultural category remains daunting. This outlook (cultural relativism, ethno-philosophy) cannot help in the development agenda of the new African continent as we transit from traditionalism to modernity. Against this backdrop, Oladipo argues:

Ethno-philosophy (or cultural relativism; my own words), it is argued, does not allow us to accomplish any of this tasks. It is more concerned with the glorification of the past rather than promote a critical understanding of the relationship between the past and the present. The uncritical acceptance of the past and its values which ethno-philosophy represents should therefore be rejected[22]

The reason is aptly captured by KwasiWiredu:

It will not enable us to achieve a fundamental understanding of the world in which we currently live in order to change it in desirable directions, and it will make us easy prey to those who have mastered the arts and technique of modern thinking[23].

What this implies is that, the rejection of cultural nationalism which is a corollary of cultural relativism is germane if we take into consideration the socio-economic and political situation of the modern Africa. The thinking here is, modern African philosophy is to be situated at the centre stage of curing the maladies imposed through a relativistic world-outlook by consciously imbibing the mind-set that takes into consideration the philosophies in other cultures knowing that by nature, man is cosmopolitan. As a result, if looking elsewhere will salvage the continent from myriads of problems which is immersed, the

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[20] Oladipo O., *Philosophy and the African Experience: The contributions of KwasiWiredu.* (Ibadan: Hope Publications, 1996), P.15.
[21] Oruka H., "Mythlogies as African Philosophy" in *East African Journal.* Vol.9. No.10. December.
[22] Oladipo O., *The Idea of African Philosophy: A Critical Study of the Major Orientation in contemporary African Philosophy*. Third Edition (Ibadan: Hope Publication, 2000). P.65.
[23] Ibid.

option then, is to take a critical leap and tint towards the tradition of philosophy that had ensured such breakthrough. One could not denythe fact that, all over the world, science and technology have improved the condition of man. Western science has turned myths to realities. This is the more reason Oladipo advocates that "it should be the role of modern African philosophers to promote certain attributes of mind which are characteristic of science"[24]. In other words, Oladipourges us in a systematic manner to adopt a Universalists' approach in solving the gargantuan problems confronting our continent. According to Oyeshile, "Cultural universalism occurs in a situation where man takes the whole world as his constituency. That is, cultural universalism is anchored on the belief that modes of behaviour, belief, morality can be hinged on objective and universal standards which are applicable to the world over"[25]. It implies, there is a universal underpinning characteristic that is applicable as a unique standard of rationality peculiar to the category called human being. This, of course, istrans-cultural imports that are not embroiled in subjectivist relativism.

In his painstaking attention to the analysis of race as a theoretical background to the notion of culture which manifestly seems to be a defence of a universal culture, Kwame Anthony Appiah rejected the notion of race. For him, 'race' is an illusion since there is only one race which is human race. Appiah drew support from biological sciences when he contended thus:

> ...for two people who are both "Caucasoid" the chances of differing in genetic constitution at one site on a given Chromosome have recently be estimated about 14.3percent, while for any two people taken at random from the human population the same calculations suggest a figure of about 14.8percent. The underlying statistical facts about the distribution of variant characteristics in human populations and subpopulations are the same, whichever way you express the matter. Apart from the visible morphological characteristics of skin, hair, and bone, by which we are inclined to assign people to the broadest racial categories; black, white, yellow, these are few genetic characteristics to be found in the population of England that are not found in similar proportions in Zaire or in China... All this are part of the consensus[26].

From the above, we have an understanding of similarities in human nature. That is, the basic composition of human beings are similar and the much celebrated differences are external and therefore in morphological context. This means, the dichotomy emphasized by people world over in the area of language,

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[24] Ibid. P.66.
[25] Oyeshile O., *op.cit.,* 2007, P.53.
[26] Appiah K.A., *In My Father's House Africa in the Philosophy of Culture* (New York: Oxford University Press, 1992) P.35.

moral affections, aesthetic attitudes, or political ideologies are not biologically determined[27]. Hence, race for him is an illusion.

From the foregoing, it seems a tenacious stress on morphological differences as claimed by some African relativists will only engender backwardness for the continent. As noted earlier, man globally is genetically similar, therefore, science and technology from a Universalist perspective is not an exclusive preserve of a particular race, at least given the achievement it has recorded over time. However, it seems absolutely doubtful if there are human communities where politics is not played or where economic transactions are not undertaken, or where religion is not a phenomenon. All these are human endeavours that are modes of interaction within our socio-cultural environment. Ironically it is these very factors that have also become problematic to human beings across the globe. It is equally true that Africa is not exempted from these problems going by our daily politico-economic experiences. Part of the continent, if not all are not experiencing peace, for instance: Mali, Sudan, Egypt and Nigeria (Boko Haram) etc. Some are even economically torn-apart in which case the centre can no longer hold. This is the reality in most African nations. But the gloom is not without a saving grace and consolation in the words of Oyeshile "these problems can only be solved if we as Africans see ourselves as an integral part of the world order"[28]. Hence, for him over-contextualisation of Africa's problems is to be jettisoned if we must navigate in the direction of development in all areas of human life. We must be resolved to have a critical assimilation of other categories (i.e. tradition of science) if a viable solution is to emerge for the problems confronting us. Relativistic ideologies cannot take us to the desired destination especially in this project of development and of seeking solutions to hunger, diseases and poverty.

In conclusion, this work affords us a critique of cultural relativism with attention to how African scholars and some Nationalists romanced the cultural past just like the biblical Israelites relished their experiences of the Temple before the exile. We submit that such nationalistic boasting will blur our translucent eyes from accessing the goods and advantages obvious in other culture which are also germane for socio-cultural and economic transformation of Africa. This, of course, is a choice in which we do not have other choice.

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[27] Ibid.

[28] Oyeshile O., *op.cit.,* P.58.

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THE FREE MOVEMENT OF THE PERSONS: FROM AN ECONOMIC CONCEPT TO A POLITICAL CHALLENGE

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Abstract: The article observes the main steps of the evolution regarding the freedom of movement of the persons, assuming that the original spirit of the Treaty of Rome has suffered an essential reverse since the Community market became the European Union. It is considered that EU lacked the political will to put in practice an adequate approach capable to tackle the security challenges the European area was recently facing to. Instead of having a controlled labour market and economic migration, EU is bound to quickly adapt its procedures in order to ensure a safe and secure environment in its immediate neighbourhood. Notwithstanding, the political landscape of the member States require an enhanced treatment with a view to fight against phenomena connected to the unregulated migration flow.

Keywords: European Union, founding Treaties, freedom of movement of the persons, labour market, security, justice, Schengen, migration, secondary law.

Introduction

The Treaty of Rome included the freedom of movement of workers as a crucial tool for boosting the labour market, it is true, in a Community of six countries having fairly close economic standards. Obviously, the economic and social progress performed by the Common Market is also due in a significant extent to the workers movement of workers aiming at filling the jobs deficit. Without insisting upon the evolutions of the legal framework, the article will point out on primary and secondary law which has marked the strengthening of this freedom. With the creation of the European Union in 1992, the freedom of movement has added itself de jure a political dimension, following the introduction of the European citizenship in the Treaty. In parallel with successive enlargements of the Union, the setting up of the Justice and Home Affairs space, subsequently transformed into the area of justice, freedom and security, laid the basis of a secure Union as regards its borders. Currently, the challenges posed by the phenomenon of migration flows coming mainly from the Southern flank of the Mediterranean, have caused a serious impasse at the European level, raising interrogations on the possibility to continue the European project without achieving profound changes.

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Theoretical approach

From a perspective offered by the political science, this article aims to highlight controversial issues on the fundamental freedom of the European Union having a major significance on its own citizens. Starting from the legal framework introduced by the Treaty of Rome in 1959, the first part mentions the main changes introduced by the further EU Treaties and secondary law, whose application in the author's opinion, has led to a reading substantially revised as regards the objective set by the founding texts.

The second part of the article shall insist on the direct relationship existing between the free movement of persons and the immigration policy, long time neglected by the Union, but which has now adverse effects, difficult to be managed. It is considered that the coherent functioning of the specific provisions not only did not represent an articulated concern for the Union neither had a medium or a long-term vision. Consequently, the Union's capacity to provide a viable project and space for its own citizens and the space of immediate vicinity requires a responsible intervention at national and European level based on common reaffirmed political will and solidarity.

1. The strengthening of the free movement of persons.

Treaty of Rome set up the freedom of movement of persons as a way to give impetus to the economic agents' activity. Basically, in this first stage of the European construction, this freedom has been considered only as a strictly economic objective.[1] The principles put forward by the Treaty *aims to the free movement of workers within the Community*, with the abolition *of any discrimination based on nationality*, conferring the right to *respond to effectively offered effectively offered jobs, and to freely move in the Member* States, except for reasons of public order, health and other work conditions. In this context, the founding Treaty provides the coordination of national social security aiming at the elimination of the differences related to rights or social advantages resulting from the migration of workers within the Community area.

A crucial paradigm shift will occur with the adoption of the Single European Act in 1986, when, the introduction of the concept of free movement of persons, paved the way for a general recognition of the freedom of movement of the citizens of member states.[2]

Further, the European Union Treaty of 1992 brings forth two major provisions: the creation of a European citizenship accompanied by the introduction, as a corollary, of the free movement of European nationals. Thus, the right of stay is not any longer connected with the exercise of an economic activity (art. 14 par. 1). In accordance with TFUE (Art.8), a citizen of the Union is any person having the nationality of any Member State. By adopting the European citizenship, the European Union is no longer an economic space. The rights to vote in municipal and European elections, to petition and to address the mediator together with the introduction of the social rights inspires a positive

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[1] Articles 48 – 51 T CEE renamed 39 – 42 CE and 45 – 48 TFUE.

[2] Patrick Dollat, *Libre circulation des personnes et citoyenneté européenne enjeux et perspectives*, Bruylant, Bruxelles, 1998.

jurisprudence of the Court of Justice and lead to widespread free movement people who will be retaken by the Directive 2004/38. For the benefit of long-term residents of third countries in an EU member state, it has been giving the possibility to deal a job on the territory of another Member State.

In order to create a space of freedom, security and justice, The Treaty of Amsterdam (1997) provides the elimination of the internal barriers related to passport control, consequently accelerating the overall transformation of a theoretical and flexible labour market into a free political area.[3]

In terms of procedure and voting rules in the Council, they have evolved from unanimity to qualified majority and cooperation with the European Parliament - European Act - to the co - decision brought by the EU Treaty. As a whole, specific measures should lead to cooperation between government employment of labor, the elimination of administrative procedures and practices, and access modalities to employment, the elimination of the procedures and other restrictions that hinder free movement as well as establishment of own mechanisms to evaluate the bids and offers jobs to facilitate balance in the labor market.[4]

The Lisbon Treaty (TFEU art. 20-25), sets out the list of the rights of European citizens, some of them being specific to European citizens, other to third-country nationals. To facilitate the exercise of free movement, the Council may adopt social security and social protection by unanimously vote after consulting the European Parliament. The Charter of Fundamental Rights, attached to the Lisbon Treaty, states in its Preamble that the Union places the person in the centre of his action through the establishment of Union citizenship and the creation of an area of freedom, security and justice.

In essence, this freedom has two aspects, on the one hand the right to move and stay, and on the other hand, freedom to look for a job. Gradually, the freedom of movement and sojourn will differ one from another, the two fields of action basically becoming independent following the adoption of Directive 2004/38. This European act sums up all previous provisions on ECJ jurisprudence leading to the acquiring of a right to move together with a right of stay.[5] The right to freedom of movement implies the freedom to leave and especially the freedom to enter in Europe. Entry visas are not required but the identity card may be requested by the receiving State. As regards the right of residence, it may be short, within 3 months, long over 3 months, supplemented by other provisions of the restrictive nature on persons who have ceased their activity: to prove they have means of subsistence and they have contributed to health insurance. It is assigned permanent residence without conditions to the European citizens and their families who have been stayed for at least 5 years in the EU. In addition to this directive, a decision of the European Court of Justice provides that a Member State may restrict the right to reside in any part of its

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[3] Pierre Rodière, *Droit social de l'Union européenne*, L.G.D.J. l'extenso éditions, Paris; Droit social de l'Union européenne, L.G.D.J., pp. 179 – 180.

[4] *Ibidem,* pp. 190 – 191.

[5] Directive issued on 29 April 2004.

territory to a national of a Member State, if the conditions are met as regards the individual behaviour on grounds of public policy or taking public security.[6]

Foreign nationals legally and continuously residing for five years on the territory of an EU Member State, get the status of long-term resident.[7] In this regard, they receive a long term residence permit, valid for 5 years and renewable without restrictions. Consequently, their rights are very close to the rights of European citizens. Further developments are characterized by an approach in the light of positive law, because, effectively, a national of a Member State can not be returned after 3 months, given the fact that it is very difficult to prove that he is not in a position to search for a job.[8] Students and researchers benefit from the principle of freedom to stay during their scientific and pedagogical activities. In this context, students of a Member State may extend their stay until they could find a job.[9]

Freedom to exercise certain professional activities is articulated around three aspects - employment, which refers to workers who are natives of a Member State and receive remuneration in another Member State; the right of establishment and freedom to provide services, later two are related to the independent professions or businesses wishing to settle in another country, the difference being given by the durability of the installation. In accordance with the fundamental principle of Community law art. 6 TEC and 11 TFEU employed worker enjoy equal treatment with national workers.[10]

In practice, these provisions have undergone significant changes, in the sense of the application of a positive law to strongly encouraging the free movement. Therefore, the decision taken by a state to restrict the exercise of an activity for reasons related to public order or morality provision is a matter of concern for the right to move to and stay more than to the professional freedom. Currently, the worker's right of access to a job is conforming to the receiving State in respect of: social protection, remuneration, collective and trade union rights, the rules on dismissal.[11]

Although a superficial review on this Directive gives the impression it boosts too much the freedom of movement, particularly from third countries, it is useful to note that strengthening the right of residence does not reach the degree of freedom under Article 45 of the Charter of Fundamental Rights, it could be therefore be considered as an obligation to respect equal treatment for different types of stay, at which a number of other rights could be attached.

The challenges to which the free movement of persons is currently facing devolve from the weakening of the initial logic of the internal market, in the direction of an increased social and political support for the EU markets. The effects of financial and economic crisis 2008 - 2013 and the management of

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[6] Jean – Claude Gautron, *Droit européen*, 5ème édition, Dalloz, Paris, 2009, pp. 239 – 240.

[7] Directive issued on 26 November 2003.

[8] Pierre Rodiere, *cited works,* p. 192

[9] Gérard Druesne, *Droit de l Union européenne et politiques communautaires*, PUF, 8 Emme édition, Paris, p. 207.

[10] Marian Popa, *European Law. Basic elements*, Pro Universitaria Publishing House, 2013, pp. 58 – 60.

[11] *Ibidem,* p. 62.

migration flows generated by the Arab Spring in April 2011 are other explanations.[12]

Concrete criticisms that have been formulated against the provisions of this Directive mainly concerning the lack of conditioning the free movement of persons - Member States need the use of instruments regarding mandatory measures to tackle abuse on social security. According to some authors, freedom of movement cover an extremely permissive framework, allowing the so-called social tourism and introducing little evidence of coercion (ie. People who have been expelled may return to the European space).[13]

However it should be appreciated that the Directive requires a number of constraints that might hinder his frequent infringements, but which, Member States have not implemented. There are many reasons, first of all the domestic political context, but, we believe the lack of a coherent vision of the European Commission, avoiding a frontal and transparent approach was determinant. A brief assessment of the European Court of Justice cases-led us to observe the several interpretations in line with the control allowed by Directive 2004/38 as follows:

- The need for a prior period of residence before granting a scholarship – decisions C 209/03 Bidar and C 158/0 Forster;

- The insurance scheme for expatriate pensioners involving different treatments, the decision *Ramaer and Van Willigen, Netherlands*. It should noted that the number of elderly persons living in another Member State does not exceed 1% at EU level.

- The expulsion on the basis of individual behaviour - Decision Tsakouradis C – 145/09. Collective expulsion is excluded, which, remember, was the Commission's position on the Roma issue in August 2010.

- The link between the free movement of workers and coordination of social security schemes. Thus, social rights are completely excluded regarding short stay. Member States can tighten the criteria for granting social benefits by providing a minimum duration of contribution, especially in the case of abuse of rights or fraud.[14]

ECJ case law is illustrated by a series of decisions concerning the application of the free movement of persons in the classical sense of economic and social security schemes involved. - *Kranemann* - limiting travel expenses in case of a trainee who moves in another Member State, *Marhold* - exercising a public function, *the Commission versus Italy*. - Consideration of educational activities carried out in another Member State during a recruitment exam in a public school.[15]

The historical enlargement of the European Union since 2004 it has been characterized by the introduction of a transitional period requested by a number

[12] Mario Monti, *A new Strategy for the Single Market for the Benefit of the European Economy and Society*, Report, 9 May 2010.

[13] Pascal Schumacher, Liberté de de circulation. Le tourisme social, un danger pour la libre circulation des citoyens de l'Union européenne, *La revue des Droits de L'homme*, no. 5, 2013.

[14] Decisions CJCE, C – 200-02 Zhu and Chen and C – Cen 127-08 Metock.

[15] Gerard Druesne, pp. 190 – 200.

of EU 15 Member States to prohibit the free movement of workers from new member. However, during the transitional period, citizens of the new states have benefited from preferential treatment on workers from third countries. Since the right of establishment and freedom to provide services did not require a transition period, companies from the new Member States were able to post workers to other EU countries. Studies have shown that exclusions have occurred only when the regularization of illegal workers were the primary concern and no massive influx of workers. In the pre-access period of the candidate countries, the right of establishment and the freedom to provide services have witnessed intense debate. They reflected the concerns with a view the application of the rules of the main establishment place, namely, the host country, and the occasional character of the services.

In this regard, the Bolkestein directive, which targeted application of the rules relating to the country of origin instead of the host country tried to facilitate the work of the provider, modelled on the free movement of goods. In parallel he was shown a model of immigration, according to the possibilities offered by the labour market and income disparities, which generated the idea of impaired risks posed long-term national social legislation.[16] The draft directive Bolkensetin had a direct rejection of the Constitutional Treaty in France in 2005, in anticipation, subsequently unsubstantiated, social dumping from Eastern states.

Additional recognition of diplomas free movement of persons is being achieved with the adoption of diplomas recognition of higher education diplomas and vocational training. Following the adoption of the secondary law, the European professional area suffered of important transformations, allowing a flow from the Eastern states, but, which was in fact little articulated with the market needs.[17]

2. A hesitant immigration policy

Acting as a modest international actor in the nineties, the EU was confronted to a new reality in the beginning of the third Millennium, in the context in which terrorism and successive military interventions of the United States required an improved European presence at least in its immediate neighbouring. The Treaty of Maastricht provided for the establishment of cooperation between Member States on immigration, starting with the affirmation of a common will to build the evolutions in this field. Further, the Treaty of Amsterdam allowed the communitarization of the immigration and asylum policy for third countries persons by conferring a competence to the union countries, some member states considered that the transfer of powers to the Community was in conflict with their own national constitutions. Thus, the French Constitutional Council was of the opinion that the new provisions could

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[16] Charles Vermotten, „Europe a 25: Le fossé Est-Ouest peut-il être comblé?", *Problèmes économiques*, no. 2820, 13 aout 2013. In 2002, the pattern modelul Boeri şi Brucker considered that the majority of the migrants shall install in Germany claiming an annual flow of 300,000 entries in order to preserve the long term active population stability.

[17] Directive 89/48 on 21 December 1989, Directive 92/51 on 18 June 199, CJCE, Decision Vlassopoulou, C - 340/89.

affect the exercise of the national sovereignty, which required a constitutional revision.[18]

However, the transfer to the Community pillar of matters of asylum, immigration, civil judicial cooperation - which remain linked to the intergovernmental cooperation, was not complete, because, in parallel, a number of transition exemptions have been provided, the deadline being 1 May 2004. After this period, the transition from unanimity to qualified majority was possible only in accordance with a vote by unanimity.

The opening of the Union to the East imposed the taking into consideration of the establishment of an area without borders. In this respect Member States had to adopt common rules regarding the border crossing. Another important step achieved at Amsterdam targeted the integration of the Schengen Agreement in EU law. Initiated in 1985 by the founding states except Italy, the Schengen area designed as an additional tool to support the Internal Market came into force in 1995. Based upon the elimination of the internal customs barriers, Schengen Area claimed corresponding strengthening control of the external border surveillance.[19] The legislative framework has been complicated by the division of the acquis between two three pillars and a number of exemptions which admitted the opt-outs participation of the United Kingdom and Ireland. We have to observe that, in the prolongation of the Tampere European Council conclusions of October 1999, the specific provisions related to the Treaty of Amsterdam have not generated significant advances capable of generating build a common policy.

The Commission's initiatives were not innovative in implementing effective measures pledging to strengthen the general European security. Instead, the legislative proposals consisted in action planning, conclusions, recommendations or Green Papers [20]

It is worthy to note that several opinions which draw the attention on the future challenges related to the internal security dimension were brought forth in the period preceding the works of the European Convention. Therefore, several topics which were relevant by that time, are at present subject of concerned discussions, for examples, the need to set a perspective in the field of the migration policies, the possibility to orient some migration sources to economic sectors, in accordance with the demographic dynamics of the EU, the delegation of the responsibilities regarding the common interest in matter of security only to the states close to the external borders, as well as the need to be more involved in assuming shared charges.[21]

In the context of the Presidency of the EU Council, France proposed a pact on immigration aiming at strengthened European surveillance through

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[18] Pierre Rodière, *cited works,* p. 205.

[19] The Convention on the Schengen Agreement signed on 26 March 1995. According to art. 2, the internal frontiers can be crossed at any point without a passport control.

[20] Hubert Haenel, *Police et Securité dans l'Union européenne*, Fondation Robert SCHUMANN, 2003, pp. 28 – 29.

[21] Paul Masson, Rapport d'information. *L'Europe face a l'immigration: quels objectifs quels moyens*, Delegation pour l'Union européenne du Senat, no. 438, 22 juin 2000.

conducting a systematic control both foreigners entering the European territory and European citizens, for reasons related to terrorism and combating immigration.[22] The project was not pursued at European level, being considered as a means of strengthening the police and security policies of member states. Meanwhile, there were proposals at the European level encouraging the increase of the legal migration.[23] Promoting the values of freedom of movement, EU, unlike the US or Australia, became As a consequence of the next enlargements, an attractive force for the citizens in its immediate neighbourhood, it under the announced expansion into Central and Eastern Europe.[24]

We appreciate the same lack of vision and political will with a view to the conditions for granting asylum, which should have been materialized by the elaboration of minimum harmonized minimum rules. Therefore, we agree with the opinion affirming that the constant increase of the asylum seekers at the beginning of 2000 within the main Western states needed a different treatment.[25] With a view to the proposal of Directive on minimum standards for the receiving of the asylums, the Members states were charged to establish the restriction period of time on the labour market. Taking into consideration the differences of the national approaches, the Commission should have adopt harmonized provisions. Also, the instrument provided for determining the Member State responsible for examining an asylum application presented in a Member State – the Dublin Convention, failed to achieve their objectives.[26] In the same way, for example family reunification European Court of Justice, took into account the promotion of a European political space of European citizens.

3. Challenges in the period post Lisbon Treaty

Under the Treaty of Lisbon, the immigration policy is carried out according to the ordinary legislative procedure, which stipulates the conditions for entry and exit, the right of the national of third countries in regulated and unregulated stay, as well as specific norms for border crossing, short stay and passage of internal borders.[27] To what extent national authorities or the European Commission implemented the provisions of the existing framework is a question for which the answer is out of difficult question. Indeed, the period of laxity initiated by some Member States on the entry in the Union of citizens from the former Yugoslav Republics in the late 90 had met another increase scale while the challenge of demography declining in most Member old Europe has not been tackled by means targeting relief of family policy. Hence, the hypothesis that we introduce refers to the lack of response of the national authorities in relation to

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[22] Document adopted by the European Council, 24 September, 2008.

[23] Elped Guld, Jan Niessen, *Developing Immigration Policies of the European Union*, Klawwer Law International, London, 1996.

[24] Didier Bigo 'Immigration controls and free movement in Europe' dans *International Review of the Red Cross*, Vol. 91, N° 875, September 2009, pp. 579-591.

[25] Hubert Haenel, *cited works,* p.30.

[26] Only 6% from the applications made between 1998-1999 led to a take in charge by a Member state.

[27] TFUE, Art. 77 – 79.

serious events that have affected the security of Member States but have not received coherent positions in return.

The external dimension of the Union had directly influenced the internal security policy. The international role of the Union is characterized primarily by the efforts to adopt and implement a new European Neighbourhood Policy as a corollary of strengthening of the rule of law and providing freedom of movement for the partner states.[28] Successively, the citizens of the Western Balkan States or from adjacent Eastern border of the EU were recognized the right to travel with short travel visas within the Union, as a way to encourage their efforts to get closer to the European standards. However, was this effective policy, if we assume the European labour market imperfections and external challenges? The cumulative effect of the lack of a genuine common migration policy seems to be disastrous because the Union is paying at present the absence of coordination in order to manage the entries within its space.

Schengen Area credibility was again put into question in the context of the Arab Spring Tunisian refugees, when Italy issued temporary residence titles of 6 months duration generating high controversy between Member States and Brussels.[29] In relation to current challenges in the field of migration, it is difficult to give an answer about failures on the functioning of Schengen. While the positive effects are undeniable - boosting economic activity, increased foreign tourism and intra-Schengen area critics believe the main problem stems from the hesitant management of the external borders. This has become particularly serious in intensifying the flow of migrants + 870% between April 2014 and April 2015 and that certain Member States - Greece - fails to provide effective border controls. Obviously hesitation on strengthening Schengen added to a tense situation created by the presence on the territory of a number of European migrants 800 0000.[30]

Considering the current impasse in which the Union is now, due to the terrorist and migration threats are still options for the reform of Schengen area, while retaining its key original objectives? Maybe at a larger extent than the Euro zone, Schengen was a bridge between the EU - 15 and EU – 25. Any disclaim to its advantages would lead to an abandon of the European project. From the legal point of view, the Treaties contain no possibility for a country to give up membership in the Schengen Area or be excluded. Moreover, reforming or leaving the Schengen requires a unanimous decision. Also, if the economic effects are difficult to be quantified, it is certain that the exit would act in favour to reinstall border controls with important personnel and logistics costs.

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[28] Communications of the High Representative for Foreign Affairs and Security Policy and of the European Commission March 2011 "A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean, May 2011, A New Response to a Changing Neighborhood", May 2012, Delivering on a new European Neighborhood Policy, and March 2013 "Working Towards a Stronger Partnership".

[29] European Council, Conclusions June 2011. France and Italy required to the European Commission ton the reestablishment of the internal controls for a period from 6 months up to 2 years.

[30] Marietta Karamanli, „Comment délégitimer l'Europe", *Le Monde*, 27 septembre 2015.

The position of the Member States towards this phenomenon is different, European solidarity is generally ignored. So, after the Heads of State and Government of the EU have rejected the European Commission's proposal for allocating the refugees through mandatory quotas among Member States, the European Council from 25 – 26 June 2015 set free to each Member State to decide how many asylum seekers can be received and which are the selection criteria to be applied.

The terrorist attacks of 13 November in Paris have revealed several faults in the security systems of Europe's Schengen area, having direct impact on the extension of terrorism. First, insufficient cooperation between Member States requires an urgent mobilization of Europe. To this aim, it is needed to build a Europe of security that, based on police and security services and unified information, should prevail to avoid another failure and to save both Schengen area and, in extension, the free movement.[31]

In order to combat the terrorism that threatens them, all the European countries must be aware there is an urgent need to implement effective action and undertake specific charges. It is important that some advanced views put behind the EU Council meetings - eg. Schengen zone creating a small, articulated around Benelux, Germany, Austria, the exclusion of such countries that refugees are unable -Greece - could not take shape before reform arrangements have a chance to be convened. Given that the first line of severe controls procedures concerns not only Italy and Greece, states from the Central and Western Balkans – eg. Hungary, Austria, Slovenia, Croatia, the latter not being a Schengen Member, the position of Romania and Bulgaria will become extremely fragile at the European level, unless a short formulating and unequivocal commitment to European values while promoting a steady and fair cooperation is not put in effect. All these approaches arguing an unequivocally need to reform the Schengen area must be corroborated in junction with an ongoing development of dialogue with the countries of origin in terms of identifying problems and especially the mobilization of resources allocated to contain migration.

Conclusions

If at the beginning of the European construction, the free movement and residence had a complementary nature, we can say that since the establishment of European citizenship, the initial meaning has changed to a large extent. At present, the free movement of persons appears as a tool acting to stabilize a political Europe.

Freedom of movement should not be considered as an end in itself, it must be accompanied by a strengthened participation of citizens in public life. This requires at short time common rules for visas jointly with the treatment of asylum applications or penalties

The relationship between the free movement of persons and EU internal security, a critical is the correct assessment of permissiveness Schengen area.

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[31] A une semaine de l'attentat, „L'Europe de Schengen au pied du mur", *Le Point*, 20 novembre 2015.

The relationship between the free movement of persons and EU internal security is at a critical point according to the current assessment regarding the capacity of Schengen area to ensure a safe and stable Europe. The debate on the need for reform is claimed by the way of response to illegal immigration, phenomenon unknown at the level of 1985. It is to note that along the time an extended common judicial framework has been installed, but not achieved because it is still unambiguous. The main challenge concerned the possible containment of uncontrolled immigration, while the abolition of internal borders requires a corresponding reinforcement of the external borders. Naturally, the Schengen logic passed from intergovernmental cooperation, which has proved its efficiency to integration, without taking into account foreign policy challenges. Consequently, a number of questions are of concern:

- Signs of this serious phenomenon, the biggest migration in Europe since the Second World War are old, but they were not properly interpreted by European official. The role of Frontex and the creation of a European police guard could better help the common immigration policy, which has to be based on solidarity and responsibility of all States In this context, strengthening

- Refugees are a challenge for the internal services of each Member State given the complexity of phenomena to be handled. Therefore it is essential to adapt the migration policy to the needs and capacities of each receiving state.

- We hired a firmer diplomatic dialogue with the governments of countries of origin for their increased context responsibility towards the phenomenon of immigration in Europe. This crisis could be mitigated through a direct intervention on the causes that led to destabilize the southern flank of the Mediterranean.

- It is important to reconsider the instrument of regularization, a strong pressure in order to facilitate entries and unregulated stay.[32]

In conclusion, we consider the time has arrived for Europe to act with more responsibility and political will to answer to a highly complex issue as migration. This policy is not and should not be a national issue but an European issue and it must be resolved promptly, efficiently, responsibly and with solidarity. The question concerns the European will to intervene as a whole. The chances are few but still exist.

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HOW TO CUSTOMIZE A POLITICAL AND ELECTORAL CAMPAIGN. A CASE RESEARCH OVER AN ELECTORAL EVOLUTION BETWEEN 2008 AND 2012

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Abstract: The study below aims to provide a political approach to the electoral campaign practices in Romania by correlating the political and the electoral marketing theory with the electoral reality, trying to find the key to success in politics for individuals. The study presents a case research over an electoral evolution of an MP who will be named in our study as "X", in order to exemplify better how the electoral marketing techniques influence in a considerable proportion the electoral score, if they are applied on a medium and long term, not only during the electoral campaign.

Keywords: elections, electoral campaign, political marketing.

Introduction

An electoral campaign, an image campaign or any other marketing activity is related to a political project, a politician or a political party. All those listed aspects are made by applying the most efficient electoral strategies regarding the right determination of the objectives assumed, the selection of the target in order to obtain the votes, the establishment of the political campaign themes and the intelligent use of the media communication forms. All these method are also known as "political marketing".

There are two situations where we can find a politician during his career: the first one, when he is a candidate and the second one when his mandate compels him to seek for the voters' confidence in order to achieve legitimacy and popular support.[1] The continuity message that already became a leitmotif can't go further without the proof of the public benefit activities that the candidate had achieved during his term. It is inefficient to show loyalty for a citizen who isn't able to identify not even a single political project or a bill that can make a candidate different.

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[1] Dorina Tudor, *Political and Electoral Marketing* (academic cours, without year), p. 35.

Theorethical aspects

In Romania, the political marketing is the subject of only a few studies and it is often irrelevant for the public, as long as the citizens declare that they are not influenced during the electoral campaign. However, the polls reveal every year that the principle information source for the people is the television and at the national level the electoral campaign is made through it.

In Romania, according to the electoral law no. 35 from 2008, an electoral campaign is "the period when the electoral competitors engage propaganda activities in order to determine the electors to vote for them."[2]

In fact, the purpose of an electoral campaign is the "sell" of an electoral product. Basically, the political marketing does nothing more than taking the market principles and adapting them to the political area. *"The vote in communication terms is in fact the political communication feedback"*[3] and also the electoral campaign one.

The political marketing develops the conscious level for the politicians about the existing problems, the electors' opinions and needs, trying to find a solution for all these aspects, in chance of votes.

The electoral campaigns are, without a doubt, the most important moment of every political marketing activity. Their formal aim is to inform the electors about the candidates and to help them understand better the politicians positions regarding the national and/or the local agenda, the causes that they and their party fight for, that for, as we already know, an important procent of the electoral mass tends to express a political vote (for the party, not for a person).

A case study: the electoral evolution of X, during the period between 2008 and 2012

The electoral profile. A short presentation of the political activity

X started in politics in the early 2000s, in a right wing party`s 5th district organisation. The local councillor mandate in the 5th District of Bucharest was its first representation dignity. The opposition that X made during this period against the social-democrat mayor stood X out.

Its target group was the electorate who, from the economic perspective is framed as a middle category, having high school or higher education. During the campaign the personal image was built on its youthand professions, being a lawyer and a mediator. X promoted itself as a young politician who militates in the Parliament for the citizens' interest, being willing to listen and resolve its voters' problems.

The electoral campaign tagline in 2008 was "Your lawyer in Parliament". The qualitative research commissioned by the party revealed the following characterization for X: *"I think it is the winning choice"*, *"it says all"*, *"being*

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[2] Law 35/2008 regarding the election of the Chamber of Deputies and the Senate, updated, art. 2, character m.

[3] Alfred Bulai, *Political analyses and electoral marketing*, (academic course, S.N.S.P.A.), Bucharest, p. 72.

there for those who voted, like a lawyer." Regarding the voters opinions for campaign posters, the studies have shown the public perception about the main and official photography: "*young*", "*professional*", "*lawyer*", "*education*", "*style*", "*modest*", "*elegant*" but also "*arrogant*".

X continued during the term, to consolidate the already created image and to find under its profession a support in the relationship with the citizens. X 2008`s slogan stood as a tag in all this period with the purpose to identify itself with this. For X, the lawyer idea developed as a leitmotif for every campaign. The lawyer image, in the sense of a justice maker, became its first quality and even if X wanted so, it couldn't let it behind. Even its party membership became irrelevant in this context.

In order to develop this image in the electoral campaign it started the project called "For fair laws" which aimed to study the voters opinion regarding the activity an MP should promote and implement. In fact, the public consultation was an informing campaign over the MP`s condition and its relationship with the citizens, in the context of the new electoral law which brought the uninominal poll.

Right after the parliamentary elections in 2008, X was elected vice-president of Abuses Investigation, Corruption and Petitions Committee, due to the political profile it gained. In this sense, it started within the personal blog, a special tab where every user had the possibility to notify an abuse.

In 2009 X was the President of the Parliament`s investigation committee for Monica Iacob Ridzi`s corruption case. From this position, X published many articles on his blog which revealed public aspects about the work session, decisions and personal opinions regarding this subject.

The rights defender profile have been strengthen starting with may 2010 when X was named secretary of the Justice, Discipline and Immunities Committee in the Chamber of Deputies.

So, the political profile was built within the Justice`s fundamental values by promoting mediation as a way of solving conflicts and a method for relieving the courts which were blocked by the huge number of pending cases.

Trough this kind of approach, the relation between the parliamentary activity and the representative of the individual interests gained the sympathy of those that work in liberal profession, such as lawyer, doctors, mediators etc. In neighbourhoods like Cotroceni, Panduri or 13 September, which are situated in the constituency where X was elected as an MP, we can find an important number of people who work in this field. An argument in this sense we can find in the constituency`s database[4] which reveals that a part of the social-democratic electorate empathises with X, even if they sustain that they wouldn't vote for X's origin party.

X tried to individualise itself in relation with the entire political scene and even with its own party, during X first term, by organising various activities and events, avoiding politicization. So, the strategy used is less common among MPs and candidates, as they prefer to rely on the electoral score of their party. Using this method could be the right choice when a politician fears to be damaged by

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[4] The 22nd constituency`s database was made gradually through the follow-up of each event organized by X. It includes comments from voters who have participated in various activities.

the leaders' actions and public declaration, at a given moment when it is possible to stand outside of the people`s choice. As we have already said, this can be a great way for a politician to make himself a local leader in the spirit of the uninominal poll. The result was that for the people, X became more than a party politician, being perceived like a simple human being, a representative, an MP.

Surveys made in 2008 showed that the people do not perceive X as a strong politician, but as a newcomer in politics, who decided on its own to run for a seat in the Chamber of Deputies.[5]

In the context of the new regulations in the electoral field, this is definitely an advantage, that for voters aren't anymore tend to vote for parties, but for individuals.

The local activity. The parliamentary office

X campaign`s headquarters, situated on Petre Ispirescu street became a parliamentary office after the elections. Here it started the activity which later transformed into the most appreciated and known activity among the electorate, the weekly public audiences. This first location of the parliamentary office, located in an area which included a part of the captive electorate of the social democrat mayor, in the neighbourhood Sebastian-Mărgeanului, the voter turnout was steadily low, showing a lack of interest of residents for political activities. This fact did not allow X and its party to undertake activities in order to achieve its target voters. Therefore, The Parliamentary Office moved its headquarters within the Panduri area, among the potential voters. This decision was the correct option which led to the connection with the MP`s electorate.

In order to generate a positive impact, the MP implemented many activities for promoting its office headquarters and the contact details by using letters, greeting cards and business cards. In this sense, X used its blog where were posted many articles about the weekly audiences or about the way that petitions are solved.

The strategy of popularizing an institution that for many represents only an address registered in a folder, has the aim to strengthen the political image already created by inducing the idea of a politician close to the people, who makes his office available one day a week. The formula went further than that, voters notifications were turned into complaints directed to the local institutions, ministries or other public institutions. [6]

As an opposition MP, X had small chances to succeed in these actions. Knowing this fact, it tried to speculate as much as it could the legal possibilities. The technique "I do what I can, but at least I do something" wasn't well received by the governors because many complains weren't solved, that for them were turned into image problems.[7]

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[5] This information is a result of a focus-group made in 2008, for X`s party.

[6] See interpellation no .929B / 15-12-2009 "The road accidents around School No. 150 "Sf. Elefterie" in Bucharest." http://www.cdep.ro/interpel/2009/i929B.pdf, Interpellation no. 3656B / 18.10.2011 "The course books in public schools" http://www.cdep.ro/interpel/2011/i3656B.pdf.

[7] See the answer of the Minister of Education, Research, Youth and Sport, no. 13280 / 3.11.2011 regarding the interpellation no. 3656B / 18.10.2011- The course books in public schools"
    http://www.cdep.ro/interpel/2011/r3656B.pdf.

Thanks to the large number of citizens that asked for help at the parliamentary office the staff felt the necessity of changing the headquarters. The new position, in 13 September neighbourhood was a wise and strategic movement and it meant a new start because of the good visibility, in all the 5th district.

Weekly audiences. Since 2009, X had a permanently link with the electorate. Besides the simple correspondence, that we've already talked about, the Parliamentary Office started a weekly public programme, as ProDemocraţia Association recommends. If we read this NGO reports and publications we can say that the model suggested was completely respected.[8]

So, the problems of all kind are a subject for audiences. According to the official register, over 1,000 citizens have benefit from this service, between 2009 and 2012. As promotion is the key of every success, this activity was popularized by posting posters at the block of flats entrances.

Door-to-door and call-centre. In the communication strategy there were integrated many ways for maintaining the link with the voters. Birthdays and name's days were transformed into occasions to find out some information about the electorate. It functions like a survey. The way you receive some answers it is a good indicator. This activity was made through phone or face to face.

Events. X participated in many conferences and non-governmental NGOs events. But, X only promoted those events that contributed to achieve an objective: to be perceived as a justice and an education promoter. Every year X took part in the mediation conferences or events about the electoral crimes. X realized that there was a need for a public, so X used its participation in order to invite all those interested. This type of activity allowed X to strengthen a profile for a targeted public.

Although, the MP sustained all bike activities, even if X used the bike in weekdays just for going to the job. X addressed many complains to the attention of Bucharest's Local Police for ensuring bikers safety in traffic and it also organised a contest on its blog and the prise was a bike. Mass-media have often written that X was caught on bike in traffic.[9]

All these events weren't 100% political. We can sustain that, because X dropped out the party`s logo and used its own. So, the X fight was for a personal vote, not for a political one.

The blog was the main communication path for X. It became so read that in 2012 it was on the 9th place from 169 in politics and it had 1 000 unique users per month.[10] So X was very active on that path too. In 2010 X gathered around on Facebook, a team of teen volunteers for street activities for future campaigns.[11]

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[8] Seethe Guide made by ProDemocratia
http://www.apd.ro/files/publicatii/Ghid_birouri_parlamentare.pdf.
[9] Fun on the bikes together with politicians, in Ring newspaper.
http://www.ziarulring.ro/stiri/bucuresti/41488/Distractie-pe-biciclete-alaturi-de-politicieni.
[10] Statistics http://www.trafic.ro/statistici/alinagorghiu.ro?utm_campaign=sigla.
[11] The liberal Alina Gorghiu is seeking a team on Facebook.
http://www.ziarulring.ro/stiri/politica/19778/Liberala-Alina-Gorghiu-cauta-echipa-pe-Facebook

In 2009 X launched a book collect in order to donate them for schools in the 5th District. Finally, over 2000 of books were given to poor schools in this area. The action's success generated a 4-year campaign. The number of donors and the number of books have increased exponentially, reaching more than 12,000 books. In September 2012 X opened at its parliamentary office a free access library containing over 2,000 volumes. This fact was promoted through posters, flyers and social media. A survey made in 2012, revealed that over 86% of the citizens living in the 22nd constituency had a good opinion about opening the first free access library in the 5th district.[12]

Fig. 1 – The Top of the women pesencens on TV in October 2012

Topul prezenţelor feminine/ posturi TV

sursa: mediaTRUST
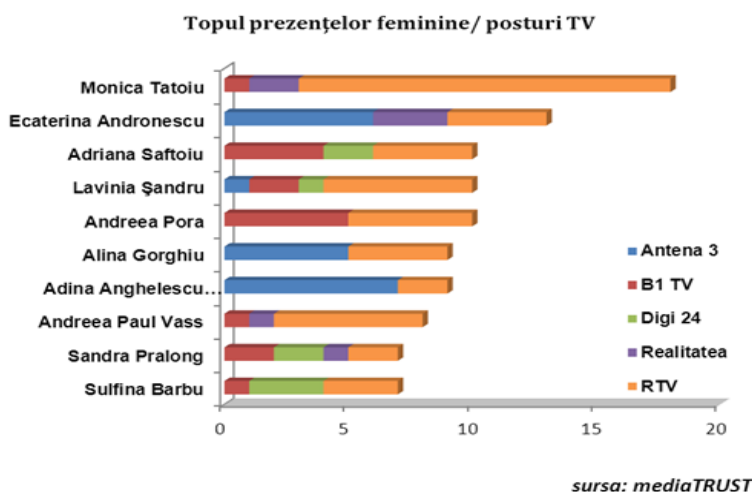
Civil society relationship. X collaborated with APADOR-CH regarding the submission of some bills. X also participated as a speaker in conferences or events about mediation, domestic violence, electoral crimes, Constitution, children rights, organised by NGOs.

The electoral campaign of the candidate for the parliamentary election in 9th December 2012, in the 22nd constituency

Continuity. X based its campaign for the parliamentary election in 2012, on the continuity idea and especially on hard promoting its activity since 2008.

As a matter of fact X wrote in a final term letter "My close friends are telling me that I'm consistent and that I don't quit till I finish what I've started. We are living now a finish level and we prepare to start a new path. For me, these years were the start of a beautiful friendship, if I can quote a famous answer I saw in a movie. "This is only the beginning". There are many things we can continue together because through a long partnership we can make it. After 9th December, I'll still be your lawyer in the Parliament." The message underlines

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[12] The statistics are the result of an internal survey, during the electoral campaign 2012 in 22nd constituency, Bucharest.

the idea that the first term wasn't enough in order to realise all that X was thinking about, all the objectives and for that the electorate should vote for it.

Objectives. All surveys made before and within the electoral campaign showed that alliance between the left wing party and the right wing one, will win the majority in Parliament with a 60% score in each constituency.[13] So, the main objective was to win a new mandate with absolute majority. The second one was to obtain a percentage equal or bigger with the alliance general score in Bucharest and at the national level.

Before the official electoral run. On 1st September, our candidate started some new activities. In this context, X launched the first free access library in the 5th District, right at its Parliamentary Office. It seems that people wished that library and the public audiences were a good way for expressing that. Many of them complained about the lack of cultural institutions in the area they were living. So, without using much money, with old books, X made that wish come true. Obviously it was a strategy, right on the electoral start with a subject that you can't reject.

Also, in this period X ran the Clean Vote Campaign which was made by sharing some brochures where the electoral crimes were listed and the way that they are punishable by law. More than that, the brochure contained some of the prevention methods.

The campaign motto was chosen after a blog contest in two levels. In the first level, users made some proposals. Finally, the best 10 of them were introduced in a focus – group.

The favourable voters liked much "I'll still be you lawyer in Parliament". Meanwhile those that aren't right-wing voters have chosen "The law in your favour", "You are my Team". Choosing continuity was choosing the first motto, as soon as the word "still" suggests closest, strengthens the promises and all that is linked with this idea. Also, a mathematical and electoral argument was that all the electoral campaign was targeted on the favourable voters, thanks to the good wave for the right-left alliance and to the high popularity that benefit X in its constituency. X was known by over 90% of the voters. Much more, X wasn't in the situation to face a heavy opponent, in the context of the decrease registered by the government party since 2010.[14]

Electoral Posters. The main electoral poster was chosen after a focus-group about the perfect visual identity. It has revealed that the proposed photos were too modified and seem like fake. The chosen one was printed on posters and banners for electoral cubs and prisms. In the constituency were placed three nets on the flats slabs (two in Sebastian and one in Panduri), two prisms (a big one near Marriott Hotel, in Arsenalului Square and a small one in front of Cotroceni

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[13] This is how political party developed in the last 5 months, in *Hotnews*.ro http://www.hotnews.ro/stiri-13752919-cum-evoluat-partidele-politice-sondaje-ultimele-5-luni.htm.

[14] The Parliamentary Elections in 2012 USL, over 60%, ARD on par wiath PP-DD in an IMAS poll, in Ziare.com,
http://www.ziare.com/alegeri/alegeri-parlamentare-2012/alegeri-parlamentare-2012-usl-peste-60-la-suta-ard-la-egalitate-cu-pp-dd-sondaj-imas-1205411.

Market), six cubs (in Sebastian area, in Panduri area, near Rahova market and two in 13 September area). 25 supporters gave their balconies as a stand for banners.

X preferred an individualised campaign, with its own motto and a personalised political image, using its party official colour. So, X did not follow the alliance identity manual. On all the advertising materials we could see a personalized logo.

In this electoral campaign were shared the next advertising materials:
- The final term letter (an activity report);
- The electoral newspaper in three editions;
- 2013s Calendar with a photo on the first page;
- The electoral borchure containing the objectives assumed for the next mandate;
- A latter shared after an electoral cube vandalism act, named „This is how they make politics”;
- The urge vote letter;

The project for the utility expenses[15] is an online program that helps House Tenants' and Flat Owners in calculating the cost of the utility expenses. This was a free soft for the 5th district citizens. X organised at its parliamentary office a training, on every Friday with all the representatives of House Tenants' and Flat Owners who were interested in using it. This was a promise from 2008s electoral campaign and it was made thanks to an IT volunteer team. Now the soft is used by 34 organisations in Bucharest.

Door-to-door supposed two action levels, one in the electoral campaign start and the second one in the final and it was made thanks to a volunteer students team. They knocked at the doors and shared some information about the campaign, some flyers, brochures, calendars. They were answering to various questions regarding nowadays politics, elections and actions. This young team who wore printed coats could be easily seen by every passer. They have been message bearers. The candidate itself agreed three days a week for a door-to-door action with the students' organizations, a local councillor and a general councillor. The moments were shot and uploaded on YouTube.

Electoral tents. Before placing these tents the staff determined the constituency`s key zones, those that are the most crowded. So, three tents were fitted across Prosper commercial centre, at the crossroad between 13th September way and Panduri street and in front of the Cotroceni Market. The 22nd constituency has a lack of crowded areas; there are no subway stations, malls or parks. Yet, the tents have been considered as key zones, as main interest points for sharing information and advertising materials and also for networking.

Call - Centre. This activity has been set within the campaign through the CATI system (Computer Assisted Telephone Interviewing). After the analysing the survey, we remarked that 77,38% of interviewed persons knew that X was a

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[15] See http://intretinerea.info/.

candidate again and 78,62% have had a good opinion about it. Also, 70,66% of voters knew about the audiences schedule, even only 9,4% used this service and 30,4% were thinking about coming at the parliamentary office. Only 14% were able to describe the soft for utility expenses and 3,9% already used it at least once. Meanwhile, 50% said that they weren't interested in. About the library, 86,56% have had a good opinion. This survey was made in two weeks on 5000 voters. The date resulted revealed that X have chosen a winning path.[16]

The electoral programme was shared as a brochure which contained details about six areas of activity: the 22nd District, Justice, Culture, Jobs and professional education, Health, sports and ecology. Also, it was published as an online application on Facebook.

1) The 22nd District: the first part was made for the residents based on continuity and it consisted in a list with all the implemented projects: audiences, the utility expenses website, community events and support for NGOs.
2) Justice is a chapter included in this brochure through the guarantee support for mediation, as a peaceful way for solving conflicts and relief courts, an Electoral Code and Constitution revision.
3) The chapter about culture was covered with the library release;
4) About "Jobs and professional education" the programme spoke about a new bill regarding the volunteering law;
5) Promoting the eco transport fits well in the section about health, sports and ecology.

Mass-media relationship

Figure 2 – The top of the women presences on TV in November 2012[17]
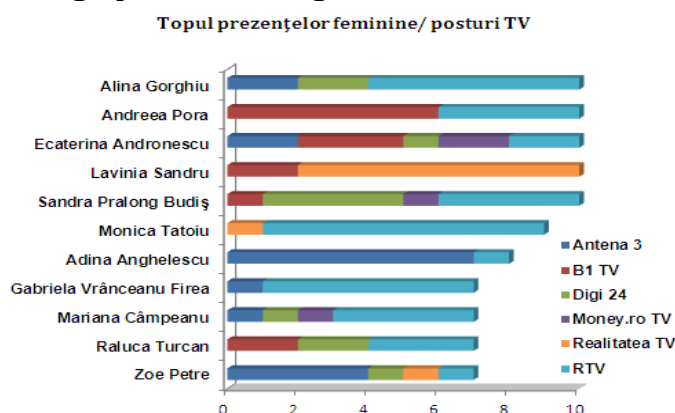
Topul prezenţelor feminine/ posturi TV

sursa: mediaTRUST

Elections results. On 9th December 2012, 17411 electors voted out of 39749 that were registered, which means a voter turnout of 43,8%. In this context, X won the mandate with absolute majority: 12412 votes (71,33%). The lower turnout was recorded in Rahova-Sebastian and the best attendance was recorded in 13 September, reaching in some polling stations even 56 percents. So, X won the first percentage in Bucharest, and 16th result in the national hierarchy, with 13 percents more than the alliance obtained at the national level.

Conclusions

We think that the best way to select some conclusions is to answer the next questions: How does a young candidate, that wasn`t seen as a politician, as the surveys revealed, reach such a high electoral result?

X candidated in 2008 from a right-wing party when it obtained an electoral score of 23,68%, with 5% over the party`s electoral result. X got the mandate through redistribution as the law figures. After four years, in December 2012 X got 71,33%, with 12 percents over its alliance. This was the best electoral result obtained in Bucharest the 16th at the national level.

We can talk about a different type of politician. X promoted another way of touching with the people and this was the main message for the favourable voters. The success of the activities X was involved in the 22nd constituency, especially the meetings with different categories of citizens, consisted in building of an affective vote, which generally has an important stability. This sentimental investment generates the rejections of defaming.

Obviously, in the electoral campaign and during the term we can indentify some weaknesses of the strategy used. Here we would mention the lack of electorate segmentation. This technique is recommended from the political marketing theories. Even if the electorate is homogeneous, people have different needs. For example, the website for the utility expenses isn't useful for the citizens living in Controceni, a residential neighbourhood. Yet, it is indicated that the information reaches all levels. The result should be two different advertising materials, one for the flats area and one for the residential neighbourhoods. The first one advises people to use the website and the second one informs about the existence of this project. Between 2008 and 2012 many petitions regarding local administrations issues became audiences' subject. In this context, I think that maybe an informing campaign about the MPs attributions could be a solution for avoiding confusions, as we are in a reality where voters don't know the main differences between an MP and a Mayor. In this is way many issues regarding the local administration made the subject of petitions that reached the parliamentary office. The MP's role in these situations is limited to mediation and advising the petitioner.

The continuity idea was an advantage, taking into consideration that the studies made before the campaign started revealed that voters needed a confirmation of their MP`s support.

Another advantage was the personalised political image. So, the citizens perceived much the human and less the politician, the lawyer and not the MP. X took distance for all the political leaders' movements and conflicts which weren't so well received.

The alliance electoral campaign promoted the change message and the injustices straighten. X didn't use the official mottos, nor the alliance electoral identity. Even some voters asked banners without the alliance signs. Obviously, this wasn't possible thus it was out of the law. On the other hand, X personalised candidacy delimited itself from the social-democrat Mayor, the 5th District Mayer, who hasn`t a good image for the 22nd constituency residents.

The continuous activity undertaken by X gave itself the opportunity to be surrounded all the time by its voters, to know their wishes and needs. During the four-year term, there was no month without sending people a greeting card, a letter or a poster about the activities of their MP.

Another major advantage was the extraordinary visibility of the parliamentary office which was placed in an accessible area, from anywhere in the constituency. The public working schedule offered an extra-value for this institution

On the other hand, the very often TV appearances made X gain notoriety and legitimacy by using legal arguments. Given the fact that it was secretary of the Justice, Discipline and Immunities Committee in the Chamber of Deputies, it was often requested for providing different statements on different issues.

The electoral campaigns in 2012 started when X was already a Vice-president of the Chamber of Deputies and with this advantage X could reach more popularity and legitimacy.

So, the success key in electoral campaigns and in politics is the continuity and the constancy in all the activities, the capacity of promoting these activities, the closeness to the people and the intentions of doing something good, even you can see a purposefulness, but voters appreciate more the involvement and the gesture of trying, even if the chances of success are minimal.

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CIVIL SOCIETY BETWEEN IDEAL AND ROMANIAN REALITY

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Abstract: In order to be a genuine democracy, a state needs a strong and independent civil society. Measuring and assessing the civil society is almost impossible because an information system that can be quantified doesn't exist. Currently, in Romania, the civil society must fight for its right to independence, if it wants to be credible to the public.

Keywords: Civil society, Non-Governmental Organizations, Europe, Romania.

Conceptualization, measuring and assessing civil society

Sociologists, policymakers and experts have not yet found an adequate conceptual and methodological repertoire to discuss civil society in a similar way to how they would discuss the economy or the government's performance. While most people understand in an intuitive way the abstract concepts of "market" and "state" and perceive the meaning of the words used by market experts and political analysts, and may even participate in debates on these issues, when it comes to civil society they do not have the same capacity of comprehension.[1]

Despite the fact that the term civil society is used very frequently, it remains largely an "uncharted territory" in a world which has been long dominated by a dual perspective of the market versus the state. The important theories of social sciences and political ideologies from Marxism to neo-liberalism relate to them, and the world's statistical information systems are designed to privilege economic, demographic and political data, leading to a neglect of data on civil society.[2]

Because lately this notion has become particularly important, the need for information and for ways to position civil society and its many dimensions in a wider political dialogue has arisen. Unfortunately, no such system exists in present times, and the civil society leaders, academics and policy-makers are frustrated frequently by the absence of a common language and the lack of basic data, which could be communicated and understood as easy as economic growth rates, data on elections or information on government spending and budget priorities.[3]

Developing an information system on civil society is very difficult and a big challenge. There are major problems, both conceptual and methodological ones,

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[1.] Helmut K. Anheier, *Civil Society: "Measurement, Evaluation, Policy",* Taylor & Francis, 2013, p. 6.

[2.] Ibidem.

[3.] Ibidem., p. 8.

involved in developing an approach for measuring and assessing civil society, to be applied across countries and regions, but which may differ significantly in terms of culture, economy and politics.[4]

At the risk of an oversimplification, we can say that civil society activity can be classified into two categories: conceptual and policy-related. Due to the frequent abstract nature of current activities in this area, there is a relative absence of an empirical systematic analysis of what civil society is and what its contours are, in other words, the dimensions or measures similar to those with which an economic or political system would be described are missing. Because of the bias from the official statistics, which we mentioned above, there are significant technical challenges in terms of scale and data availability. Many of the data units that would be part of a future civil society reporting system are not so readily available in the quantity and quality levels required. Therefore, any approach that would develop must be able to cope with the complexity of the task, while aiming to maintain a high degree of simplicity and practicality.[5]

Civil society meanings and approaches

We must address again "the proper role and appropriate balance of state, market and civil society in public life" (Naidoo and Tandon, 1999). Along with the end of the Cold War, "global associational revolution" began to soar (Salamon, 1994), helped by the expansion of a more confident middle class, and the introduction and spread of new information technologies such as the Internet, among other factors (Anheier and Salamon, 2003). In a very short period of time, the world has changed from a place dominated by the monologues of autocrats to the cacophony of conversations between individuals and groups of various kinds (Naidoo and Tandon, 1999).[6]

The term "civil society" has been given different meanings by different people at different times. Because there is no generally accepted definition, its characteristics and its borders remain often ambiguous and confusing, this vagueness increases its attraction as a common platform for ideas, projects and policy proposals to be shared by a variety of actors. Interpretations of civil society as an open space of communication and exchange have been prominent in the common usage of the term, as were the traditional meanings which revealed distinctions between societies: "civilized" and "uncivilized", the term "civilized" often described the democratic or republican West. Normative concepts associated with this interpretation remain an important part of research on civil society, for example the emphasis on minimizing violence in social relations or on "civilized" rational discourse (Kaldor, 2003). Anheier considers these perspectives suggesting a simple working definition of a "realm of non-coercive collective action around shared interests and values" (Anheier, 2004).[7]

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[4] Ibidem.
[5] Ibidem., pp. 8-9.
[6] Ibidem., p. 12.
[7] Arne Hintz, *Civil Society Media and Global Governance: Intervening Into the World Summit on the Information Society,* LIT Verlag Münster, 2009, p. 19.

Another approach that is worth mentioning is the following: the civil society represents a certain sector of society - the realm which does not belong to the state or to business. It involves forms of social interaction that are distinct from both the state and the market - from neighborhood associations to transnational non-governmental organizations (NGOs), from grassroots activist groups to trade unions.[8]

The rise of businesses that have become powerful actors in the twentieth century, many of them gaining more economic power than nation-states, led to contesting this division comprised of two sectors. While a new kind of influential player appeared in addition to the state, the civil society began to be seen as a space for oppositional citizens groups and social movements, seeking to assert their interests before the dominant players - the state and business. This created a model with three sectors, suggesting three spheres interrelated but distinct: state, market and civil society.[9]

The Cardoso Commission, in order to highlight the relations between the United Nations and the civil society, has defined civil society as "associations of citizens (outside their families, friends and businesses) entered into voluntarily to advance their interests, ideas and ideologies. The term does not include profit-making activity (the private sector) or governing (the public sector)" (Cardoso, 2004). The rules of the United Nations Economic and Social Committee (ECOSOC) which regulate the consultative status of NGOs at the UN, exclude profit-making entities (Ó Siochrú, 2004).[10]

However, such a structural definition leaves room for interpretation. It excludes actors such as profitable businesses, but it has an unclear stance on non-profit organizations that are set up to promote the business interests of companies. Therefore, we must bring into question other important characteristics to define civil society actors, first we find "purpose" which includes interests, objectives and supporters. Two issues can be identified here: firstly, civil society actors defend a common good (Mueller, 2004). While business associations seek to obtain economic benefits for a specific clientele, civil society groups are typically "public interest groups" from whose activities benefit wider social groups or society as a whole. Secondly, their main characteristic and motivation is "the search for a meaning" and the "application of principled beliefs" (Khagram, 2002), while the use of authority characterises the state, the rush for profit defines businesses.[11]

Politicians and academics from many countries have accepted civil society as a prescriptive model for the future organization of society. Edwards (2004) suggests that civil society may be "the big idea" of the XXI century. Exponents of civil society present it as a space for mediation between the private and public spheres in a pluralistic democracy. Wedel argues that "a civil society exists when individuals and groups are free to form organizations that function

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[8.] Ibidem., p. 20.

[9.] Ibidem.

[10.] Ibidem., p. 21.

[11.] Ibidem.

independently and that can mediate between citizens and the state" (Wedel, 1994).[12]

There are several versions of civil society. Mary Kaldor argues that there are five in number:
• Societas civilis - based on the rule of law and civilization;
• bürgerliche Gesellschaft - including all social life organized between the state and the family;
• activist - represented by social movements and civic activists;
• neoliberal - which includes organizations of the third sector such as charities and voluntary associations;
• postmodern - that are associated with nationalist and fundamentalist movements.[13]

These five versions are covering the scope of civil society as we understand it today. Edwards (2004) also recognizes, this variety of models, but suggests a basic Left - Right division.[14]

In the literature on social policies and the wider discourse about welfare, civil society is usually equated with the third sector composed of voluntary and community associations. However, there is a need to extend this concept of civil society to give a greater weight to the meaning of citizenship in contemporary society, to the role of social movements and future welfare in an era in which fiscal and social conservatism became dominant once again. In addition, we must take into account the variety of civil society versions, as set out by Kaldor (2003) and Edwards (2004).[15]

The concept of civil society is complex and not as unidimensional as some of its neoliberal advocates proclaim. Unidimensional presentations based on a neo-tocquevillian conception can be reductionist and sometimes can deny the importance of alternative perspectives, experiences and understandings of civil society that undoubtedly constitutes the privilege of Social Left (Bourdieu, 1998; Touraine, 2001). What is clear is that civil society is the product of modernity, including all the modes of social life which arose in Europe from the Renaissance to the present, civil society slipping outside to envelop most of the rest of the world.[16]

The theme is rooted in the theories of civil society, we mention here Gramsci's theory according to which civil society is a special center of independent political activity and an essential sphere of struggle against tyranny.[17]

This study was also influenced by the paradigm of civil society as it is seen by neo-tocquevillians. They believe that a strong associative life or a "civic

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[12.] Frederick W. Powell, *The Politics of Civil Society: Neoliberalism Or Social Left?,* Policy Press, 2007, p. 7.
[13.] Ibidem.
[14.] Ibidem.
[15.] Ibidem.
[16.] Ibidem.
[17.] Ramin Jahanbegloo, *Civil Society and Democracy in Iran,* Lexington Books, 2012, p. 82.

tradition" develops social trust (the social capital) to build democracy. The thesis mentioned above is based on the fact that voluntary civic associations contribute to democracy in two ways: they provide a buffer zone between state and citizens; and they also maintain and facilitate democratic culture (social trust and self-governance).[18]

Another important theory used in developing this study is the classical pluralist theory as it is found in the writings of Dahl, Lindblom and Almond, it talks about favoring formation of groups in society with complex membership that are in search of political influence. In other words, pluralistic theory promotes the development of social networks, formal or not, that seek to influence change both in society and in the power itself. In this system voluntary associations and public participation represent one of the keys to the functioning of democracy.[19]

Civil society in the last decades of the twentieth century

The recent history of the concept of "civil society" mixes the scholar notes with the political ones. In the 1970s, criticism of communist regimes characterized totalitarianism by fusion between state and civil society, and opponents, especially in Poland, identified the struggle for civil rights with the struggle of civil society against totalitarian state. Liberating or creating a "civil society", namely bringing close politics and citizens, and the affirmation of human rights unites citizens from the opposition, some of whom have a strong Marxist culture. Meanwhile, in the West sociological analysis of the state take as a variable the strength or weakness of civil societies.[20]

Regaining "the civil society" is linked also to the attempt to produce a doctrine of self-control in France: the formula becomes an emblem for the second left which stands out in the middle of the non-communist left by refusing to assign a key role to the nationalization of enterprises and the attention it gives to "social movements". From a political perspective, this current is completely separated from the Soviet "Marxism", and can be linked to Michel Rocard, its theoreticians are Rosanvallon and Tourraine.[21]

Civil society is also an emblem for the 1980s French liberalism, which is claiming a "minimal state" opposed "to all-state". This formula emphasizes its claim of a social and / or economic life organized by its own logic, especially associative, which would find out its dynamic in itself more than in the role of the state.[22]

But the history of the concept in the 1980s in the West is less important than its destiny in the East, where civil society seems to triumph through the collapse of communist regimes. At the same time it is revealed the difficulty of a market

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[18.] Ibidem.

[19.] Irina Bujder, *Romanian Civil Society between Performance and Public Participation*, Policy Sphere Magazine, No. 144, February 2010.

[20.] Dominique Colas, translation by Vasile Savin, Cătălin Simion, Diana Crupenschi, *Political Sociology,* Univers Publishing House, Bucharest, 2004*,* p. 291.

[21.] Ibidem., pp. 291 – 292.

[22.] Ibidem., p. 292.

economy (re)construction without a regulator state that makes the rules, the minimalist State of the liberal theorists appears as a logically and chronologically preamble of market economy, which shows a prevalence of politics over economy.[23]

After the fall of the Berlin Wall and of the communist regimes in 1989 the idea of civil society returned to the center of intellectual and political debate, and continued to gain importance throughout the '90s. Everyone was convinced that "a strong civil society" is a cornerstone of democracy, good governance, pluralism and achieving important social and economic goals. Perhaps it was even "the big idea" of the XXI century, enjoying political support in many parts of the world from the theorists, activists and policy makers.[24]

From this point of view, civil society was the beneficiary of broader intellectual and political trends that sought alternatives to the catastrophic effects of state centralization, the dominant motif of the 60s - 70s, and the human consequences of excessive confidence in the market, the defining theme of the next twenty years. Civil society has become the missing link in attempts to address the problems that were created by these paradigms, the magic ingredient that could correct generations of state and market failure and would resolve the tensions between social cohesion and capitalism that have preoccupied sociologists from the beginning of the second half of the twentieth century.[25]

This sense of optimism was supported during the first decade of the XXI century having different names such as: "third-way" politics, "compassionate conservatism", communitarian thinking, and other calls for a higher citizen participation, for the transfer and empowering of local authorities, which took place at least in rhetorical terms, in the United States, in most of Europe and in many developing countries.[26]

These ideas were formally incorporated in 2010 in the British state policy under the slogan of the "big society", as defined by the Conservative Party and the Liberal Democratic Party. The European Union began to encourage, in 2010, a greater participation in its political structures, through a legislation which supported petitions and other forms of involvement of the European citizens.[27]

The result of these actions has been the proliferation of volunteering programs sponsored by the government, "capacity-building" for nongovernmental organizations (NGOs) and replacing civil society with a set of narrower concepts, which are easier to operationalize such as: the "third sector", the "nonprofit sector" and the "social economy".[28]

The debates about the cultural and political importance of civil society have been replaced by arguments concerning its economic role, especially the benefits resulting from the provision of health, education and other goods and services,

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[23.] Ibidem.

[24.] Michael Edwards, *The Oxford Handbook of Civil Society,* Oxford University Press 2011, p. 4.

[25.] Ibidem., pp. 4 – 5.

[26.] Ibidem., p. 5.

[27.] Ibidem.

[28.] Ibidem.

which are not used in producing a profit, and are beneficial to low-income groups, following the withdrawal of states from their social obligations.[29]

What started as an additional category to the state and the market - a separate source of value and values - has been relegated to the status of a residual entity that exist only because other institutions have weaknesses, greatly reducing its potential to act as a force for structural or systemic changes. Despite the rhetoric about public participation, intrusive rules adopted by governments - which sometimes are using repression - are common. What was once a conversation about democracy and self expression has become more and more a technocratic discussion dominated by elites who seek to shape civil society according to their own interests and increasingly mimicking the language and practices of businesses and investments that function on the economic market.[30]

Tensions have existed for many years between radical and neo-liberal interpretations of civil society. Radicals are seeing civil society as the fertile ground from which to challenge the status quo and build new alternatives, while neo-liberals perceive civil society as the provider of nonprofit services necessary due to "market failure". The increasing influence of neo-liberals is leading to a growing skepticism in some circles about the power of collective action, social movements, democratic decision making, the community organizing and the noncommercial values of solidarity, aid and cooperation.[31]

In the 2000s increased the interest in finding new ways of organizing citizens (often relying on the Internet and being stimulated by other forms of information technology) and potential forms of participatory democracy, direct and deliberative in which civil society has to play a central role. These trends are based on two events. The first is the inability of conventional, representative forms of democracy to work, channel and bring together the diverse voices of citizens in modern societies, making these additional pathways to be essential for the successful functioning of the state. And the second is the continued popularity of citizen protests and other forms of direct organizing and struggle for some rights and values despite the attempts of the authoritarian regimes and the democratic ones to weaken, repress or suppress them.[32]

Romania and the independence of civil society

After 1989 in Romania civil society was almost nonexistent. Therefore, Western powers have taken the difficult task to help rebuilding Romanian civil society, aiming to democratize the country by creating a strong civil society.

The effort of the foreign powers and Western philanthropists must be welcomed, because the development of a healthy civil society is essential to a strong democratic state. It is necessary for the state and big corporations to have an opposing power when they are wrong, and this opposition should be formed by groups of citizens who have an ideal and a common goal.

[29.] Ibidem.
[30.] Ibidem.
[31.] Ibidem., pp. 5 – 6.
[32.] Ibidem., p. 6.

In Romania a large part of the civil society, specifically the existing NGOs, have political partisanship and openly support parties and politicians. Romanian NGOs have a propensity to support right-wing parties and right-wing politicians. This support is due to certain sources of funding received by those organizations.

In spite of these negative aspects which disqualify some Romanian civil society organizations, there are some independent NGOs that value their independence and their freedom of action. These independent organizations that refuse to receive funding from the government or from big companies are the true representatives of the civil society. Independent NGOs raise their voices and report irregularities and shortfalls of state institutions and large private companies when they occur, and are not obliged to support a government, a party or a politician, but their own principles from which they were born.

We will continue to focus only on a small, but important part of the civil society, namely the NGOs dealing with environmental protection. These NGOs have gradually gained importance and high visibility, protecting the environment is an ideal shared by most people because it has a direct link to the health of everyone. If the environment we live in is cleaner our health is better.

Regarding the funding sources of these civil society organizations we present below a table whose statistic data come from the Barometer of NGO Leaders conducted by the Civil Society Development Foundation (CSDF) in 2010.

Income sources of environmental NGOs

The main income sources of environmental NGOs	Percent
Contributions of members	2,6
Redirecting 2% tax from individuals	23,7
Sponsorship money from companies	10,5
Donations from companies	2,6
Grants - grants with funds from the European Union	21,1
Grants from the Romanian public authorities of their own financial resources (from the state or local budgets)	7,9
Foreign government or international institutions (other than EU)	5,3
Foreign or international Foundations	18,4
Romanian private foundations	2,6
Others	5,3

Source: Barometer of NGO leaders, CSDF, 2010 (multiple choice question)[33]

[33.] Civil Society Development Foundation (CSDF), *Romania 2010. The nongovernmental sector - profile, trends, challenges*, Coordinators: Mihaela Lambru, Ancuţa Vameşu, Mircea Kivu, Bucharest 2010, p. 150.

According to the statistical data the main sources of funding for environmental NGOs are: redirecting 2% tax from individuals – 23,7%, grants with funds from the European Union – 21,1% and funding from foreign or international foundations – 18,4%.

The lowest percentage, namely 2,6% comes from membership fees, donations from companies and donations from romanian private foundations.

Environmental NGOs complain about the lack of substantial funding, government funding for this type of organizations is increasingly reduced.[34]

There are environmental organizations whose income sources are just a little part from those listed in the table above. For example, Greenpeace is the only global environmental organization that does not accept donations from companies or governments. To maintain independence and to preserve credibility, the civil society organization relies entirely on individual donors to finance their activities.[35]

Greenpeace, one of the most powerful environmental NGO worldwide, is actively involved in solving or at least restricting the development of the most serious environmental problem that our country is facing in the recent years, namely the illegal logging of forests that occurs in an alarming rate.

Conclusion

Despite the fact that it was extensively written on civil society, it is perceived both by ordinary people and by academia or politics, as an abstract concept that can not be measured and evaluated precisely because of the lack of quantifiable information.

The independence of NGOs is vital for their optimal functioning. Therefore, the real civil society, the representative organizations take extreme measures of protection to prevent their chaining by a government or a large corporation. Although these measures may seriously affect their sources of income, respectable NGOs prefer to lose funding in the place of independence and credibility.

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[34] Ibidem.

[35] http://www.greenpeace.org/romania/ro/doneaza/

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THE FUTURE OF THE EUROZONE: DO WE HAVE A PULSE?

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Abstract: We have been accustomed, at least for the last few years, to portray the economic crisis within the European Union mostly as "money troubles" (money laundering, bank insolvency, bad investments, sovereign debt, etc.). Very rarely we considered looking for potential causes of default, elsewhere, meaning incomplete but desperately needed political integration within the European Union, ambiguous political decisions at EU level, insufficiently addressed conflicting cultures, and maybe promoting all the wrong standards of financial governance or the absence of the right financial instrument to make the promise believable – the promise to rescue the legitimacy of EU. Furthermore, how the outcome of all this great engagement to save the appearances for the entire European landscape will turn out is yet to be determined.

Keywords: economic crisis, European Union, market, euro-zone, debt, recovery.

Introduction

In a globalized world, still in crisis, any kind of evolutions regarding public strategy, economy or resources has a potential impact on the security aspect, as well. The present economic downturn is further creating social unrest and political instability in some strategic European hot spots and around the world. One important economically driven security threat lies in rising nationalism, which can translate into effects ranging from anti-immigrant violence in industrialized countries to rising protectionism that further limits international trade[1], imperiling prospects for a global economic recovery. Probably the biggest security threat posed by a prolonged recession is considered to be the collapse of regimes vital to maintaining international order. Just to mention a few examples: the collapse of the Somali state has spawned the peril of piracy in key international shipping lanes off the Horn of Africa, the food riots in Pakistan in 2008 together with the riots triggered in Egypt by sharp increases in the price of wheat[2] were also a reminder of that danger. Such unrest is becoming more common in Europe, too: Greece, France, Ireland... Nowadays, finding the most appropriate ways to deal with the effects of the economic crisis in such a way as

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[1] Michael Schuman, "The Threat of a Global Trade War", *Time*, January 9th, 2009, accessed December 3rd, 2015 at http://content.time.com/time/business/article/0,8599,1872565,00.html

[2] Vivienne Walt, "Food Prices: Hunger Strikes", *Time,* June 05, 2008, accessed December 3rd, 2015 at http://content.time.com/time/magazine/article/0,9171,1811893,00.html

to achieve a proper balance between the need to stabilize the economy and the need to maintain the required defense capability and avoid additional national security problems is a challenging issue for any government.

Since its beginnings 60 years ago, the European community has almost always stumbled from one crisis to the next. Setbacks are part of its normal mode of operation. A sense of crisis characterizes the modern European era. From it, one can draw the general conclusion that Europe actually isn't a state or a community in the national sense, which grows together organically. It also can't be compared with the ancient Greek city-states, which, despite their differences and rivalries, formed a single cultural unit. European nations are not alike, which is why they can't be merged together.

What unites them is not a community but a societal model. There is a European civilization and a Western way of thinking. Since the Greeks – from Socrates to Plato to Aristotle – Western philosophy has inherited two fundamental principles: Man is not the measure of all things, and he isn't immune to failure and evil[3].

Nevertheless, he is responsible for himself, and for everything he does or refrains from doing. The adventure of mankind is an uninterrupted human creation. Europe was never a national entity, not even in the Christian Middle Ages. Christianity always remained divided -- the Romans, the Greeks and later the Protestants. A European federal state or European confederation is a distant goal that is frozen in the abstraction of the term.

The State of play

The crisis of the European Union is a symptom of its civilization. It doesn't define itself based on its identity but, rather, on its otherness. A civilization isn't necessarily based on a common desire to achieve the best but, rather, on excluding and making the evil taboo. In historical terms, the European Union is a defensive reaction to horror. The Balkan wars in the former Yugoslavia and the murderous incendiary actions of the Russians in the Caucasus didn't happen that long ago. The European Union came together to oppose three evils: the memory of Hitler, the Holocaust, racism and extreme nationalism; Soviet communism in the Cold War; and, finally, colonialism, which some countries in the European community had to painfully abandon[4].

These three evils gave rise to a common understanding of democracy, a civilizing central theme of Europe.

In the early 1950s, the core of the union was the establishment of the European Coal and Steel Community (ECSC), the first supranational economic alliance in the area of heavy industry; (it was) Lorraine and the Ruhr area, the ECSC as a means of preventing war. As everyone knows, the counterpart today would be a European energy union. Instead, Germany decided to embark on its

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[3] Philosopher André Glucksmann, "A Dark Vision of the Future of Europe", *Spiegel online*, Interview conducted by Romain Leick, translated from the German by Christopher Sultan, August 23rd, 2012, accessed March 11th, 2015 at http://www.spiegel.de/international/europe/philosopher-andre-glucksmann-a-dark-vision-of-the-future-of-europe-a-851266.html

[4] Philosopher André Glucksmann, "A Dark Vision of the Future of Europe", *Spiegel online*, *idem 4.*

transition to renewable energy on its own, ignoring the European dimension. Everyone is negotiating individually with Russia for oil and gas, Germany signed an agreement to build the Baltic Sea pipeline despite the resistance of Poland and Ukraine, and Italy is involved in the South Stream pipeline through the Black Sea.

Complaints about the loss of vitality, decadence and downfall have been a recurring theme in European history. Of course, we are no longer constantly living on the brink of a global political and ideological catastrophe, as we did in the 20th century. And there is the special case of Greece. The country is an isolated case of sorts, with a horribly chaotic history since independence in 1830 as well as after 1945, complete with civil war and military dictatorship[5]. In many ways, Greece is at odds with Europe, being anti-German, pro-Serbian and often pro-Russian.

Debt troubles in Greece, especially, should not have surprised anyone, least of all northern Europeans. But, even when the Greek crisis erupted, leaders in Brussels and Frankfurt failed to recognize it as a close cousin of the Argentine crisis of 2001-2002, the Mexican crisis of 1994, and many others in history, including among European countries.

In Argentina, the economy turned from a free-fall depression – with GDP falling at an annual rate of almost 20% at the end of 2001 – to positive 8% GDP growth by early 2002 after default and exit from the currency board. But the transition was very ugly and costly: riots and blood in the streets and dozens of deaths; massive social and political instability and five different presidents in one year; a deposit freeze in the banking system; capital controls; asymmetric pesification[6] and the need to recapitalize insolvent banks; the loss of external market access; a sharp short-term rise in poverty and unemployment (before high growth rapidly cut both); inward-looking economic policies and political economy; the retardation of economic reforms; a sharp fall in inward FDI; and an overall change in economic policies toward long-term populism and policy mismanagement. So, breaking up is hard and costly to do and every country considering it should be fully aware of the risks of such collateral damage. And if a society finds such costs unbearable it should stick to the policy sacrifices necessary to avoid that painful break-up[7].

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[5] Philosopher André Glucksmann, "A Dark Vision of the Future of Europe", *Spiegel online*, *idem 4.*

[6] The asymmetric conversion of loans and deposits into pesos, the increase in banks' non-performing loans and the decline in value of bank holdings of government debt, left much of the financial sector virtually insolvent. To help prevent widespread insolvencies, the Argentine government pledged to provide offsetting compensation to banks. The general principles of the compensation scheme were to: (1) maintain the peso value of each bank's net worth, and (2) leave the banks hedged in terms of currency. To that end, the Argentine government issued two types of bonds to banks: (1) a bond denominated in pesos (BODEN 2007) to compensate for losses linked to asymmetric pesification; and (2) a bond denominated in dollars (BODEN 2012) that the Central Bank offered to affected banks at a discounted price of Ps.1.40 plus CER indexation to US$ 1.00, to compensate for the consequences of creating a mismatch between a bank's dollar and peso position as a result of pesification. Banks could purchase the BODEN 2012 with either BODEN 2007 or by borrowing the applicable amount from the Central Bank.

[7] Nouriel Roubini, "Full Analysis: Greece Should Default and Abandon the Euro", *Financial Times*, September 22nd, 2011, accessed November 10th, 2015 at http://blogs.ft.com/the-a-list/2011/09/19/greece-should-default-and-abandon-the-euro/

Until 2006, most Americans based their economic behavior on the assumption that nominal housing prices, even if they slowed, would not fall, because they had not done so before – within living memory in the US. They may not have been aware that housing prices had often fallen in other countries and in the US before the 1940's.

Needless to say, many indebted homeowners and leveraged bank executives would have made very different decisions had they thought that there was a non-negligible chance of an outright decline in prices. From 2004 to 2006, financial markets perceived market risk as very low. This was most apparent in the implicit volatilities in options prices such as the VIX. But it was also manifest in junk-bond spreads, sovereign spreads, and many other financial prices. One reason for this historic mispricing of risk is that traders' models went back only a few years or at most a few decades (the period of the late "Great Moderation"). Traders should have gone back much further – or better yet, formed judgments based on a more comprehensive assessment of what risks might confront the world economy[8].

In the midst of the near financial ruin in Greece and Italy, former French President Nicolas Sarkozy wondered a few years ago, whether the whole idea of one Europe needed a rethink. What he had in mind, first and foremost, was the euro, and whether any country should still be admitted into the euro zone. But there has long been more to the European Union than currency; it was never only about the money[9].

From its beginnings in the late 1950s, the EU has been a powerful promoter of stability and democracy in the region and the world. America has no monopoly on that effort. But now, as the EU turns inward in a bid to save the economies of its original members, its influence will weaken – like the euro itself.

Initially, with Europe exhausted by two world wars, fascism, totalitarianism, and the threat of communism, the EU helped to keep the peace. While combining the coal and steel communities in Germany and France served economic interests, the treaty that brought them together was always about more than dollars and cents. After all, no war could be fought, and no army could be armed, without independent access to mines and steel. Continental Europe tied its own hands to avoid slaughter in the future. The EU played the same role even after the memory of World War II began to fade.

When Spain, Portugal, and Greece moved from dictatorships to democracies, the EU helped ease those transitions by bringing each one into its fold. Once the Soviet Union fell, the EU opened its doors yet again. In 2004 alone, Hungary, Estonia, Cyprus, the Czech Republic, Poland, Malta, Latvia, Lithuania, Slovakia, Slovenia, Bulgaria, and Romania all joined the party.

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[8] Jeffrey Frankel, "A Flock of Black Swans", *Project Syndicate*, August 20th 2012, accessed at September 26th 2015 at http://www.project-syndicate.org/commentary/a-flock-of-black-swans-by-jeffrey-frankel

[9] Juliette Kayyem, "A Rethink of Europe", *The Boston Globe*, November 17th, 2011, accessed April 30th, 2015 available at: http://www.bostonglobe.com/opinion/2011/11/17/rethink-for-europe/RoTGd5fIXnRusBB V69FCOJ/story.html

Following in that same democratizing tradition, the EU embarked on an ambitious European Neighborhood Policy in response to the Arab Spring, to promote „deep and sustainable democracy" in North Africa and the Middle East. The European Union was, in other words, both carrot and stick. It had a disciplining effect on member nations. And it used membership or economic support as a magnet to lure non-member nations toward the ideals of liberal democracy its original members embraced.

The new austerity in Europe also means emerging Arab democracies will get little from the EU. Worse, the EU's well-known elitism is galvanizing the rise of new populist parties. Anti-globalization, anti-immigrant, and anti-elite, they are also anti-EU. The Netherlands' Freedom Party, France's National Front, the True Finns, and the Danish People's Party combine racism and nationalism in a perfect antidote to Europeanism[10].

Still, the EU is unlikely to disintegrate. The continent has, after all, been relatively peaceful since World War II. The EU may become smaller and more rigidly structured, as Sarkozy envisioned[11]. And by doing so it may save itself. But a certain idea of the EU will be gone. The latest sovereign-debt ratings and the details of the latest austerity package matter, but they only capture part of the drama in Europe. Even if the EU survives this fiscal crisis, it will be some time until it has the bandwidth or credibility to play the galvanizing role for the many countries now transitioning to democracy.

Finally, the Eurozone needs policies to restart economic growth on its periphery. Without growth, any austerity and reform will deliver only social unrest and the constant threat of a political backlash, without restoring debt sustainability. To revive growth, the European Central Bank needs to stop raising interest rates and reverse course. The Eurozone should also pursue a policy – partially via looser monetary policy – that weakens the value of the euro significantly and restores the periphery's competitiveness. And Germany should delay its austerity plan, as the last thing that the Eurozone needs is a massive fiscal drag.

To prevent a disorderly outcome in the Eurozone, today's fiscal austerity should be much more gradual, a growth compact should complement the EU's new fiscal compact, and a fiscal union with debt mutualization (Eurobonds) should be implemented. In addition, a full banking union, starting with Eurozone-wide deposit insurance, should be initiated, and moves toward greater political integration must be considered, weather Greece will leave the Eurozone or not[12].

Europe is sinking into a protracted period of deepening poverty, mass unemployment, social exclusion, greater inequality, and collective despair as a result of austerity policies adopted in response to the debt and currency crisis of the past five years.

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[10] Juliette Kayyem, "A Rethink of Europe", *idem 10*. See also Jack Ewing, "The Euro Zone Crisis: A Primer", *The New York Times*, May 22nd, 2012, accessed April 30th, 2015 at http://economix.blogs.nytimes.com/2012/05/22/the-euro-zone-crisis-a-primer/?_r=0
[11] Juliette Kayyem, "A Rethink of Europe", *idem 10*.
[12] Nouriel Roubini, "A Global Perfect Storm", *Project Syndicate*, June 15th, 2012, accessed November 10th, 2015 at http://www.project-syndicate.org/commentary/a-global-perfect-storm

Mass unemployment - especially among the young, 120 million Europeans living in or at risk of poverty - increased waves of illegal immigration clashing with rising xenophobia in the host countries, growing risks of social unrest and political instability estimated to be two to three times higher than most of the other parts of the world, greater levels of insecurity among the traditional middle classes - all combine to make a European future more uncertain than at any time in the postwar era[13].

In the EU, one must admit that the grave impact of the crisis was not confined to the crisis-ravaged, bailed-out countries of southern Europe and Ireland, but extended to relative European success stories such as Germany and parts of Scandinavia. Last year the Spanish Red Cross launched a national appeal to help people in Spain, the first ever. Suicides among women in Greece have at least doubled[14]. Many employed in Slovenia have not been paid for months. In France 350,000 people fell below the poverty line from 2008 to 2011.

Despite Germany's vaunted success in avoiding the high levels of unemployment prevalent across much of the EU, a quarter of the country's employed are classified as low-wage earners, almost half of new job contracts since 2008 have been low-paid, flexible, part-time so-called mini-jobs with little security and usually no social benefits. In July last year 600,000 employed in Germany with social insurance did not have enough to live on. The problems are also affecting Europe's wealthiest societies, such as Denmark and Luxembourg.

In the Baltic states and Hungary up to 13% of the populations have left in recent years due to economic hardship. Recent and often studies report a mounting trend of intra-European migration, mainly from east to west, in search of work. The jobs crisis is one of the most debilitating issues facing the EU and the Eurozone. Of more than 26 million unemployed in the EU, those out of work for longer than a year stands at 11 million, almost double the level of five years ago when the international financial crisis broke out in the US.

The social impact is immense. In Greece and Spain adult children with families are moving back in with their parents, several generations are living in single households with one breadwinner between them[15]. It is now a common

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[13] "As the economic crisis has planted its roots, millions of Europeans live with insecurity, uncertain about what the future holds. This is one of the worst psychological states of mind for human beings. We see quiet desperation spreading among Europeans, resulting in depression, resignation and loss of hope. Compared to 2009, millions more find themselves queuing for food, unable to buy medicine nor access health-care. Millions are without a job and many of those who still have work face difficulties to sustain their families due to insufficient wages and skyrocketing prices. Many from the middle class have spiraled down to poverty. The amount of people depending on Red Cross food distributions in 22 of the surveyed countries has increased by 75% between 2009 and 2012. More people are getting poor, the poor are getting poorer". Ian Traynor, "Austerity pushing Europe into social and economic decline, says Red Cross", *The Guardian*, October 10, 2013, accessed at 28.02.2015,
http://www.theguardian.com/world/2013/oct/10/austerity-europe-debt-red-cross.
[14] Helena Smith, "Greek woes drive up suicide rate", *The Guardian,* December 18th, 2011, accessed September 12th, 2015 at http://www.theguardian.com/world/2011/dec/18/greek-woes-suicide-rate-highest
[15] Angelique Chrisafis, "Greece has a strong tradition of family responsibility, but the Greek family is now coming under unbearable strain", *The Guardian,* August 2nd, 2011, accessed October 3rd, 2015 at http://www.theguardian.com/world/2011/aug/02/greece-family-ties-debt-crisis

sight to find formerly prosperous middle-class men and women sleeping rough in Milan, Italy's financial capital.

Youth unemployment figures in a quarter of the countries surveyed ranged from 33% to more than 60%. But more destructive to the families, in general, is the soaring jobless levels among 50-64 year-old which has risen from 2.8 million to 4.6 million in the EU between 2008 and 2012[16].

Despite the perceived success of Germany, Europe's economic engine, one study takes the EU's biggest country to illustrate the widening wealth gap, raising questions about the longevity of the EU's traditional model, the social market economy. According to Germany's Bertelsmann Foundation some 5.5 million Germans have lost their middle-class social status over the past decade and fallen into the ranks of low-income earners while at the same time half a million others made the grade as high-income earners.

The European economy is pegged to the euro, and "the euro is a patently flawed construct"[17]. It is flawed because its architects had not yet formed the perfect - or even an imperfect - financial union sufficient to back the unified currency, expecting its flaws to be corrected, "if and when they became acute, by the same process that brought the European Union into existence"[18].

Fiscal austerity is normally a sensible response to a loss in confidence in a country's solvency, as has occurred in parts of Europe. But the current situation is exceptional. Short-term interest rates are very low, so large rate reductions to offset the negative impact of budget cutting are impossible.

In addition, the troubled countries of Europe are part of a common currency area. This means that the other obvious tool for stimulating growth during a time of fiscal austerity - depreciating the currency relative to that of their main trading partners - is not available, either. The result is that austerity is uniquely destructive right now. Indeed, because of the harsh effect of budget cutting on growth, debt-to-G.D.P. ratios in Europe have continued to rise[19].

If stringent belt-tightening isn't the answer, what is? It's not to just ignore the deficit. Many European countries have long-run fiscal situations that are unsustainable and must be dealt with. The core of a more sensible approach is to pass the needed budget measures now, but to phase in the actual tax increases and spending cuts only gradually -as economies recover. To use economics terminology, the measures should be back-loaded[20].

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[16] "The rate at which unemployment figures have risen in the past 2-3 years alone is an indication that the crisis is deepening, with severe personal costs as a consequence, and possible unrest and extremism as a risk. Combined with increasing living costs, this is a dangerous combination". Ian Traynor, "Austerity pushing Europe into social and economic decline, says Red Cross", *The Guardian*, October 10th, 2013, accessed at 28.02.2015,

http://www.theguardian.com/world/2013/oct/10/austerity-europe-debt-red-cross

[17] George Soros, *Financial Turmoil in Europe and the United States: Essays*, (New York: PublicAffairs, 2012)

[18] George Soros, *cited works*.

[19] International Monetary Fund, "Balancing Fiscal Policy Risks", *Fiscal Monitor*, World Economic and Financial Surveys, April 2012,

http://www.imf.org/external/pubs/ft/fm/2012/01/pdf/fm1201.pdf

[20] "They should also be specific - no more deficit targets without specifying how they'll be achieved. Instead, lay out right now whose taxes will be raised and what spending will be cut. And

Europe faces a "lost decade", with the number of people trapped in poverty across the continent set to rise by up to 25 million by 2025 unless austerity policies are reversed, according to a damning new report from aid agency Oxfam[21].

Using research carried out by think-tank the Institute of Fiscal Studies into the likely impact of austerity on poverty levels in the UK, and extrapolating it across 27 European Union member-states, Oxfam predicted that relative poverty, defined as the number of people living below 80% of median income, could rise between 15 and 25 million people by 2025[22].

Countries in Latin America and Asia that turned to the IMF for help in the 1980s and 1990s were often forced to slash public spending and liberalize their markets in exchange for rescue loans[23].

The sovereign debt crisis in the euro-zone has seen a series of countries, including Greece and Portugal, accept swinging public spending cuts, mass privatization and drastic market reforms, as the price of receiving bailouts from the IMF and their European neighbors.

Financial markets have been calm in recent months, but a number of senior European officials, including German finance minister Wolfgang Schauble, have conceded Greece is likely to need a new rescue package, worth up to €10 billion.

The European Union softened its demands for austerity eventually when it gave France, Spain and four other member states more time to bring their deficit levels under control so that they can support their ailing economies. The EU Commission, the 28-nation bloc's executive arm, righteously assumed the countries must instead overhaul their labor markets and implement fundamental reforms to make their economies more competitive. Issuing a series of country-specific policy recommendations in Brussels, Commission President Jose Manuel

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specify when the measures will take effect - either along a set schedule, or tied explicitly to indicators of economic recovery. (…) History shows that countries have done such gradual consolidations before. In 1983, for example, the United States passed a Social Security reform plan that was back-loaded in the extreme: it specified tough changes, including higher taxes and increases in the retirement age, to be phased in over almost three decades. They've all occurred on schedule and without debate. Likewise, in 1995, Sweden laid out a plan to cut its deficit by a whopping 8 percent of G.D.P. over the next three years. It worked as intended. Australia did the same thing on a somewhat smaller scale starting a year later". Christina D. Romer, "Hey, Not So Fast on European Austerity", *The New York Times*, April 28th, 2012, accessed March 3rd, 2015, http://www.nytimes.com/2012/04/29/business/austerity-is-no-quick-answer-for-europe-economic-view.html?_r=0

[21] Teresa Cavero and Krisnah Poinasamy, „A Cautionary Tale. The true cost of austerity and inequality in Europe", Oxfam Briefing Paper no. 174, September 2013

[22] "The European model is under attack from ill-conceived austerity policies sold to the public as the cost of a stable, growing economy, for which all are being asked to pay. Left unchecked, these measures will undermine Europe's social gains, creating divided countries and a divided continent, and entrenching poverty for a generation". Teresa Cavero and Krisnah Poinasamy, „A Cautionary Tale…", Oxfam Briefing Paper.

[23] "These policies were a failure: a medicine that sought to cure the disease by killing the patient. They cannot be allowed to happen again. (….) We were founded in 1942 because of the famine in Greece; no one would have believed we would be here 70 years later, saying, Greece is in a terrible state". Max Lawson, Oxfam's head of advocacy.

Barroso said that the pace of reform needed to be stepped up across the EU to kick-start growth and fight record unemployment[24].

The Eurozone's current muddle-through approach is an unstable disequilibrium: kicking the can down the road, and throwing good money after bad, will not work. Either the Eurozone moves toward a different equilibrium – greater economic, fiscal, and political integration, with policies that restore growth and competitiveness, including orderly debt restructurings and a weaker euro – or it will end up with disorderly defaults, banking crises, and eventually a break-up of the monetary union. The status quo is no longer sustainable. Only a comprehensive strategy can rescue the Eurozone now.

Unfortunately, Germany resists all of these key policy measures, as it is fixated on the credit risk to which its taxpayers would be exposed with greater economic, fiscal, and banking integration. As a result, the probability of a Eurozone disaster is still luring. And, while the cloud over the Eurozone may be the largest to burst, it is not the only one threatening the global economy.

Conclusion

After perking up a bit in late 2014 and earlier this year, the recovery in the 19-strong euro area lost momentum in the second quarter of 2015. The slowdown is disappointing given the extent of temporary stimulus that the euro-zone economy is receiving. The fall in energy prices caused by the collapse in the oil price is acting in much the same way as a tax cut. The European Central Bank has now been conducting its venture into quantitative easing – creating money to buy financial assets – since March.

As China's markets fall and drag down global equities, the underlying concern is undoubtedly how much a slowdown in the Chinese economy will affect the rest of the world. Indeed, the European Union is China's largest trading partner, and China is the second-largest trading partner of the EU after only the US. Capital goods imports have also fallen, which will affect countries like Germany, where exports to China account for around 2% of GDP. Germany itself accounts for the bulk of EU exports to China.

Looking ahead, the prospects for the euro-zone economy are mixed. The slowdown in China will tend to hold Germany back since the Chinese market has been a lucrative one for its exports of investment goods and luxury cars. On the other hand, the decision to rescue Greece in its third bail-out in five years removes uncertainty about a possible disruptive exit from the monetary union, at least for the time being.

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THE ETHICS OF USING COUNTERMEASURES AS INTERNATIONAL PUBLIC LAW SANCTIONS

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Abstract: In the past, the international society was also characterised by the fact that, in lack of international organisations, in case of armed attack or other violation of international laws, the personal self-defence was predominant, with the affected state being the only one which had the possibility to react towards what it considered a violation of its rights, resorting to force in order to protect its own interests. The events occurred after the Second World War, especially consecrating in art. 2 p. 4 from the UN Charter, the principle regarding the prohibition of force or force threatening in the international relations, had as a result the fact that reactions with the title "armed countermeasures" were, mainly, forbidden, with only the use of countermeasures without weapons being accepted.

Keywords: countermeasures, sanctions, ethics, international relations, unfriendly or illicit acts.

Introduction

Internationally, the judicial order is ensured by the respect and good will of international law regulations and where necessary by constraining measures directly applied by the states, individually or collectively, or through international organisations, towards the state which violated such regulations[1].

The international liability is an essential institution of the international public law, by which are established, mainly, the consequences which derive for an entity due to violation of international obligations[2], representing also the mechanism by which the reestablishment of lawfulness is achieved – in the situation in which the judicial order is despised by a state or by another subject of international public right[3].

One of the fundamental principles of the international right, initially formed on a custom path, but also consecrated in numerous international treaties[4], still constitutes the peaceful settlement of differences[5], better corresponding to an ethical compartment in within the international relations.

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[1] Dumitra Popescu, *International Public Law*, Titu Maiorescu University Press, Bucharest, 2005, pp. 16-17.

[2] Dumitra Popescu, Felicia Maxim, *International Public Law*, Renaissance Press, Bucharest, 2010, p. 322.

[3] Pierre-Marie Dupuy, *International Public Law*, 7th edition, Dalloz, Paris, 2004, pp. 457 and so on.

[4] Aurel Preda-Mătăsaru, *Public International Law Treaty*, 3rd edition, revised and completed, Lumina Lex Press, Bucharest, 2008, p. 245.

[5] U. Thant, *Message on the Occasion of United Nations Day*, 1965, Press release, doc. SG/SM/22, p. 2, quote by Dumitru Mazilu, *Law of Peace. Treaty*, All Beck Press, Bucharest, 1998, p. 158.

In the situation in which an international dispute, occurred due to the violation by a state or another international subject of international public right laws or just the rights to another subject, not settling peacefully, the injured party was admitted to undergo certain limited measures, with a constraining title against the one which performed such actions, meant to avoid the use of armed forces[6].

The constraining measures may have different functions, in report to the conduct of the state applied, serving to re-establish the broken legality, when removing the unfriendly acts or to re-establish the rights that were broken and to have the done damage repaired[7].

In principle, the imposed sanctions by the states and international organisations consist in *countermeasures,* where the following may be added: *armed self-defence, military blockade*, and also other sanctions applied to *the member states of an international organisation* in order to respect certain provisions with mandatory title, from its constitutive document or other obligations of international titles; these sanctions can consist in the loss of member quality of the respective organisation, suspending the right to vote within it, payment of some damages in the account of the organisation.

Countermeasures as fair measures in order to restore international order

If in ancient times the war constituted the only modality of external policy of states to deal with differences, the nature of the relations between them being given by the force report, in present times *the countermeasures*, as constraining means without the use of armed forces, serve as purpose the determination of the state against which actions breaking the international right norms or rights of another state[8] are taken to be ended.

These constraining measures are classified in the notion of "self-help", considering that, in lack of a central organism which it would apply them, the states could resume, themselves, to such measures[9].

Studying the doctrine and international practice we find that the term of *countermeasures* is referred to certain actions or omissions of a certain state which, although by their nature considered illicit or unfriendly, they become correct, ethical, when are practiced in self-defence and in order to cease the unfriendly or illicit international act committed by another state, that situation being similar to the cases of self-defence, according to which, the injuring act committed in order to remove a direct material act, immediately and unjust, is justified, by the removal of the illicit title of the respective act.

The countermeasures are composed of measures with titles of *retort* and from *retaliation.*

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[6] Lori Fisler Damrosch, David J. Scheffer, *Law and force in the new international order,* Rev. by Jean Manas, in HILJ, vol. 36, no. 1, 1995, pp. 245 and so on.

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[8] Dumitra Popescu, [1], p. 271.

[9] Grigore Geamănu, [7], p. 434; Ion Dragoman, Claudia Militaru, Cerasela Panduru, *Current International Relations*, Intergraf Publishing House, Reşiţa, 2004, pp. 201 and the following.

• *The retort* is composed by retaliated measures with licit title[10], consisting in *acts of judicial, administrative or court nature[11],* taken by a state towards the unfriendly acts, contrary to the international uses, committed by another state.

From retort measures the most frequent are: the reduction of imports from the state which committed unfriendly acts, increase of custom tax, disregard of its acts, not granting financial help, expulsion of the retorts of that state, forbidding the access in ports of citizens and ships of the same state and so on.[12]

• *Retaliations* are measures taken by a state as an answer to the illicit act of another state, in order to determine it to cease those acts and to repair the eventual damages[13].

These are:
- *peaceful*, as *interpreting commercial relations, mail, telegraphic, expulsion of some citizens of the guilty state or the refusal to fulfil the obligations from the concluded agreements between the two parties*,
- *military*, representing any act which involves threatening or the use of armed forces against the author state of the illicit fact, respectively *the embargo, blockade, naval demonstrations,* etc.[14].

In present times the use of retaliation without the use of force is wanted and just for the cases in which the involved states or international organisation cannot succeed to settle the dispute peacefully.

The retaliations, as reactive facts against an illicit act of another state, have the aspect of violations, by the state considered affected, of the international right norms, towards the author state of the initial illicit act; however they lose the illicit title, because a natural reaction is constituted to the illicit fact of the other state. As a result, the retaliations become illicit facts, which have as purpose to force the author state of the initial illicit act to cease this activity and/or to bring it to justice[15].

The retaliation forms often used are: the embargo, boycott, the peaceful marine blockade and the breakup of diplomatic relations.

In the doctrine[16] more applied economic sanctions are presented as examples along the time, as in:

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[11] Jean Combacau, Serge Sur, *International Public Law*, 5th edition, Montchrestien, Paris, 2001, p. 212.

[12] Grigore Geamănu, *International Criminal Law and International Crime*, The Academy Publishing House, Bucharest, 1977, p. 119.

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[14] Antonio Cassese, *International Law*, Oxford University Press, New York, 2001, pp. 232-233.

[15] Dumitra Popescu, *Sanctions in International Law*, in „European Integration And The Romanian Law", 4th volume, Dacoromână Press Tempus Dacoromânia Comterra, Bucharest, 2006, pp. 175-176.

[16] Andreas F. Lowenfeld, *International Economic Law*, Second Edition, Oxford University Press, New York, 2008, pp. 892 and following.

- *The total embargo*, which is the most severe form of economic sanction, because it means the complete interruption of exports, imports, financial and departing transactions;
- *freezing the financial assets*, which proposes the blockade or freezing of financial assets of a certain foreign state, especially the banking instruments;
- *control of imports*;
- *control of exports*, which constituted a the first instrument of The Cold War (1948-1989) between the western states lead by the USA and the communist states of Eastern Europe lead by the USSR.

In order to respect the ethical character of countermeasures, the states are not allowed to resort to them whilst an illicit act has been committed, but the injured state needs to request, *in advance, the ceasing of the illicit act and the repair of the done damage.* When the author state of that violation denies those requests and negotiations fail and it could be resumed to countermeasures, but only after notifying the state in cause of such decision made.

Likewise, the countermeasures need to be *proportional with the suffered damage*, considering the gravity of the illicit international act and the injured rights; the principle of proportionality manifesting itself both in the resuming to countermeasures and also in fixing their size.

Conclusions

The sanctions of public international right, named *countermeasures,* thus represent, those illicit actions or omissions or originally unfriendly, from the international right point of view, but which become licit, because they are an answer to illicit acts or to non-protocol behaviour of another state, respective of another international organisation[17].

According to the last codification works from within the International Right Commission, regarding the international responsibility of the states, the injured state by an illicit international act of another, becomes the holder of a "new right", the one that resumes to countermeasures[18].

In present, the actions or promoted inactions by the states or by international organisations – as reactions against some facts considered as being unlawful in report to the international right or law, but unfriendly, committed by other states or international organisations – is characterised by the fact that, mainly, both the force threat and the use of force within those is forbidden, as resulted from art. 2 p. 4 and art. 51 from UN Charter, exception constituting the measure of *self-defence*, and, by case, the decision of the Security Council[19] of the UN.

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[17] Ionel Cloşcă, *About International Disputes and Ways of Resolving Them*, The Scientific Publishing House, Bucharest, 1973, p. 5 and the following.

[18] Raluca Miga-Beşteliu, *International Law. Introduction in International Public Law*, 3rd edition, All Beck Press, Bucharest, 2003, p. 30.

[19] Olivier Russbach, *ONU vs. ONU. Seized International Law*, C.N.I., Bucharest, Coresi Publishing House, 1999, p. 152.

The modern international right is very restrictive not only with regard to the measures which involve the use of armed forces but also in regard to the appliance of those constraining measures, which will be used only in totally exceptional cases, when there are extremely serious reasons that the dispute would never be settled peacefully[20].

The unilateral disposition of countermeasures may be contrary to certain ethics of international right, when the perception of the victim state over the illicit character of the triggering fact proves to be groundless. Therefore, the reaction has a licit title. And the so called victim state becomes an author of the original illicit international act.

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[20] Grigore Geamănu, [7], p. 435.

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ETHICAL ISSUES OF HUMAN RIGHTS

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Abstract: There are a number of concerns of scientists about cloning, organ transplants or euthanasia, but the use of scientific procedures should be in accordance with the requirements of ethics, so as not to affect humanity as a whole and the fundamental human rights and, therefore, more relevant international instruments relate to ensuring equality of all human beings and the need to protect the species. However, such processes have generated widespread controversy in legal doctrine, but also at the level of personalities from the cultural and political area.

Keywords: ethics, human rights, cloning, transplantation, euthanasia.

Introduction

Depending on appearance over time, according to the doctrine[1] three generations of rights can be identified, but currently there is a view[2] about the fourth generation.

The first "generation" is represented by the *civil and political* rights, based on the principle of equality and non-discrimination that occurred in domestic law, as enshrined in declarations of bourgeois revolutions, constitutions and other laws, and were then formulated as obligations on states, not to violate them. Gradually, these rights were guaranteed, the States are obliged to take action and conduct certain activities to ensure compliance, including by individuals.

A second "generation" includes *economic, social and cultural* rights, which have appeared in domestic law and assume obligations on states to create the necessary material and social conditions of the individual participation in the economic, social and cultural life.

A third "generation" includes rights called "*solidarity*", appeared directly on international level, as for their realization are involved not only the individual countries but also the international community as a whole; it is about collective rights, related to the existence and operation of the community, such as the right to peace and security or the right to development and a healthy environment – natural and social[3].

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[1] Raluca Miga-Beşteliu, Catrinel Brumar, *International Protection of Human Rights*, IV Edition revised, Universul Juridic Publishing House, Bucharest, 2008, pp. 108 and following.
[2] Victor Duculescu, *Legal Protection of Human Rights*, Lumina Lex Publishing House, Bucharest, 2008, pp. 48 and following.
[3] Mircea Duţu, *Environmental Law*, C.H. Beck Publishing House, Bucharest, 2007, p. 129; Mircea Duţu, *About the need to recognize and meanings of fundamentel rigth of human to a healthy environment,* in Law Review, no. 9-12/1990, pp. 42 and following).

Currently, we are talking more and more about the emergence of a *fourth generation of human rights*, related to the *existence of human beings as a species* that we consider to be increasingly more complex in the context of the unprecedented development of science, which will generate new dilemmas in the alternatives of the planet population.

At the General Conference of UNESCO in 2005 are cautioned that, besides the beneficial effects are also possible harmful ones that can result from irrational use of scientific knowledge and medical practice, showing that uncontrolled science presents certain dangers for the development of human species, postmodern and post humanist bioethics, drawn by any normative biases, can lead to a frontal attack against the very idea of human dignity and against the human rights.

Considerations on some ethical issues raised by the use of certain scientific processes

• *Cloning human beings* generates new human rights issues, first experiences triggering many controversies as they can generate changes in the laws of biology.

The first to react was the Church condemning a possible attempt to perform such experiments on humans. Official reactions of politicians were negative and deepened public concern. Thus, the French President Jacques Chirac urged reviewing the legislation, to avoid the possibility of "duplication of human beings", recalling that French law banned since 1994 experiments on human embryos and the creation of such embryos for research without the ban but explicitly cloning, as process of "duplication" of living beings. Malaysia decided to ban human cloning, allowing in exchange that of animals. Malaysian Government considered human cloning as unethical and against divine creation. Also, the former US President Bill Clinton prohibited the use of federal funds for research on human cloning and asked scientists from the private sector to withdraw from such kind of experiments[4].

In legal terms, the Council of Europe adopted on 4 April 1997 in Oviedo (Asturias) the Convention for the protection of human rights and human dignity to the application of biology and medicine – Convention on Human Rights and Biomedicine, the preamble which states that it is necessary to take measures against "acts that could endanger human dignity through improper use of biology and medicine", but this does not mean hindering international cooperation to ensure the progress of science, in certain the limits imposed by the need to comply with certain ethical rules.

The essential idea of the Convention is that *defending human being should prevail over interests of science and society*, only tests to detect genetic diseases being authorized medical purposes. Thu, interventions can be undertaken on human genes, but only for prevention, diagnosis or therapy, being forbidden such experiences that aim to modify genes to offspring, and using the technique

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[4] http://www.roportal.ro/articole/clonarea-82.htm, respectively *The National Courier*, VIII year, no. 1825, Monday 10 March 1997.

of fertilization "in vitro" is permissible in order to choose the sex of the child, but only if it would avoid a serious hereditary disease.

• *Organ transplant* is a relatively new legal and ethical problem, which appeared closely related to the progress of medical science.

Initially, organ transplant between twins seemed the only one possible, several kidney transplants being performed successfully to twins in Boston, while other cases were struck by the refusal of the body of receiving person to receive foreign organ. In 1952, however, a kidney graft from a mother to her son was successful, and later in the development of science, which led to the discovery of immunosuppressants were conducted smoothly, many transplants of kidney, heart, liver, lung or pancreas etc.

Transplanted organ comes usually from clinically dead persons, and if double organs, it is taken and the people who agree to live only with a kidney or a liver lobe etc. Essential for the transplant is the blood group compatibility between donor and recipient, and more recently Membership to HLA antigens (identical or similar).

• *Euthanasia* is another controversial issue concerning human rights, addressed differently by countries of the world.

The question of ethics and legality or illegality of euthanasia was discussed ever since, starting from the idea issued in 1623 by Francis Bacon that the mission of medicine is not only to restore health, but also to "sweeten" the pain and suffering caused by disease and could "procure for the sick patient, when there is no hope, a sweet, quiet death". The medical mission would be to ensure the agonizing patients an exit from this world *more easily*[5].

In the early nineteenth century, to the original meaning of euthanasia, to ensure the patient a peaceful death (*without contributing to the suppression of life*) was also added the idea of *abstaining from any treatment that would prolong the end unnecessarily*, and towards the end century appeared another meaning of euthanasia: *to end the patient's life deliberately, at his request, when there is no longer any hope for saving it.*

It can be appreciated that euthanasia is "*active*" when the patient's death occurred due to a third party act, or "*passive*" when death intervenes after stopping a treatment; literature cites the so-called "*voluntary euthanasia*", which refers to the practices of some communities that dispose of older people and children weak or deformed, as the called "*social euthanasia*" concept used by the Nazi regime in Germany to eliminate 200,000 malformed children, frail or incurably ill.

Starting with the twentieth century there were some legal concerns related to euthanasia, but now relative regulations on this subject, worldwide, are quite low, despite the interest the issue of euthanasia has woken.

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[5] Francis Bacon, *Instauratio Magna*, 1-er part, lilv. IV, chap. II, trad., Philosophical Work by M. Boillet, Hachette, Paris, 1834, quoted in *Encyclopedia Universalis, Corpus 9, Etymologie-Fungi imperfeti*, Paris, 1990, p. 113.

Conclusions

Fully agreeing with the prohibition of cloning human beings in their entirety, as might occur incalculable risks, we believe, however, cloning could be used therapeutically to create human organs for transplant, thus offering individuals the right to save their lives in very good conditions, without the need to call on immunosuppressants, as for the grafts received from other peers, which would reduce the costs incurred by medication post-transplant and eliminating the risk of organ rejection, which, in many cases, results in the loss of life.

Regarding the right to take organs belonging to persons clinically dead, opinions are divided, there is controversy as to time of clinical death. There are also differences of opinion on the need for the consent of family members of the deceased from which the organ is taken to be transplanted, in some countries the tacit or expressed agreement of that person when he was alive is sufficient; if removal from living persons their consent is needed, but organ donation should not be based on any transaction to obtain material benefits.

Regarding euthanasia we note that some states recognized validity of vital testament - *which does not include an active help to die* - others admitted assisted suicide or some forms of euthanasia.

The Netherlands was the first modern state to legalize expressly *active euthanasia* in April 2001, giving patients in the terminal stage, the right to request ending their lives through a lethal injection, so doctors don't violate the criminal law by "granting" this death by compassion (*mercy killing*). Also, in Belgium, on 16 May 2001, the deputies decided legalization of euthanasia under certain conditions and in compliance with procedures.

Assuming admission of euthanasia procedure, we consider that provisions may be perfected, as, for example, they are limited to regulating cases where the patient may wish to die, without referring to the possibility of euthanasia of patients who cannot express their will, due to serious health condition.

In our country euthanasia is sanctioned[6], but we consider that normative acts on this issue, adopted in the two countries can be a source of inspiration for countries that decide to stick out of criminal illicit euthanasia, both passive and active, where there are no chances to return to a normal state, appreciating that prolonging the suffering makes no sense, to the detriment of others or to the detriment of the dignity of the person concerned.

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