THE 12TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

The Youth of Today - The Generation of the Global Development

Protecting Dignity in Virtual Space

Ana Alina Ionescu Dumitrache[1], Océane Rivoire[2]

Abstract: Human dignity is a fundamental right protected by national, regional and international law. This research is about the ways of protecting this right in the particular space of virtual life, space which became more and more conductive to abuses of dignity. Human dignity in the digital age is being contested very openly today, and the Universal declaration of Human Rights (1948) must update every time because of new ways of abuses. This research is mostly based on cases studies of the European Court of Human Rights, so as to highlight that the more someone expose his/her life on the Internet, the more he/she will be at grave risk for his/her dignity because of a lack of protection. Finally, this research argues that nowadays, in a cyber-time like our, protection of dignity becomes a fundamental issue to deal with.

Keywords: human dignity; cyberspace; protection of human rights; dignity abuses

1. Introduction

The idea of human dignity dates back to Ciceron: it's the public recognition of a social status and something intrinsic within human being. In legal domain, this notion appears, mostly, in the Universal Declaration of Human Rights (1948). There is, and it's a fact, a difference between "explain" (from outside) and "understand" (from inside). If dignity is doubtless hard to define and explain, we can however understand it, in the way of visualizing it or perceiving the intended meaning of it. Therefore, dignity seems to be a relational reality we need to experiment, i.e., life from the inside, to understand it. If someone is alone, without anyone in front of him/her, it would be hard for this person to feel what dignity is, both his/her and other's one. Thus, dignity is understandable without needing a preliminary explanation, without needing an instruction booklet. But another question needs to be asked: do we need to be reasonable to be worthy? If so, what about human beings we consider as monsters: Hitler, Saddam Hussein. This said, we must outline that human dignity is an end, and not a means.

In this study, we first aimed to raise the important issue of protecting dignity, i.e. understand why our dignity is so important, and how people can be ensure that their dignity is protected. Then, we focused on dignity in virtual space, this new connected world in which people can be anonymous (or they think so), and we asked ourselves how, in a legal term, can dignity be protected in this specific space?

[1]Coordinator, Senior Lecturer, PhD, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, Corresponding author: alinadumitrache@univ-danubius.ro.
[2] Erasmus Student, Jean Monnet University of Saint-Etienne, France, Address: 10 Rue Tréfilerie, 42100 Saint-Étienne, France, E-mail: oceane.rivoire@hotmail.fr.

2. The Fundamental Notion of Dignity

2.1. The Importance of Dignity for Human Beings

Words can be hard to find when describing human dignity, but we all have experienced it. We know what it feels like to be treated as inferior, misunderstood, or excluded. However, as Donna Hicks said (Hicks, 2013), "When people treat one another with dignity, they become more connected and are able to create more meaningful relationships". And it's really important, because she's right when she said, talking about her book, that when we have a wound to our dignity, there is nowhere to go; no 911 call, no emergency room.

The Universal Declaration of Human Rights (UDHR) of 1948 marks the importance of human dignity by mentioning it in the first line of the preamble[1] and also in the first article[2]. This really means that human dignity is considered as a fundamental base of a human life. One of the reasons is that human dignity means autonomy of people (for instance talking about care, inhuman treatments are prohibited to respect one's dignity, that's why the consent of the person is needed, to avoid abuses). But human dignity also represents a motivation for people to respect themselves. Indeed, matters of dignity show up everywhere (at work, school, home…), anytime someone is in contact with one another. That's why dignity involves a mutual effort among people to listen, understand opinions and values and include one another in conversations.

The definition of dignity given by the Oxford dictionary underlines the value of it: it's "the state or quality of being worthy of honor or respect"[3]. Therefore, dignity is a sense of pride in oneself that a human being has with him/her. We can add that humans deserve dignity just because of the fact that they were born and they're human.

Moreover, human dignity is, as said before, a base of a human life, but it's also more than that: it's a base of all other human rights. Rutger Claassen was on the same mind by saying that human dignity is the justification of human rights: "respect for dignity takes the form of protection of human rights to the development of these capabilities (at least, rights to the "social basis" of such development)"[4]. Furthermore, dignity can make people act when they know that their rights are in danger. This is exactly what happened in Tunisia, when people took the problem in the street. Indeed, their slogan was "Dignity, Bread and Liberty". Everyone who protested took the risk to be killed but refused to be intimidated. Then we can wonder what pushed them to do it, knowing they could be shot at any time. Egyptian journalist Nawara Najem suggested an explanation (Najem, 2011, p. 1): "maybe the answer was human dignity. No force, however tyrannical, is able to deprive human beings of this".

All in all, human dignity is an important issue because it's an existential question preceding all other important ones: dignity's question has to be asked before questions of meaning of life, or even meaning of being. But is the notion of human dignity clear enough to be the foundation of all other human rights?

---

[1] Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, UN General Assembly. (1948). *Universal Declaration of Human Rights* (217 [III] A). Paris, preamble.

[2] All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood, UN General Assembly. (1948). Universal Declaration of Human Rights (217 [III] A). Paris, article 1.

[3] Dignity. Def 1. *Oxforddictionaries.com*. Web. 19th of March, 2017.

[4] Rutger Claassen, *Human Dignity in the Capability Approach*, Published in: (Düwell, Braarvig, Brownsword, & Mieth, 2014, pp. 240-249, 6).

2.2. The Meaning of Dignity and its Definition in International Human Rights Literature

Usually, people refer to dignity with the word respect. Nevertheless, there is a difference between these two notions. Dignity is integrity, a quality of the person being elevated, whereas respect is a viewpoint, a quality of the person doing the elevating. Human beings are born with dignity, but respect is something people acquire through actions. Many people tried to define human dignity, but many failed; and that's why it can be really difficult to understand this notion, in addition to the misunderstanding with other notions. Archbishop Vincent Nichols said: "the precise meaning of "human dignity" is increasingly being questioned, particularly now in ethics and law"[1]. Thus, he mentioned all the blur there is around the notion of dignity. Moreover, perception of human dignity is different from one to another: certain people will say that they lost a part of their dignity because they've been involved in a humiliating situation, but other will say the contrary for the exact same situation.

But human dignity is a central question in United Nations' declarations, all the more when this organization has an important part to play in a State reconstruction so as to the State doesn't prevent its citizens from their fundamental rights, and not to escape from its responsibility to support social institutions to ensure human dignity of all human beings. And this is exactly why it's important to understand what dignity is and how writers define it. Human dignity has been defined from the philosophical, religious and legalistic perspectives. Kant was one of the first to enunciate the philosophical roots of human dignity. The legal perspective of this concept was coined at the end of the Second World War. Indeed, digging deep the question of human dignity has led to the coining of human liberty, equality and fraternity because many people died and suffered in the hands of their fellow human beings during the war. According to Kant, human beings have an intrinsic worth, which is dignity, and which makes them valuable: "A man with inner worth will sooner sacrifice his life than commit a disreputable act, so he puts the worth of his person above his life. But the man without inner worth would sooner commit a disreputable act than sacrifice his life. In that case, he sets a value on his life, indeed, but is no longer worthy to live, because he has dishonored humanity and its dignity in his own person" (Kant, 1779, p. 149).

Here again, if most of the writers of human literature agreed to define human dignity as a concept someone has just thanks to his/her born, they don't have the same way to see and deeply define it. For instance, according to Jean-Paul Sartre, a human being is worthy thanks to the choices he can make: "Man is nothing else but that which he makes of himself. […]But what do we mean to say by this, but that man is of a greater dignity than a stone or a table? " (Jean-Paul, 1946, p. 28). By saying this, he emphasizes the dignity of human beings: someone who would just correspond to a preliminary definition would have no responsibility, no choice so no dignity. Then, Andrew M. Song uses two conceptions of dignity to define it: a meritocratic and a democratic one. The first one, he says, is "a term of distinction. It not only

[1] Speech of Westminster Archbishop Vincent Nichols to the Thomas More Society at Old Hall, Lincoln's Inn, London, available on http://rcdow.org.uk, 25th of June, 2012, p. 1.

differs from individual to individual, but it can also be acquired or lost depending on one's conduct in society". Whereas the second one is "guaranteed in all persons in equal share simply by virtue of being human and thus cannot be damaged or disowned, in principle" (Song, 2015, pp. 3-4).

2.3. The Protection of Dignity in International Documents of Human Rights

After Auschwitz, human rights took a big importance in people's mind. Indeed, after World War Two, a desire of putting together universal principles on which everybody who agree emerged. The idea was that this reunion of principles would be a permanent bulwark against arbitrary action of state powers. And this is how, in 1948, was created the Universal Declaration of Human Rights[1], in which protection of dignity is mentioned in the preamble and in the first article. As these sources has already been mentioned, there is no need to go further on this idea. In the same year was created the Basic Law for the Federal Republic of Germany, and the first article protects dignity[2]. We can notice that dignity is, most of the times, mentioned in the beginning of law texts. It shows the importance of dignity, and therefore, the importance of protecting this fundamental right. Similarly, the Geneva Conventions of 1949 provide that "outrages upon personal dignity, in particular humiliating and degrading treatment […] shall remain prohibited at any time and at any place whatsoever"[3].

Above all, respect of dignity is mostly mentioned concerning cares of people, i.e., in the medical field. And this protection of dignity shall be respected since the birth; thus, it's another way of saying that dignity is at the base of a human life. Let's introduce a case analysis of human dignity as an example: In a case about a pregnant woman who used cocaine and endangered her unborn child, the Alabama Supreme Court affirmed (8-1) that the word "child" includes "an unborn child," and that the law therefore "furthers the State's interest in protecting the life of children from the earliest stages of their development"[4]. In this case, the fetus should have been considered as a human, so the respect of its dignity was fundamental.

At the contrary, we can also find law texts which do not mention dignity at all. This is the case of the UK's Human Rights Act of 1998[5]. Similarly the UK courts have, unlike the European Court of Human Rights, rarely recognized the basis of human rights indignity. Does it mean that UK doesn't protect dignity as much as other countries?

[1] *UDHR*, already mentioned.
[2] Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority. *Germany: Basic Law for the Federal Republic of Germany* (Germany), 23 May 1949, first article.
[3] International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Treatment of Prisoners of War, Third Geneva Convention*, 12 August 1949, 75 UNTS 135, common article 3.
[4] Ex parte Sarah Janie Hicks. Petition for writ of certiorari to the court of criminal appeals, In re: Sarah Janie Hicks v. State of Alabama, Enterprise Circuit Court: CC-09-268; Criminal Appeals: CR-09-0642, 18th of April, 2014.
[5] *United Kingdom: Human Rights Act 1998*. United Kingdom of Great Britain and Northern Ireland, 9 November 1998.

3. The Combination of Dignity and the Modern World of Virtual Space

3.1. The Main Ways of Violating Human Dignity through Virtual Space

Although previous studies have acknowledged that apparition of Internet means a better way of life for people (either to help students (Rajshree & Day, 1998, pp. 99-110), or to socialize teenagers (Valkenburg & Jochen, 2009, pp. 1-5)), we must say that violations of rights are more frequent on the Web. Traditionally committed in real life, offences to human dignity took a new dimensions on the Internet. Assertion of freedom of expression and feeling of anonymity make easier for authors the commission of an offence to human dignity. Spreading images, texts, videos on the Internet which are an offence to human dignity is possible by several ways: channels, social media, spams … The lack of rules leads to detrimental abuses of human dignity. Offences to human dignity can be found in many means: public defamation, insults, or false allegations.

The main social channel Facebook had quite a few cases concerning violation of privacy by hacking people's data, which is considered as a violation of dignity. On the 26th of August, 2013, an American judge approved the fact that Facebook will pay 20 millions of dollars for the use of mentions "Like", or names with commercial purposes[1]. And this problem is mainly because of an unclear delimitation of either the Internet is a public or a private space. Indeed, the Internet is a space of communications, information, discussion, which is public. However, it seems that these practices often lead to publicize contents which are most of the times private.

Moreover, one of the main recurring problems on the Internet is hijacking. People who use virtual space in order to steal someone's data or even identity. Did your credit card never has been hacked? According to statistics, you may be part of these persons. Indeed, in 2015, domestic fraud in France represents an amount of 522, 7 millions of Euros[2]. That's why punishment of this offence is an increasingly question. In a comparative study of French and Romanian criminal law on the subject of hijacking, we can notice that France always punishes by imprisonment and fines, whereas Romania always punishes by imprisonment. As an example, hindering a system operation is punishable by 5 years of imprisonment and 75 000€ of fine in France, and by 3 to 15 years of imprisonment in Romania. Another example can be given with alteration of data: it's punishable by 3 years of imprisonment and 45 000€ of fine in France, and by 2 to 7 years of imprisonment in Romania. Besides, sentence enhancements can be ordered by a French judge (article 323-5 of criminal Code) and attempts are also punishable.

Finally, we can add that offences to human dignity on the Internet are possible even after the death of the person, according to respect of death. And when offences on human dignity are spread via media, one and only one question is recurrent: how can we accommodate freedom of expression and protection of human dignity?

3.2. The Jurisprudence of European Court of Human Rights in this Domain

The Court focus on protection of dignity of under-age children, as we can notice in a recommendation of the European Parliament and of the Council[3], dealing with the protection of minors and human

[1] Facebook will pay 20 millions of dollars for a litigation on sponsored commercials, web article, available on France24.com, 27th August 2013, p. 1.
[2] Based on the annual report of the French Banking Card Observatory, 2015, p. 19.
[3] Recommendation 2006/952/CE, 20 december 2006, *Official Journal of the European Union* L 378, 27.12.2006.

dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry. This recommendation encourage to take a further step towards an establishment of an effective cooperation between Members States, industry and other concerned actors, regarding protection of minors and human dignity on the Internet. This recommendation completes another recommendation of the Council[1], which deals with the same subject, taking account of recent technologic developments. This relates to making sure that the content of the audiovisual services stays lawful, respects principle of human dignity and doesn't cause damage to development of minors.

De facto, even if the Internet is still a new legal object for European Court of Human Rights, its legal trends regarding freedom of expression on the Internet presage a contradictory approach and show some suspicion from the European judges on this communication network. However, when judges underline the "specific nature" of the Internet against traditional media, it often is to justify bigger restrictions of liberties than with other media, or to find out specific duties and responsibilities on the one who express themselves on the Internet. For the Internet as for other media, the Court validates certain prohibited expressions for categories of discourses, which the Court evaluates they exceed the limits of acceptable criticism. Let's take the case "Willem v. France" as an example[2]. In 2002, a mayor announced on his website his will to boycott Israeli products in his municipality. The Court ruled that even though his intention was to denounce Israeli policy, calls for a boycott was a discriminatory measure. This way, we can notice that the Court deeply tries to protect rights, especially dignity, which was the question here as discrimination was the matter.

3.3. How to Stop the Violation of Dignity through Virtual Space?

There is a main way to protect dignity through virtual space: the right to be forgotten. New EU data protection legislation aims to create a uniform set of rules across the EU fit for the digital era, improve certainty as to the law and boost trust in the digital single market for citizens and businesses alike. Clear and affirmative consent to data processing, the right to be forgotten and tough fines for firms breaking the rules are some of the new features. The regulation will replace the EU data protection directive which dates from 1995[3], when the internet was still in its infancy. It will replace the current patchwork of national laws with a single set of rules designed to give citizens more control over their own private information in a digitized world of smart phones, social media, internet banking and global transfers. The right to be forgotten is an important step for people: it gives them a control on their numerical life. The issue has arisen from desires of individuals to "determine the development of their life in an autonomous way, without being perpetually or periodically stigmatized as a consequence of a specific action performed in the past" (Mantelero, 2013, pp. 229–235). The right to be forgotten is the concept that individuals have the civil right to request that personal information be removed from the Internet.

[1] Recommendation 98/560/CE, 24 September 1998, *Official Journal* L 270, 07/10/1998 P. 0048 – 0055.
[2] *European Court of Human Rights*, 16th july 2009, Willem v. France, n°10883/05.
[3] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Official Journal L 281, 23/11/1995 P. 0031 – 0050.

And who is the main actor concerned? Google, of course. Google will begin blocking search results across all of its domains when a search takes place within Europe, in an extension of how it implements the "right to be forgotten" ruling. In September 2015, the French data protection authority threatened to fine Google if it did not scrub search results globally across all versions of its website, not just European domains. The company claimed doing so would have a chilling effect on the free flow of information, but has now relented. As a matter of fact, Google said it has received 386,038 "right to be forgotten" removal requests since the ruling, and has accepted approximately 42% of them. This shows how deep people care about their privacy on the Internet, or in any case, how they became aware that their rights, including dignity above all, can be abused. But as usual, there were drifts, and that's why this European decision is a matter of debate. For instance, an unhappy doctor who received negative feedbacks by his patients, or even a man condemned to possession of child pornographic images. The first asked Google not to make the negatives comments public when someone is searching for his name, and the second doesn't want to see anymore his name related to articles mentioning his past.

Consequently, it seems that Internet is the one which truly controls rights nowadays. But do we have to adapt to the new technological age or at the contrary, fear for protection of our rights and "fight back"?

3.4. A National Legislation that can Inhibit Insult and Slander through Virtual Space

Of course, even though protecting dignity through virtual is harder, we can find some national legislations that inhibit insult and slander through this space. Some problems arose with the Internet, and hate speech online is one such problem. Any response that limits speech needs to be very carefully weighed to ensure that this remains wholly exceptional, and that legitimate robust debate is not curtailed; and any limitations need to be specified in law. The Internet's speed and reach makes it difficult for governments to enforce national legislation in the virtual world. In national and international legislation, hate speech refers to expressions that advocate incitement to harm (particularly, discrimination, hostility or violence) based upon the target's being identified with a certain social or demographic group. Much comparative research on hate speech, for example, has focused on the divide that exists between the American and European approaches to regulating hate speech. The United States has protection of freedom of expression that stretches well beyond the boundaries of speech that is tolerated in Europe. The United States' approach is strongly influenced by the First Amendment of the federal Constitution, and hate speech, being considered close to political speech, falls under its protection most of the time (Timofeeva, 2003, p. 2). Numerous European countries, have adopted an approach that not only bans forms of speech because of their likelihood to lead to harm, but also for their intrinsic content. In Germany, for example, it is illegal to promote Nazi ideology. In Denmark, France, Britain, Germany and Canada people have been prosecuted for crimes involving hate speech on the Internet[1]. Other societies have developed unique mechanisms to identify and counter hate speech. For instance, in Somalia, poets who are composing poems which are derogatory of individuals or groups, can be banned from composing new work (Stremlau, 2012, pp. 2–3). There are also some extreme examples of national laws, especially when it comes to hate speech directed at religious groups. For example, under the Bangladesh cyber laws, a blogger or Internet

[1]The Legal Project. *European Hate Speech Laws*. Available at: http://www.legal-project.org/issues/european-hate-speech-laws.

writer can face up to ten years in jail for defaming a religion[1]. However, this is contradictory to the most international treaties, which view hate speech as directed to individuals and groups, not belief systems.

The outlined differences in national legal systems create a real challenge when it comes to online hate speech. If some extremist content could be illegal and subject to removal in a European country, it cannot always be removed because their servers are often located in US where there are no legal grounds for its removal. A ready example of this kind of complications is the case in 2000, when France prosecuted the Sunnyvale-based Yahoo for selling Nazi memorabilia online. In France, it is illegal to display such items unless they are in a theatrical or museum setting. A French court ruled at the time that Yahoo had to make the auction site inaccessible to French users or pay a fine. Although it never legally accepted the French ruling, Yahoo eventually removed the auction (Timofeeva, 2003, p. 2).

So the question remains, who is responsible for monitoring and enforcing the hate speech regulations online? Is there really no one specific to point a finger at? The unification of the legislation would be useful, but it is too unlikely to set as a goal, since the roots of the differences go back to the culture and the constitutional law of the countries.

4. Conclusion

All things considered, we must admit that new uses from the Internet disrupt what is used as a reference to rights which govern the physical world. It seems necessary to extend protection of human dignity to numeric fields by the consecration of a principle of a numerical dignity right. It is clear from various case studies that the question of human dignity brings out a lot of questions in the areas of justice and equality in the society.

Nonetheless, the exception does prove the rule, and obviously there are some antithesis on the notion of dignity. Professor Pinker gives a pertinent example when he wrote an article named “The Stupidity of Dignity” (Pinker, 2008). According to him, this concept of dignity is “slippery and ambiguous”, and “leads to many contradictions”. Criticizing authors of a series of essays on dignity, he writes: “We read that slavery and degradation are morally wrong because they take someone's dignity away. But we also read that nothing you can do to a person, including enslaving or degrading him, can take his dignity away”. He claims that what we call dignity is a relative concept, that the idea we have of a worthy or unworthy conduct is definitively subjective, and that tyrannical regimes used the idea of dignity to force and impose their idea of what is a “good life”. Also according to him, the only effective use of dignity can be found in medical field, talking about cares: we should treat people “with dignity’. But he believes that even this is, in reality, synonym of a treatment in respect of their autonomy.

However, we can end remaining that dignity is the same for everyone. Could this notion apply to other forms of violations of human dignity when they’re realized on the new uses of the Internet and numeric field?

[1] *Bangladesh protesters demand blasphemy law.* Available at: http://www.aljazeera.com/news/asia/2013/04/20134661058364976.html.

5. Bibliography

Bangladesh protesters demand blasphemy law. Available at: http://www.aljazeera.com/news/asia/2013/04/20134661058364976.html.

Claassen, Rutger (2014). *Human Dignity in the Capability Approach*. Published in: Marcus Düwell, Jens Braarvig, Roger Brownsword, Dietmar Mieth (eds.), *The Cambridge Handbook of Human Dignity*. Cambridge: Cambridge University Press. pp. 240-249, p. 6.

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Official Journal L 281, 23/11/1995 P. 0031 – 0050.

Facebook will pay 20 millions of dollars for a litigation on sponsored commercials. web article, available on France24.com, 27th August 2013, p. 1.

Hicks, Donna (2013). *Dignity: Its Essential Role in Resolving Conflict*. Reprint edition, January 29, Yale University Press.

International Committee of the Red Cross (ICRC), Geneva Convention Relative to the Treatment of Prisoners of War. *Third Geneva Convention*, 12 August 1949, 75 UNTS 135, common article 3.

Jean-Paul, Sartre (1946). *Existentialism is a humanism*. Les Editions Nagel, p. 28.

Kant, Immanuel (1779). *Lectures on ethics*. Hackett Publishing Company Inc., p. 149.

Mantelero, Alessandro (2013). The EU Proposal for a General Data Protection Regulation and the roots of the 'right to be forgotten. *Computer Law & Security Review*. 29(3), pp. 229–235.

Najem, Nawara (2011). Egyptian dignity in the face of death. Article in *The Guardian*. 20th of February, p. 1.

Pinker, Steven (2008). *The Stupidity of Dignity*. The New Republic, May 28.

Song, Andrew M. (2015). Human dignity: A fundamental guiding value for a human rights approach to fisheries?. *Scientific paper*, 25th august, pp. 3-4.

Stremlau, N. (2012). Somalia: media law in the absence of a state. *International Journal of Media and Cultural Politics*, 8(2–3), pp. 2–3.

The Legal Project. European Hate Speech Laws. Available at: http://www.legal-project.org/issues/european-hate-speech-laws.

Timofeeva. Yulia A. (2003). Hate speech online: Restricted or Protected? *Journal of Transnational Law & Policy*, Vol. 12 p. 2. Spring.

Valkenburg, Patti M. & Jochen, Peter (2009). Social Consequences of the Internet for Adolescents: A Decade of Research, *Current Directions in Psychological Science*, Vol. 18, No. 1, February, pp. 1-5.

(2015). *Based on the annual report of the French Banking Card Observatory*. P. 19.

(2017). *Dignity*. Def 1. Oxforddictionaries.com. Web. 19th of March.

*** (1948). *All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood*. UN General Assembly. Universal Declaration of Human Rights (217 [III] A). Paris, article 1.

*** (1948). *Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*. UN General Assembly. Universal Declaration of Human Rights (217 [III] A). Paris, preamble.

*** (1949). *Human dignity shall be inviolable*. To respect and protect it shall be the duty of all state authority Germany: Basic Law for the Federal Republic of Germany, 23 May, first article.

*** (1998). The Impact of the Internet on Economic Education, Rajshree Agarwal and A. Edward Day. *The Journal of Economic Education*, Vol. 29, No. 2, Spring, pp. 99-110.

*** (1998). *United Kingdom: Human Rights Act 1998 United Kingdom of Great Britain and Northern Ireland*. 9 November.

*** (2012). *Speech of Westminster Archbishop Vincent Nichols to the Thomas More Society at Old Hall*. London. Lincoln's Inn, available on http://rcdow.org.uk, 25th of June, p. 1.

*** (2014). Ex parte Sarah Janie Hicks. Petition for writ of certiorari to the court of criminal appeals. In re: Sarah Janie Hicks v. State of Alabama, *Enterprise Circuit Court*: CC-09-268; Criminal Appeals: CR-09-0642, 18th of April.

*** Recommendation 2006/952/CE, 20 December 2006, *Official Journal of the European Union*, L 378, 27.12.2006.

*** Recommendation 98/560/CE, 24 September 1998, *Official Journal*, L 270, 07/10/1998 P. 0048 – 0055.

*** UDHR, already mentioned.

***European Court of Human Rights, 16th July 2009, Willem v. France, n°10883/05.

THE 12TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

G.E.O. 13: The Abuse in the Line of Duty - between Legality and Formality

Ana Alina Ionescu Dumitrache[1], Razvan-Alexandru Condunina[2]

Abstract: After parliamentary elections which have marked the end of the year 2016, the Romanian nation hoped to step into a new era, lacking political wars and ambitions of the politicians for more than a decade in a titanic battle for power, forgetting their actual primordially purpose : the welfare of the Romanian people which has provided them confidence. This fight was observed and even blamed by partners of Romania in the European Union, which, by its institutions, has taken the act and sentenced the negative effects of this political battles, factually preventing the Romanian nation to evolve on a statue by which should be regarded as an equal with the other Member States of the European Union. The Year 2017 started in a totally unexpected, with a protest at the national level, arising out of the project as regards pardon certain punishments, followed closely by the adoption of the G.E.O. 13 The new Government invested, who was watching the agreement has some regulations of the Criminal Code and the Code of Penal Procedure, with the decisions of the Constitutional Court of Romania and by the Venice Commission. Controversies created, communication faulty, misinformation and manipulation of the media which have practically split the society - made from the offense of "**abuse in the line of duty**" (the principal aim of the G.E.O. 13) a topic that deserves careful analyzed from the perspective of constitutional law, criminal law, but also of the Administrative Law, which - from my point of view, could have a decisive role in achieving this real problems. We will try in this scientific approach to expose the personal opinions on this topic, our research being supported by an analysis which correspond to the legal status of the specific regulations on the grounds and the own work designed to shape possible solutions for the subject covered.

Keywords: pardon; amnesty; abuse in the line of duty; emergency decree

1. Introduction

The incrimination of the deed of abuse in the line of duty is undoubtedly at the present time a necessity of the Romanian society. The will of the legislature criminal law was to prevent and combat the abusive acts of officials and of the civil servants. This feat was considered to be a serious and with a social threat high, as committing them by persons occupying public offices (by their nature should apply and to defend the law, to be examples of integrity and fairness) represents a true threat not only to the address of the society and the rule of law.

Should be observed outlining the concept of a ***public servant of*** the legislator in **article 175[1] from the Criminal Code**. We will notice that this notion doesn't refer strictly to the employees of the public

[1]Coordinator, Senior Lecturer, PhD, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, Corresponding author: alinadumitrache@univ-danubius.ro.
[2] Student, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, E-mail: razvan_alex_86@yahoo.com.

institutions who carries on his activity based only on the grounds of the law in order to achieve the directives the three powers (the legislative, the executive, the judicial), but treated in the same way as the public servant absolutely all persons who satisfy the services of public interest and which are invested by public authorities and under the direct control of them. The persons who shall exercise their powers in the framework of legal persons carrying out activities in the public interest or contracts with a natural person treated as a public servant is differentiated from the lawmaker and is called simple - ***official***. \This differentiation has no effect on the penalty applied to an *officials* or to *public servants* in the case that they were committed the same offenses, the limits of punishment falling by a third in the case of officials, as is clearly referred to in the said **article 308[2] from the Criminal Code** governing the corruption crimes and service committed by other persons.

Settlement of such an infringement has proved to be a two-edged sword, leaving room to multiple interpretations and abuses, reaching to use it as a weapon in the political fight.

As a result of the different interpretations and erratic practice of the courts, it has been found that that the rules of the offense of abuse of office to the service requires substantial changes in respect of both the legal content and to penalise it.

The need to alter this rule was brought to the Council and the European Parliament, by the **report of the Venice Commission[3]**. The Constitutional Court of Romania has allowed by **Decision 405/15.06.2016*[4]*** that the nuances of the contents of the formation of the offense of abuse in the line of duty are liable for the interpretation to be in agreement with the Constitution of Romania.

The two documents mentioned above, supported by the multiple of complaints from consumers and adverse reactions of the company, has led the new government empowered to adopt the G.E.O. 13/2017. This Emergency Decree has created major controversy in society both as regards the way in which it was adopted, as well as the amendments made to the content of the offense of abuse of office.

In the following we will analyze in detail, from the perspective of the said dual that generated the dissatisfaction and the movements of the street.

[1] Article 175 Civil Servant (1) public servant, for the purposes of criminal law, is the person who, by way of a permanent or temporary basis, with or without remuneration: (a) shall exercise the powers and responsibilities, laid down under the law with a view to the completion of the prerogatives of the legislative, executive or judicial proceedings; (b) to exercise a function of public dignity or a public office of any kind; (c) to exercise, alone or together with other persons within the framework of the regies autonomes, of another economic operator or of a legal person, tasks associated with the implementation of the object of activity of the latter. (2) It is also considered public servant, for the purposes of criminal law, the person exercising a public service for which it has been invested by the public authorities or which is subject to control times their surveillance on the performance of public service. (The Criminal Code, 2016, p. 73)

[2] Article 308 Corruption offenses and service committed by other persons. (1) The provisions of Articles 289-292, 295, 297-301 AND 304 relating to civil servants shall apply accordingly and deeds committed by or in connection with the persons exercising, permanently or temporarily, or without a remuneration, a definite duration of any kind in the service of a natural one of the cases referred to in Article 175(2) twice within any legal person. (2) In this case, special limits of the penalty shall be reduced by a third. (The Criminal Code, 2016, p. 115)

[3] The report on the relation between the ministerial responsibility politics and the Penal Code, adopted on 9 March 2013 - Decision 405/15.062016, p. 33, point 71 - https://www.juridice.ro/wp-content/uploads/2016/06/decizia_405.pdf.

[4] Published in the Official Monitor 517 of 08 July 2016 (M. Of. 517/2016) - http://www.monitoruljuridic.ro/act/decizie-nr-405-din-15-iunie-2016-referitoare-la-excep-ia-de-neconstitu-ionalitate-a-dispozi-iilor-art-246-din-codul-penal-din-1969-ale-art-297-alin-1-din-179919.html.

2. Considerations in Terms of the Mode for the Adoption of the G.E.O. 13/2017

Before the adoption of the G.E.O. 13, social revolt had a precursor which consisted in the ***draft decree*** formulated by the Ministry of Justice, a project that but has not been transposed into law, but which has created controversy because of the lack of communication and the misinformation of the media. Because so many people have adopted the idea that on the basis of that draft, the Government *"will release the thieves and murderers from jails",* we will try to do it in the following to clarify what the project consists in decree.

The pardoning represents an institution of criminal law, applied in the form of an act of clemency by which it has removing in whole or in part of the *penalties execution* times *switching* them in the punishment easier, producing effects on complementary penalties and accessories, sentence with the suspension of the punishment or sentence with suspended punishments under surveillance, judicial record of those condemned having regard to as recorded the sanction of criminal prosecution. The effects of this institution of criminal law are governed by **article 160[1] from the Criminal Code.**

According to the draft decree developed by the Romanian Government, we can notice that it consists of a *collective pardoning conditional*, where even the legal literature is of the opinion that this form of pardon is a form of conditioned but to remove the execution of the balance of the remaining punishment not executed (Tanasescu & Anghel, 2016, p. 208). The project contained also clear provisions regarding the nature of the punishments that will be the president, taking into account the duration of the conviction (maximum 5 years) and the convicted person (age, lack of criminal record, pregnant women, etc.), they did not constitute criteria for differentiation because they are common to all the detailed rules for the decree. Therefore it is not possible to say that this project was intended for certain persons involved in politics, as it was claimed.

The pardoning may be granted *individually* by the Romanian President or granted *collectively*, an indefinite number of persons, to the Parliament of Romania, for certain infringements or the punishment of a certain amount.

The motivation of the pardoning project was to decongestion a part of the penitentiary system, serving as a first step in the reform of this system, overcrowding of the system has brought to Romania countless rulings of the European Court of Human Rights and its partners in Europe.

In our opinion, the idea and referred to it by the people who were outraged, in principle was mistaken, since in the content of the draft decree state clearly that the condemned for crimes committed with violence against the person, against the assets, corruption offenses, service, etc., will not fall under the decree.

While the protests seemed to decrease in intensity on the draft decree, the government has adopted the G.E.O. 13/2017, which led to one of the most ample and more to the duration of the movements of the street to the Revolution in 1989. Since the adoption of O.U.G. 13 has posed problems as regards the constitutionality of the manner in which this was done. Following a meeting of the government which has started around noon, G.E.O. was discussed in the evening, being the last point on the agenda of the

[1] Article 160 the effects of the decree. (1) Decree has the effect of removing, in whole or in part, of the penalty execution times its switching to another easier. (2) Decree will have no effect on the additional penalties and measures neprivative educational of freedom, except in the case when they provide otherwise by the act by means of decree. (3) Decree has no effect on safety and on the rights of the person aggrieved. (4) Decree will have no effect on the punishments the performance of which is suspended under surveillance, except in the case in which it provides otherwise by the act by means of decree. (The Criminal Code, 2016, p. 68).

day of that meeting, which has caused the people who protest to make use of the already famous phrase *"night, like thieves"*. The time of the adoption of the was really intrusive, because it has created in the design of the public, most without legal studies, a suspicion in respect of the purpose of the ordinances.

From the point of view of how the adoption was taken, on the basis of **Article 115, alin. (4)**[1] of the Romanian Constitution, there is no fault regarding the constitutionality. The Constitution of Romania allows the Government that in extraordinary situations that will not wait, to adopt emergency ordinances, being forced but to motivate their measure an emergency or extraordinary situation, which led to the need for the adoption of an amendment in this way.

The subject of the legislative delegation was long debated in the doctrine of the legal person. Has been explained this practice as a relief to the activity of the legislative power by means of the executive power which strengthens the role of the state and of its intervention in the complexity and the effectiveness of the economic and social rights. Hardliners found that this legislative delegation can lead to the violation of the principle of division of powers in the state and the preponderant role of the bill regulating to return the Parliament, which is the representative body of the nation (Pușcă, 2010, p. 360).

The problem acquisitions of emergency ordinances in the sphere of organic laws has been analyzed, supporting along the time countless controversy. The Constitutional Court has accepted this practice of the various governments, but the *exceptional cases* for the adoption of emergency ordinances in the sphere of organic laws (in this case Criminal Code and the Code of Penal Procedure) must result from a situation in which any delay of the relevant times of the amendment of an organic law would bring severe prejudice sovereignty or territorial integrity of the Romanian state (Muraru & Tanasescu, 2010, pp. 1094, 15).

The arguments brought against this practice of the amendments of organic laws through the procedure emergency ordinances consist in the fact that the "*both the enabling law laws and the rejection of orders are ordinary laws, not expressly referred to in neither the constitutional rule which lists the fields of organic laws and no qualified as is"* (Muraru, Ioan, & Tanasescu, 2010, pp. 1094-1095, paragraph 16).

The motivation of the emergency of the G.E.O. 13 had as foundation - heterogeneous practice the courts in respect of the offense of abuse of office, 405/2016 Decision of the Constitutional Court, but directions and mentioned in the report of the Venice Commission.

The Constitutional character of the adoption of the G.E.O. no 13 has been established by ***Decision 63/2017***[2], in which the Constitutional Court has consisted of the fact that there was no conflict of Constitutional nature between the Powers in the state, i.e. between the Government (executive power) and the Parliament (Legislative power) or between the Government and the Superior Council of the Magistracy (judicial authority). This Decision was adopted in the following notifications made by the President of Romania and the President of the Superior Council of the Magistracy, which have argued that for the adoption of the G.E.O. 13 was necessary an opinion of the Superior Council of Magistrates and the fact that the government has undermined the power of the Constitution - The Parliament not to

[1]Article 115 Legislative delegation (...) (4) The Government can adopt emergency ordinances only in extraordinary situations that cannot be delayed, having the obligation to explain their measure. (...) (The Constitution of Romania, 2015, p. 35).

[2] Published in the Official Monitor No. 145 of 2 February 2017 (M. Of. 145/2017) - http://www.monitoruljuridic.ro/act/decizie-nr-63-din-8-februarie-2017-referitoare-la-cererile-de-solu-ionare-a-conflictelor-juridice-de-natur-constitu-ional-dintre-autoritatea-executiv-guvernul-rom-niei-pe-de-o-186910.html.

agree with the reasons for the urgency and considering that has been violated the principle of separation and balance of powers in a state.

In our opinion, the inclusion of Decision 405/2016 in the motivation of the urgency of the adoption of the G.E.O. 13 is not justified, because - by this Decision, does not have the unconstitutionality of article 297 from the Criminal Code[1] governing the offense of abuse in the line of duty, but is a decision interpretive statement, which provides a certain direction to be followed in the future as regards the interpretation of the words *"fulfilled in a faulty"* as *"satisfied by breaking the law".*

The acceptance of the exception of unconstitutionality shall mean the *acceptance of the application* raised by the defendants concerned in which the date of the decision and a declaration of the article 297 as unconstitutional law, for it to cease the legal effects after 45 days of the date of the decision, constituting urgent on its modification.

Therefore, the mode for the adoption of the G.E.O. no 13 has been accepted and is considered as being in line with the provisions of the Constitution, fact enshrined as we mention in the Decision 63/2017 the Constitutional Court.

3. Considerations Regarding the Content of the Legal Framework of the G.E.O. 13/2017

Modifying the content of certain articles of the Criminal Code and the Code of penal procedure have created major disagreements not only in the society, but also among the jurists. The main changes that have led to the controversies were as follows:

3.1. Determination of the Value of the Threshold of the Injury that Attracts the Criminal Liability in the Case Of the Offense of Abuse of Office

In order to reach this point, you will need to start by to highlight his opinion more challenging us O.G.13, which stated that by imposing this threshold value of the injury in order to be able to be committed penal liability, to produce a disguised amnesty or part of the offense of abuse of office.

Amnesty means an act of the legislature which removes the penal liability for offenses that were committed up to the date of its entry into force in conclusion, has a retroactive character. In the case of the G.E.O. 13, we could say that we are in a situation of an amendments which partially decriminalize the offense of abuse of office and not an amnesty. The effects of the amnesty are covered explicitly provided for in **Article 152 from the Criminal Code[2]**. Act of clemency in the form of amnesty shall be issued by the Parliament by the adoption of an organic law, produces binding effects and take advantage of all the participants in the pardoned offense (Udroiu, 2016, p. 148).

[1] Article 297 abuse in the service. (1) The deed of the public servant who, in the exercise of the service does not meet an act or it and by this causes a loss or injury to the rights or the legitimate interests of a natural or a legal person shall be punished with imprisonment from 2 to 7 years and the prohibition of the exercise of the right to occupy a public office. (2) With the same penalty shall be penalized and deed of the public servant who, in the exercise of service, restrains the exercise of a right of a person or creates for such a situation of inferiority on grounds of race, nationality, ethnic origin, language, religion, gender, sexual orientation, political affiliation, wealth, age, disability, chronic noninfectious disease or infection HIV/AIDS. - the Criminal Code, Ed. Ch. Beck, Bucharest 2016, page 112.

[2] Article 152 Effects of amnesty. (1) Amnesty removes the penal liability for the infraction committed. If occurs after the condemnation, removes and the execution of sentence pronounced and the other consequences of conviction. The fine previously levied amnesty is not refundable. (2) Amnesty will have no effect on the safety and on the rights of the person aggrieved. - the Criminal Code, Ed. Ch. Beck, Bucharest 2016, page 64.

The threshold value of 200,000 lei was considered to be rightfully, much too high for the reality of the economic situation of the Romanian society. Practically, the defendants sent to Court or persons investigated, in the case of which has been calculated injury less than or equal to 200,000 lei will no longer be held responsible, by ceasing the penal action willing against them or they will no longer be judged in criminal lawsuits, they according to respond to administrative under the Law 188/1999 upon the conditions governing the Civil Servant Statute, under Article 75-86 in that is now taking shape disciplinary sanctions and liability civil servants.

The assimilation of abuse of office with corruption crimes under Article 132[1] of the investigations are carried out, has created also controversy because in this case, the investigation of such offenses will come within the competence of the national anti-corruption and not the General Prosecutor's Office, the authors considered incorrect position of the legislature to consider the corruption crimes similar to those of abuse in the line of duty or as having a connection with them. The solution of governing such crimes would be that that the legislator to opt for one of the two frames and to give up the double qualification of it (Aurelian, 2011, p. 218).

The analysis of the offense of abuse in the line of duty is of relevance to the shade effects that will occur after the changes made of G.E.O. no. 13. Main levels of analysis of different jurists were focused on the interpretation of the material element of the offense, i.e. the fulfilment of the faulty way of an act or failure. If in the case that the faulty mode means an operation has been carried out in the execution of his duties otherwise than he had done, failure to unite act may consist in the ad of an act beginning what was completed, Unjustified refusal to follow orders superior or to give effect to such requests received whenever the passivity in front of the duties of the service· (Dobrinoiu, Gorunescu, Dobrinoiu, Pascu, Chis, Paun, Neagu & Sinescu, 2012, p. 585)

In respect of ***pre-existing conditions*** of the offense, i.e. the *subject of the offense* and its subjects, note the following:

→ **Subject to the legal** person consists in the social value defended remained unchanged following the changes proposed by the G.E.O. 13, representing the execution of the service duties with integrity and fairness and in good faith by the civil servants and the defense of the rights and interests of any person against the abusive facts of officials.

→ **Material Subject** in principle do not exist, but if we consider that serious injury, arguing and effective rights or the legitimate interests of a natural or legal person as regulated in G.E.O. 13, consists in a good or a document, that good or document may be the subject of the offense.

→ **Subject** remains active and within the framework of the G.E.O. 13, the person - which at the date of the commitment of the deed, has the capacity of public servant.

→ **Passive Subject** remains the same and in the framework of regulated in G.E.O. 13, a topic liabilities which will take the form of a *subject which is the main passive* (member as holder the social value apparatus of the standard prosecution or a legal person private, if the subject is active is one of its employees) and a *passive subject secondary* (natural or legal person who has been injured party in his rights by the deed abuse of public servant).

[1] Article 132 the offense of abuse of office to the detriment of public interests, the offense of abuse of office to the detriment of the interests of the persons and the offense of abuse in the line of duty by the restriction of rights, if the public servant has obtained for oneself or for another an advantage or matrimonial nepatrimonial, is punishable by prison from 3 to 15 years. - http://www.dreptonline.ro/legislatie/lege_prevenire_fapte_coruptie.php.

Amendments to the sale of the dissatisfactions of the G.E.O. 13 appear in the first phase in the framework of the ***contents of the formation*** of the offense of abuse of office, as regards ***objective side***, while the *subjective side* has been clarified - the form of guilt and that of the *intent of the direct* or *indirect* consecrated in legal text by the expression "deliberately", leaving no interpretation.

From the perspective of ***objectivity***, we consider the following elements:

→ **Material Element** - is converted in action to the performance of an act in a faulty (non-fulfilment of act) in the performance of an act in breach of the express provisions of the law, a decree or an emergency ordinance or failure of the acts provided for by the provisions of the express in a law, a decree or an emergency ordinance of the government.

Listing of regulatory acts, what must be breached in order to engage the criminal liability of a public servant whichever is the offense of abuse of office, is in accordance with the Decision 405/2016 of the Constitutional Court - which required the interpretation of the words "*fulfilled in a faulty*", clarifying it. This list is the tie breaker in relation to the acts of administration, the transgression of which is punishable under the Law 188/1999 upon the governing the Civil Servant Statute.

→ **Immediate Consequence** consists in serious injury, arguing and rights to become effective/the legitimate interests of a person and of creating an injury more than 200,000 lei, in execution of the element material.

A fault in the new regulations is the imposition of the threshold value 200,000 lei, the creation of a material damage to this value representing a cancellation condition for as a result of immediate to exist on the criminal law. The establishment of such a rate may lead to major social conflicts, because a value of injury which defines the deed as serious, it can be regarded differently from various natural or legal persons (for a person injury may be irrelevant - for another person can represent a major damage) due to the economic inequality of society.

The determination and enforcement of this threshold value of the injury have represented the effect of interpreting an observations in the report of the Venice Commission, which was taken over and into the substance of the Constitutional Court of Decision 405/2016. The observation consists in evoked the principle of "*last ratio*" in the application of the penal law, a principle that consists in using the employment of criminal liability as a last resort to prevent and combat a certain deed, and abuse in the line of duty should be *"interpreted in a narrow and applied at a high level*". The expression "*high level*" has been interpreted as a threshold value of the material damage to reveal the seriousness of the offense and for the necessity of the indictment of crime.

In our opinion, is a forced interpretation, because if we will watch on the whole Directive by the Venice Commission, we can notice that the *high level* of interpretation of the abuse in the line of duty consists in the seriousness of his deed and a social danger created, invoked by the Commission by suggesting the introduction of criteria such as intent or gross negligence. *The high level* of the detention of the offenses referred to and the quality of the active subjects, i.e. civil servants. Having regard to Council that changes in the G.E.O. no 13 of the subjective analysis of the offense of abuse in the line of duty have clarified form of guilt, leaving room for interpretations and of the words "*fulfilled in a faulty*", they do not see any motivation for the introduction of the value of the threshold of the material damage.

The introduction of paragraph 3[1] in the rules of the offense of abuse in the line of duty has created also disagreements. Probably, the will of the government was to prevent the investigation of the issue of the appropriateness of the regulatory acts, what was not necessary because the opportunity to issue normative acts is protected by the constitutional principle separation and balance of powers in the state, which has been found by the Constitutional Court by ***Decision 68/27.02.2017***[2], following a notification made by the President of the Senate. By this decision shall be established a clear direction to be followed for the future, in which it is shown that the secretary of state may not investigation timeliness, compliance with the legislative procedure or legality of the laws, ordinances or the number of emergency ordinances. The principle of ministerial responsibility has reference in this case, the Government responding in front of the parliament and a possible motion of no confidence in the government. As regards the responsibility in this case to the Minister of Justice, it shall be responsible to the integral with the other members of the government and will also meet in front of the Parliament, risking a simple motion as a result of which to be dismissed, and prosecution of it for acts committed in the exercise of function may be requested only by the Parliament or by the President of Romania in accordance with **Article 109, paragraph 2[3] from the Romanian Constitution** and not as a result of a complaint of a natural person as it happened in the case of which he debating.

Therefore, alin. (3) added article 297 has not only made to inflame spirits and more than the spirits, creating a conflicting situation not only in the society, but also between the powers formations.

Changes made by G.E.O. 13 of abuse in the service have not had an impact on the ***shape of the offense*** (are possible both preparatory acts and attempt, but are not punished). ***The detailed rules of the offense*** but have been affected, the subject active may commit the offense by:

→ fulfilment of an act in breach of certain provisions of the law, order or the emergency decree/failure of an act prescribed by a law and order or the emergency ordinance, injuring someone such rights / the legitimate interests of a person.

→ limitation of use or the exercise of a right of a person or the creation for this to a situation of inferiority on the basis for race/sex/religion/opinion etc.

→ have been differentiated penalties in accordance with the rules of the offense - has been dropped the amount of the initial sentence and has been provided for alternately the punishment of the fine criminal proceedings.

We believe in the sense that the sharp drop in the amount of the penalty involving deprivation of liberty (from 2 to 7 years at 6 months-3 years) and imposition of the value of the threshold of the injury in the case of paragraph 1, and the imposition of a tiny penalties in the case of paragraph 2, do not reach far from the purpose of the criminal sanction - which is to prevent the commitment of the new offenses, the formation of a correct attitude toward the front of the workplace, the legal order and from the rules of interethnic social inclusion.

---

[1] 3. The provisions of paragraphs 1 and 2 shall not apply in the case of issuing, approval or adoption of laws.

[2] Published in the Official Monitor 181 of 14 March 2017 (M. Of. 181/2017) - http://www.monitoruljuridic.ro/act/decizie-nr-68-din-27-februarie-2017-referitoare-la-cererea-de-solu-ionare-a-conflictului-juridic-de-natur-constitu-ional-dintre-guvernul-rom-niei-i-ministerul-public-parchetul-de-187509.html

[3] Article 109 Responsibility of members of the government. (...) (2) It is only the Chamber of Deputies, The Senate and the President of Romania that shall have the right to demand criminal prosecutions be taken against members of the Government for acts committed in the exercise of their office. If such criminal prosecution has been requested, the President of Romania may decree that they be suspended from office. Institution of proceedings against a member of the Government entails suspension from office. The case shall be within the competence of the High Court of Cassation and Justice. - The Constitution of Romania, Ed. Legal Universe, Bucharest 2015, page 33.

Relating to the **repeal of article 298 from the Criminal Code which regulate the offense of dereliction of duty,** we believe that the decriminalization of negligence in the service is totally inappropriate, because, as mentioned above, one of the main comments by the Venice Commission has been the existence of forms of guilt because of the nature of the intention or serious negligence. We agree with the fact that the introduction of the shape of guilt of fault in regulating the offense of abuse in the line of duty create a situation much too complex and exposed to the abuse and interpretation.

We believe that he might require that threshold value 200,000 lei as regards the damages caused in the case of negligence in the service, in order to reveal the seriousness of his deed and to justify the commitment of the penal liability, for damages created by negligence in the service until that threshold value, by engaging the responsibility of the administrative and/or civil liability.

3.2. Entering a New Paragraph in the Article 290 in the New Code of Criminal Procedure Governing the Period of Time from Committing a Crime, in which they could be said the Criminal Investigation through Scold

The motivation of the Government to carry out this amendment, consists in the fact that charges will be encouraged to bring to the attention of the investigation bodies a criminal offense in this way facilitating the settlement of the connected with the penal cases, motivation but we consider quite ambiguous, because there is no a penalty if crime is unreported, practically charges is not motivated by any element in order to comply with this rule. In the case where a deed is brought to the attention of the investigation bodies after this period of 6 months, they practically will notify the ex officio.

Although in principle we believe that this addendum is positive, we want to we establish, relating to the period imposed by the government in order to be able to denounce a deed, i.e. the period of 6 months. We believe that should, however, to take account of the diversity of the circumstances in which they may commit criminal offenses and emotional status and social development of those who aware of their commitment and can advise the investigation bodies (can be constrained physical/moral, threatened, timorous etc.). In view of these aspects, we believe that strict period of 6 months to submit reports is not within a reasonable period of time and we believe that a period of 8 months would be much more appropriate under the conditions of the Romanian society. Also, if it is made this addendum, it should be possible to impose a sanction to overcome this term.

4. Conclusions

After the analysis of legality and of the shape of the offense of abuse in the line of duty from the content of the G.E.O. 13, I will expose the personal conclusions as regards the plans which we have structured this analysis. I will try to explain to these conclusions from a new perspective as the most objective bringing forward arguments both pro and against the provisions analyzed.

As regards amendment of the ***contents of the offense*** of abuse in the line of duty:

→ I agree in part with the amendment of the material element of the offense, the ingredients acts whose infringement attracts the criminal liability does not create confusion and interpretations and forced it creates a clear demarcation between the assumption of responsibility by the criminal and of the administrative provisions; However, failure to comply with the acts referred to in laws and ordinances or emergency ordinances, would turn, from my point of view, all civil servants at

lawbreakers, because not all of them have competent authorities and/or prerogatives to fulfill the acts provided for by law, decrees or emergency ordinances;

→ I consider the imposition of the threshold of the value of the material damage the most unfounded and abusive amendment to the emergency ordinance;

→ I believe beneficial to alternate the death penalty involving deprivation of liberty with that of the criminal fine, because it offers the courts the opportunity to individualise the penalties correctly according to the complexity of each causes;

→ differentiation of penalties depending on the material element seems a serious error. The penalty provided for the tiniest material element within the alin. (2), factually diminishes the gravity of it, discriminating right through the legal text, creating a paradox;

→ subtracting the amount of the penalty to less than half than the previous provision, it seems to me to be excessive, creating in this way the sensation of an infringement with a degree of low social threat, that is in total disagreement with reality.

Are of the opinion that the threshold value of the injury should be applied to the offense of gross negligence in the service: to the criminal liability of the civil servants who through the performance of the duties of the services to be employed only if the damages caused exceeds 200,000 lei; Up to this threshold, civil servants answering to administrative documents in accordance with the sanctions of Law 188/1999 upon.

On the observations referred to, from my point of view, legal text what incriminates the offense of abuse in the line of duty should be the following:

(1) the deed of the public servant who, in the exercise of the services with intent, does not comply with an act or it through the breach of the express provisions of the law, a decree or an emergency ordinance to obtain for himself or for other economic benefits or any other way that I shall be the property of the times through it produces a serious injury, arguing and effective rights or the legitimate interests of a natural or legal person, as are laid down and guaranteed by the laws in force, be punished with imprisonment from 1 to 5 years in prison or fines ranging.

(2) With the same penalty shall be penalized and deed of the public servant who, in the exercise of service, restrains the exercise of a right of a person or creates for such a situation of inferiority on grounds of race, nationality, ethnic origin, language, religion, gender, sexual orientation, political affiliation, wealth, age, disability, chronic noninfectious disease or infection HIV/AIDS.

5. Bibliography

Boroi, Alexandru & Anghel, Simona (2016). *Records of criminal law for the admission in magistrature and hired*. Bucharest: Hamangiu.

Dobrinoiu, Vasile; Adrian, Mihai; Gorunescu, Hotca, Mirela; Dobrinoiu, Maximum; Pascu, Ilie; Chis, Ioan; Paun, Costica; Neagu, Norel & Sinescu, Mircea (2012). *The new Criminal Code commented on it - the special*. Bucharest: Universul Juridic.

Mitrache, Constantin & Mitrache, Cristian (2017). *Criminal Law Roman - the general part*. 2nd Edition. Bucharest: Universul Juridic.

Muraru, Ioan & Tanasescu, Elena-Simina (2010). *The Constitution of Romania - a commentary on the articles*. Bucharest: C.H. Schapper Beck.

Pușcă, Benone (2010). *Constitutional and political institutions.* Reviewed and added Ed. Galati: Editura Universitara Danubius.

Sabau-Pop, Aurelian (2011). *Corruption and the fight against phenomenon by legal means*. Bucharest: Universul Juridic.

Toader, Tudorel; Michinici, Gave; Ciocinta, A.C.; Dunea, M.; Raducanu, R. & Raduletu, S. (2014). The *new Criminal Code. Comments on articles.* Bucharest: Hamangiu.

Udroiu, Mihail (2016). *Criminal Law - the general part - syntheses and the grilles.* 3rd Edition. Bucharest: C.H. Schapper Beck.

Udroiu, Mihail & Constantinescu, V. (2014). *The new Criminal Code. The Criminal Code previous*. Bucharest: Hamangiu.

*** Decision 63/08.02.2017- relating to applications for the settlement of legal conflict of constitutional nature of the executive authority - The Romanian Government, on the one hand, and the legislative authority - the Parliament of Romania, on the other hand, as well as between the executive authority - The Romanian Government, on the one hand, and the judicial authority - Superior Council of the Magistracy, on the other hand, the request made by the President of the Superior Council of the Magistracy, respectively by the President of Romania - published in the Official Monitor No. 145 of 2 February 2017 (M. Of. 145/2017) - http://www.monitoruljuridic.ro/act/decizie-nr-63-din-8-februarie-2017-referitoare-la-cererile-de-solu-ionare-a-conflictelor-juridice-de-natur-constitu-ional-dintre-autoritatea-executiv-guvernul-rom-niei-pe-de-o-186910.html.

*** Decision 68/27.02.2017- relating to the request for solution to the judicial conflict of constitutional nature of the Romanian Government and the Ministry Public-Parchetul on the High Court of Cassation and Justice in the direction of the National Anti-corruption, application made by the President of the Senate - *published in the Official Monitor 181 of 14 March 2017 (M. Of. 181/2017)* - http://www.monitoruljuridic.ro/act/decizie-nr-68-din-27-februarie-2017-referitoare-la-cererea-de-solu-ionare-a-conflictului-juridic-de-natur-constitu-ional-dintre-guvernul-rom-niei-i-ministerul-public-parchetul-de-187509.html.

*** The Decision 405/15.06.2016 - relating to the exception of unconstitutionality of the provisions referred to in Article246 from the Criminal Code of 1969, Article 297(1) of the Criminal Code and of Article132 of Law No78/2000 for preventing, discovering and sanctioning corruption - *published in the Official Monitor 517 of 08 July 2016 (M. Of. 517/2016)* - http://www.monitoruljuridic.ro/act/decizie-nr-405-din-15-iunie-2016-referitoare-la-excep-ia-de-neconstitu-ionalitate-a-dispozi-iilor-art-246-din-codul-penal-din-1969-ale-art-297-alin-1-din-179919.html.

***(2015). *The Constitution of Romania*. Bucharest: Universul Juridic.

***(2016). *The Criminal Code.* Bucharest: C.H. Beck.

THE 12TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

Freedom of Expression – between Liberty and Intolerance

Glavaschi Delia-Alexandra[1], Bulgaru Aurora-Alexandra[2], Simion Anatoli[3]

Abstract: Developing the present research, we took into consideration the importance freedom of speech has. The opportunity an individual has to express his true feelings and thoughts is a matter of the human being's essence and it is considered a natural right. Even so, throughout man's existence, the individual met enclosure in benefiting from his natural freedom of speech way too many times, people being severely punished for their attempts at expressing their true feelings and ideas. The gesture was often considered defiant. In Romania, one's right to free speech ceased to be censored in the post-communism era, fact which induced us the necessity of exposing how one's freedom of speech was perceived and enclosed in the communist era. Another topic addressed in this paper is related to the extent of freedom of expression. If in the past, expressing our opinions lead to an enclosed freedom of speech, nowadays we have the issue of those using this natural right abusively. People often use their freedom of speech without thinking clear, which leads to damaging another individual's rights and personal values, such as their personal dignity, the right to privacy, religion and many more. Consequently, we are found in the situation of naturally asking ourselves: Should we limit the freedom of speech? And if so, what would the extent of this natural right be?

Keywords: Freedom of speech; fundamental right; expression; limits

Introduction

Given the perpetual evolution of society, human rights, such a huge concept spread wide interpreted has undergone many transformations over time. (Pușcă & Ionescu Dumitrache, Protecția internațională a drepturilor omului, 2015, p. 8)

Thus, in eighteenth century, Americans elaborate the first document which laid the foundations of basic human rights ("Declaration of Colonial Rights") whereas, French Revolution brought its own contribution to the development of this concept through the "Declaration of Human Rights and Citizen", which are basically prior acts to "Universal Declaration of Human Rights", which currently underpins modern society[4].

Romanian Constitution itself establishes its democratic character, highlighting the human need to express freely and unhindered own convictions, formed as a result of guaranteed access to information.

[1] Student, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, Corresponding author: delia_g.alexandra@yahoo.com.
[2] Student, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, E-mail: auroraalexandra.bulgaru@gmail.com.
[3] Student, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, E-mail: simion.anatoli@yahoo.com.
[4] For more details about the historical and judicial evolution of Human Rights, See: (Ionescu Dumitrache, 2015, 2015, pp. 208 – 215).

We note that the basis of modern society is the will of the people, without any interference of public authorities and without regard to borders.

Hence one of the basic principles of a democratic society is represented in general by the freedom of expression (consecrated in article 10 of the European Convention on Human Rights), whose objective is this study.

1. The Concept of Freedom (Pușcă & Ionescu Dumitrache, 2015, pp. 11-13)

Montesquieu emphasized that "freedom is to exercise our will, or at least the belief that we have, that we will exercise". Based on this observation, we can say that, generally, freedom is the possibility of the individual to act according to his own will, enjoying the fullness of political and civil rights in the state. However, Voltaire said that "to will and to act is to be free" and "understood freedom lifts the spirit, while slavery forces it to crawl on the ground." So, strictly speaking, the freedom is an important attribute to human personality which consists in the possibility that each member of society must have, in order to act according to his wishes and interests, without being subjected to physical or psychological constraints. (Mihaela, și alții, 2013, pg. 132-135)

Freedom of expression constitutes one of the prerogatives derived from the fundamental principle of freedom of the individual, finding his own dedication to the most important treaties and conventions of the world regarding the protection of human rights.

Romanian Constitution enshrines and guarantees the utmost freedom in Article 30 paragraph. 1-8. According to constitutional provisions it follows that this concept is the base of the idea that communication and expression of thoughts can be considered not only a possibility but at the same time a necessary condition of human existence, of society organized according to the criteria of civilization determined historically.

Therefore, freedom of expression is a natural right that allows the individual to externalize his own thoughts, feelings, opinions, etc. by words, in writing, in pictures or through any other means of communication.

International Convention on Human Rights (ICHR) considers that "freedom of expression is a mean of changing ideas and information among persons; this includes the right of a person to try to communicate to others his point of view, but also involves the right of all to know opinions and information. For an ordinary citizen to know other persons' opinion or information available to others it is as important as to share people his own." (Udroiu & Predescu, 2008, p. 237)

According to specialist literature, there have been numerous attempts to outline the specificity of this right guaranteed to every individual. It was found that, as stated in Article 19 of the Universal Declaration of Human Rights (adopted by the United Nations in 1948), freedom of expression constitutes a legal phenomenon as unusual as it could not be i.e. it can be interpreted as rights indispensable or, where appropriate, prejudicial to achieve other rights. According to the first interpretation, it may be noted that freedom of expression and information is essential to freedom of assembly and, on the other hand, can be a threat in relation to the right to privacy and family or private life, more specifically, on everything that touches the inner human being.

Article 11 of the French Declaration of the Rights of Man and Citizen (1789), later became exposed fundamental principle and reflective of society as "a democratic right par excellence and one of the most precious rights of man." It follows that all these considerations have been taken and refined by

the legislator so as to draw a clearer line on the rights that man can enjoy and whom they are recognized under the law.

In the jurisprudence of the Court of Strasbourg we find all these considerations, this claiming since 1976 (in the case of Handyside against Great Britain) that freedom of expression means "one of the essential foundation of a democratic society, one of the basic conditions for its progress and fulfilment of each person". However, freedom of information and expression "are the cornerstones of any free and democratic society."

Furthermore, analysing of all these aspects, we can deduce that this principle is both an individual right for concerns freedom of conscience or the spiritual of each entity, but also a collective one because, by nature it exists only in the phenomenal, social expression of man. Also, man in his individuality, can state its own needs only interacting and communicating with other peers, setting up community and communion. From this perspective, freedom of expression is the foundation structure of social existence and beyond.

For our scientific approach we bear in mind the ontological dimension of the relationship between being and existence, so that on this basis, we can present shortly the correspondence between man individuality and depth of his being, on one hand, and his existence as the sphere of facts and manifestations that exhibited deep inside, on the other hand. (Ionescu Dumitrache, 2016, pp. 48 - 64)

2. Communism - the Tourniquet of Free Expression

"We used to have a better life under Ceausescu" we hear this more and more often, from different people, most of them middle-aged. We all know stories about the "Golden Age", having heard them from our parents or grandparents and, eventually, experienced them on our skin.

Citizens who pronounce from time to time this phrase, are either contemporary to some advantages that socialist Romania gave them, or took imitating this slogan, but without living and being aware of those times. At that time, Romania provided jobs by one's qualification; unemployment rate being extremely small one.

We will not deepen the advantages and disadvantages of this period, because the object of our research does not constitute deprivation of "golden age" and its tumult, but evolutionary dimension of freedom of expression, to understand current social and legislative instances of freedom of expression nowadays.

Although freedom of expression is a fundamental right, proper to humans, communism had manifested hostility toward it. People wanted to express their free will, not only by words but also by how to wear a cloth, and the old system didn't have as target only political freedom but also the access to what they considered to be "products of decadent capitalism" and here we include cultural products (music, movies, books, etc.) and clothing. Thus the possibility of expression and personal development of citizens have been successfully limited.

Few of us know, however, that before 1989, typewriters were "enemies from the shadow" of the communist dictatorship, constituting a potential danger for the regime. Perhaps it seems absurd, but these instruments apparently ordinary and harmless, but they were generating words, a weapon of freedom of expression and therefore were subject to severe rules of control from state authorities.

Law no 23 of 1971 legislated the protection of state secrets, and typewriters, copiers and photocopiers had a similar regime as the one regulating the status of weapons, ammunition and explosives.

On 19.01.1963, in Romania appeared the first deeds in this field, a Decree of the State Council, which regulated the regime of "typewriters, multipliers and materials necessary to reproduction of writings" - "Possessing typewriters was allowed only upon authorization from militia, MAI". Decree issued by the State Council since 1963, by Article 15, paragraph 2, showed that "can not be allowed to hold typewriters, people who, because of criminal previous past or behavior, were endangering public order and security state."

Furthermore, the deed also stipulated that "holding multipliers as gestetners, mimeographs, heliographs and other similar and different writing materials necessary to reproduce molds, rubber letters, was prohibited." Writing instruments were checked, fingerprinted and retained in databases of local militia departments.

It is understandable that people affected by the abusive interpretation of the law were people of culture, journalists, writers etc. However, many Romanians were able to defy the law, releasing on market offensive material against the communist regime. Fortunately for us, many have reached abroad radios (scrambled at the time), such as Voice of America or Free Europe Radio.

Nowadays, when most of us we have an Internet connection, a printer at home or in the office, we find absurd the idea of prohibiting of holding of such instruments. However, any owner of a laptop/PC, with a valid Internet connection, can be easily verified by an IP address by more or less legal methods.

3. Freedom of Expression and Damage of Human Dignity

As already mentioned, freedom of expression is a fundamental right of the individual, with a specific application in the field of media, protected as such by the European Court in Strasbourg in which is settled the importance of press freedom in any democratic society. In such a community, the general public expresses and, the same time, arises opinions about attitudes of political leaders[1] and overall about social realities. But this freedom is not an absolute one, it involves some restrictions caused by the need to protect other fundamental values such as the right to reputation, honor and dignity of the person, but also the need to avoid disseminating of confidential information. Their protection should not be preserved by the use of means of deterrence on the work of journalists, the right balance needed to be found that would ensure both freedom of expression and the right to protection of privacy of each of us.

According to opinions expressed in the doctrine, any limitations on freedom of the press, including the sanctions against journalists must be "strictly proportioned and focused on assertions that actually exceeded the limits of permissible criticism." (Sudre, 2006, p. 425)

A reference case for the Romanian media regarding the limitation of freedom of expression has been brought by the senator and editor of the magazine at that time Romania Mare or, also known as, Corneliu Vadim Tudor against Romania. In a brief presentation, the head of the respective publications and also the applicant of the charge, brought a series of articles ("Stop Dricu hell wants to take Ticu" and "We have official proof: CTD ratted Peasant/Taranistii and Legionnaires"/Legionari out to Security since 1949 which were offensive to one of his colleagues, who has been labeled as

[1] To be seen the Decision of 08.07.1986 related to the case Lingens against Austria, paragraph nr.42 - information retrieved 14 March 2017 from http://jurisprudentacedo.com/Jurnalist-acuzat-de-insulta-Lingens-contra-Austria.html.

"fool, hysterical, dangerous mental patient, with the head rubbed of greasy nut oil etc…" invoking the connection of the latter with the Security. In this regard, the European Court found that the applicant's assertions were part of a game of political flavor (both being MPs) and interference in the freedom of expression imposed the start of thorough controls.

Also, in terms of the proportionality of restricting freedom of expression, was reckoned the gravity of expressions in use and the facts alleged by the applicant to the victim. (Udroiu & Predescu, 2008, p. 278)

Finally, the applicant got a fine from the Supreme Court as a result of the offense of insult, obliging him to pay damages and costs incurred.[1]

Another problematic meant to highlight the limits of journalistic criticism on the present case is the Charlie Hebdo - French magazine with satirical publication type, based largely on illustrations (caricatures and drawings), and disputed articles, jokes. Magazine has strong leftist, anti-religious views and is characterized by its criticism of Islam, Catholicism, Judaism and right-wing extremism. (Ionescu Dumitrache, 2015, pp. 675- 681)[2]

Criticized for its approaches not exactly subtle, the magazine has been repeatedly threatened by Islamic fundamentalists. However, publications maintained satirical tone, and Allah, God of Muslims, was caricatured in indecent poses.

Like any war, also this one between Charlie Hebdo and Islamists resulted in bloodshed and loss of lives, because on January 7, 2015, around 11:30 local time, two Islamist found appropriate to make right with weapons in hand. Thus, the two brothers, masked and armed, stormed editorial offices in Paris and started firing with automatic weapons. The attack was resulted in 12 dead and 11 wounded.

The unfortunate event divided the world into two camps: those who are called "Je suis Charlie" and believe that freedom of expression must be unfettered, and those who believe that the people at Charlie Hebdo abused, however, this right to spread messages with slandering and offending tint. Some considered the *absolute importance of freedom of expression in an open society should be supported - no matter how offensive it can be for some and how childish can become*[3], while others shares the ideas of Pope Francis, who said that nobody has the right to provoke or insult other people's faith or to take in mockery, and that freedom of expression has its limits.

Given the above, we ask ourselves: is there freedom of expression without barriers? How far must extend that freedom? When it becomes a violation of other rights and freedoms of individuals?

Incrimination of insult and slander offers advantages and disadvantages. A possible condemnation of insult and libel can provide a huge weapon to all those with an interest in limiting freedom of expression, and people would be fearful to express sincere opinions for fear of being penalized in terms of criminal law. (Popescu, 2016)

It is also painful to get, for example, a political office, being a citizen in good faith and willing to bring an improvement in the system to provide overall a better future for the young Romanians, and however your image is to be assimilated to corrupted citizens in this country, because of which the Romanians have lost confidence in state management bodies. In this case, freedom of expression conflicts with injustice brought to citizens, thus touching the honor and the dignity.

[1] To be seen the decision CEDO- 15.06.2006- for more details. –information retrieved 18 March 2017 from http://www.dreptonline.ro/spete/detaliu_speta.php?cod_speta=156.
[2] http://www.edlearning.it/proceedings/moreinfo/20150416_index.pdf, pp. 675- 681.
[3] Bill Durodie- article published în The Conversation.

4. Freedom of Expression - The Mouthpiece in Romania of Protests in 2017

The protest, according to good authority of DEX dictionary, is a public act, a strong manifestation of citizens against actions/decisions that they consider unjust. Therefore, we deduce that the protest is a derivative form of freedom of expression, guaranteed to individuals.

Protest as the manifestation of the will of citizens is enshrined in the European Convention on Human Rights, Article 11. According to this article, any person enjoying privileges to associate freely and peacefully with others who share the same ideas and feelings, including the formation of labor unions or joining themselves in order to defend the promoted interests.

Romanian Constitution includes the right of freedom of expression through protests in Article 39 ("Freedom of assembly"). Thus, rallies, processions, demonstrations or any other assembly are free, except for a prerequisite: to unfold peacefully, without any weapons.

Public meetings are the core of the democratic, legally constituted state. They should facilitate the involvement of citizens in the public space, their tradition dating back to antiquity. Such meetings are today the best way to express your dissatisfaction towards injustice, to commemorate or honour the great names in the history or our lives, etc.

According to the Law no.60 / 1991, public meeting includes: meetings, rallies, demonstrations, sports competitions, processions and similar, which are to take place in squares, on public roads or elsewhere outdoors, during which citizens they can freely express their political opinions, social or otherwise. A public meeting may be organized by any group of people (preferably constituted a legal entity) who have no criminal records and have not been registered in associations or groups who damaged in the past the rights and values of citizens. It is also important that the organizers can prove that they have the human resources necessary to manage successfully a meeting, along with police forces.

In January this year, just two weeks after the inauguration of a new government, the Romanias, outraged upon hearing the possible intentions of the new leadership to develop a legislative mass pardon and amending the Criminal Code, leaded people to the streets to express dissatisfaction. This famous ordinance, in fact, was nothing but a trigger for the population, "the final straw" so that citizens could demonstrate and express their dissatisfaction on many aspects of Romanian society, mainly related to the political class and to show how corrupted members can affect the rule of law.

The number of protesters has increased significantly from day to day. People of all ages met in the street, without regard to weather conditions, to support their ideas and express their grievances peacefully through more or less creative messages.

A particular case of these protests is the one of a young man from Bucharest, who expressed dissatisfaction with the socio-political context making laser projections with specific messages onto a bank building in Piata Victoria. With these projections, the young expressed dissatisfaction, messages being marked by vulgar shades or intended to incite violence.

Less than two days after these screenings, the young person received at home (the apartment where he made the projections) summons from the local police station in which he was invited to come urgently to the police station; it was related to the projections laser he made onto the bank building, in case of absence, he might have been liable to a fine between 100-500 lei. The bank said publicly that they were not responsible for the police's action, offering to help the young man with any necessary information. Given that no one has claimed responsibility for the police's action, we ask ourselves obviously, if this act was not just programmed, aimed to suppress the young citizens the opportunity to

express their dissatisfaction, thus attracting on its share many people as indignant as well as the mass media.

Another controversial case is the one known as “the lone protester in Odobesti". The man protested every night, expressing dissatisfaction with the shortcomings of the country, but also the poor management of the city in which he lives. He is convinced that in a small town such as his one (only 8000 inhabitants), people were afraid to protest for fear mayor and not because of the risk of having problems at work.

Following its discontents, expressed both online and by spoken words, the man was sued by the mayor, who solicited the court to prohibit the man the right to post on any social network "messages likely to harm privacy and image” of him and his family. “See how the mayor of Odobesti asks the court to censor me. Asking 150,000 lei for posting on Facebook, not even for swear words, it seems like a punch on the mouth applied to freedom of expression. Asking the court for CENSORSHIP, only in Vrancea this could happened”, said the man on his personal Facebook page, attaching also the application of summons. The man got a fine of 600 lei from the Police of Odobesti because he dared to criticize mayor's activity on his personal account on Facebook.

Recalling in this case art. 11 of the Charter of Fundamental Rights, which states that “Everyone has the right to freedom of expression. This right includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of borders. Freedom and pluralism of the media shall be respected.”

5. Conclusions

By presenting the arguments above, we believe that freedom of expression is a fundamental right of every individual, a right that must be guaranteed by law. Throughout history it went from disclaimer of opinion into total freedom in which people's views are real weapons. Freedom of expression is the essence of democracy where people's words are a real power. An example of this were the protests in January 2017 in Romania, where hundreds of thousands of people demonstrated, expressing their discontent and finally managing to prevent the adoption of an emergency ordinance.

It is very important to know how to use this right. The fact that the law protects the individual's freedom to express thoughts, it should not be a pretext to make abuse of it. It's easy to harm reputation, dignity and honor of a person, but often the damage is irreparable.

Therefore, as lege ferenda (future law), we consider that it is not necessary to draft a law that punishes criminal acts that could prejudice a person's dignity and image, given that the prisons are overcrowded. Instead it would be necessary to elaborate a draft law on the civil branch to provide financial penalties for those who make allegations without substantiating official sources, against individuals or legal entities, including states and other entities, thus amplifying the misinformation phenomenon. With such a law, people will not risk ending up in prison with criminals who committed offenses more serious, whereas sanction through fines will determine people to think better before denigrating other peoples or with whom they have an obvious conflict.

We do not want people to be prevented from exercising their right to express freely, but to do that responsibly and constructively.

6. References

***(2013). *Dictionary of human rights*. Bucharest: C.H. Beck.

Durodie, Bill - Article published în *The Conversation.*

Ionescu Dumitrache, Ana Alina (2015). Intolerance. Religion and the Right of Free Speech: World War on Fundamental Liberties. Rethinking Social Action. Core Values. *6th International Conference LUMEN 2015,* April 16-19. Iasi: Ed. MEDIMOND - Bologna, http://www.edlearning.it/proceedings/moreinfo/20150416_index.pdf.

Ionescu Dumitrache, Ana Alina (2015). Prolegomena of Human Rights, Historical Roots and Globalization. *EIRP Proceedings*, Vol. 10. Galati: Ed. Universitară Danubius.

Ionescu Dumitrache, Ana Alina (2016). Practical and Theoretical Controversies of the Dichotomy of Rights and Liberties. *Acta Universitatis Danubius Juridica*, Vol 12, no. 1, pp. 48 – 64.

Pușcă, Benone & Ionescu Dumitrache, Ana Alina (2015). *International protection of human rights,* updated version. Galați: Ed. Universitară Danubius.

Sudre, F. (2006). *European and international law of human rights.* Bucharest: Polirom.

Udroiu, Mihail & Predescu, Ovidiu (2008). *The European protection of the human rights and the Romanian criminal trial*. Bucharest: C.H. Beck.

http://www.agerpres.ro/politica/2016/03/07/senat-reintroducerea-insultei-si-calomniei-in-codul-penal-indelung-dezbatute-in-plen-20-40-18.

THE 12TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

The Consumer - More than Jus a Number

Silvia –Fotinia Cracan[1]

Abstract: In the consumption society, the human being risks to become just a number in the statistics. Questions as "the need generates new products?" or vice versa could be analyzed in economic key but in philosophical key too. How much the consumption is dedicated to cover real needs and how much is a rush for profit in any conditions? This paper opens only few subjects of reflection about the individual happiness in the consumption society where the profit and the competitiveness are basic rules of the businesses and the economy.

Keywords: consumption; choice; happiness

1. The Consumption between Need and Pleasure

This paper starts from the idea that conventional economic theory adopts a deeply utilitarian approach of the goods and services role for consumers.

Approaching the consumption strictly in terms of economic utility, the consumer will appreciate the good in terms of satisfaction felt by consuming a given quantity of that good. In order to measure the utility, the Gossen's law states that with increasing quantity consumed of a good, total utility increases increasingly less while decreasing marginal utility. So in other words as a consumer consumes a greater quantity of a good, the satisfaction he obtains or hopes to achieve (total utility) grows increasingly less, tending finally asymptotically to zero. Moreover, since a consumer consumes a greater quantity of a good, consuming of each additional unit of that good (marginal utility) generating a satisfaction which is reduced to zero and can reach up to dissatisfaction.

From this idea, it can be generated a debate with philosophical and even existential connotations: Why the consumer wants to increase the amount consumed of a good, if the result is decreased total and marginal utility? The consumer does not perceive, actually, the decrease of total and marginal utility, but perceive the decrease of intensity of satisfaction, so he reach saturation and then wants something else.

Deepening the theory of utilitarianism, according to John Stuart Mill "actions are right if tend to promote happiness and wrong if tend to produce unhappiness, happiness meaning pleasure and unhappiness meaning pain." (Crăciun, Morar, & Macoviciuc, 2005, p. 165) Therefore, the consumption as a human action tends to be satisfied so as to cause happiness.

Again raise questions (and not just for a Socratic approach to analysis):

[1] Student, Faculty of Economic Sciences, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, Corresponding author: silvia_fotinia@yahoo.com.

Does happiness means pleasure? That hedonism can be the source of happiness? Or what is the line between need and pleasure?

Returning to the utilitarian function of goods and services in the consumption society, where is practicing an aggressive marketing, another question is raised (which can be like "what came first, the egg or the chicken?"): "the need generated the product, or vice versa?"

2. Ethical Advertising – Study Case

Going thus to the logic line of the history of human existence, practically the evolution of human thinking refined the needs.

By analogy with the above mentioned, in the today market economy are often criticized the marketing practices which trying to create needs. But the opinion that marketing creates needs is not in contradiction with the fundamentals itself of marketing? Because, in theory, the companies first identify the consumer needs, and then design products and services that satisfy them. We could say, in other words, if the marketing has an impact on consumer behavior, then rather it emphasizes existing needs or activates those that consumers do not realize, or do not feel them very strongly.

I have mentioned "in theory" because in practice it happens and vice versa: the manufacturers design the product that brings better potential profit and then create the need for it. Could be the example of unhealthy food - chips, carbonated drinks, etc.-which after they are designed and is expected potential returns, then they are excessively promoted and associated with events involving collective participation, so large numbers of consumers (such as eating chips during games). In fact these products do not meet a real need, even a social need (can be a spectator at a football game with friends and without consuming chips). Then why are bought? What the manufacturer counts on when he foresees the sales?

It is about pleasure satisfaction or the pleasure of taste. And according to the John Stuart Mill's approach, our action of consumption could produce us pleasure which is identified with happiness. On this feature of the consumer, of desire for pleasure satisfaction are based a lot of marketing actions of the companies.

Is striking the TV advertisement for medicine Colebil, where the consumer is encouraged to eat everything and as much he wants (on the visual background of an overabundance of meat and mayonnaise meals) because he has an ally, the Colebil, who put the lazy gall to work. How ethical is this promotion? Because here it is not about need. Namely, the advertising message is that the satisfaction of insatiable culinary pleasures of the consumer can be done now without limit, because there is that medicine. So the consumer will buy and take the medicine because subliminally, it will allow them to satisfy their unlimited desires.

Sure, essentially, that mentioned product, Colebil, is good, but the strategy for increasing the sales of this product is based on increasing its consumption even when consumption exceeds the need. Namely, the real need could be that if the consumer has a gall disease, than Colebil could help in some situations of consumption of inappropriate food, so the consumer will buy the medicine to treat the pathology. But, to increase the sales practically to any consumer, so even to persons who have no gall disease then the advertising message is acting subconsciously, by urging the satisfying pleasure of eating, which no longer exists now limits, due to the medicine that removes the consequences of food abuse.

What could be emphasized is that in the consumption society, often the companies' marketing strategies are based on the consumer trend to satisfy the pleasures and not the needs. The need can be satisfied, but the pleasure not, because it will always create new desires.

Therefore, multiplying unlimited desires, the companies can increase the sales based on their snowball effect.

The Marketing strategies of companies are based, largely, on consumption "per capita" in their field of work. Starting from the official annual statistics per capita with the consumption in different activity areas, the companies set their strategies to achieve a certain market share for their products. Within these strategies the consumer is an individual who already consume the goods, or is a target segment of the company's products. So for the company, but also for society as a whole, in terms of economic statistics, the consumer is an individual or a "per capita", or just a number.

But the consumer is a human being. And the human being is a person, not an individual. The term of individual comes from individualism that is selfishness. And, in fact, what is the continue satisfaction of the own pleasure, mentioned above, if not individualism. And it is here about the desires satisfaction both of the consumers and the businessmen/investors.

3. Conclusions

Desire of consumption and buying goods far beyond the real needs makes annual 1.3 billion tones of food to gets lost or wasted[1], also, clothing to be thrown after being worn a season, because it was obsolete. Perhaps changing clothing related to self-esteem, to the need to be noticed in certain social groups. The same could be available also for the new machine, mountain villa, or for the yacht. And always will be something to buy because only in this way we feel that we are appreciated in society.

This individualism, translated into selfishness, has made human life to be conjugated with the verb to have instead of to be. Then it was generated the crisis related to "emptying oneself" felt by the consumer, gap which he wants to fill it continuously with goods, but which they do not fully satisfy him, and then he seeks for other goods, without, however, ever reach the full satisfaction. Thus, "the insatiability" of "having" has moved the center of gravity of the whole society to an excessive consumption, excessive desire for enrichment and focusing of human being only to oneself. John Stuart Mill considered the pleasure and the happiness as same feelings.

Aristotle considered *"The happiness is the meaning and purpose of life, the trajectory and the end of human existence."* (Crăciun, Morar, & Macoviciuc, 2005, p. 195)

In this case would be tragic if the satisfaction of pleasure through consumption is the purpose and meaning of life. It cannot be so. I said that human being is a person, not an individually. In Romanian language this terms have to be explained to understand the difference, but in Greek language these terms have distinct etymological meanings:

Individual in Greek is άτομο (atomo) which means a singular, individual person and

Person in Greek is πρόσωπο (prosopo) which means a person in connection with others.

Perhaps because there are no truer communion between people so the person became individual who tries to fill the existential gap with goods?

[1] FAO http://www.fao.org/save-food/resources/keyfindings/en/.

Is the consumer a passive victim of the consumption society where somebody else influences their needs? Or the consumer is an active participant in the market, seeking to satisfy their real needs, seeking to find their place and role in society, but most importantly trying to know himself?

And when he will find himself, in fact he will reach the last step of Maslow's Pyramid and he will notice that the need of each step was relative but absolutely necessary to reach the next step.

4. Bibliography

Crăciun, D.; Morar, V. & Macoviciuc, V. (2005). *Etica afacerilor/Business of ethics*. Bucharest: Paideia.

***http://www.fao.org/save-food/resources/keyfindings/en/.

THE 12TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

The Specifics of Accounting in the Furniture Industry

Andreea Popa[1]

Abstract: My work will include elements of particularity in the financial accounting activity in the case of a business in the mobile industry. We will consider the complexity of the production activity, the relationship with third parties and the corresponding taxation elements.

Keywords: manufacturing; contracts; technology; management

SC MARCEL PROD S.R.L. was established on January 20, 1994, according to Law 31/16.11.1990 and has as main activity the production of furniture, code CAEN 3614 - "Production of other types of furniture"

The company began its activity in 1994, manufacturing various types of furniture, namely living rooms, bedrooms, kitchens, and having acquired over the years several complete lines for making as many furniture products and as diversified as possible. He also acquired technological lines for the production of medium and high-grade raw materials.

In 1994, after a tender, he won a space that he endowed with modern technology and currently operates.

Products marketed by S.C. MARCEL PROD S.R.L. Is addressed to both legal and physical persons. The company carries out its activity on the basis of a sales contract concluded with the beneficiary. The contracts stipulate firmly the assortments, quantities and quality of the products, the terms and modalities of delivery, the terms and modalities of payment. Depending on these elements, the purchase contracts with the producers are made, and where necessary with the suppliers of necessary services: transport, goods insurance.

The Company's Development Plan on the Domestic and Foreign Markets

The main strategic objectives of S.C. MARCEL PROD S.R.L. For the years to come, we are improving the competitive position of the company by launching our own MARCEL PROD brand and its promotion both on the domestic and the foreign market in the future, increasing the competitiveness of the products made to the technological and professional standards of the European Union, improving the labor productivity through continuous assimilation New manufacturing technologies,

[1] Student, Faculty of Economic Sciences, Danubius University, Romania, Address: 3 Blvd Galati, Galati 800654, Romania, Tel.: +40.372.361.251, Corresponding author: popavasilica23@yahoo.com.

creating a global brand image. To achieve these goals, S.C. MARCEL PROD S.R.L. Is considering a large investment program that allows the production of furniture products at the highest quality level. The company will undertake in the next years a refurbishment of the factory by endowing with state-of-the-art high performance equipment so that it can successfully cope with the competition. For the development of the domestic market, the company is considering the establishment of a proprietary network of presentation and selling of its own products.

Management Plan of Future Activities

Top management S.C. MARCEL PROD S.R.L. Must focus on the strategic planning of future activities for MARCEL PROD's furniture products to be successful both on the national and international markets. The planning process must help the company solve problems such as manufacturing technologies and when they will need to be purchased to produce new types of furniture, where they are going to be produced, how the products will be distributed on Market, recruiting new staff, etc.

The planning process must give rise to a tactical plan for the production and marketing of new MARCEL PROD furniture. The elaboration of this plan should begin with the presentation of the organization's objectives regarding the successful launch of its own brand and ending with the top-management principles for translating the plan into action. For the proper implementation of the strategic planning process, top management must dedicate some of the organization's resources to planning future activities. The results of this process will be the launch projects for furniture and raw material insurance for the manufacture of these items. Strategic business planning needs to focus on the entire business, in particular to raise funds for new business and confront with established competitors to get the largest share of the private label furniture market.

From a technical point of view, the general manager of S.C. MARCEL PROD S.R.L. Is responsible for the overall planning of company development. Because this process takes a lot of time and the general manager has a lot of other responsibilities, he can appoint a business development manager - a “business developer” who has to be a well-trained employee in the business with the ability to react Quickly to the main trends that could influence the future of the company and be able to collaborate excellently with the other middle management department managers.

The main decisions regarding the development of MARCEL PROD and their mode of proof demonstrate the participatory management style adopted by the company, with the majority of decisions taking part in two or even three deciding factors, located on different management levels and which determine the use, at a higher level, Of the professional and managerial potential of the company's staff.

From the point of view of the management methods that will be used for the development of the company, management methods will be taken into account and implemented through objectives and product (brand).

SC Marcel Prod SRL, one of the largest furniture factories in the county, has more than 200 employees, according to the statements submitted to Finance. It is worth mentioning that, even in the toughest financial recession, the number of employees of the furniture factory has never dropped below one hundred. Most were in 2012, when 268 people were on the payroll. The fewer remained in 2010, when the company had 189 employees. It is important that SC Marcel Prod SRL lived on the market and seems to have inspired others to enter this niche and create jobs.

Problem Examples Encountered in the Company

1. For the depreciation of a category of machines, Subsidiary F uses the Depreciation Depreciation Method, while Group Policy is to depreciate these goods in a linear fashion. The subsidiary had purchased such machinery on 01.01.N at an acquisition cost of 200,000,000 u.m. Its management had estimated a residual value of zero and a useful life of 5 years (linear depreciation = 20%, degressive damping = 30%). We assume a tax rate of 25%. Prepare for reinforcement for N exercise.

Resolution:

In year N depreciation in the individual accounts of F is:

200.000.000 x 30% = 60.000.000 u.m.

According to the group's policy, equipment depreciation in the first year:

200,000,000 x 20% = 40,000,000 u.m.

- it will bring the depreciation to the required group level:

(60,000,000 - 40,000,000 = 20,000,000 u.m.)

Ammounts on = Chelt exploitation 20,000,000

Tangible assets related to depreciation

The previous registration generates a temporary tax difference and a deferred tax liability of:

20.00.0 25% = 5.000.000 u.m.

Deferred tax expense = Deferred tax liability 5,000,000

2. You have the following data: net profit before tax 1,350,000 lei; Expense with depreciation 270,000 lei, reduction of the customer claim 90,000 lei; Increase of the expense in advance 36,000 lei; Increase of debts to suppliers 120,000 lei; Pay tax on profit 540,000 lei; Pay for: acquisition of land 300,000 lei, acquisition of a 450,000 lei building, acquisition of machinery, equipment, installations 120,000 lei; Loans received from the issue of bonds 120,000 lei; Paid dividends related to financing activity 312,000 lei. Calculate net cash flows for operating, investing, financing.

Resolution:

Net profit before taxation of RON 1,350,000

- Expenses with amortization of 270,000 lei

- Diminating customer claim 90,000 lei

- prepayment of expenses in advance of 36,000 lei

- the increase of the debts to the suppliers 120,000 lei

- pay tax on profit 540,000 lei

= FNT from the expense activities of ROL 1,254,000

- pay for land acquisition 300,000 lei

- pay for the purchase of buildings 450,000 lei

- pay for car purchase 120,000 lei

= FNT from the investment activities -870,000 lei

- loans received through

Bond issue 120,000 lei

- related dividends

Financing activity of 312,000 lei

= FNT from financing activities -192,000 lei

Net cash flow =

1,254,000 - 192,000 - 870,000 192,000 lei

3. You have the following information about the enterprise: start-up costs 5.000; Licenses 10,000; buildings 50,000; Equipment 100,000; Stocks 200,000; Claims 300,000; Banks 10,000; Advance Income 80,000; Social Capital 125,000; Reserve 5,000; 250,000 suppliers; Bank loans 150,000 [out of which 75,000 in the long run]; Provisions for risks and expenses 65,000. Elaborate the balance sheet in its main cash, financial balance sheet and functional balance, and explain their role in the assessment diagnosis.

Resolution:

Balance sheet

A_____**Functional Balance**_____P

1. ob. Setting up 5000 1. capital soc. 125000

2. licenses 10000 2. Reserves 5000

Val.nec. 15,000 Equity 130000

3. buildings 50000 3. suppliers 250000

4. equipment____100000 4. loans for the 75000

__imb.corp ._____ 150000 5. impr.pe ter.lung 75000

5. stocks _____ 200000 6. income in av. 80000

6. debts _____300000 7. provis.pt.risc and dep. 65000

7. available ._____ 10000_____

TA 675000 TP 675000

For the bil.functional drawing, the active and passive passive elements are eliminated by correcting the results account with their value.

Active fictive = ob. To set up. = 5000

licenses _____ = 10000

15,000 (Corrected to minus)

Fictive liabilities = revenue in av. = 80000 (corrected extra)

 account. Of results. = 0 - 15000 + 80000 = 65000 lei

Provisions have a reserve role of capital.

Bil.functional reflects the investment, operation, treasury and enterprise financing functions from its own sources or various loans.

The study of the functional balance determines the mass of capital used by the enterprise and its structure.

A	**Functional Balance**		**P**
f. de invest. imob.corp. 150000		f.de finantare own sources	125000
		f.rez.	70000
		profit	65000
		TOTAL	260000
f. de expl. stocs		oblig.fin.impr.ban.	150000
creante	250000		
furnizori			
f. de trez. Available.	10000		

TOTAL ACTIV = 410000 **TOTAL PASIV = 410000**

The structure of the financial account is as follows:

A	**Financial Bilance sheet**		**P**
I. Imobiliz.	150000	IV. Capit.perm. cs	125000
		rez.	70000
		profit	65000
		impr.	75000
			335000
II. Stocuri	200000	V. Oblig.nefin.	
Creante	300000	pe t.scurtfz.	250000
	500000		
III.Disponibil.	10000	VI.Oblig.fin.pe t.scurt	75000
TA	**660000**	**TP**	**660000**

The financial balance sheet is based on the determination of the following indicators:

- global net working capital (FRNG) = IV - I = 335000 - 150000 = 185000 lei;

- Necessary working capital (NFR) = II - V = 500000 - 250000 = 250000 lei;

- Treasury (T) = III - VI = 10000 - 75000 = - 65000 lei.

The financial equilibrium results from the following relationship:

FRNG – NFR = T adica 185000 – 250000 = - 65000

Bibliography

Bojian, O. (1996). *Business Accounting*. Efficient Edition.

Darie, V.; Drehuţă, E.; Gorbănescu, C.; Petruţ, V. & Rotilă, A. (1998). *The book of the accountant expert and authorized accountant*. 4th Ed. updated. Bucharest: Ed Agora.

Stancu, I. (1994). *Financial Management of Economic Agents*. Bucharest: Editura Economica.

Nicolae, Traian (2000). *Business accounting*. Constanta: Ex Ponto.

THE 12TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

The Business Plan in the Industry of Hospitality – National Restaurants

Alina Cristina Alexandru[1]

Abstract: In my work I will analyze the practical case of the national restaurant. I will consider the specific financial accounting elements in the hospitality industry, product policy, the particularities of the promotional activity on the economic performance of the business.

Keywords: budget; business; product; policy; market

Motto: Culinary journey through Europe!

1. Business Description

Context and Objectives

It is proposed to open an original restaurant, with its traditional eight Hanukah evenings specifically (English, Italian, Greek, Turkish, Spanish, Hungarian). The restaurant's offer is centered on: food dishes, customs and traditions specific to each country. The artistic program will food consistency on: music, dance, information on culture and civilization of each country.

The location was chosen in Constanța, because there are already important groups of each nationality in this port and at the same time has a well-developed tourism potential. The diversity of cohabiting ethnic minorities, as well as the tourist flow, will contribute to the success and sustainability of the business.

[1] Student, Faculty of Economic Sciences, Danubius University, Romania, Address: 3 Blvd Galati, Galati 800654, Romania, Tel.: +40.372.361.251, Corresponding author: alina_tecuci20@yahoo.com.

It aims at reaching an average of one hundred clients on day in the first three months and to recover the investment within the maximum of three years.

Success factors and sustainability:

The restaurant will promote information about the customs and traditions specific to each country through leaflets, advertising spots and reports played on monitors with which the room will be equipped.

The diversity of cohabiting ethnic minorities, as well as the tourist flow, will contribute to the success and sustainability of the business.

The development and promotion of the business, both in the physical environment and in the on-line environment and the media, will be done through active campaigns aiming at attracting and informing the clients about the events to be the mid-market.

Reducing the initial cost of interior design and interior design will be achieved through the voluntary involvement of local artists and their subsequent promotion.

In the long run, it is desirable to improve services, that is to say, organizes events. We are equally committed to continuously improving the product in line with customer demands and market developments.

Legal Issues

The firm is constituted as a limited liability company according to 31/1990 Laws-which regulates the acts and steps necessary for the establishment of the S.R.L.

Steps:

- The anti-establishment the main activity object;
- Drawing up the file and checking the availability of the name at the Trade Registry;
- The anti-establishment the location for the company's registered office;
- Conclusion of the company's incorporation act;
- Company registration at the Trade Registry;
- Obtaining stamps and operating permits (the necessary operating authorizations for the opening of the restaurant has obtained from the Ministry of Public Food, Mayoralty, Sanepid and Firefighters).

2. Products/Services Offered

According to the studies, the main focus of our target segment is focused on the quality of the products and the service, according to the pleasant atmosphere and the optimal prices.

Food	**Drinks**	**Artistic program**	**Promotion culture and traditions**
		Italy	
Meat dishes: Tataki, chicken Parmigiana, tons, etc.,	Alcoholic: Grappa etc.	Folklore traditions: Tarantella etc.	Leafles distributed on tables
Paste	Non-alcoholic: San Pelegrino etc.		Italian presentation shows running on monitors
Pizza: Naples, Quatro Formaggi etc.	Digestive: Limoncello, Amaretto etc.		

Lasagna			
Dessert: Tiramisu, etc.	Plain water and mineral		
Greece			
Meat and rice dishes: greek style stew, Pastitsio, Gyros, etc.	Alcoholic: Ouzo, etc.	Folkloric traditions: Zorba etc.	Leafles distributed on tables
Seafood dishes	Non-alcoholic: Mythos, etc.		Greek presentation shows running on monitors
Greek salads and cheese: Saganaki, Greek salad, etc.			
Dessert: creme, madtha Loukoumathes Bougatsa etc.			

Food	**Drinks**	**Artistic program**	**Promotion culture and traditions**
Turkey			
Lamb dishes and straw: Iskender Kebab/Kebap etc.	Alcoholics: Raki, etc	Folk Traditions: Belly dance etc.	Leafles distributed on tables
Vegetable dishes	Non-Alcoholic: Black Tea, etc.		Turkish presentation videos played on monitors
Turkish pizza Lahmacun:			
Dessert: Baklava, Kadayif, etc.			
Spain			
Meat dishes: meat with the gun.	Alcoholic: Sangria, etc.	Folk Traditions: Flamenco, etc.	Leafles distributed on tables
Soups: Gazpacho, etc.	Non-alcoholics: Pina Coladas, etc.		Spanish presentation shows running on monitors
Tortilla and Paella	Digestive liqueur etc.		
Dessert: Torrijas etc.	Plain water and mineral		
Hungary			
Meat dishes: Goulash, Papricas, Lecso etc.	Alcoholic: Valentine P, Borsodu etc.	Folk Traditions: ceardaș etc.	Leafles distributed on tables
Bean soup	Non-alcoholic non-alcoholic cocktail, etc.		Hungarian presentation shows running on monitors
Dessert: pancake, Scone, Daniel, etc.	Plain water and mineral		
Romania			
Meat dishes: stuffed small, broth, stew, etc.	Alcoholic: wine and beer, etc.	Folk Traditions: folk dances and folk	Leaflets distributed on the tables, which are presented in different areas

		music in different areas (fuss ...) etc.	of interest or curiosities in our country.
Soup: soup Belly, etc.	Non-alcoholic: shock, lemonade, etc.		Presentation videos from Romania, played on monitors
Garments: pickles etc.			
Dessert: donut, burned sugar, etc.	Plain water and mineral		

3. Market Analysis

Description of the specific market

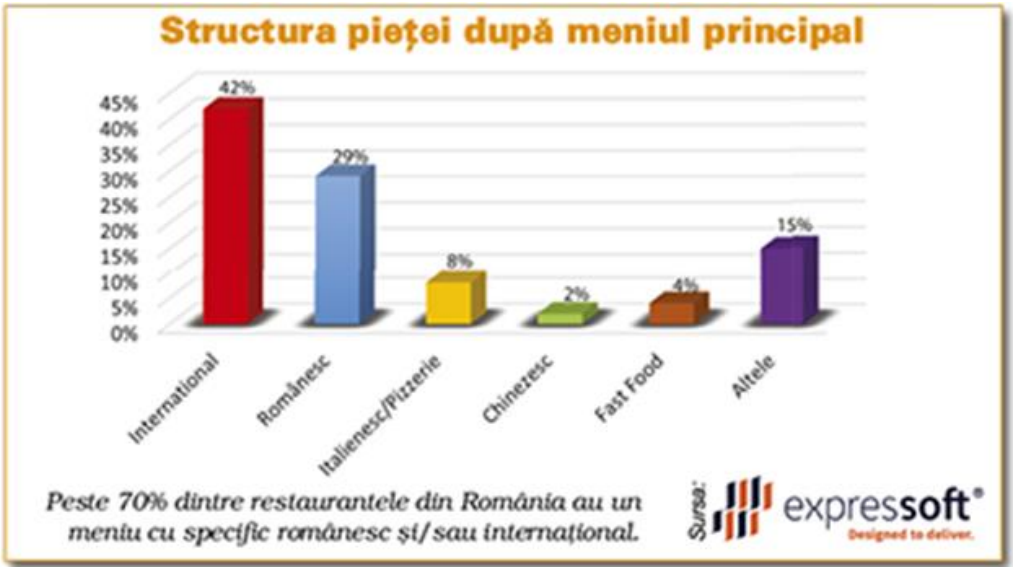
The concept promoted by this restaurant will be constantly evolving due to urban expansion and constant migration due to increased access to information and the need for social knowledge and interaction.

The elements that will influence the behavior of the targeted customer segment: the quality of products and services that will respond to the curiosity of your customers and their need to experience something new. Prices will also be affordable, but prices will not be the first decision criterion for the target customer. The restaurant will avoid entering the competition of the lower price with competition, trying to bring novelty in terms of quality and social interaction in this area.

According to statistics and market studies, international restaurants has the first choice of Romanians.

Constanta is one of the cities in Romania where the number of restaurants is higher than the number of bars, but by the alternative menu offer refreshment, the frequency of the list of new preparations (which will be done every three to four months) as well By analyzing the popularity and profitability of the preparations, we will develop the rule according to which the customer's keys will decisively influence the quality and diversity of the services offered. That is why we predict that competition will not cause us difficulties because it is represented by 4 restaurants with a menu specific to a single specific country.

Trend/market dynamics



According to the market research conducted by Expressoft, the number of bars and other pubs, clubs, cafes and restaurants in Romania is predominant. Also, Bucharest, Constanta and Arges has the only cities in Romania where the number of restaurants is higher than the number of bars.

The fast food and catering market has many zeros in Romania, and it has huge potential as it is among the few sectors that have made profits during the crisis.

Many of these restaurants have understood that, besides fast, consumers also want healthy products, so fast-food restaurants have started to offer a "healthy" or less calorie menu.

The owners of the premises have understood that the qualitative offer must prevail over the quantitative offer, because the potential customers have become more cautious about consumption and more concerned about the weight, but also the benefits of a balanced menu. I think culinary themes have reached their goal: to educate! And this process of educating consumers must continue, because education is an endless story.

Swot Analysis

Strong points: The innovative character of the concept, product quality, location and ambience, uniqueness and originality of events (organizing cultural events, theme eight Hanukah evenings, loyalty programs), access to culturally-specific information, encouragement and promotion of local artists, the quality of products and services. Associate with reputable manufacturers and suppliers; Manager Experience.

Weaknesses: Lack of reputation on the restaurants.

Opportunities: Greater openness of Romanian consumers to socialization outside the home, the fact that consumers tastes have evolved and now they appreciate otherwise quality service and something different or new, the interest for culture and novelty of a customer segment.

Threats/risks: Competition, unexpected situations of the economic crisis, the possible decrease in consumption as frequency and quantity, harsher credit conditions, reduced more on the market, rising raw material costs, devaluation of the national currency, the lack of specialized personnel (waiters, chefs, waiters).

The competitive advantages of the product/service: Despite the existence of local competition, “The joy of the senses” restaurant is distinguished by the fact that it offers recreational framework, through the interior design/design and the information provided to the clients, in order to offer a year's oasis of tranquility and relaxation to the contemporary man at an optimal price. All this shows the particular potential of the place.

Of course, there are restaurants that do not yet offer the alternative menu or where the refreshment frequency of the new list is made every three to four years, where no analysis of the popularity and profitability of the dishes is made and where the owner's taste is imposed as a rule for all menu items. This is not the case with our restaurant, to which the customer's opinion and suggestion prevails, considering the customer satisfied, pleasure as the best recommendation.

4. Marketing Plan

The Target Segment

The target customers are people of all ages, both men and women, with a medium/high level of education and information and with medium and medium income, both locals and tourists. The business plan is designed in such a way that it is possible to offer interested people the opportunity to spend a certain amount of time cultivating passions for culture and for interesting discussions with other people with whom they can share special experiences.

Pricing Policy

The price will be balanced against the market price and relative to the consumer's purchasing power.

The restaurant will practical commercial addition between 0%-300%.

During the week, weekdays, from 10:00-16:00, the restaurant will practical reduced prices by 15% to attract customers.

Promotion Policy

Developing and promoting the restaurant in the physical environment (leaflets, posters, napkins, nets, personalized household marker pens, newspapers, TV commercials, etc.) and in the on-line environment (creating the web, social networks).

The management of the restaurant wants the strongest promotion mechanism to be both the recommendation of the customers table and the satisfied, pleasure-the best quality price ratio.

Distribution Policy

The distribution of the services and products offered by our restaurant will be made directly to the customer.

5. Operational Plan

The production/supply process

The location of the restaurant will be in Constanta, Mamaia Boulevard, no.25, INTIMATE restaurant in the former space.

The total area is 1400 sqm, of which the useful area is 450 sqm, consisting of 265 sqm restaurant itself, 185 sqm terrace, and the rest is the garden area of the restaurant.

Location is the property of the company.

The necessary spaces for the production/sales/management and organization/service delivery features:

- dining room;
- kitchen;
- food storage room;
- warehouse;
- office management;
- TESA-office;
- personal shower/clients;
- personal lockers;

- wardrobe customers.

Besides the culinary offer, the artistic program will include thematic eight Hanukah evenings of each country; These programs will be supported by animators and artistic ensembles-providing services on a collaborative basis.

Informational support will be provided by endowing the restaurant with monitors that will run country-specific selections, and tailored materials as well as promotional leaflets and posters of the restaurant will be printed on a contract basis by a specialized firm.

Acquisitions:

- Raw materials: foods required for preparation of food, beverages, spices will be procured directly from producers and among on negotiated basis in terms of price, payment terms and delivery terms. They will be transformed into dishes based on recipes used by the chef, and waiters will serve their customers.

- Required technical purchases:

- 4 monitors;
- 4 laptops;
- Fixed telephone-2 pcs;
- Mobile phone-6 pcs;
- Multifunction printer (fax, scanner, copier);
- Sound system/lights;
- Telephone subscription, internet;
- Furniture, interior decoration (curtains, curtains, tablecloths, cloth napkins, etc.);
- Required dishes and consumables;
- Apparatus and cleaning products;
- Office products.

Equipment, technology and facilities

The equipment required for the storage and preparation of the products will be obtained directly from suppliers, on the basis of a free-of-charge control (one of the parties called comodant, transmits the equipment temporarily and free of charge to another party). In this way, the company will have modern equipment at no extra cost; In addition, providers will also provide employees with training on how to use the equipment, and how to serve products.

Fixed intangible assets

Carrying out the registration of the company and/or the point of business:

→ Authorization for operation on sanitary and sanitary-veterinary lines;

→ Implementation of H.A.C.C.P. (mandatory from 2007);

→ Authorization on-line OSH-SU (Health and safety at work and emergency situations);

→ Operating notice from the City Hall for space and eventually for the terrace;

→ Environmental Music Broadcasting Licenses;

→ Meeting the formalities for placing an ad;

→ Other assistance and advice services specific to the situation on the ground.

6. Management and Organization

Management team (profiles, attributions)

Position in the company	Number of employees	Assignments	Experience
Manager	**1**	Plan, organize, direct, coordinate and control the activity of the organization by exercising managerial functions in relation to the subordinated specialized personnel in order to achieve the general and specific objectives of the organization.	**Higher education in the field of work, organizational and human psychology; Organizational skills**
Accountant	**1**	Coordinates the activity of the accounting department; - Draws up various economic and financial situations requested; Double-checks the capital accounts, the transactions made and the balance of the accounts involved; - Checks the Sales Journal in correspondence with the analytical balance and the account associated with it; - Checking the Purchasing Journal in correspondence with the analytical balance and the account associated with it; - Checks on installment payments and pursues settlement as payments has made; - Check the Fixed Assets Register in correspondence with the Analytical Balance, Check your records and Outputs of Fixed Assets; - Verifies the preparation of minutes of reception, commissioning, scrapping of fixed assets, and sale-purchase contracts; - Check the existence of the balance for certain accounts;	**Specialized Higher Education, 4 years experience**
Administrator	**1**	1. Verify and endorse from the point of view of legal validity the orders and contracts by submitting them for approval to the general manager, also formulating objections, as the case may be, to the proposals for contracts received, respectively responding to the objections formulated by the client to the proposed contracting 2. Maintains the relationship with States institutions (Financial circle, Court, Public Administration, Judicial Executor); 3. Operates the changes in the constitutive act and the scope of activity of the company (NACE code, company merger, divestment of shares,	**Superior Legal Studies, 3 years experience in business administration**

		division of the company, the revocation of the administrator/extension, change or appointment of new representatives of the company's associates); 4. Maintains the relationship with the bank in view of changes to bank contract clauses (for bank guarantee letters, loan line, factoring line contract contract); 5. Realize complaints, contests, notifications, addresses, conventions and conciliation attempts based on contract terms; 6. Develops or adapts the contract drafts according to customer requirements in accordance with the specifics of the company.	
Assistant manager	**1**	- Sorts and records the correspondence received in the entry-exit register (number, date, company name, telephone, message content, other information deemed necessary). - Directs and Takes phone calls, and if the requested person is busy/missing, he/she takes over the messages and then sends them or directs the call to people who may know the problem. - Before transferring the message, find out who is calling and eventually the issue; Forward that information to the person concerned before actually transferring the link. - Receives outsiders (clients, business partners, etc.), informs those who interested in their arrival and leads the visitors to the respective persons, ensuring the related protocol. - If the person receiving the visit is busy/missing, the secretary puts guests in touch with someone else who knows the problem. - Maintains the receipt of the faxes, deals with their copying and recording (the content of the message, the number, the data), their registration in the bibliographies (Received, Sent) - Keep in touch with travel agents, voyages, etc. To ensure transportation and accommodation, at the required level, in the case of business trips of company employees/partners. - Fill out the Prioripost border, send the recommended envelopes (by courier or regular mail), fill in the envelope addresses, pack packages, record envelopes you send. - Schedule interviews and audiences. - Copy/edit/edit various materials.	**Middle/upper studies, minimum 3 years experience on a similar post**

		- Receives and transmits emails and memos. - Perform any other provisions given by the hierarchical superior or his/her supervisors in achieving the company's short-term strategies within the limits of observing the legal basis.	
Chief of the hall	**2**	Responsibilities and tasks: Purpose of the job: the job holder has the role to ensure the provision of efficient and professional services within the unit. Main activities: - Surveillance of the dining room in terms of appearance, facilities, cleanliness and hygiene; - Supervising and coordinating the activity of waiters, barmen's and picnics; - Maintaining good working relations between colleagues from all departments of the unit; - Programming and organizing the celebratory events; - Effective resolution of all customer requests and/or complaints. Specific Tasks and Duties: - Planning and organizing the restaurant's activity so that it is possible to attract new loyal clients and keep the existing ones. Responsibilities: - Responds to the quality of the services offered in the restaurant. - Responds to the quality of the subordinate staff. - Respond to the prompt resolution of customer requests and/or complaints.	**Studies of short duration in the field of hotels-restaurants**
Waiter	**4**	Main activities: - taking orders for food and drinks in an efficient and professional manner; - grant appropriate attention and providing impeccable services; - knowing the menu so they can provide competent information in any situation regarding cutlery, dishes and drinks. Specific tasks and duties: - serving neighborhood customers; - fulfill other tasks assigned by the superior streams directly, according to the immediate needs of the unit. Responsibilities of: - responsibility for the correctness of drawing and the invoice; - responsibility for the quality of services offered. The station's authority:	**Graduate course or specialized school bartender-waiter; experience in the field-min 1 yr** **Knowledge of English-medium**

		- Is authorized to provide clients with impeccable products/foods/beverages ordered by them.	
Cook	**2**	- preparing food from dishes of the unit in accordance with the standards in force; - mounts on preparations for serving appropriate objects and aesthetic elements of preparations; - participate in supervision for the determination of the amount of raw materials ordered and to the realization of orders; - take orders from clients and ensures their servicing; - ensure the cleanliness of the kitchen; - ensure implementation and maintenance of standards for storage and warehousing of products, intermediate goods and food preparations in compliance with hygienic-sanitary norms in force. - responsibility for compliance with the quality standards of preparations made and deadlines for their execution; - keeping in good conditions of utensils and equipment; - compliance with the rules of hygiene and safety; - the use of existing resources, in the interests of the company.	**Studies recognized by the ANC, with over 3 years of service in the field**
Scullion	**2**	1. Ensures the implementation and maintenance of standards for safe-keeping and storage of products, intermediate goods and food preparations in compliance with hygienic-sanitary norms in force. 2. Participate in the determination of the amount of material ordered realization of orders; 3. Daily mature samples of menu that you kept in the refrigerator; 4. ensure the kitchen cleaning and Discards; 5. Actively participate in the upkeep of kitchen utensils and equipment as standard; 6. Keep in mind to perish, warranty, how the ingredients are to be used; 7. Make preliminary cooking processes-sorts, cleans, washes, divided and then Cook-Cook, roast, bake, FRY; 8. Performs other tasks assigned and current by the direct supervisor, according to the immediate needs of the unit.	**Studies recognised by the ANC and 6 months old in another restaurant**

		9. According to the current activity of the unit, the employee will perform any other tasks arranged by management in relation to the maintenance of adequate reviews, according to his professional skills.	
Washed pots	**2**	throws meals, make cleaning the kitchen, washes the dishes, preparing ingredients and perform other tasks to assist workers who prepare or serve food and beverages.	**Minimum 8 classes**
Entertainers	**4**	provides services and companionship as dance partners - promotes the activities of entertainment projects, elaborates them, prepares and manages activities within thematic evenings, as well as ensure the safety of participants in the activity.	**Minimum 8 classes**
Cleaning agent	**2**	- performs General cleaning in the building (including basement property) and landlords Association area related (green areas, sidewalks). - performs additional required maintaining cleanliness and refuse the eviction from the building (including basement property) and landlords Association area related (green spaces, pavement) - is directly responsible for keeping the goods or other materials that you are in;	**Minimum 8 classes**
Total staff:	**22**		

Timetable of Activities

Activity	***Time allotted***	***responsible***
Acquisition of space	approx. 1 month	Manager
The start-up company	approx. 3 months ago	Manager and administrator
Renovating, furnishing and fitting-out of space	approx. 2 months	The team of workers employed under a contract of collaboration during the period determined
Marketing activities	approx. 2-3 weeks	Assistant manager
Recruitment, employment and training and vetting personnel	approx. 1 month	Partner company from which I bought machines through bailment contract
Initial acquisition of uni stock raw materials and preparation of recipes	1 day ago	Restaurant staff
Opening of the restaurant's Joy for the senses	1 day ago	So the Manager, the Manager, as well as all the staff

Risk Management

Management decided the conclusion of a contract of insurance against fire, as well as the installation of an alarm system and surveillance cameras. The appearance of new competitors in the same area

could diminish customer traffic. In this respect, management wants to train through customer loyalty through special programs.

Management does not want a large rotation of personnel. Therefore, besides the fixed salaries, employees will benefit from bonuses depending on performance. The head of the person in charge of the hall/restaurant will create motivation programs (involving all employees in the company's activity, empowering them, reward them). It also will benefit from a bonus consists of a percentage of sales achieved over a certain target.

Investment Expenses

Product/service	**Price/MDL**	**Motivate the choice of product/service**
LCD monitor wall	2852	For promoting the culture of each country's specific
Laptop	4340	For carrying out secretarial activities, accounting, etc.
Laptop software	2480	Default
Accounting software	434	Default
Multifunctional printer	3968	For carrying out the activities of the secretariat and office supplies
Landline phone	free	To streamline the business (orders, communication between staff members, etc.)
Cell phone	free	Ditto
Sound system/lights	930	In order to achieve moments of entertainment
Interior decoration	4340	To create a pleasant and relaxing atmosphere
Wood furniture line	9300	For accomplishing
Kitchen line	868	For the preparation of food and drink
Cleaning apparatus	744	For maintenance in optimal conditions of restaurant cleanliness
Cash register fiscalizată	1364	To comply with the legal norms in force
First aid kit	99.2	To comply with the legal norms in force
Fire extinguisher	173.6	To comply with the legal norms in force

Operational income and expenses

	January	**February**	**March**	**April**	**more**	**June**	**July**	**August**	**September**	**October**	**November**	**December**
Monthly expenses (raw materials salaries, utilities)	**85,000**	**85,000**	**85,000**	**85,000**	**85,000**	**85,000**	**85,000**	**85,000**	**85,000**	**85,000**	**85,000**	**85,000**
Revenues from customer	**60,000**	**58,000**	**61,000**	**63,000**	**68,000**	**72,000**	**70,000**	**75,000**	**73,000**	**75,000**	**80,000**	**87,000**
Profit	-25000	-27000	-24000	-22000	-17000	-13000	-15000	-10000	-12000	-10000	-15000	+ 2000

Bibliography

Hagicalil, Liliana & Jeremiah, D. *Entrepreneurship-the opportunity for a better future!*

https://www.plandeafacere.ro/modele-planuri/model-plan-de-afaceri-pentru-infiintarea-unui-restaurant/.

http://www.scritub.com/management/Sinteza-planului20123231324.php.

http://www.rasfoiesc.com/business/marketing/Plan-de-afacere-Restaurant43.php.

THE 12TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

International Adoption of Romanian Children, the Reality of Post-Revolutionary and Contemporary Europe

Alexandru-Adrian Eni[1]

Abstract: The topic of international adoption is undoubtedly one of the most present and controversial phenomena of the Romanian contemporary law, a phenomenon that has gained amplitude in the immediate post-revolutionary period, Romania ranking first among the former communist countries in the field of international adoption, the child being considered a commodity generating substantial income. Corruptibility that developed in this domain has caused many children to miss adoption, with the most diverse and serious consequences for them. In 2003, Romania has suspended international adoptions further to pressures of the MEP Emma Nicholson, Special Rapporteur at the time, for our country's accession to the European Union. She invoked alleged dangers such as begging or organ trafficking which were menacing the future of Romanian children, once arrived in the West. Several countries such as USA, Israel, France and Spain protested against this decision. Neither the pressures of the European institutions from the recent years did not lead to changes in the Romanian legislation. If a child is adopted by a foreign citizen, he will receive citizenship of the country. In this situation his evolution would be extremely difficult to track. The international adoption as a "last resort" must be understood in the context of the provision referring to the importance of maintaining the continuity of cultural, linguistic, ethnic and religious background in a child's education. We hereby appreciate the idea that adoption by its nature, changes destinies and aims to a certain degree of spiritual empathy, not being only a measure, but a clarification that can mark and change a human life, and despite all regulations, decisions or political or legislative decisions, nothing is more important than life.

Keywords: International adoption; Romanian children; Romanian contemporary law

1. Introduction

The topic of international adoption is undoubtedly one of the most present and controversial phenomena of the Romanian contemporary law, a phenomenon that has gained amplitude in the immediate post-revolutionary period, Romania ranking first among the former communist countries in the field of international adoption.

Starting from the phrase "child's adoption", "child" meaning a young person of either sex, either by birth or by adoption, meanwhile "adoption" means the act or process of adopting a person; "child's adoption" is a national and international social and legal phenomenon (Mihăilă, 2010) that ensure children without parents or without proper parental care,

[1] Student, Law Faculty, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, Corresponding author: alexandru_eni@yahoo.com.

integration into a family, with a climate of love and understanding, allowing him to live a life without problems.

Most of the adoption cases involve a group of potential foster parents, with one infertile spouse or no compatibility; there is also the case of family planning in which the woman decides not to carry a pregnancy. However, the public will usually ask to find the answer to the question whether it is necessary for the adoption to take place.

Is child adoption an alternative to abortion and single parenting?

However, we believe international adoption to be a solution to cure a child from the severe abuse and neglect he is subjected to in his biological family, as well as a chance to a new life in a social environment that is totally opposite to that of birth? Therefore, should international children adoption be encouraged?

Consequently, this research paper provides an overview of the history of children adoption, of international adoptions in Romania, the conditions which should be met for a child's adoption, the factors that increase the chances of child adoption, of the benefits and finally, a conclusion on the disadvantages of child adoption.

2. Content

Adoption is a very complex issue, a phenomenon that has attracted worldwide attention due to its complexity and also to its significance.

On the adoption phenomenon, the French jurist Jean Carbonnier had the following considerations: "is adoption good or bad? Adoption is bad as it is rooted in child's abandonment, and is good because the children are saved."

Adoption was practiced even in ancient Rome, the Roman law uses the term "adoption" signifying adoption of a dependent ("aliens iuris", that of a son of the family) being used especially by the emperors for the purpose of ensuring the succession to the empire's rule, identically with hereditary succession.

The institution of adoption is found in Romanian law and has a long tradition, having over time different names and legal regulations: "a lua de suflet" (Matei Basarab's Rule, 1652) "infiala" (Article 236, Callimach's Code, 1817) "facerea de fii de suflet este dar spre mântuirea celor ce nu au copii"[1] (Article 1, part IV - to Chapter 5, Caragea Law, 1818).

The "Charter (Moroșanu, Chelaru, Serbina, Iftimie, & Eparu, 1997) for iothesie", 1800 by Alexander C. Moruzzi, was a real code of adoption. In fact, from the introduction to the charter, results that iothesia is the old tradition existing in this part of the world, to raise and educate a child.

The aforementioned laws provided that only those who do not have legitimate children can adopt.

[1] Approximate translation: raising sons close to your soul is a gift for the salvation of those who bear no children.

The adoptee was called "soul child" to distinguish it from "natural child". He/she entered the adoptive family, called "soul parent" that set him apart from the "natural parent". Among them were established similar relationships as in the biological family, the adopter's kinship with the natural family, being kept.

The 1865 Romanian Civil Code and the legal doctrine used the name "adoptațiune" applying, as the French Civil Code of 1804 the Justinian legislation.

The Decree no. 131/1949 brought amendments to the 1865 Romanian civil code, stating the following:

- The right to adopt was also granted to those who had children, other adopted children or legitimate descendants;
- The right to adopt only under aged children;
- The adoption is only made in the interest of the adoptee;
- The right of the prosecution, of the administrative bodies and welfare institutions regarding cancellation of an adoption.

Family Code of February 1st, 1954 brought some legal changes, but we can consider as the most important, the introduction of a new legal regulation, unprecedented in Romanian law, namely, the one on the international adoption.

By 1990, according to the legal provisions, this type of adoption could have been concluded only under the presidential authorization.

After 1990, the year of introduction of the first law on this legal institution, namely Law no. 11/1990 (on approval of adoption), the international adoption gains a legal institutional framework, our country adhering to the most important international conventions in this field.

This law was adopted in the context of the heavy legacy of the former communist regime, that of 100,000 children left in institutions, in hard to imagine conditions, considering thus, that this legal framework will provide a new chance in life for those in child care institutions in the country.

By Law no. 15 of March 25th, 1993 for Romania's accession to the European Convention on the Adoption of Children, some common principles and practices regarding adoption of children were accepted, mitigating thus, most of the existing disparities in the legislation of signatory countries.

Further, based on the principle recognized by the Convention on Child Rights, according to which each child's primary interest is to have a family, and our state aims to protect all children that cannot be raised and educated by their biological family, through the national institution of adoption mainly and through international adoption in special cases.

The Convention on child protection and cooperation with respect to international adoption, signed at The Hague in 1993, defines international adoption as the act by which a child who is habitually resident in a contracting state is to be moved to another contracting state, or after his adoption in the state of origin by two spouses, or by a person resident in the incoming

state, or with the purpose of adoption in the incoming state or country of origin. The Preamble of the Hague Convention states that international adoption may come with the advantage to offer the child a permanent family, if a suitable one cannot be found in his home state.

Thus, as previously shown, international adoption consists in the adoption of Romanian children, residents in Romania, by Romanian citizens or citizens who live abroad.

International adoption is subsidiary to the national one, however, is preferable to the child's institutionalization, containing at least one international element. The subsidiary character of the international adoption, in relation with the national one is only natural, given that the child must be ensured continuity in education, language, culture and religion, the disruption might cause the child major disadvantages, even psychological. Therefore, but also for other reasons that we will describe in this paper, the Romanian legislator stated that international adoption should be done only if the adopters are the child's grandparents, and later extended the circle of people to third-degree relatives and the adopter's husband. But even with this particularly important change, the subsidiarity principle is still contemporary.

However, in our opinion, we believe that international adoption presents many more advantages, as compared to the national, as the first one we consider to be in the interest of the minor because it provides a permanent family when this cannot be found in his state of origin and also gives the child the chance to integrate into a society with social and educational opportunities that he would not have received in his/her home country.

To conclude an international adoption, certain conditions must be met, so that their totality, as well as the impediments to adoption, as prescribed by the law, largely constitutes the requirements for adoption.

The substantive conditions required to complete the adoption are determined by the national law of the adopter and of the one to be adopted. They must also fulfil the conditions that are required for both, as established by the two laws described.

The substantive requirement for the spouses who jointly adopt, or if one spouse adopts the other's child are those established by the law that governs the effects of their marriage (art. 30, paragraph. 2 of Law no. 105/1992). Simultaneously, article 20 of the Law provides that:

"Personal and property relations between spouses are subject to common national law, and in the case of different nationality, they are subject to the law of their common domicile. Common national law or the law of common domicile of the spouses continues to regulate the effects of marriage if one of them changes as appropriate, citizenship or domicile. In the absence of common citizenship or domicile, personal and property relations between spouses are subject to the law of the State where they have resided or where they have in common, the closest connections."

Romanian legislation provides the following main conditions to be met in order to be permitted the adoption. First, we present the conditions that the adopted must meet:

1. The Adoption is meant only to protect the higher interests of the child.

UN Convention on the Child Rights, as ratified by the Romanian Parliament by Law no. 18/1990 states that "in countries where adoption is recognized and/or allowed, it shall only be made in the best interests of the child, with all the guarantees necessary for a child and by approval of the competent authorities."

In general, it is very difficult to establish the necessary criteria which determine the best interests of the minor. The subjective factor in establishing these criteria is omnipresent and governs the entire decisional process.

2. A child can only be adopted until he/she acquires full legal capacity.

In the light of our legislation on protection of children in difficulty, the child is a person under the age of 18 and does not have full legal capacity. It is entirely devoid of legal capacity the minor under 14 years, and also the one who is under permanent interdiction by court decision, as suffering from alienation or mental debility. A person without legal capacity shall have a legal representative, through which it will be able to acquire rights and assume obligations.

At the age of 14 years the child acquires a limited legal capacity, enabling him to conclude legal acts in his own name but only with the prior consent of the legal guardian.

Mature reasoning, as considered by the legislator, is to be attained at the age of 18, when the child acquires full legal capacity. The law makes exceptions only for girl minors who may become major before the age of 16 years, or for exceptional cases regulated by the Civil Code. (Moroșanu, Chelaru, Serbina, Iftimie, & Eparu, 1997)

Furthermore, we hereby present the conditions to be met by the adopter:

1. Full legal capacity

Is a key condition to be fulfilled by the person wishing to adopt, which results from the provisions of current regulations on adoption consent. According to these, only people who have full legal capacity can adopt.

The express mention of the condition that the adopter should have full legal capacity was needed because lacking full legal capacity are not only minors, but those placed under interdiction.

Simultaneously, it must be underlined that, while Article 7 of the European Convention on Child Adoption stipulates that a child may be adopted only if the adopter has attained the minimum age prescribed for this purpose, this being not less than 21 years, nor more than 35 years, under the possibilities conferred by art. 25 of the Convention, to formulate not more than two reservations on the provisions of Part II.

In this respect, it was considered that, according to the Romanian law, the minimum age is 18 years, with no maximum limit for the consent of adoption.

2. The 18 years difference of age between the adopter and the one to be adopted.

This condition aims primarily to create, between the adopter and the adopted, family relations just like those between natural parents and children.

We have to mention that, for legitimate reasons, the court may also approve the adoption where the age difference is less than that mentioned above.

The European Convention on Child Adoption stipulates in art. 8 pt. 3, as general rule, that the competent authority shall not consider that the necessary conditions for the conclusion of adoption were met if the age difference between the adopter and the child is less than the typical difference separating parents from their children.

3. The adopter must provide the material conditions and moral guarantees necessary to ensure the harmonious development of a child.

Since by adoption, the parental care is passed from the natural parents of the adoptee to the adoptive parents, the latter are bound to raise the child, caring for his health and physical development, education and personal training, harmonized with his attributes and in line with the state goals.

Further, the substantive and the formal conditions of adoption coexist, being provided by the law and intended to ensure fulfilment of the substantive conditions and the lack of impediments to adoption.

In terms of form, the legal act of adoption is solemn in the sense that the expression of will of the one who will give his consent to adoption, called declaration of adoption, shall be expressed in an authentic document at the notary public.

The authorized persons' consent can be given, either by separate declarations or by a single document. The application for approval of adoption will be accompanied by the documents that are required by law in this area.

According to legal provisions, the request of the person or family who wants to adopt a child registered by the Romanian Adoption Committee will be submitted to court through specialized public service or authorized private body. (Moroșanu, Chelaru, Serbina, Iftimie, & Eparu, 1997)

Although from the procedural point of view, we can say that both the substantive and formal conditions for the approval of international adoptions were met, like other former communist countries, Romania was also affected by the scourge of corruption, so that further in this paper will bring to attention the effects of international adoption moratorium.

As aforementioned, until ceasing the adoptions in 2001, Romania has ranked first among the former communist countries in terms of International adoptions market, where the child was considered a commodity that brought substantial income. Corruptibility that developed in this area has caused many children to miss adoption, with the most diverse and serious consequences for them.

The new regulations came as a natural consequence of the moratorium imposed by GEO no.121/2001, on temporarily suspending all international adoptions, adopted further to pressures from the European Union, in response to cases of children selling and adoptions made without compliance with Romanian legislation.

"The scenes of degradation, starvation and misery in which thousands of children lived in Romanian institutions have gone around the world through television. Tragically, Romania introduced an excess of horror, something like Durer's paintings that depicted hell."[1]

GEO no. 1/2004 provided that the requests for approval for adoption of Romanian children, submitted by a person or a family with foreign residence or by a person or a family with Romanian nationality residing abroad, if the government approved the submission of files to the competent courts until the application of this emergency ordinance, shall be settled according to regulations in force at the time of their introduction.

Due to the fact that before 1990, the international adoptions were little practiced, the orphans, the abandoned and children with severe disabilities were kept in hundreds of prison program isolated institutions (Teodorescu, 2002). When someone wanted to adopt a child, the decision was taken with great difficulty by the Romanian President because, once internationally adopted, a child loses Romanian citizenship. As population growth became an obsession, the number of abandoned and disabled children increased. In the early 1990s, under pressure from international organizations, the Romanian legislation began to change. But international adoptions have become a business: quick documentations, marketing slogans such as "adopt Romanian children", internet, publicity, associations and foundations established for the sole purpose of earning money from the sale of children. (Mihăilă, 2010)

Some international adoptions agencies have even used inappropriate language when referring to children in Romania: "Romania is a very productive source of children, especially for customers willing to accept some minor delays and uncertainties in exchange for the possibility of a rapid offer for the placement of a small child."[2]

In 2003, Romania has ceased international adoptions on the pressures of MEP Emma Nicholson, Special Rapporteur at the time of acceding to the European Union. Dangers were invoked, such as begging or organ trafficking, once the children arrived in the Western countries. Several countries such as USA, Israel, France and Spain protested against this decision. There were no pressures from Europe in the recent years to produce changes in the Romanian legislation. The last resolution of the European Parliament on this issue will not change, most likely the current situation.[3]

International organizations specialized in adoptions made pressures and took even prepayments for the adoption of a Romanian child by honest families in America or Europe, lobbying on their countries' governments so they would put pressure on our country, arguing that ceasing the adoptions will cause them significant monetary capital resources loss.

Once the restrictions on international adoption began, people's opinions were divided. Thus, some may consider that the law violates the fundamental child right to have a family. It also discriminates against both children and those who want to adopt, by incompliance with the principle underlying the promotion and respect for children's rights on equality and non-discrimination.

[1] E. Nichelson, interview by R. Veress, in *Adevărul* journal No. 4261 of 15th March 2004.
[2] Human Rights Alert – The race for adoption, 7th September, 2004.
[3] Totb.ro.

On the other hand, there are people who state that it is better for a child to be adopted within the country of origin, as it is easier to monitor him at least two years after adoption, as required by law.

If a child is adopted by a foreign person, he will receive citizenship of that country. In this situation it will be extremely difficult to keep track on his evolution.

According to a decision of the ECHR, the Romanian state was ordered to pay 35,000 Euros to two Italian families because the verdicts by which they received the right to adopt two little girls were not applied. However, the ECHR states that the solution reached by the Romanian State is one in the children's interest, especially when the legal system from that time allowed the adoption to proceed without the adopting family to have ever seen the girls in discussion.

Right of access to a court of law would be illusory if a State's domestic legal system would allow a final, binding judicial decision to remain inoperative to the detriment of one party.

Enforcement of a decision or judgment of any jurisdiction must be considered as part of the process, according to art. 6 of the European Convention on Human Rights. (Roșu, 2007)

Almost 1,200 adoptive parents of Romanian children, mostly French, have criticized the European courts which were against the resumption of international adoptions before the implementation of Law no.273/2004. "EU enlargement after Romania's accession should not be built on a blackmail concerning the abandonment of thousands of children, whether adoptable or not."[1]

However, there was a real US offensive for the amendment of the current legislation. Through the media the Romanian authorities were sent the message: "Romania: let the children go" (Armitage, 2004) followed by the letter congressman asking the Government to amend the adoption law because it was violating the international legislation.

The decision to ban international adoptions has turned the fate of adoptable children into an international battle with the American authorities, and not only. There is no doubt that many adoptions had a happy ending, but many have turned into a practice in which children were sold for thousands of dollars. Old law generated a real market. In the year 2000, more than 3,000 children were adopted by foreigners, with total costs of 55,000 dollars per child.[2]

There were also children who, before 1997 were adopted internationally by families abroad, but they never reached the adoptive parents. Instead, in some countries other children were sent, also from Romania, but through other routes, most likely through well-developed organizations, which supplied the foreign adoption market with backup children, against large sums of money. After January 1st, 2005 there were 8 cases of children adopted from Romania, who have not reached their foreign parents, being replaced with other children. (Mihăilă, 2010)

[1] Petition of the Association of French Families which adopted children born in Romania - France Presse Agency.
[2] https://www.theguardian.com/society/2004/may/06/adoptionandfostering.adoption.

A ORA[1] patented study, revealed that, following international adoptions in the period 1997-2005, over 1,300 Romanian children who had to reach foreign parents have disappeared, one of the reasons being the non submission of post-adoption reports.

It is well known that state officials sold the abandoned children to foreign citizens who paid tens of thousands of Euros. Everything is done illicitly, so that anyone who wanted a child could come to Romania and buy one.

There has also been, of course, a time when numerous families sold their children, exploiting them as a source of income.

If abroad, even numerous families adopted, in our country, perhaps on account of the low living standards, adoption was required by only those who couldn't have children.

In countries like Britain, France, the waiting period for adoption varies between 4 and 5 years. And if such countries also adopted disabled children, in Romania, they have little chance to get a family.

An example of intermediate paid adoptions comes from Drobeta Turnu Severin, where an NGO foundation brokered 30 adoptions in the US, for each receiving 5000 dollars. Since October 2001, NGOs were excluded from the actions and all adoptions were made only through Governmental memoranda.

Concerning international adoptions, Romanian NGOs have the right to engage only in child protection services or foster family care, by family reintegration and by supporting families to prevent abandonment. Shortly before the adoption of the new legislative package, the Romanian Adoption Committee revoked the scoring system under which the adopted children were attributed to foundations so that international adoptions have become impossible to finalize until application of new regulations. (Mihăilă, 2010)

Because at first, the attempts to draw attention to illegalities in the practice of international adoptions were deterred by expressions like "it is better for the child"[2], the new law on adoption is the right solution, at least for now, to solve these problems.

Despite the criticisms, the current legislation on adoption is consistent with the Hague Convention and ensures better protection for minors than in many Western European countries[3].

International adoption as a "last resort" must be understood in the context of the provision referring to the importance of maintaining continuity of cultural, linguistic, ethnic and religious background when raising a child.

This was highlighted in a decision of the Constitutional Court of Romania since 1993, when the objection of unconstitutionality raised on the validity of art. 3 and 4 of Law no. 11/1990, the former law of adoption, the exception being proposed further to the action of law of two

[1] ORA - Romanian Adoption Office.
[2] http://jurnalul.ro/special-jurnalul/opriti-exportul-de-copii-581483.html.
[3] https://www.theguardian.com/world/2005/dec/03/internationalcrime.

Italian citizens who were denied the adoption of some Romanian children on the account that they were not registered with the Romanian Adoption Committee.[1]

For ensuring that the respect for children's rights becomes a priority for all organizations entitled to guarantee a coherent and unified background for promoting child rights, efforts are made to adopt a single law to tackle the issue of children in care institutions, in an integrated manner. (Mihăilă, 2010)

One may say that, once this regulatory environment is created, it will prevent the cases of neglect, molestation and abuse of children, the exploitation of their work and not least, sexual exploitation.

We can state that, after countless cases related to the phenomenon of international adoption that cast a negative image on our country in the international community, Romania, in its legislative attempts managed to improve this situation/image, especially after stopping the adoptions from 2001 and creation of the necessary legislative framework consistent to the European principles.

3. Conclusions

In the conclusion, we believe that the issues addressed are an integral part of the social and political life marking Romania's evolution in the way to association to the European Union, and of the Romanian law and comparative law, as it is still a topical issue by its thematic.

November 20th, 1989 is a historic day for the 2 billion children worldwide, because at this date, the United Nations adopted the 54 articles of the Convention on the Child Rights.

The Convention was adopted by 194 countries, members of the United Nations (except the US and Somalia). Any State which signed the Convention recognizes its content, undertakes to respect and to apply it accordingly.

The idea of a special document to include the child rights belongs to Englantyne Jebb, who founded the first Save the Children organization, in 1919 in London.

The fundamental rights of the child contained in the Convention are:

- The right to live;
- The right to a name and nationality;
- The right to a proper education;
- The right to freedom of expression;
- The right to medical care;
- The right to be protected against any form of violence, abuse or neglect;
- The right to play and leisure.

[1] Decision CC No. 62 of 21st October, 1993, published in the Romanian Official Monitor. 49 of 25th February, 1994.

The higher interest of the child is one of the fundamental principles of the Convention and Law 272/2004 on the child protection and the activity of promoting children's rights.

Romania was among the first countries to ratify the UN Convention on the Child Rights, in the year following its adoption by the United Nations, by Law no. 18 of 28 September 1990. By signing the Convention, Romania set its objective to improve the situation of children, ensuring that standards for child protection and children's rights are respected, ensuring the best conditions for them to grow up healthy, to have quality education and actively participate to the community life.[1]

We hereby appreciate the idea that adoption by its nature, changes destinies and aims to a certain degree of spiritual empathy, not being only a measure, but a clarification that can mark and change a human life, and despite all regulations, decisions or political or legislative decisions, nothing is more important than life.

4. Bibliography

Armitage, R. (2004). Deputy Secretary of State of the United States Government. *International Herald Tribune*, 23rd of Aprilie.

Mihăilă, Oana (2010). *Adoption.* Bucharest: Universul Juridic.

Moroșanu, Corneliu; Chelaru, Cristea; Serbina, Ion; Iftimie, Nicolae & Eparu, Viorica (1997). *National and International Adoption*. Iasi: Moldogrup.

Nichelson, E. (2004). Interview by Veress, R. *Journal Adevarul* No. 4261 of 15th March.

Puşcă, Andy (2006). *Drept civil român. Persoanele fizice şi persoanele juridice*/*Romanian civil law. Physical and legal entities*. Bucharest: Editura Didactică şi Pedagogică.

Roșu, E. (2007). *Family Law, Judiciary practice, ECHR rules.* Bucharest: Hamangiu.

Teodorescu, A. (2002). Democracy and the personal interest. *Gazeta de Sud*, of 3rd April.

Online Sources:

Totb.ro.

www.salvaticopii.ro.

(2004). Human Rights Alert – The race for adoption, 7th September.

*** Petition of the Association of French Families which adopted children born in Romania - France Presse Agency.

Decision CC No. 62 of 21st October, 1993, published in the Romanian Official Monitor. 49 of 25th February, 1994.

http://jurnalul.ro/special-jurnalul/opriti-exportul-de-copii-581483.html.

https://www.theguardian.com/society/2004/may/06/adoptionandfostering.adoptin.

https://www.theguardian.com/world/2005/dec/03/internationalcrime.

[1] www.salvaticopii.ro.

THE 12TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

The Socio-Professional Insertion of Young People who Leave the Child Protection System

Diana- Mihaela Malinche [1]

Abstract: As result of the social problems diversification, the Romanian authorities created new structures and institutions specialized in social assistance in order to diminuate the severity of the social problems. Starting from this, in this study we intend to investigate the socio- professional evolution of disadvantaged teenagers coming from the protection system after they leave the centers of protection. We decided to deal with this issue because we believe the public institutions and the members of the romanian society doesn't pay enough attention to this subject. By using the content analysis, the data reported in this topic draws attention to the need of these vulnerable teenagers to be helped by the authorities to prepare themselves for the life beyond the walls of the institutions by encouraging their skills and knowledge acquisition both in the institution and school environment, which will be useful for them in the future. Therefore, all the elements presented in this paper has the purpose of establishing the legal and institutional framework that it is considered to support the socio- professional integration of teenagers leaving the social protection system as well as highlighting policies and social assistance measures to support and encourage an independent life for this disadvantaged young people.

Keywords: social problems; disadvantaged people; socio- professional evolution; protection system; independent life

1. Introduction

For collecting and interpreting the data necessary for the elaboration of this article, we used the method of content analysis research, taking into account the theoretical concepts of social procedures at national level as well as the legislative provisions adopted at European level to solve social problems.

According to Prof. Chelcea Septimiu, the content analysis is considered to be: "... a set of qualitative research techniques, regarding verbal and nonverbal communication, for objective and systematic identification and description of the manifest and/ or latent content, in order to draw conclusions about the individual, society and the communication between them, as a process of social intercourse." (Chelcea, 2007, p. 573) Without a specific reference period or a socio- cultural space of their existence, the romanian communities have been constantly confronted with various impediments due to the lack of economic funds, their inefficient distribution, and the excesses and low interest at the level of the Romanian communities from the representatives of the political structures as well as the lack of their efficient governance.

[1] Master Student, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, Corresponding author: diana.malinche@yahoo.com.

As a result of the insufficient and provisional settlement of the problems we have mentioned above, Romania have faced many other problems. There are many cases where local authorities and institutions doesn't have the ability to act effectively in solving social problems so that they risk to scale up and generate other secondary complications.

Moreover, malfunctions and lack of social assistance funds are increasing alarmingly amidst the economic fluctuation and although we expect this situation to improve with the return to growth, things are not at all as we expected.

Although the lack of efficiency of the national political system is to be condemned, we consider it was necessary to mention here some small positive aspects. Thus, as a result of the diversification of the social problems, the Romanian state has facilitated the development of new structures and institutions with specialization in social assistance in order to help reduce the severity of social problems.

Moreover, even community interest has increased in this area, which is why it became possible, necessary and even effective to create various non- governmental associations to constantly involve citizens in the process of social assistance policies and practices.

Therefore, institutions, authorities and associations with specialization in social assistance played an important role in restoring or maintaining a work- life balance in optimal parameters of the services and social assistance policies for the community they belong to.

2. Contents

2.1. Theoretical Delimitations

According to the National Agency for Payments and Social Services and Art. 27 of Law 292/ 2011 of Social Assistance, "social services represent the activity or the set of activities designed to meet social needs as well as special, individual, family needs or group, in order to overcome situations of difficulty, prevent and combat the risk of social exclusion, promoting social inclusion and increasing the quality of life."[1]

We deduce from here that social services are a general interest subject and that is why they are organized in different structures, depending on the specificity of their activity and the needs of each categories of beneficiaries in difficulty.

Thus, social services are divided into three main categories in order to ensure the basic needs of the affected persons: personal care services, recovery services or rehabilitation and social insertion or reintegration services. These services can be provided by both public suppliers as well as private suppliers with the mention that the social service can be offered at the request of the person concerned, his/her legal representative or ex officio. The last mentioned category is part of the theme that we'll deal with in the content of this paper, in the following.

2.2. Financial Statistics on the Romanian State Budget for Social Assistance

In order to prevent the social and professional marginalization of the disadvantaged people, including here the category of young people coming from the social protection system, the Romanian state provides differentiated financial support, as can be seen in the table below:

[1]Ministry of Labor and Social Protection. Specifics of the National Agency for Payments and Social Benefits. http://www.mmanpis.ro/evaluare-servicii-sociale/, Bucharest, 2017, pag. 1;

Table 1. Costs provided from unemployment insurance budget to fund active employment measures at national level in the last year

Effective measure	**Budget execution at the end of the last year (ron)**
Total amount	**195.901.063**
Professional training	33.759.301
Stimulating young people employment	37.109.078
Stimulating the employment of the unemployed people before the unemployment period expires	14.386.712
Stimulating labor mobility	4.168.723
Stimulating the employment of unemployed persons from defaulted categories	**84.210.560**
Payments for the graduates employment stimulation, according to Law no. 76/2002	2.921.894
Payments for students employment stimulation according to Law no. 76/2007	630.564
Payments for the professional training of graduates according to Article 84 of Law no. 76/2002	698.138
Payments for interns according to Law no. 335/2013	17.649
Payments for disadvantaged persons	**14.852.514**
Active measures to combat unemployment: assistance and consultancy in profession	2.192.104
Collective pre- dismissal services	952.926

The source of the data presented in the table: The Romanian National Employment Agency database

As we noticed in the table, the biggest part of the funds are invested in training the unemployed in order to carry out specialized professional activities according to their abilities.

A considerable part of the funds are also invested to stimulate the employment of young graduates as well as hiring people before the end of the unemployment period by offering them financial support by the authorities and employers who are recruiting labor from these social categories.

We note here that, according to the statistics of the National Employment Agency, the state mainly encourages the graduates, students and pupils employment which is meant to avoid the population aging from a professional point of view.

Regarding the category of disadvantaged people, referring here to people with disabilities, we note in the table above that the Romanian state invests considerable sums for the employment of this category. Thus, 84.210.560 of the unemployment insurance budget is targeted for the employment of the unemployed people of disadvantaged categories, while 14.852.514 are targeted for marginalized persons payments.

Thus, the authorities contribution to socio - occupational inclusion of disadvantaged categories of people is a useful element for the employment of the affected people.

2.3. Justify the Theme

Starting from this information, in this paper we proposed to investigate the evolution of children came from the child protection system after they leave the system.

We decided to deal with this topic because we think it is not being given enough weight by the authorities, so we intend to increase the attention of the community on the socio- proffesional area of the children after they leave the social assistance system.

Although, the Romanian state has been concerned by various reforms of the residential institutions abolition and has developed and supported the establishment and constant improvement of new protection services for children at risk, it has omitted in its actions a category of vulnerable children, more exactly, the teenagers who look after the protection system and become exposed to the outside unhospitable environment.

2.4. A Brief History of the Institutionalization of Disadvantaged Children

After the 1989's state Revolution, the whole world was impressed by the situation of institutionalized children in Romania. "A tough reality showed that over 100.000 children lived in large, impersonal institutions, improperly endowed and served by inadequate staff, often unqualified, these children being the result of an aberrant birth rate, in a poor country without democratic benchmarks." (Dărăbuş, 2006, p. 12)

We considered it necessary to mention here that during the communist regime the only form of protection of children in crisis was institutionalization. After this period, the Romanian state has developed protection as a family support through temporary placement or national adoption. These practices have been particularly supported by the signing of the United Nation Convention of the Child Rights by Romania. In 1990's this document found a correspondent in our country in Law no. 18/1990, where the Romanian state and its citizens committing themselves to ensure a better life for each child.

Also, we have considered that this objective was particularly difficult to accomplish in Romania in 1989's, due to the economic imbalance, the increase of the unemployment rate, poverty and the social imbalance.

However, after signing the United Nation Convention, local institutions and authorities have been taken measures to protect disadvantaged children, including to avoid social exclusion as a result of the economic instability.

As a result, we believed that social exclusion can be noticed in the disadvantaged categories of people born and living in near- limit areas, socio- economically limited, and in the case of individuals who withdraw from the social environment due to poverty, illicit consumption of the drugs or alcohol as well as deviant acts.

The first category we consider to be vulnerable, while about the second category we consider dependent on various factors, such as those mentioned above.

2.5. Particularities of Institutionalized Young People

Behavioral Characteristics:

"Social maturation has as a decisive element on the individual's ability to maintain a dynamic balance between his interests and social interests, between his needs and aspirations and those of the society." (Dărăbuş, 2006, p. 12)

We can deduce from here that young people leaving the protection system are not sufficiently mature from the social and psychological point of view so they can not be ready to adapt themselves to the requirements of the social system of values and norms. Behavioral particularities recall here some of these particularities: instability, emotional lability, irritability, impulsive action, disregard, nonconformism. Lack of sense of belonging and responsibility for actions taken, make young people who have been institutionalized to be proned to deviant acts such as: aggression, school absenteeism, neglect of studies, nonconformism, theft, consumption of drugs or alcohol, and many other forms of

delinquency. Considering these aspects, we believe that these behavioral disorders are born as a result of the parental example lack of.

Affective features:

"Affective processes are a complex psychic phenomena characterized by physiological changes through a behavior marked by emotional expressions and a subjective experience." (Dărăbuş, 2006, p. 12)

Within the child protection system, young people have been somehow beware of the processes that take place in ordinary life, so when they leave the protection institutions suffer various emotional shocks, not being sufficiently prepared for the real life.

The affective disorders suffered by institutionalized young people may be: lability and emotional insecurity, depression, high emotionality, need for affection, dependence on a third person. Unfortunately, these feelings are often outdated in unpleasant forms such as suicide, delinquency, anxiety, depression, apathy, and so on.

2.6. Particularities of the Self- Identity Construction

Due to the fact that young people in the child protection system have had uniform education and care, they tend to form their own self- image when leaving the system of guardianship. Most of the time, this image is built to the extreme, with the risk of slipping gently into the slope of delinquencies in order to get out of the pattern they have been accustomed to throughout the child protection centers.

On this point, we can say that "institutions prove to be environments that make difficult for children to develop any autonomy, which prevents them from acquiring those experiences necessary for the skills of an independent living: experiences in the domestic environment, experiences outside the institution, here again, the young man is provoked and fed up with negative experiences. The young man feels most often neglected, ridiculed, humiliated, devoid of those occasions that make him choose, think, decide." (Dărăbuş, 2006, p. 12)

We believe that, along with institutionalization, children have mastered and assimilated a certain self-image that they did not have the opportunity to reveal. Upon leaving the practical protection system, young people express their self- image through the years spent in the institution and, of course, enriching this image with aspects taken from the environment in which they are about to live. Some of them are trying to find their parents out of the institution to identify with them, others reject their origins, and build a contradictory image to the family of origin.

Young people coming from the protection system can not realize what skills, capabilities or capacities they have, in lack of a very well- developed value system. To this end, the vocational guidance activities that can be organized by the General Directorate for Child Social Assistance and Child Protection at the local level can prove to be particularly useful for the professional and social future of young people.

So these may be in extreme cases: some may want a stable family life and future plans to overcome past experiences while others reject the idea of living otherwise than they were accustomed to because they are afraid to be marginalized or disappointed.

Also, young people who are inclined towards socialization have greater chances to socio-professionally integrate compared to those with a tendency in isolation.

A representative case for the subject of this report is the situation of Bihor County. At the county level, a study by the Social Affairs and Human Rights Commission has been carried out that reveals that institutionalized young people over 18 years old who have left the protection system are one of the most important sources of crime. Although their chances of integration are very low, there are exceptions, as follows: "The chances of optimal integration into society are for young people who have been selected by Christian foundations providing them with qualified support and assistance for integration into work and the formation of independent life skills. Another category with increased chances of integration is young people who continue their studies, which allows them to remain in the protection institutions, as well as a significant part of those who were integrated into their natural families." (Chipea, 2008, p. 4)

At the opposite end, the youngest homeless institutions or those in prisons have the lowest chances of integration, exposing deprivation of liberty.

The problem of institutionalized young people leaving the social protection system is an important subject of great interest, even at European level. In this respect, the European Council adopted the European Youth Pact in the revised Lisbon Strategy in 2005's, thus admitting that the social integration of these young people and the use of their potential in the labor market could bring significant added value to society.

We agreed with this premise of the European Council because many European countries are facing an alarming aging process, which is why the work of these young people may be more than recommended.Together with the European Council, the European Commission encourages the involvement of social partners in the social inclusion of young people through the development of social dialogue as well as practical and theoretical volunteer activities aimed for helping them become more familiar with the professional environment.

Chapter no. 1 of H.G. no. 669/2006 supports my statement bellow as follows: "A study launched by the European Commission in 2005's on the social integration of marginalized young people analyzes the opportunity of their insertion into the labor market, their autonomy and their active participation in society. The Commission encourages the commitment of the social partners to contribute to this initiative through joint actions in the social dialogue, invites employers and companies to show social responsibility in the field of young people's professional integration and recognizes as a priority for active citizenship activities such as participation or volunteering."[1]

As noted at the beginning of this paper, the Romanian authorities had been concerned with the legal procedures development for the social protection of institutionalized youth and beyond. In this respect they adopted the Law no. 76/2002 of the unemployment insurance system and the stimulation of employment with the purpose of protecting the persons exposed to the risk of unemployment, as well as the support (mediation, training and professional counseling) offered to them to adapt to the requirements and tendencies existing on the labor market.

Moreover, the Romanian state adopted H.G. no. 1149/2002 approving the methodological norms for the application of Law no. 116/2002 to support young people leaving the protection system by taking the following measures:

"a). Measures to guarantee the access to employment: it is carried out by the National Employment Agency through the conclusion of solidarity contracts for 1- 2 years, on the basis of which young

[1] The Romanian Government. H.G. no. 669/2006 on the approval of the National Strategy for Social Inclusion of young people leaving the child protection system, Monitorul Oficial no. 479 din 2 june 2006, p. 7.

people aged between 16- 25 years old, in need, are facing the risk of social exclusion, benefit from personalized social accompaniment, through professional counseling and mediation by the Agency's staff specialized, followed by employment with employers with whom county agencies conclude conventions.

b). Measures to guarantee the access to their own house: they are applied to persons up to the age of 35 years old who are in a position to purchase a home by their own means. It is a task of the county councils, which within the limits of the funds must ensure either the advance payment for the acquisition of the property or the rent for a period of up to 3 years.

c). Ensuring access to health care for young people in families receiving minimum guaranteed income payed by the Labor, Social Solidarity and Family Ministry. Healthcare professionals in public health establishments are obliged to provide emergency and curative medical care to them.

d). Guaranteeing access to education by providing scholarships to continue studying those attending pre- university and university education, conditional upon attending courses and obtaining promotion scales for young people from foster care centers and families who qualify for income guaranteed minimum.

e). Free access to rest camps or training for young scholarship to help them continue their studies.

f). Participants in literacy programs, selected according to the developed methodology by the Education and Research Ministry, can benefit from literacy scholarships established and paid by the local councils."[1]

State involvement for the socio- professional integration of young people over 18 years old who leave social protection centers is also felt through the adoption of distinct laws.

It is important to note here the laws:

- Law no. 416/2001 regarding the minimum guaranteed income so that young people or those from disadvantaged families receive social benefits after leaving social protection centers;

- Law no. 208/1997 allows disadvantaged young people who leave the placement centers at the age of 18 years old, with low or no income, to have access to the social care canteens;

- Law no. 34/1998 regarding the subsidization and financing by the Romanian authorities of foundations, associations, national governmental organizations, local and county councils in order to provide social, medical or legal assistance services to disadvantaged young people;

- Law no. 47/2006 regulates the functioning of the social assistance structures subordinated to the Local County Councils meant to ensure the functioning of social protection policies for disadvantaged persons: children, single- parent families, elderly people, disabled persons, institutionalized and deinstitutionalised youths.

- H.G. no. 669/2006 approving the National Strategy for Social Inclusion of young people leaving the child protection system for the purpose of integrating young people into society and efficient use of their professional potential.

[1] The Romanian Government. H.G. no. 669/2006 on the approval of the National Strategy for Social Inclusion of young people leaving the child protection system, Monitorul Oficial no. 479 din 2 june 2006, p. 9.

2.7. Lack of Self- Preparation for Children to Leave the Institution

Although many laws have been adopted at national and international level to provide a legal framework for development as well as standard procedures to be followed in preparing children for an independent life, we are faced with particular situations that make harder to fulfill these objectives and goals.

The predominant here is the lack of skills, knowledge, abilities and life experiences among institutionalized young people who are essential to them in having an independent life as adults. These lacks are due to living in the institutions, and especially to the standardized way of raising and educating young people in the child protection system.

As examples in this respect, George Neamţu highlights in his Social Assistance Treaty the following:

"- Very often institutions can provide role models. This is due, among other things, to the prevalence of specialized female staff in institutions. In some cases, the young people coming from the system take as an example the common work of the social workers and apply it in the future: cooking dishes in large quantities in boilers, common dress code etc;

- Orphanage care is done by family leave even in cases of children who are not orphans or have not been permanently abandoned on the grounds of material, financial, financial difficulties of the origin family;

- Through institutionalization, children get a lack of self- motivation as well as addictive states. When faced with leaving the placement centers with the lack of addictive people, young people become dangerous and we often find them in penitentiaries or psychiatric hospitals;

- Social assistance structures have their own care, education, and so on, for the growth of institutionalized children, which generates their isolation from the society and later the negative impact of leaving of the institution after the age of 18 years old generates on the disadvantaged young people;

- Most institutions are not interested in the evolution of young people after leaving institutions, which can discourage them in their future daily lives." (Neamţu, 2003, p. 817)

Regarding these aspects, we think that the success of young people in leading an independent life largely depends on their maturity and desire to overcome their social condition. Most of the time, young people clutch when they leave institutions, generating delinquency. Surprisingly, a part of these young people refers to the way of living in placement centers and they manage to lead a decent life beyond the walls where they were institutionalized.

3. Conclusions

In this study we have discussed about the socio- professional integration of the young people coming from the child protection system and the particularities of their growth in the protection centers.

As a result of the data mentioned above, we believe that this topic draws attention to the need of these vulnerable young people to be helped by the institutions to prepare themselves for the life that awaits them beyond the walls of the institutions by encouraging their skills and their knowledge both in the protection center and in the school environment, which will be useful for them in the future.

Moreover, we think that a very important role has the contribution of the civil society at the moment of the exit of the young people from the placement centers, so that its members should provide support and help them to gain unimpeded access to education and healthcare.

In this way the child- adult and center- society transition would be easier and younger people would have many chances to comply with society standards and to avoid delinquent acts.

Of course, the above recommendations would not be possible without the work and shown interest related by the local authorities, civil society, specialized national or international organizations and associations. Fortunately, after the 1990's, specific procedures and practices of social assistance has grown so that we can show a lot of optimism regarding the improvement of the social assistance system in Romania.

We conclude this study in a spirit of optimism, stating that we are still witnessing a positive evolution of the social assistance system, both following the procedures and regulations legal frameworks set out above aimed at protecting young people institutionalized when leaving protection centers, and as a finding that "at the beginning of 2005's, 32,821 children were in the system of protection, among whom the most important are the elderly between 14 and 17 years, respectively 12.247 children and 5-983 children aged 18 years old and over. The lower percentage of young children is proof of the fact that the measures institutionalization alternatives have begun to function by developing service providers caring for children in difficulty in substitute families (foster parents) number of institutionalized children dropped between 2000's and 2005's starts from 57.181 to 32.821 of which more than half are over 14 years of age, followed by about 4.500- 5.000 over the the age of 4 years old children leaving the system of protection every year. Almost 6.600 of young people up to 26 years old follows a form of education and they still are living in the social protection system."[1]

Forecasts in previous years tend to support the dose of optimism shown above in the period the following modest large discrepancies in the percentage of disadvantaged people.

Therefore, all the elements and regulations presented in this paper have established the legal and institutional framework that it is considering to encourage the socio- professional integration of young people leaving in the social protection system as well as highlighting policies and social assistance measures to support and encouraging an independent, better and more decent life for this disadvantaged young people.

4. Bibliography

Chipea, Onica et al (2008). *Study on how to integrate into society young people who have been institutionalized*. Oradea, n.e.

Cojocaru, Ştefan (2008). *Case Management in Child Protection.* Bucharest: Polirom Publishing House.

Dărăbuş, Ştefan (2006). *Procedures manual for the socio- professional insertion of young people who are looking after the child protection system*. Bucharest: Europrint Publishing House.

Emese, Florian (2006). *Protection of children's rights*. Bucharest: C.H. Beck Publishing House.

Ghimpu, Sanda et al (n.y). *Social security law*. Bucharest: All Beck Publishing House.

Neamţu, George (2003). *Social Assistance Treaty*. Bucharest: Polirom Publishing House.

Neamţu, George et al (2011). *Social Assistance Treaty*. 2nd edition. Bucharest: Polirom Publishing House.

[1] The Romanian Government. H.G. no. 669/2006 on the approval of the National Strategy for Social Inclusion of young people leaving the child protection system, Monitorul Oficial no. 479 din 2 June 2006, p. 2.

Pop, Luana- Miruna (2005). *Social politics*. Bucharest: Economic Publishing House.

Ţiclea, Alexandru & Tufan Constantin (2005). *Social security law*. Bucharest: Global Lex Publishing House.

Ţop, Dan (2003). *Labor and social security law*. Târgovişte: The Library Publishing House.

Government of Romania (2006). H.G. no. 669/2006, Official Monitor, no. 479 from 2 June 2006.

Government of Romania (2007). Law no. 188/1999, Statute of civil servants, Official Monitor, no. 365 from May 2007. ***(2017). Ministry of Labor and Social Protection. *Specifics of the National Agency for Payments and Social Benefits*, http://www.mmanpis.ro/evaluare-servicii-sociale/Bucharest.