

## Contemporary law - plurality, complexity and transdisciplinary

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**Abstract:**

*This article attempts to cap the contemporary law issues analyzed multidisciplinary author previous other materials through innovative approaches, the proposed solutions, the originality of the research scientific, regarded even by right relationships with ethics and aesthetics but also the specifics of their interaction. The material is structured main themes and overall guidance to the problem we distinguish between original law in general and contemporary law between domestic law and international law. Broadly, there are two conceptions, the one hand, a conception transcendental or iusnaturalist, which sees as the expression of universal principles and timeless, and, on the other hand, a conception positivistic and instrumental, which sees as a technical pure, neutral and empty of meaning. However, from an ethical and aesthetic perspective on contemporary law characterized by plurality, complexity and transdisciplinarity.*

**Keyword:** *contemporary law, public international law, European Union law, transdisciplinary, ethical, aesthetic*

### 1. Argumentum

This article attempts to cap the contemporary law issues analyzed multidisciplinary author previous other materials through innovative approaches, the proposed solutions, the originality of the research scientific regarded even by right relationships with ethics and aesthetics but also the specifics of their

interaction. Ethical and aesthetic have their origin in the human longing for a perfect life and are complementary values of good, truth and beauty justified and mutually explanatory. The material is structured main themes and overall guidance to the problem we distinguish between original law in general and contemporary law between domestic law and international law. Broadly, there are two conceptions. On one side, a transcendental conception or *iusnaturalistă*, which sees as the expression of universal principles and timeless, and, on the other hand, a positivist conception and instrumental, which sees as a pure technical, neutral and empty of meaning. Indeed, one can speak louder meaning in the first case and about a weaker effect in the second, the influence of globalization on contemporary law characterized by plurality, complexity and transdisciplinarity. In other words, under these conditions we speak right classic and current law, the judges as chaining relentless global or regional courts jurisprudence is right for a conscience that lives as a spirit of ethics and aesthetics. From a historical perspective, the man tried to avoid the right time, but it has not ceased to recover. Philosophy has also taken efforts to free man from this influence trying to appeal to rationality; reason that should motivate human thought and action throughout that must be lived according to law. To live according to the law is to decide by our conduct a series of harmonized relations between us and the universe between us and others, in our being as try to answer Dumitru Constantin Dulcan in his most famous, "Intelligence material"[1]. Lucian Blaga criteria settled by „Philosophical conscience". For example, education tame right since envisages the formation of individual personality through social integration and cultural transmission, including legal education, with the support of the right reason, and ethics or aesthetics.

Only that human reason is always a conquest, conquest fragile a divided sense, anyone can believe, for it is determined by sensitive experience. It is based on the axiomatic certainty on dogmatic resources that are thrown so many bridges between the universe and the meaning of meaning. These certainties may vary from one company to another or from one era to another, but the need

for such beliefs remain constant.[2] There is an objective sense in the natural world that we can find it; meaning is necessarily established. To become a subject endowed with reason, the human being must have access to a universe of symbols within which both herself and the things that surround it acquires significance. Before you can be judged as debtor of life which has been given, man is born creditor of a sense of this life. A teach every child to speak is the first way to satisfy the debt. But this process requires of educational child to obey the rules that constitute language, and only achieve this he will be able to freely express themselves, giving rise to new thoughts. "When a philosopher or psychologist as a result of its reflections, enters the scene with a system that makes *tabula rasa* of all notions preceding it is no less true that all his ideas we, as revolutionary as may be defined by the terms of language, but in any case, that none of the ideas can not be indiscriminately designated for existing words and there is a priori a time to meet new distinctions better than others.[3] "Heteronom language is necessary so all; it is a condition of discussion and can not therefore be subject to discussion. A world where each should or pretend to reinvent the language would be an insane world. It appeals to common sense is to appoint a "law" without wondering what "law". Similarly, there is no reason for a driver to go right or left, but if anyone should decide alone each time meaning circulation, then death on the roads would include millions. Language, custom, religion, law, ethics, aesthetics, ritual are so many forms of human being founding earning an existing order, it will thus be able to frame their action, be it appeal.

To establish the rationale is to allow every human being to harmonize physical finitude of its existence with its inner infiniteness of the universe. Each of us must learn to enter in the universe of meaning threefold contemporary law circumscribing limit: plurality, complexity and transdisciplinarity. Learning these limits corresponds to a culture of reason. To give meaning to contemporary law, it is to understand that we follow the chain of generations, which are tributaries of life, and through this to understand the very idea of causality. Hence the

significance of our title that appears accurate diagonal between two different works: Homo Juridicus. Essay on anthropological function of law, and Judges and globalization. New revolution of the law[4]. Books mentioned are successful Sudi comparative authors make considerations scientific and philosophical intended to express on the one hand, the world of contemporary law from a threefold perspective - plurality, complexity and transdisciplinary - and, on the other hand, new functions of law contemporary arranged through a sieve and fundamental principles of justice, ethics and aesthetics.

### **New features contemporary law**

New features of contemporary law are determined and new functions of the judge by law transmit contemporary influence, but creates law. Such movement of motivation is favored by the dominant influence of law and judicial practices of common law. In this tradition, indeed, the judge is obliged to justify and explain its decision in an elaborate way. This culture gives an important function of narrative and argumentative reasons. Judge common law is used by nature rational interpretation of this exercise, which is sometimes called, especially if the British argument from multiple sources. Judges can actually cite not only of judicial decisions but also teachers or famous commentators. Quoting between jurisdictions is much older and more widespread than in the common law of the Roman-Germanic law. But this argument in detail and justification of the decision is not associated with a form of narcissistic judicial lyricism. Rather, a pragmatic concern to find the right solution in terms of a particular case, judges multiplies arguments, we weigh carefully on the pros and cons and will always by their decision to determine that the right to appear in the best aspect of it. Common law right is not isolated as a set of abstract and general rules: it is guided by the concern from the start of responding to practical problems.[5]

The exchange between the judges when it relied more on *jurisdictio* than *imperium*, so that dual meet specific requirements of effectiveness and consistency argumentative, both one and the other strengthening the legitimacy

of the decision. Commissioning report jurisdictions resemble the famous metaphor of Ronald Dworkin on writing a novel multi-hand 'novel right, "says the latter is a novel collective, a succession of judgments that their function narrative and argumentative, seeking a form of consistency, enriched each time through individual cases to be cut. This is what seems to illustrate the judgment *Pretty*: Delivered the European Court of Human Rights (ECHR) in Strasbourg on the "right" to assisted suicide, this ruling concerns the decision of English you must evaluate, and citing it Canadian decision itself [Ibid.]. That decision is extracted from Canadian judge's opinion cited above and resumed by the European Court of Human Rights, it is an interpretation of a legal instrument total stranger European Convention of Human Rights (namely the Canadian Charter of Rights and Freedoms). These decisions - Canadian, British, European - will be inside each other, passing through the filter each time judges interpreters. Global reasoning could be defined as a second grade reasoning that articulates in an original manner different decisions worldwide.

If arguments can travel and can detach himself tool that must interpret them - discussion on the Canadian Charter of Rights and Freedoms is resumed just the European Court of Human Rights - this is not only due to the fact that they seek the best solution for a specific situation, but also because they concern "fundamental principles of justice". Such an exchange extends the legal community to what we might call a "community of principle". Community Reference judgments globally is the set of countries whose jurisdictions have the same concern for justice principles, principles that they are able to make them prevail in relation to national traditions and cultures. It is a rational argument, not an argument in fact: the reference to the criterion of "civilization" does not aim to put an end to the talks, but on the contrary, opening the possible arguments against an impossible sliced to judge. The other tradition - the European tradition - is not resumed its universality, but as a singular example that we can expand.

Many references to foreign jurisprudence copy has this status, which is likely to produce a new link between the general and the particular. Motivation,

decision, opinion foreign are repeated, not as a general rule of judgment, but as examples of what has been done elsewhere, in different systems, but considered close enough by their history, their traditions have their habits political and legal . Foreign decisions are like actual achievements of these principles, their concrete incarnation.

To avoid falling into an interpretation ideological principles of justice, must therefore recalled their character regulator and not substantial: the reference to "personal autonomy" to "Western civilization" or "which requires justice and impose fairness" is not a reference to a system of natural law placed over positive rights, but a means to resolve individual cases in the most rewarding as possible. The exchange between judges support this effort "to judge correctly" because the movement decision opens up new possibilities. This is also the only way to make the idea of fundamental rights becomes effective. The fact that these principles are subject to a judgment of values or a subjective interpretation, it does not threaten these references, but on the contrary, reinforces their use in a society that wants to be democratic, open, progressive, centered on exchange, and authority persuasive. So, on behalf of the same principles of justice, the pooling of decisions in a global forum also devotes an approach „consequentialism” thereof: the quality of a decision is determined by reference to the principles they put into practice, but also according the consequences entailed. Therefore exchange between judges, even if it is essentially argumentative dialogue is not yet a scholar: it is to discuss problems and solutions, and not only just to enunciate norms, concepts and doctrines.

Considering the consequences of such reasoning action closer. Judges are vested with a function that forces them to anticipate and measure the consequences of their decisions, which is a political virtue. Decisions in similar cases elsewhere, who have been largely implemented, thus acquire an experimental value for the decisions that they are preparing to decide. When consulted by foreign judges, decisions are henceforth acclaimed both in terms of their purity doctrinal - which the judge pirate often do not know him very well -

and from the point of view on one side of the argument directly comprehensible and, on the other hand originality or effectiveness solution designed. Wrong decisions sometimes not only national law and sovereignty state.

### **Right contemporary and fall statehood**

Whether it is about the European arrest warrant, on international commercial arbitration or about citing foreign decisions, every time, developing the exchange of judges seems to be at the expense of states' sovereignty. Moreover, the separation of judges to the right of performances developed nation crystallizes the main criticisms against what some see as an "international judges". "International institutions supervises and directs negotiated at various levels, laws and international agreements. International non-governmental organizations claim that they represent "global society" or "peoples" of the planet. The regime of global governance is promoted and conducted by interconnected networks of elites transnational composed of lawyers and international judges, activists of NGOs and the UN, officials of other international organizations, directors of international corporations and a few supporters coming from governments of nation states. Transnational progressives, former leftist protesters in 1968, and right MNCs are also part of the elite. However, there are supporters of the "judicial anti globalization" as representatives of the radical left.[6] No doubt that the debate is more complex than it seems. Although everyone agrees on the democratic deficit of this new way of creating law, is it reasonable to believe that we could still reverse course? After all, the values that these judges put them into practice, are they not first confirmed by the constitutions on which they watch? This exchange does not extend the separation of powers enshrined in defining our state law? In fact, the denunciation exchange between judges would be easier if it would not be very democratic source dynamics, even if it had not responded to a logic born of globalization. How do now, to combine political legitimacy, whose headquarters

remain at the national level, on the one hand with the practical need for this exchange, and on the other hand with the desire to have importance in this new global judicial scene? How to conceive democratization of these new exchanges without bullying them, but looking for a way to reintroduce here statehood while the judges legitimacy is questioned?

Where will draw legitimacy of these judges, who are regarded as having a central role in developing a global jurisprudence? The issue is not on the same terms, but depends if we place ourselves under the angle of the political community which yielded these judges, the international community to use an expression consecrated or lawyers community worldwide. These three groups is based on very different legitimacy are combined. Own sphere within the national legal system, in its natural environment, its first gain legitimacy judge there. Legitimacy must acquire international jurisdictions, supranational and transnational combines this primary legitimacy, especially due to the mechanism of geographical representation, each judge being important in its national title.[7]

Magistrates respective importance in the international arena is likely to depend in part on the recognition enjoyed by the country from which they come. Thus, "big" supreme court jurisdictions have more weight than countries without a strong legal tradition or without legal history as glorious as that of the US or Britain. Because Pinochet had wide resonance because the decision emanated from British lords, magistrates among the most respected in the world. Furthermore, this exchange of judges makes sense only if carried out among their peers coming from state law: if, as we have seen, they are not indifferent to issues of political and economic influence, what to say of others? However, they met judges coming from dictatorships or authoritarian regimes that have demonstrated a freedom of spirit and independence that could inspire usefully judges Westerners (eg the first judge Chinese called the International Criminal Tribunal for the former Yugoslavia).

The legitimacy provided internally can be exported to international jurisdictions, but it is not enough. International criminal justice, for example,



requires not only technical legitimacy, so that power is expected from judges is not strictly legal. Considering the matter of this particular international justice, often combined have more powers: judicial experience, of course, but also a diplomatic competence. Elections of judges of the International Criminal Court for example, trying to ensure a balance between judges come from diplomacy, universities and legal practice. The legitimacy that we expect from this Court, whose skills are at the crossroads of criminal justice and international relations comes from the intersection of so many professional culture. Therefore, the state for these international judicial functions, not necessarily just called national judges, but also law professors, lawyers or politicians.[8] Model "formal rational" Max Weber would say, characterizing the law and shall be added and others more specific the judicial world trade. Representativeness, for example. What is not generally seen favorably present the European Court of Human Rights, where each country must be represented, or the International Criminal Court, where each region of the world must be represented. Find representativeness, combined with impartiality in colleges of international referees. It is possible to attempt to compensate defects organic connection with the state by strengthening the procedural legitimacy. Much of the legitimacy of the judiciary globalized also keeps the ability to fix some circumstantial, to propose relevant solutions that will seem more acceptable, as the procedures followed to reach them they will be perceived as fair and transparent. This legitimacy must therefore be permanently conquered.

Community lawyers ultimately generates forms of legitimacy that we might be tempted to qualify as "pre democratic" such as prestige or reputation. Part of the respect enjoyed by a decision taken by the personality of the person who actually pronounced. This is evident if international commercial arbitrators. They very discreet, are elected *intuitu personae*. They are selected carefully according to their experience, but especially by their reputation. This is the best guarantee that they can offer parties: every expertise, they have to prove their impartiality and justify that deserves its reputation. As the *imperium* falls, these judges are

tempted to present not only the legitimacy of increasingly rational and argumentative, as has been said, but other special qualities recognized in domestic as well as mastery of international law, openness to the world and interest in other systems or more, the ability to play a role as a cultural interpreter. International criminal court, for example, must be able to translate and interpret an individual drama in terms of globalizing experiences. To achieve this, he must ensure continuity between players, between law and territory, between global and local. In this respect, the position of cultural interpreter incumbent judge is political: it restores social connections beyond the borders of the nation state. This function of mediation does not belong only to judges: it is the fruit of complex activities previously from non-governmental organizations to the procedure itself, through those natural performers who are lawyers.

Primary legitimacy that the judge get in their own country is of course the purest, yet the most difficult to export. The more it departs from its internal foundation, the more fragile. Lawyers French shocked the European Court of Human Rights shall recognize transsexuals will not be relieved knowing that this decision was given by a judge Irish, German, Spanish and Turkish, all appointed legally by their own government. These judges will appear not as illegitimate but as detached from any territory in the state of weightlessness. They may well express on behalf of a community of "civilized nations", however, this community will not have an existence constituted, while nevertheless there is a national political community, which is the recipient of this right and You will have to comply with rulings. This route between a "people" which mandates that supports the judges and their decisions, forces us to ask ourselves this circuit legitimacy, subject to strong risk of collapse because of too many wanderings.

On the contrary, the legitimacy founded on prestige, reputation judges, seems better suited to the world as it evolves horizontally in the same way as "government network" described by Slaughter.[9] It is true that there remains less fragile. Should not actually afraid of a "club effect" and elitist size characterizing these new legitimacy? Self-referential in these practices, there is a risk of

disconnection between those who hold the keys to discourse and those who are faced with realities on the ground. We like it or not, there is an international environment which has its own code, his right of entry, their usages, their caste, etc. Judges expect from a judicial mediation between cultures, but they are really capable of this? Are not they themselves cut off from their own culture? This is all the more important as the trade awaited judicial mediation is not just technical. To be recognized, justice must be felt and lived as a true space mediation. Before acting judges is so restricted: they are required at the same time to master the language and codes becoming more general, while to respond, particularly if international criminal justice, calls extremely precise and concrete.

So here, as in these brief arguments are breaking new features contemporary law: plurality, complexity and transdisciplinary raised the most of globalization law that can lead to the darkest of consequences, alteration to, but worse, the statehood located in a serious decline.

### **Globalization and the case-law altered**

What globalization means right? Rather than a rigorous orderly global architecture, it represents a kind of vast regulatory DIY we are witnessing. By choosing to observe this globalization through the work of the judges, so I tried to evade the passion that approach would involve a globalized too. Best observation area is not so much deterritorialized sphere of trade, as the people themselves, their concerns, their exchange and their new functions. Otherwise, we will not be surprised to see judges dedicating such assemblies, they are legally constitutive divide between the political pact, on which to watch and demands justice to be formalized between "creative forces" of law and states. At the same time public officials and independent lawyers, older performers a right, but a right that debate and the globalized converted requests of private and public interests defenders, judges play interface within globalization. This interpretation of their mandate in terms of "DIY" moderates usual cosmopolitan interpretations. Perhaps it would be useful to make the distinction between the different "high-level cosmopolitanism" and "cosmopolitanism at the grassroots

level." The first term could have considered located in the states of concern if they would be willing to merge into a world state or to join in a "federation of states" intended to resolve conflicts and avoid wars. As for the second, it does not go through this constitution unlikely. Rather it designates a present experience, awareness of interdependencies increasingly more powerful, inexorable, resulting in exchanges but also tensions and oppositions, and that should be given to an ethical sense. This second kind of cosmopolitanism arises field and is distinguished by three characteristics of "cosmopolitanism higher level. First he starts from the particular and not from universal, being built entirely from particular cases that judges are trying to settle in a way as rationally as possible. There is no transcendent point of view to prevail, what prevails is the only confrontation of viewpoints. Sharing judges not base its authority on some prescriptions often saturated universal understanding globalization. He is not the expression of American power. If it happens to inspire national interest, then he must pass through a sieve argumentation and obtain approval from others.

This "cosmopolitanism at the grassroots level" is certainly not insensitive to the antagonisms that exist in any human society, but this is the second characteristic of his that can overcome by putting them in a common language. This is as cosmopolitan as in a paradoxical way: on the one hand he aspires to pacify relations globally, but on the other hand emphasizes the tensions between legal systems between legal cultures. The exchange between judges really combines concern for coordination and struggles of influence. Kant can find the most appropriate formulation of this apparent contradiction: the achievement of a cosmopolitan society is driven conflicts and confrontations, what Kant referred to by "irritable sociability" of people[10]. This cosmopolitanism must finally admit an important limitation: that the political will and the exchange between judges "can not give direct answers to questions primary political scene: Who governs? Where authority lies? Who makes the law become applicable? ». Therefore judiciary remains conditional exchange policy and is unable to trigger this "new world order" or the "common law". If a "common world" really occurs through

these exchanges judiciary, in reality they do not provide any "community", or "system". Various judicial forums allow above all a rationalization of globalization.

Sharing court therefore does not produce anything that can replace national systems or which can establish an international order. Portrait of judges that we can change in globalization can not rally their exchanges that the teleological visions pursue a sole purpose, achievement of universal legal order and therefore a better world. However, «cosmopolitan ambition" characterizing these views about globalization law can be maintained, provided proposing a more nuanced cosmopolitanism, that is based on a law adapted (cosmopolitanism lower level).

It is a vision of "liberal realist" of cosmopolitanism, if we can say so, relying on normative regulations abstract, impersonal and rational, but without appreciation vanguard of a global future. Described the exchange of judges has certainly seductive power of the great post-national theories. He does not aim orders, no unification, and leaves unanswered many political interrogations, which as we have seen, involve other spaces for debate than judicial premises. In this sense, cosmopolitanism to which it leads may seem disappointing. Not only did he remove the power relations between states, but it is incomplete undoubtedly become impossible to complete and about. But there: the judges are exchanged between them and realize a society. And force these exchanges so keep this existence to be taken into account and the character scale, conflict and partly representing their mark which departs from the aesthetic right, but mostly from ethics it and dissociation Miorescu style the aesthetic of social, ethical policy, that law is still inoperative for study. I thought that after almost 50 years of communism and 26 democracy not going to have the opportunity to meet the "decoupling". To be wrong when he wrote Aristotle ethics? To have lost the compass and world sailing between the two sides - ethics and aesthetics - guided only by Machiavelli?

By the next section I do not propose to bring out the importance of understanding the concept proposed by Wittgenstein to say that ethics and

aesthetics are one thing, but expressing their own opinions I tried to express my ideas that sometimes contradict the words of Wittgenstein, and sometimes argue with he implemented the concepts of perfection. It may be a good opportunity for self-examination and clarification of moral and existential issues. I also regard the question to be asked from the beginning is: If what we mean by ethics and aesthetics, then turn the word explanation aesthetic or exceed the epic scope of understanding of contemporary law?

### **Ethics and aesthetics in contemporary law**

#### ***Preliminary issues***

Defining clearer (from different perspectives: philosophical, artistic, psychological, historical, legal) of the two fields, ethical and aesthetic but also the specifics of their interaction involves delineation of a theoretical foundation for a concept that allows the values of cognitive and ethical to be interpreted as aesthetic values and presenting multiple arguments supporting the idea that specific report of ethical and aesthetic helps shape personality, influencing the self-knowledge and inter-relational behavior. Right as art reflects moral values but at the same time provide, in turn, moral education that receives the opera lawyer or artist.

Discussing the material to the dilemma on three approaches ratio ethical and aesthetic: moralism (ethical values expressed directly influences the aesthetic value of creation), autonomy (aesthetic value is independent of ethics) and immorality (defects ethical law confers aesthetic value ) are some aspects to be examined and critics tooth specialists.

Our attempt discusses human values, ethical or non-ethical, moral or immoral and tries to enrich subjective experience and contribute to the awareness of differences between beneficial and destructive, immoral acceptable between moderate and unacceptability. Possessing relevant ethical and aesthetic merit is why, directly contributes to a diversification emotional empathy and sensitivity to personal development. Right refreshes our register perceptive, reveals what is essential, exemplary or expressive in the world and life, having a

formative educational, preventive and punitive Analyzing interpretations contextual relation between ethics and aesthetics, we seek to reach an agreement as how proper historical context, term, reflects the value of many moral or immoral human creations such as the right. Challenging new research themes that has at its core ethical and aesthetic report, understood as a dynamic source of personal development and modeling complex will facilitate a new approach, transdisciplinary, the accompanying ethical values, define and give meaning to the right.

***About Ethical and Aesthetic public perception of everyday language***

The explanation aesthetic meaning of the word can generate a conflict in understanding the phrase "ethics and aesthetics are the same". The explanation starts with "what produces pleasure." On the one hand we have public perception that produces aesthetic pleasure through understanding, through ethical and rhythmic thinking of various forms of life[11]. On the other hand, we experience pleasure aesthetic attitude that causes beyond their understanding, generating effects and follow conscience in the form of "non-sense" sites. How can we have a sense of something unethical? The explanation depends on the meaning of the word ethical form of life and our culture that puts ethical concept, in a certain context. Why we need language? In order to communicate with other people? So that we can reconcile, even when we disagree?

Ethical express logical thinking, constant rhythm of the human mind generated by its fundamental laws unanimously accepted. Life form perceive and understand the world through their own language sphere. Besides we propose two major questions: What is the explanation of the meaning of the word "pleasure"? And beautiful is a matter of taste, or a matter of language? The natural thought, man tends to regard self-evident explanation of the word "pleasure"[12]. It is beautiful love or what love is beautiful? This is the most common remark on this concept. Regarding the second question of personal taste, in fact, it is a matter of public language. Which produces a language understood by the game, love, and what comes out of logical thinking, generating

nonsensical causes discomfort, that discomfort. Therefore, "what produces pleasure" should generate a language understood by the public transmitted[13]. In order to be understood, "language game" go through the filter of their own beliefs and values generated by the life form of the person receiving the message transmitted. If these values differs from the language context of the game, there will be a sense of understanding of mental cramp. The phrase, "everything in sight" captures only those generally accepted meanings of all life forms such as for example: What love is beautiful, and what is beautiful, love. But the explanation meaning of the word "color" or "red" color implies a feeling, a sensation of red, how perceive as taste, smell, vision, touch, mentally? If a particular color is perceived differently by their filter values of a life form or another, how can it generate the same meaning within the mental knowledge of the receiver? Maybe just associate that color with something familiar with a known value, as close to its own system of knowledge. Such a combination may mean by ethics.

What happens to those who build right? They may have an aesthetic attitude? What is the meaning of ethics and aesthetics for right? How to merge the two concepts in their view? Take the case of actual judge. To judge aesthetic is taught by ethical beauty is primarily a matter of technique. What you like, like that behind this whole pleasure is a refinement of the technique. When the technique is accustomed meaning and pleasure is by ethics goes beyond ethics and aesthetics then becomes something else. Through its judgments can attract litigants by these two methods by something that is aesthetically namely form, dynamism, harmony, but also by so-called "tricks" of art that produce a feeling of satisfaction. To judge it is hard to accept this combination of ethical and aesthetic concepts that become the same. Judge learn technique, he expressed by ethics but play with her and manages to exceed[14]. Ethical and aesthetic are two concepts that attract and lead each other, and sometimes wins this confrontation ethic other times aesthetics, but most of them are dependent on each other. To better understand the unexplainable, that by merging the two concepts,



produce rhythmic impact on thinking, we try to find explanations for ethical and aesthetic essence of living. We assume ethic is mind, thinking rhythmic language understanding and aesthetic essence is the divine breath revealed by experience. Will produce a language game will start in the mind to realize their own condition. We can correlate the act of feeling and utterance, the act of having an aesthetic attitude? Unite them somehow? Devine ratio of aesthetically and ethically the same as the utterance and feeling? Feeling beautiful is it consistent with the meaning of the word beautiful explanation? Can we talk about a civil code Shakespearean play such a masterpiece? November somehow overcome the sphere of knowledge through written language? Or we are subordinated understanding and leave to chance the body side acts? (Hand movement, breathing, heartbeat, blood pulsing even lip movement and vibration of vocal cords when talking long as lawyers prepared their arguments for their cause).

Directly, we start from the premise that what is said and thought, equally understanding. Nothing can affect the inner rhythm of the music that has a resonance through what was "given" and feeling. Narrated in the wording of the world, are data that can make the connection between what is written and what is said. Pleading with writing the note substrate is now nonexistent. I find the courage with which leads to uncertainties secret world based on understanding rhythm. The space in which language operates inner spirit world is undeniable. The concept of existence in the world, the effect of the allegation and gender bias, between ethics and aesthetics, between the mind and experience. Knowledge tends to new opportunities in clarifying the true good (beautiful) and the dichotomy that exists in himself and the ability to give vent to emotions, produce aesthetic attitude and generates a break in rhythm mental comfort in the context of weightlessness divine voice. They are simply presented below. Inability to understand their likely lead to mental discomfort and produce a mental cramp, leaving to confuse what is real with what is unreal. Immateriality bring out the inner spirit and anxious direction this road leads uncertain. Fighting triggering

adverse reactions highlighted the inability to say what happened and heard. The Private becomes public and combat the said leads to nothing, they occur after denotation explanation and reversible. Yearn for meaning accessible to everyone and go into the unknown, in the world to make the word to lose its usefulness. Need to know to possess an unknown world to undo minds and fight with him. Long-debated issue of routes aristocratic thinking, creates the foundation, principles of humanity and acquire a meaning worthy of being heeded. Ethics can not give an explanation to something that may not have understood the language sphere. If the world would have known as it really is, I did not care for tomorrow lead the existential needs what we do know and feel that we are living. Fighting a world that must be accepted and played in its authenticity, destroy everything that is beautiful and wonderful in it. Especially as baseless mirage things, produce a mental cramp and leaves the reader to enter their own existential concepts in his explanation, beyond the sphere of ethics by aesthetics. Finally, after these words much philosophical flavor to a halt in the concrete world of contemporary law rooted in the aesthetic normal, but located too far from the shores of ethics.

### ***Ethical and aesthetic in contemporary law***

The codes and laws are best seen core ethical law, which is what remains standing even though his magnificent aesthetic is canceled slouch. And, while it came, surely you've heard about the relation between ethics and aesthetics in many jurists; whatever meaning, this does? At first glance, joining the epic aesthetic in law is called the sonority of two words, made as if to rhyme and urge games postmodern, as are the letters of a word are put in brackets because if you pull out into another word. In the second plan, talking about ethical and aesthetic thought immediately takes us to the character of the legislature. The report ethical-aesthetic seems that it is, in fact, the relationship between nature and nature legislator law. How I love to judge people, this is the plateau on which to install, comfortable, most of us. From this level, some say it does not matter at all what the author as a man, it's important work! We, the Romanian legal culture,

a huge list of great artists who were, excuse the expression, like jerks. Some suggest, in such cases, separating the work of the author. Others, however, believe that a compromise author can not have a valid work. To their credit, we had in our legal culture and some of those who could match their great creation as a character. Those who, being impeccable as people could not be more aesthetic than mediocre plan hardly talk, just remain in the collective memory for great successes and great failures.

Finally, a third level of discussion about ethical and aesthetic message related to a particular work, be viewed individually or as part of a broader creations. For instance, today we agree that, in relation to ethical, legal legislature Romanian products, like all products made for propaganda purposes legal electoral failures are not only aesthetic, but also ethical failures. The law, therefore, always has an ethical message. Not everyone agrees with this, but those who practice the right judgment and ethical criterion, combining thus the ethical and the aesthetic. Any creation, as, moreover, any man does, is both ethical and aesthetic, it can be very easily measured and ladder play - ugly and scale well - sorry.

All these approaches, however, seem superficial, however. Have a tabloid (in the case of character judgment author) and a simple, elementary school (if judging ethical code of the message). The most interesting perspective of ethical-aesthetic ratio seems to be that the moral probity of the author, as seen in his work. Ethics is a law made by the author that's being put on the table and working with her. Is more than sincerity is more than serious. It is, very small, our creator repetition of gestures, that of God, who built his creation through the sacrifice of his Son. For we who have no vocation or creative experience is perhaps more difficult to understand, but that work ethics is that the creator makes the pieces of it. When the pulsing heart of the opera is the very heart of its author, then we have a work ethic like no valid too happens in our case, the Romanian legislation.

We have in mind here, primarily, confusion and failures in justice, they bring decisions of the Constitutional Court of Romania (CCR still) which declared unconstitutional several articles of justice codes. Then, to clarify the role of the Public Ministry is a ministry without portfolio, or part of the Executive - which would be desirable under current conditions - or be completely removed under the umbrella of Executive power. Then it has clarified the issue related to CCR, how to report, through exceptions of unconstitutionality in the courts. More specifically, what happens for a long time to CCR: intervenes High Court of Cassation and Justice of decisions given in the interest of law or, more recently, on matters of dispensation of law, after intervening CCR on the same issue and decide another way. You must decide, remains the High Court that unifies the practice courts and to pronounce judgment on matters of actual or CCR remains, by specific means? *Exempli gratia*, more favorable criminal law, the High Court through a complete have to rule on a matter of dispensation of law, ruled in a certain way. All courts, by law, had to take account of that judgment. CCR subsequently settled and changed it and said no, taking account of the whole package institutions in code and when the amount is shown as it is favorable or not.

The problem is that such interruptions occur that confuse not only the judges, but also individuals, because man does not know what to report. This is one aspect. The second is that we have a big problem about how codes were drawn civil, criminal, civil and criminal procedures have a problem with the CCR. Sure, we should respect the decisions of RCC, but the result obviously for us citizens is that courts are disturbed roles. Another concrete example, the camera pre - judgment in chambers, an institution organic law adopted by Parliament. That project was very long public debate. Preliminary chamber judgment in chambers not cited parties nor the prosecutor. It examines the legality of all the evidence by the judge to ensure rapidity, after which the judgment, where all parties have access. Pre-Trial Chamber it was thought to be an antechamber to the proceedings, to a speedy trial and the process itself to achieve a result. He

came CCR and said it's not constitutional that preliminary chamber without summoning the parties, which meant a strain on excessive role of the courts, and lost time for citizens, injured parties to civil parties, because they are called upon once again the trial. Thus was born an institutional issue. It is clear that these institutions either did not work from the beginning and were not thought out well and we have to see why.

So often there is a problem in how these new institutions have been created, or we have a problem in the interpretation of them by CCR. Eventually CCR belong to this society, it must be integrated into all previous discussions occurrence of such laws and should understand the mechanisms that led to a legislative solution. I do not know where is the truth, but the revision of the Constitution, can find solutions which we take from RCC, give the High Court, especially since judges are political appointees from the CFR! How to do this filter so as to reach a consensus because it must function codes and codes work when not appear serious consequences such as remoteness ethical idealism, which otherwise is very tied in terms of good. Wave erosion and regulations and infringement of fundamental principles of law have brought us to the point where we are now. In this small desert rhetorically, are nevertheless an important idea on good law, a shadow analysis can argue with that. It is about reinventing jus cogens rules that can ensure availability to sociality and solidarity.

### **The role of jus cogens in contemporary law**

#### ***Preliminary issues***

States now recognize the existence of mandatory rules, as otherwise recognize the need jus cogens legal regime established to be universal and exclusive, with no possibility to derogate from it by agreement inter se. Compliance imperative, however, is an important step in the evolution of international law, because it marks the establishment of a core of international law binding on all states, a set of principles and rules that states can not derogate between them.[15] Therefore, we aim to emphasize the importance of mandatory rules under international law, provided that he can not be considered

a autistic to the evolution of international relations and, even more so in light of the events of the last period characterized by intensifying armed conflict in spaces increasingly extensive negative consequences for humanity, including increased scale migration, and secondly to demonstrate the need to respect the rules of *jus cogens*, given that there are remarkable differences in terms of socio-economic development of states, that difference can generate the best idea wins. Moreover, you can not do right in its content without mandatory rules, for then it would not longer be entitled, but would only be moral. Consecration of *jus cogens* institution is the direct result of social development and history. It thus requires international cooperation, which, due to its complexity, is conditional on a minimum of order and legality in international relations.

### ***Jus cogens again about***

Mandatory rules, *jus cogens* are today recognized in both the theory and practice of international law[16]. The authors have specialized demonstrated and explained the existence and states have accepted and confirmed the conventional practice. It seems logical to start - the definition of *jus cogens* - the definition in the Vienna Convention on the Law of Treaties, namely that "a peremptory norm of general international law (...) is a norm accepted and recognized by the community international States as a whole as a norm from which no in derogation and that can not be modified only by a subsequent norm of general international law having the same character.[17] " References to mandatory rules are in Articles 66 and 71. Mandatory rules, *jus cogens* norms are primarily of general international law. They look so legal relations arising between the member states of the international community, which, in turn, those rules were accepted and recognized as being so important that it does not derogate from them in relations inter se. It is also worth noting that a rule of this kind can not be changed unless it is accepted and recognized in the community of States as a whole, another mandatory rule regarding the same matter. Relying on the definition in the Vienna Convention (1969), "Dictionary of Public International Law" gives the following definition for the concept of *jus cogens*

*gentium*: "Latin phrase meaning international law imperative, designating all the principles and norms of international law Universal valid binding on all states, so that their agreements are not derogate from them.[18] " The existence of a universal international law necessarily implies the existence of an international legal order. But as any legal order requires legally binding rules along with the suppleness is understood that international law contains such rules that doctrine defines them as "standard that is not allowed any exemption conduct which provide the only possible "[19]. The issue concerns the definition of mandatory rules increasingly more. Interest in this issue is legitimate, because emphasizing the importance and expansion of jus cogens corresponds to the stage of development of international law in the contemporary era, a law intended to defend the peace and freedom of peoples to distinguish it qualitatively from the international law of historical epochs earlier[20]. Regarding the significance of the concept of "mandatory rules", it seems most appropriate to describe those rules by their importance for peace, sovereignty and independence of states do not allow any derogation; so jus cogens would designate all existing mandatory rules.[21] If the law by mandatory rules means the rules from which no derogation by contracts between subjects of law, not about violating those rules by unilateral acts of the subjects of law, but an attempt to establish - by contract - a legal regime different from that required by those rules, in terms of international law, they have expressed opinions that mandatory rules should be defined not only in relation to agreements derogatory, but also report any violations of these rules.

Rules of international law, whether mandatory or devices, binding and their violation entails responsibility of the Member guilty. Unilateral acts contrary to these rules shall not derogate from the rules of international law, but are by definition unlawful acts. You have made the necessary distinction between violation and derogation of international law, because if the exemption at a time automatically implies the formation of other rules - to the more restricted whereby the parties agree to create a legal regime different from that in force under more

general rule violation occurs - usually - by unilateral acts.[22]

The notion of mandatory rules can be defined in international law as in law - according to the rules restricted nature. Speaking of acts contrary to international law, they are unlawful acts and is not derogate from these rules; their recognition or acceptance of their effects by international law topics can be conducive to the formation of an international agreement or a custom character confined to derogate from these rules[23]. The object approach to scientific research is therefore the mandatory rules (jus cogens) in the sense of rules binding on all subjects of international law and from which they may not derogate between them. So, what encompasses the peremptory norm of international law is the same as in law, in terms of legal technique: the prohibition of derogation in relations inter se. It must not forget that the beginning of the new millennium significantly influenced human society was characterized by fundamental changes in the structures of both the European continent and in the world. All these changes have caused, searches and elaborations us, considering that a new concept should be defined a new strategy should be established. In these circumstances arise and new meanings of the concept of jus cogens. This is more alive and more necessary than ever, given that there is serious violations of human rights, ethnic or religious harassment or influxes of migrants.

We believe that the new meaning of the concept of jus cogens is revealed precisely in that concept and should be a powerful magnet to gather people together, which should underpin a human community based on the forces that unite people and not its split

### ***Jus cogens role in the international legal order***

In the absence of public authority powers legislative, executive and judiciary through which to adopt legal rules and to enforce their binding force of international law is based on the agreement of the Member manifested in a double sense. Members of the international society due to their common interests resulting from relationships of interdependence, accepts in principle that a body of rules is absolutely necessary to order them conduct. Only through a



system of mandatory rules can avoid such situations of anarchy that would prejudice the interests of all. Starting from this premise, the Member shall jointly and their agreement on concrete rules of behavior in various areas of their relationship. Binding of these rules thus derives from the will of states, as the carrier of sovereignty. This agreement is the creation of and respect for international law[24]. It is unlikely that states will adopt rules contrary to their own interests or intent to infringe. Exposure with the way the agreement will, in theory was emphasized that States must not always express consent exposed to every rule of international law. The consensual nature of international law envisages the consent of the Member States of the international society at a time on the set of rules that form the international law of that period. Thus, the new Member appearing in international society, they are, in principle, enforceable international law in force at the time of their occurrence[25]. In contemporary doctrine stresses that freedom of action of states in matters considered part of their national jurisdiction, as the general problem of their freedom of action internationally, derives from international law and not an affirmation of discretion of each state. Thus, the establishment of specific rules of behavior between two or more states can not be achieved only with the observance of principles and rules essential for the maintenance of international order[26]. An example in this respect is required standards of contemporary international law in guaranteeing human rights and fundamental freedoms.

In developing a rule of international law, establishing consensus on certain regulations states of their conduct, it is clear that more powerful states will try to steer the process towards convenient to their interests. It thus appears that international law is nothing more than a simple transposition into alleged international legal order, relations of power and, ultimately, economic force and military state or group of states that have influence on will only seemingly autonomous states that have such a force in a lower grade. It is true that until early this century rules of international law expressed, predominantly, the interests of member who could impose their position weaker partners, reflecting

the power relations and the primacy of international law over international politics. With the development of international society and as a consequence of multiple interdependencies between states, recorded the existence of common interests and values of the international community, whose promotion and application could not do than by rules of law. At the same time, the rule of law once adopted gradually gaining a life of its own, which in political terms is hard to ignore even by countries whose interests may be harmed as a result of the application of this rule. In this regard, we may cite, as an example, entry into the UN Charter, the Western states at the end of the Second World War, the concept of "right of peoples to dispose of themselves," which served later as a legitimate legal basis and the process of decolonization, with direct consequences for the interests of many supporters of this right. It follows, therefore, that international law is not only an instrument of international politics, a way of formalizing Internationally, the foreign policy of countries, but also a determinant of their behavior, once the rule of law has been agreed.

Incidence policy, the specific interests of various countries, in particular the powerful, the law should not be levied only on the individual scale, depending on everyone's foreign policy, but also globally, the international community of states. States are forced to cooperate in the development of rules of international law on the coordination of their economic exchanges, supporting the growth in the less advanced environmental protection, combating terrorism, the issue of refugees etc. In these circumstances, international law no longer appears as a transposition autonomous, plan legislation, certain hegemony in international relations, but reflects, rather, on the one hand, common interests which unite the subjects of international society and, on the other hand contradictions and antagonisms manifest in international society as a whole at a time.

The binding nature of international law lies in their authors' decision of which lies in the foreground states to respect them and to provide them binding. From the moment a rule of international law is justified in terms of the interests of the whole international community and is respected as such by the international

society members, compliance with which is not based primarily on coercion, sanctions. Moreover, in any legal system, not the foundation sanctions compliance, but consciousness subjects of law that such rules deriving necessarily from social well-defined commands.[27] The use of sanctions occurs when a state commits an act or an illegal from the point of view of international law, against another state, or when the unlawful act resulting from a violation of a mandatory, considered the category of international crimes. Normative restore order after the occurrence of violations of the rule of international law, raises at least two questions: Who qualifies as an act or fact is illegal and who is empowered to impose a penalty and what kind of sanction against the State violator of the rule. State finds victim and prove the unlawful nature of the act and can go to penalties. The assumption is violated when a norm of *jus cogens* category of international crimes is in the interest of all states to take appropriate measures for mandatory rules to be respected.[28]

Regulating relations/international relations between states by norms of international law to promote a specific behavior of all actors comply with those rules of international life. This conduct proper legal relationships between subjects of international law - a legal requirement in the first place, but also a moral exigency - the primary aim of legal regulation in this area, "the rationale of international law." [29]

By their purpose any acts contrary to mandatory rules aimed at them, so as to exclude any deviation from the legal regime that it creates. They have a specific prohibition of any derogation and derogatory nullity agreements meant to ensure the prevention of acts contrary to these rules, as they are all the more serious since this violation of norms.[30] Also, another effect of mandatory rules is to prevent the formation of rules of customary derogatory nature regional or bilateral. It makes sense to be so, for admitting it the existence of derogatory legal regimes, such regimes can not bear the way custom. Acts of violation of mandatory rules by some states will not lead to the formation of customary rules restricted derogatory. The existence of mandatory rules requires the belief that

states have an obligation not to derogate from it, so even if two or more states would violate repeatedly imperative norm, they could not attribute legal conviction that characterizes a rule of law.

The question is what effect a mandatory novel over international agreements and customs in force when this rule is established. It is of course impossible to admit coexistence imperative norm with opposing legal regimes. So that after formation of the new mandatory rules, treaty or customary norm is - in reality - derogatory, although they were previously set. In these circumstances, the treaties will turn off automatically, as customary rules. This automatic extinguishing both treaties and customary rules have become derogatory takes place by virtue of any repeal, for repeal is based on intention (declared or implicit) of the parties expressed in training when the new rules. It occurs by virtue of the binding nature of the new rules of general international law. In accordance with Article 53 of the Convention on the Law of Treaties of Vienna in 1969, "A treaty is void which, at its conclusion, it conflicts with a peremptory norm of general international law". So we notice that the sanction for non-compliance is imperative agreements derogating nullity of agreements. As is known, it is a nullity sanction applicable legal acts (in our case Treaties) that ended with violation of the law; therefore it either does not exist in terms of the law, whether they have legal validity and therefore not binding on the parties within the meaning of the Treaty. Nullity is classified in the doctrine of international law as the most serious crisis that may strike an international treaty. If Treaties conflicting with a peremptory norm of general international law is a case of void that can not be covered. Compared to the vastness of the problem and not exhaustive title enunciative our approach, reasons to complete scientific research techno editorial understand by concluding some feedback.

### **Conclusions**

We need law? As a whole functions and its core values ensures the right uniform and universal respect for and protection of institutions and values which society attaches key importance to its progress, for its very existence. These

rules have a special significance for a community made up of a large number of sovereign states bound by international treaties; they necessarily derive from the requirements of maintaining peace and security, development cooperation partners range between equal rights and sovereign. Consecration law and its consequences is the direct result of social evolution and historical transformations occurred in international relations that lead to changes in contemporary law, and his doctrine.

Law doctrine implies a set of shared values and principles, which recognize the two concepts, the transcendental or *iusnaturalistă* and the positivist and instrumental, and preservation areas of autonomy for each of the two streams integrated with the consequence of creating reports complementary or divergence, making it necessary in both cases, internal dialogue. The pull of the law is rooted precisely in the most important doctrinal diversity. A monolithic doctrine is incompatible with pluralism attitudes and choices of the human spirit.

Keeping individuality of each concept is not only a doctrinal justification, but a strategic one. But in the absence of a set of values and principles that underpin contemporary law can not ensure consistency of a vision of the common future, no unity of doctrine that wants to implement such a vision, especially if it is a court. It is not essential that these values and principles to be reflected equally, convictions and beliefs of all those who share that vision and all members of society, but it is necessary for them to regain at least some of these values and principles, and the others consider them acceptable, be compatible with their beliefs and their beliefs.

In this regard, owing to its complexity, international cooperation is conditional upon a minimum of order and legality in international relations. Under these circumstances, the right of structured Western societies, and this relationship founding need to rethink the new terms of globalization, as in the case of the EU law, where such an approach, if it could replicate selected EU countries, we have 28 the little individuality and Europe with common values and without a community spirit. In fact already been moments of crisis have

highlighted the role of the Council to the detriment of the Commission, the intergovernmental so at the expense of community, although others would say it has remained the dominant legitimacy to the democratic choice "of unelected power" in reference to the Eurocrats and EU officials.

In these circumstances, structured contemporary law between plurality, complexity and transdisciplinary, ethically and aesthetically, was and probably will be to everyone's attention, as a matter of utmost importance. I felt that now, on current law. And I confess, I could say that I am, like most, a mid-level lawyer interested to learn new things that I would facilitate research work. But I am concerned about my safety and my fellows. It would be hard if I lose it or if any tyrant would block my work. And if they happen to leave right into the wrong hands? Therefore I turned to writing, to understand what will be the world's decision makers. I did not enter here into the details of a future project, we wanted to emphasize, however, a work of a man approaching normality desired and initiated a series of debates, including through this material, with sales advisory of current opinion different to correct any inaccuracies.

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