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PRIORITIES AND ACTIONS OF THE PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION HELD BY ROMANIA

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Abstract
The paper captures aspects related to the program during the presidency of the Council of the European Union held by our country, from 1 January to 30 June 2019. It is known that the Presidency of the EU Council is ensured by rotation, every 6 months, among the Member States, each Member State having the obligation to exercise it by chairing meetings organised at all levels within the Council. The Member States holding the Presidency work together in groups of three, entitled "trios", a system introduced by the Lisbon Treaty.
Romania took over the EU Council Presidency in a trio with Finland and Croatia, setting together a series of common goals. Our country has set itself the goal of an efficient, results-oriented presidency, with activities to be integrated into the joint effort to pursue the EU consolidation objective. The program of Romania was part of a larger plan, resulting from the consultation of the three states of the trio, having as main lines of work: "Europe of convergence", "Europe of security", "Europe - a global actor", "Europe of common values".
Keywords: *representation, presidency, trios, priorities, effectiveness, coherence, convergence, common goals*

Aspects involved by holding the EU Council Presidency

In the Union's unique institutional configuration, the Council of the European Union is one of the seven European institutions stipulated in Article 13 of the Treaty on European Union (TEU), together with the European Parliament, the European Council, the European Commission, the Court of Justice of the European Union, the European Central Bank, the Court of Accounts. The institutional framework of the Union "aims at promoting its values, pursuing its objectives, supporting its interests, those of its citizens and Member States, as well as ensuring the coherence, effectiveness and continuity of its policies and actions"[1].

The Presidency of the Council of the European Union is ensured by rotation, every 6 months, among the EU Member States, each Member State having the obligation to exercise the Presidency, in turn, by chairing meetings held at all levels

within the Council (ministerial, ambassador and expert level), contributing to ensuring the continuity of the EU actions. Therefore, the Council's decisions are the result of the aggregation of the interests of the Member States, in a process in which it must maintain a permanent dialogue with the other institutions participating in the legislative process, namely the European Commission and the Parliament.

In general, the Presidency has two main missions [2]:

- planning and conducting meetings within the various formations of the Council (with the exception of the Foreign Affairs Council) and its preparatory groups, which include standing committees, such as the Committee of Permanent Representatives (Coreper), and work groups and committees dealing with extremely precise issues;
- representation of the Council in its relations with the other EU institutions, in particular with the European Commission and Parliament. Its role is to try to reach an agreement on the legislative files through trilogues, informal negotiation meetings and through meetings of the Conciliation Committee.

The Presidency cooperates closely with the President of the European Council and with the High Representative of the Union for Foreign Affairs and Security Policy. It has been judged that the Presidency of the EU Council should act as an honest and neutral intermediary, being responsible for advancing the work of the Council regarding EU legislation, ensuring the continuity of the EU agenda, of certain well-organized legislative processes and the cooperation between the Member States.

The Member States holding the Presidency work together in groups of three, entitled "trios", a system introduced by the Lisbon Treaty in 2009. The trio sets long-term goals and prepares a common agenda, determining the major issues and aspects to be addressed by the Council over a period of 18 months. Based on this program, each of the 3 countries prepares its own program, in more detail, for the following 6 months [3]. The current trio consists of the Romanian, Finnish and Croatian Presidencies.

What the Romanian Presidency to the EU Council has meant

The Romanian presidency of the Council of the European Union followed the Austrian presidency, which began on 1 July 2018, and precedes the Finnish presidency,

beginning on 1 July 2019. It is the first presidency of the European Union Council provided by Romania, and during Romania's mandate the elections for the European Parliament were held.

During the six months, in the logo of the Romanian Presidency to the Council, the European Union is represented by a wolf, an animal known in the myths of most cultures, with a special role also in the Romanian mythology. The wolf also represents an indication that the EU has dedicated itself to the protection of biodiversity. The logo presents a dynamic and confident European Union, dedicated to the common values of the Member States. The motto was "Cohesion, a common European value" [4].

Romania took over the EU Council Presidency in a trio with Finland and Croatia, setting together a series of common goals. When taking over the mandate, Romania has assumed the progress of the European project towards a more coherent, more cohesive and unitary Europe, both internally, at Member State level, among the Member States, at regional level, at local level, as well as externally [5].

From the beginning, Romania has set itself the goal of an efficient, results-oriented presidency, with activities to be integrated into the joint effort to pursue EU's consolidation objective. The premise is that a sound European justice policy contributes to the security and economic growth for the benefit of the citizens and the business environment. The guiding principles concerned: the respect for common values, the fundamental rights and freedoms and the rule of law; the respect for the different traditions and legal systems of the Member States; further strengthening of the mutual trust between the justice systems of the Member States [6].

The program of Romania was part of a larger plan, resulting from the consultation of the three states of the trio, having as main lines of work: "Europe of convergence", "Europe of security", "Europe - a global actor", "Europe of common values"[7].

Within the first pillar, "Europe of convergence", Romania's Presidency at the Council of the European Union aimed to ensure the European convergence and cohesion in order to achieve a sustainable and fair development for all citizens and Member States by increasing competitiveness and reducing development gaps, promoting connectivity and digitalization, stimulating entrepreneurship and

strengthening the European industrial policy [8]. In this regard, a first main objective was to advance the negotiation process regarding the Multiannual Financial Framework 2021-2027.

In April, the President of the Committee on Economic and Monetary Affairs (ECON) of the European Parliament, Roberto Gualtieri, stated that under the Romanian Presidency at the Council of the European Union "we managed to achieve something that many believed impossible, namely we managed to complete a huge number of legislative files, which were in danger, as we did not have much time to finalize them and there were many important open files: Invest EU and other very important files in the field of financial services" [9].

Regarding the second pillar, Romania's Presidency at the EU Council aimed at strengthening a safer Europe by increasing cohesion between Member States in order to meet the new security challenges that threaten the safety of citizens and by supporting cooperation initiatives in the field. Also in this direction, further attention was paid to the issues of increasing cooperation between Member States and increasing the interoperability of the EU security systems, protecting the safety of citizens [10]. Another area of interest was migration, through a broad approach of the action within the EU, contributing to the facilitation of the dialogue between the Member States in order to identify solutions for an effective and sustainable EU migration and asylum policy.

Romania has supported, during its mandate of the Presidency of the European Union Council, the further consolidation of the EU global role by promoting the enlargement policy. This priority was based on the action of the Union in the neighborhood, on the continuation of the process of implementation of the Global Strategy, by providing the necessary resources at Union level and by implementing the global commitments of the European Union [11].

According to the fourth priority, the aim was to stimulate the solidarity and cohesion of the Union, which is achievable by formulating and promoting policies regarding the fight against discrimination, equal opportunities and equal treatment for women and men, and also by involving citizens, and in particular young people, in the European debates [12].

In the first two months after taking over the EU Presidency, Romania promoted 90 legislative files that bring great benefits to the life of all Europeans (80 closed files and 10 common interpretations on the EU long-term budget) [13].

It was appreciated that the Romanian Presidency in the leadership of the EU Council has obtained the increase of financial resources regarding the Horizon Europe Framework Program to extend the participation in this program and reduce the pay gap for researchers at the European Union level.

The balance shows that it was "an extremely dense period from the point of view of the legislative activity at European level, considering that the start of the campaign for the European elections determined to fit in a well-defined calendar of negotiations with the European Parliament" [14]. Thus, the revision of the Natural Gas Directive, considered an extremely difficult and complex file for the Member States and for European energy security, was completed. The Romanian Presidency has played an essential role in these negotiations, which guarantee that the rules of the Energy Union will apply in the case of gas pipes to and from third-countries. The revision of the Natural Gas Directive aimed at establishing a stable, transparent, non-discriminatory regulatory framework, for a greater coherence in the relationship with third-countries.

Another contribution is related to the Single Market Copyright Directive, as the new regulations will lead to the realization of a functional copyright market, with economic and social benefits for both creators and consumers.

In the six months of the mandate, the negotiations were completed and several European regulations were adopted, which ensure better working conditions for citizens, such as: the Regulation for the establishment of a European Labor Authority or the Directive on the transparency and predictability of working conditions. These regulations will bring certain benefits to the Romanian workers: the limitation of the probation periods to six months; the possibility to request, after at least six months of seniority with the same employer, a job with more predictable and safer conditions; the right to receive free training, based on the Union or national law.

Moreover, it should be reminded that on 23-26 May 2019 the elections for the European Parliament were held, Romania supporting the creation of a free and fair election environment.

On June 13, Romania symbolically handed over to Finland the presidency of the Council of the European Union. Our country will hold the presidency of the Council of the European Union in 14 years.

The parliamentary dimension of the Romanian Presidency at the EU Council

The Parliament of Romania, as a representative of the Romanian society as a whole and the sole legislative authority of the country, supported the program of the Presidency of Romania at the Council of the European Union, a program centered on the citizen, all efforts focusing mainly on the advance of the legislative and non-legislative files that bring tangible results for European citizens, thus leading to a stronger, more democratic Union, closer to its citizens.

These aspects were included in the "Declaration on the parliamentary dimension of the rotating presidency of the EU Council that Romania will exercise between 1 January and 30 June 2019", a document through which the national Parliament has expressed its support for the Romanian Presidency to the European Union Council, during the six months of the mandate, "in order to ensure economic, social and territorial convergence and cohesion for the purpose of a sustainable and equitable development for all Member States, by promoting connectivity, digitization, implementation of regional cooperation projects, stimulating entrepreneurship"[15].

It is also worth mentioning that, by means of the Declaration, the Parliament encouraged the Government of Romania to make constant efforts to adopt balanced measures to maintain the unity between the Member States of the European Union and to implement the Union's strategy and priorities.

At the level of the Romanian Parliament, a series of meetings and conferences were organized meant to support the implementation of the general objectives related to the priorities of the Romanian Presidency at the leadership of the EU Council:

The Meeting of the Presidents of the Conference of Organizations Specialized in Community and European Affairs (COSAC) 20-21 January 2019; the Conference for Stability, Coordination and Economic Governance in the European Union 18-19 February 2019; the Meeting of the Europol Joint Parliamentary Control Group (JPSG) 24-25 February 2019; the Inter-parliamentary Conference on the Foreign Policy and

Common Security and the Common Security and Defense Policy (CFSP/CSDP) 7-8 March 2019; The meeting dedicated to the Common Agricultural Policy and Cohesion Policy 19-20 March 2019; the Conference on the Future of the Union 1-2 April 2019; the Plenary session of the LXI Conference of the parliamentary bodies specialized in the issues of the Union of the parliaments of the European Union (COSAC Plenary) 23-25 June 2019.

The Declaration from Sibiu of the 27 European leaders (9 May 2019)

The declaration from Sibiu is a document that includes the ten commitments made by the Heads of State and Government of the European Union, meant to provide further stability and prosperity for the nearly 500 million inhabitants of the European Union. The document, whose purpose is to strengthen European unity and cooperation between the Member States, was adopted at the informal Summit of the Heads of State or Government of the European Union, organized in Sibiu on Europe Day itself. It is, from a historical point of view, the first meeting of the European Council that Romania had the chance to host. As announced, EU leaders were to attend a summit that would shape the future of the EU after Brexit.

The summit was hosted by the President of Romania, Klaus Iohannis, and the meeting was chaired by the President of the European Council, Donald Tusk. Also, there were present: the President of the European Commission, Jean-Claude Juncker, and the President of the European Parliament, Antonio Tajani. 36 official delegates and 400 high-ranking guests attended the Summit. Despite some existing controversies generated by the issue of migration, the cohesion policy, the rule of law and Brexit, the 27 European leaders who participated in the Summit of the European Council signed the Declaration from Sibiu.

The document can be considered as a preamble to the future Strategic Agenda for the period 2019-2024, which will be adopted at the next summit of the European Council. The Strategic Agenda includes topics such as defending citizens and freedoms, protecting the norms of the rule of law, shaping the European economic model and intensifying the role of the European Union at global level. The 27 Member States, through the signature of the Heads of State or Government who participated in

the Sibiu Summit, have committed to protect a single Europe - from east to west and from north to south, without leaving room for divisions that are contrary to the common European interest.

The second commitment contained in the Declaration refers to the unity among the Member States, the solidarity between them and mutual support. Thus, it is hoped that Europe's position will be unequivocal in its relations with third-states and with other global partners, and that solutions will be common, based on dialogue, in a spirit of understanding and respect [16].

Another important aspect is the protection of democracy and the rule of law, mentioning that "The inalienable rights and fundamental freedoms of all European citizens have been acquired with great difficulty and we will always cherish them properly. We will defend our common values and principles enshrined in the Treaties"[17].

It is reiterated the wish for the Union to remain a major player at global level, paying greater attention to the needs of citizens, trying to bring the institutions from Brussels closer to them, to the concerns and hopes of all residents of the Member States.

In addition, the principle of equity is also discussed, which must be applied not only to the labor market, but also to social services, economy, etc. Thus, the cohesion policy represents the instrument that can reduce the disparities between Member States to a greater extent, putting people first.

As it results from the document, it is up to the Member States to equip themselves with the most appropriate means of achieving the ambitions of the Union and to protect the future of the next generations of Europeans, by investing in young people and by building strategies that respond to the most pressing challenges of the 21st century.

The European leaders state that "Europe will be a responsible global leader"[18]. The present challenges that the European Union faces have a general impact, affecting all citizens. That is why it is imperative that European leaders continue to collaborate with the Union's partners at an international level "to maintain and develop the international rule-based order, to fully exploit new business opportunities and to tackle

global issues together, such as environmental conservation and fight climate change”[19].

We must admit that the moment when the Declaration from Sibiu was signed by the 27 heads of state or government from the European Union was a strategically chosen one, almost three weeks prior to the European Parliamentary elections, when it was necessary to restate in front of the citizens the ideas of unity, solidarity, cooperation and cohesion within the European continent. In this way, the European leaders wanted to give a consistent response to the criticisms brought to the Union and its institutions lately.

It is noticeable that this political Declaration represents a compromise, in which there is a common or shared ambition. Not all European leaders agreed with all the details, there are voices claiming that many would have wanted something else, in one form or another. It is certain that a stronger language, clearer commitments would have been desired at a time that is very difficult for Europe [20].

The ten-point Declaration, already compared to a “Decalogue” by the press”[21], has been widely analyzed and criticized by various international publications. The Belgian publication “Le Soir” mentioned that the Sibiu Summit was not one about the future of Europe, as proposed, but one about “the ambitions of Europe”, while France 24 detailed that “reunited without Great Britain, the European leaders have signed a declaration on the future of Europe on Thursday and have defined a list of ten commitments”[22].

Conclusions

Through this first mandate, held by Romania, which officially ends on June 30th, our country has assumed “the progress of the European project towards a more coherent, more cohesive and unitary Europe, both internally, at the level of the Member States, among the Member States, at a regional level, locally, as well as externally”[23]. The statistics that have been at the basis for the preparation of the balance presented by the leadership of the Romanian Government show that the Romanian diplomats, technicians and politicians have had twice as good results as other Member States. In the 6 months, Romania was able to complete the political negotiations in order to adopt

new laws in a hundred cases, which is more than double the number of files closed by other states.

Regarding the Declaration from Sibiu, signed on the occasion of the informal Summit of the European Council, it mentions “a single Europe - from east to west and from north to south”. Otherwise, as Euractiv writes, the statement is “less concrete and substantial than the traditional conclusions of a summit”[24], and emphasizes issues that the EU must focus on in the near future, rather than indicate solutions and ways of action.

In the next period it remains to be seen whether the spirit of unity proclaimed in Sibiu by the 27 European leaders is indestructible or it represents just an attempt to hide the dissatisfaction and controversies that has existed among the Member States in recent years.

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THE PARTICIPATION OF CONSTANTIN APOSTOL IN THE MILITARY OPERATIONS OF WORLD WAR II

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Abstract
In our paper, we present the military activity of Constantin Apostol during World War II. One of the most prominent representatives of the Romanian military sport of the interwar period, Constantin Apostol participated in numerous international competitions where he received numerous awards. This study highlights the heroic facet of the sportsman, namely his participation in the World War II military operations, on both the Eastern Front and on the Western Front, for which he was appreciated and decorated. After the change of the political regime in Romania, in August 1944, the prestige of Constantin Apostol declined, and he ended by being imprisoned, for the simple reason of having a good material state.
Keywords: *World War II, Eastern front in 1941, Western front in 1944.*

1. Introduction

Constantin Apostol was born in Săgeata commune, Buzău County, in 1903, in a family of wealthy peasants. He attended primary school in his native commune, high school studies in Buzău and continued with military cavalry studies in Târgovişte and Sibiu. Later on, Constantin Apostol chose a military career and was gradually promoted up to the rank of a lieutenant-colonel.

In the inter-war period, Constantin Apostol was remarked particularly due to his participation in horse-riding competitions. He participated in numerous national and international races, where he received several awards, among which we mention: Aachen (Grand Prize – Silver Cup), Belgium - 1937, Berlin - 1936 (The Olympics), Naples - 1933 and 1935, Nice - 1934 and 1938, Poland - 1934 and 1936, Vienna - 1936, etc. [1].

He was also a member of the “International Royal Horse” London Club [2]. Furthermore, the record sheets existing in the military archives contain overwhelming appreciations of his behaviour, attitude, education, military skills, patiotism, dedication and devotion to his horses, army, nation and country. As a result of his performance, the name of Constantin Apostol was quoted several times in the Unit’s Day Order.

During World War II, as presented in the following pages, Constantin Apostol remarked himself through several deeds of heroism.

After the war, as a result of the communist regime coming to power, Constantin Apostol's personality, life and career entered the shadow, for the mere reason that he had a good material state, which was incompatible with the ideology of the new political regime. Marginalized and slumped for a while, he was imprisoned under the pretext of "scheming against the new social order", was dropped from civil rights and all his fortune was confiscated. After being released from prison, Constantin Apostol continued to conduct activities in the field of horse training until his death in 1995 [3]. In 2010, as a modest and, yet, well-deserved consideration, the authorities of the commune he was born in decided to give his name to an important street in Săgeata village [4].

2. Constantin Apostol on the Eastern Front

In the general turmoiled context of the forthcoming Second World War, Constantin Apostol continued to be an excellent and appreciated officer, with flawless conduct and notable results in the field of horse riding.

In 1938, General Florescu, commander of the Cavalry Schools, described him as "an excellent rider who gained a well-deserved renown both in the country and abroad" [5].

His record sheet for the period of November 1, 1938 - September 20, 1939 offers particularly valuable details for the military and human profile of Constantin Apostol. At that time, he was a captain, and was 36 years old. Constantin Apostol proved military skills, was disciplined, and had "the sense of duty out of conviction". His characterization, as presented in these sheets, was a sum of qualities: "dignified, moral, integral, modest, with manners." The domestic skills also impressed his superiors: he was good at maintainance activities, dyed, repaired and took care of the kitchen, bedrooms, sheds, harness, etc. His subordinates were "lively, energetic and well-equipped" and his horses – "beautiful and very clean" [6].

The commander of the 5th Division, whose part the regiment of Constantin Apostol was, considered in 1939 that this officer "has proven in these exceptional times

an energy that we can fully rely on". Due to all his accomplishments, captain Apostol was described as a "reliable officer one could count on in hard times" [7].

Laudatory appraisals continued in 1940, when Constantin Apostol was described as having a very good physical condition and as being able to bear "any hard condition of a long-lasting campaign". He proved "authority" in applying his orders, was a hard-working person par excellence and possessed rare qualities, which made him "have authority over his subordinates, due to their conviction and trust in his intellectual and spiritual attributes." Moreover, Constantin Apostol was characterized as "very moral", living "a life worth taking as a model", always passionate about horses to whom he gave "a parental care", as well as to his subordinates. The commander of the 5th Division also noted: "Although unmarried, he has a quiet temperament. Disciplined and authoritarian, dignified and modest, with exemplary conduct." [8].

As the moment when Romania was to enter the war was approaching, the unity commanded by Constantin Apostol was sent to Bessarabia where they proved exemplary conduct and discipline in executing the orders, even if these actions were to be executed "in the far distance" [9].

On June, 22 1941, Romania entered the war in order to support Germany against the Soviet Union. It was a fair war for Romania, as this was the only possibility to free and regain the territory of Bessarabia, which had been conquered by the Soviet Union one year before. By the end of Juy 1941, Bessarabia had been liberated and reintegrated in the Romanian borders.

Constantin Apostol took part in these military operations. General Vlădescu commander of the 5th Division, remarked the squadron of Captain Apostol for their efficiency. In the concentration area, in the period prior to the attack - June 1-21, 1941, "captain Apostol invested a lot of hard work and consciousness […], in order to accomplish his mission on the battle field".

After June 22, 1941, Constantin Apostol took active part in the front battles. His qualification sheet recorded the following: "He participated in the war against the Soviet Union, in all the battles of the 5th Division from July, 6 to October 16, accomplishing his missions as efficient as possible, and proving, besides military skills, a lot of courage. He captured war material and prisoners, especially during the attack executed in the

North of Javorlâk (Ukraine). Apostol was decorated with Steaua României Order, 5th Class with swords, and a ribbon for Military Virtue" [10].

After this first wave of the Romanian attack on the Eastern front, Constantin Apostol went back to Mizil, were the appraisals he received were equally laudatory. He was in charge with two squadrons, proving talent and "solid experience in training". During the inspections, Apostol was appreciated for his enthusiasm, "a unified training method", for his "normal and pleasant physical appearance" and "groomed aspect in front of his squadron". He could easily orientate in the field and proved "both decency and cold blood". Furthermore, Apostol was "very hard-working, authoritative and had a lot of prestige", an "excelent comrade" and "fair to his subordinates" [11].

For a while, Constantin Apostol was in charge with the Mobilization Bureau where he was responsible for preparing the Research Groups and the Sanitary Formations of the 5th Corp. Due to the energy and zeal he deployed in 1942 in June and July, "mobilization could be done under the best conditions" [12]. Referring to the period May, 1 – August, 7 1942, Colonel V.C. Botezat, Commander of Regiment 6th Călărași, highlighted the efforts made by Constantin Apostol to complete the needs in horses of Research Group 55, "travelling to all centers in the county, from which he managed to bring a number of 146 horses." Because of his efforts, all the mobilized military formations "could go to the front with the people and requisitions necessary almost complete." Therefore, the Commander of Regiment 6th Călărași proposed him for being promoted „of choice" [13].

For the following stage of the operations, November, 1 1942 - April, 4 1943, the Head of the Major State, 5th Territorial Corp, considered that Constantin Apostol, the Commander of the sedentary part of the Regiment 6th Călărași and head of the Mobilization Bureau, "has done a great job in repairing the Cazarme" transforming it into a "more comfortable, clean and beautiful" place. In addition, he "organized and tracked the training of the recruits trainers" with remarkable results. Captain Apostol fulfilled all his duties "eulogiously" [14].

When Regiment 6th Călărași returned from the front, on April 4 1943, Colonel V. C. Botezatu remarked: "With great gratitude and satisfaction I found that the P.S. commander, with extremely low aids, had a very fruitful activity, first and foremost

completely changing the aspect of this barracks, [...] in perfect order and cleanliness, with very beautiful horses, and clean and orderly men" [15].

From another characterization sheet we find out that one of the tasks of Constantin Apostol, as head of the Mobilization Bureau, was to classify the situation of the officers and soldiers who had taken part in the fighting on the front, to communicate the names of the deceased or of the ones that had disappeared in war, to draw up the documentation and correspondance with the families of the deceased and of the war invalids, so that these could receive financial support as soon as possible.

On May 23, 1943, Captain Apostol was relieved from his position as head of the Mobilization Bureau, and was appointed commander of the Recruiter Training Division. When handing over his prior job and responsabilities, "it was found that there was no irregularity in his charge". From this moment until June 25, he attended training activities for the position of Division Commandant at the Training Center of the Sibiu Cavalry, thus acquiring the skills to "lead and command a division in very good conditions" [16].

Between July 15 and October 31, 1943, Constantin Apostol became a horseback riding trainer for the senior officers of the Superior School of War, proving "a great interest and conscientiousness," which made him count "among the cavalry valuable officers" [17]. The same opinion was also reported by General Codreanu, the Commander of this school who remarked that Apostol was "a good cavalry officer and a skilled cavalry instructor" [18].

On September 6, 1943, Constantin Apostol was promoted in rank of a Major, and on June 27 1944, he was mobilized for Regiment 3rd Călărași" [19], where, under new conditions, he took over the command of a division. He was as healthy and resistant as always and "trained and commanded his division efficiently, until the beginning of the operations".

3. Constantin Apostol on the Western Front

After the political and military change from August 23, 1944, Constantin Apostol engaged again effectively in the operations of the Second World War, this time on the

Western Front, for the liberation of his country and for crushing the enemy, i.e. Germany.

Lieutenant Colonel Pleşoianu, Commander of the 3th Călărași Regiment, noted: “Since the commencement of the operations, he proved a precious collaborator. Thus, during the operations from Ploiești region, and especially in the battles from Transylvania, he proved his skills in commanding with cold blood, calm and courage.

It is also worth mentioning the action in Mureș where he ordered the Division and led the regiment during a temporary absence of mine in exceptionally good conditions. On this occasion, he gave me a brilliant test of his qualities as a brave and skillful commander. Disciplined and a good comrade.

For his deeds of weapons, he was proposed to be decorated with war orders.

I appreciate Major Apostol as a very good cavalry officer to whom we can entrust however heavy missions on the battlefield.”[20]

The Commander of the 3th Călărași Regiment continued to note in the characterization of Constantin Apostol: “Major Apostol was under my command from November 1, 1944 – January 1, 1945”, when he commanded a division “with great seriousness in all the operations that continued in Transylvania; Tisa – Hungary”. He was remarked in various operations. Thus, “on Tisa river, his sector was best organized and defended”. As additional arguments, his superior pointed out that “during the inspection of the allied Russian commander, Apostol was mentioned as an example, for how well his sector was organized”. Furthermore, “in the Tisa crossing operations and the pursuit of the enemy”, the unit commanded by Major Apostol was noted in avant-garde operations, proving tact and courage. His unit, “trapped at the end of two hatchways” took control of a river and rejected the enemy over the water. The actions undertaken under the command of Constantin Apostol in Hungary “were among the most worthy”. His individual actions were also quite remarkable: “Only due to his personal spontaneous and energetic intervention the Squadron I was not removed from the dike they were defending.”

The conclusions of his superior are more than eloquent: “Any mission entrusted to Major Apostol, however tough, was led by him personally and ended with [...] courage and seriousness. Always in the middle of the soldiers, he prefers to command back in

advance, and to exeperience all situations on the battlefield. In all these operations, he is the only superior officer I have had and who has given me precious support in all the operations that the 3th Călărași Regiment has participated in. He is an extremely good superior officer and a perfect war officer.

His deeds of weapons and his conduct on the battlefield qualify him and I fully appreciate him as a superior, elite officer and an excellent war commander.

As soon as the officer meets the age-old conditions for advancement, the deeds of weapons on the front recommend him “to advance” [21].

The commander of the 8th Cavalry Division agreed with the eloquent note of the Regiment’s commander on the activity of Major Apostol. Moreover, he regretted his “departure from the front”, which occurred when the officer lost some of his brothers on the battlefield. The commander proposed Apostol to be promoted to lieutenant colonel “at choice” [22].

On January 1, 1945, Constantin Apostol returned from the front with the approval of the Major State. He resumed his activity as a horseriding instructor, as well as the courses of the Superior War School. At the same time, he was head of the S. S. R. and an Information Officer.

The Administrative Manager of the Superior War School depicted an eloquent characterization of Constantin Apostol for the period from January 1 to June 1, 1945: “when administrating the building damaged by air bombardment, he managed to renovate it and make it liveable again in minimum time, through a well-thought-out effort”, and "as an informant, the officer remarked by informing me of everything that was happening in time and precisely, which enabled us to take combat measures in time.” In addition, “the activity in the office was in perfect order”. His entire activity was eulogisticly appreciated, Major Apostol being one of the elite officers, that fully deserved to be advanced to grade [23].

In late 1945, Constantin Apostol was transferred to the Territorial Circle I from Buzău, where the fact that Major Apostol had participated in military operations was well-known: “He took part as a division commander in the battles against the Germans and Hungarians, when he proved a qualified commander and military fighter.” His internship on the front had lasted for eight months, during which he had successfully

“fulfilled the assignments”, deeds for which he had been “eulogiously noted by his supreriors in battles” and proposed to be promoted to Lieutenant Colonel” [24].

His hierarchs, Generals Codreanu and Mihail, commanders of the Superior War School, and General Băldescu, Commander of the 5th Territorial Corp, agreed with these characterizations and reached the same conclusion: Major Apostol was fully worthy to be advanced in rank [25].

To sum up, during the Second World War, Constantin Apostol actually participated in two military campaigns. The first lasted for almost six months, June 22 - November 3, 1941, on the Eastern Front up to Odessa, within the 5th Research Group, where he was the Group Comnadant. In the worksheet it was noted that “he did not take part in the battles against the partisans and the civilian population” [26]. The second campaign took place from August, 23 1944 to December, 28 1944, when Apostol fought in Ploiesti and on the Western Front, in Transylvania and Hungary, to the border of Czechoslovakia, within the 3rd Regiment Călărași Regiment, as a division commander. He was decorated with Victoria medal by the Soviet Union government [27].

On February 15, 1946, Constantin Apostol became a Lieutenant Colonel [28].

4. Conclusions

A military athlete, Constantin Apostol took active part in the military operations of the Second World War. He participated in two military campaigns, on the Eastern front and on the Western front respectively, during which he was appreciated and decorated. Between the two military campaigns he was responsible with administrative and horseriding training activities. Absolutely all his qualifying sheets were eulogistic, both in peacetime and in time of war. On the front, he behaved bravely, proved initiative, ability to find ingenious solutions on the spot, to get victories, and to give a personal example.
After the political change of August 23, 1944, these deeds of weapons and merits on the Eastern front were overlooked, somewhat masked, or “cosmetized” in the new political context, as there was a risk for Apostol to be accused of having fought against the final and victorious ally, the Soviet Union. (It is a well-known fact that after August 23, 1944, the Soviet Union occupied the country, and became its actual master). This new situation was reflected in his qualifying sheets as well, as the superiors in charge

with writing characterizations, did not emphasize his deeds of bravery on the Eastern front in order to protect him.

During the war, Constantin Apostol became a major, and immediately after - a lieutenant colonel. The end of the transitional period from the parliamentary democratic regime to the totalitarian socialist one (1944-1947) also meant the end of the normal evolution of Constantin Apostol's career. Starting with 1948, his work was less and less appreciated, he was left in reserve, pursued and finally condemned. Even if, after his release from prison, he was partially and tacitly rehabilitated by his integration into sports horseriding activities, the career and glory of Constantin Apostol were destroyed and tainted in the final years of his life.

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ON THE UNCONSTITUTIONALITY OF THE EMERGENCY ORDINANCE REGARDING THE ADMINISTRATIVE CODE

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Abstract
Declaring the unconstitutionality of the Act regarding the Administrative Code of Romania was a good opportunity for the Government of Romania to resume the discussion on the bill for the Administrative Code. Unfortunately, the Government did not opt for the introduction of a bill regarding the Administrative Code, but has adopted an emergency ordinance, which raises many questions about the constitutionality of this normative act. This article aims at underlining the aspects of unconstitutionality of the Government Emergency Ordinance no. 57/2019 regarding the Administrative Code from the point of view of the way in which it was adopted.
Key-words: *administrative code, unconstitutionality, Constitutional Court, emergency ordinance*

Preamble

The need to systematize and codify the legislation is becoming more and more conspicuous as long as the positive law includes new regulations that extend the scope of the juridical acts in force. The Administrative Code represents an answer to such need felt by the society, but the way in which this normative act has been adopted and certain provisions in its content cast a shadow on its importance and significance. Indeed, adopting a legislative work of such complexity represents a legislative event, as underlined by a reputed doctrine expert [1], but it is important that this legislative step should observe the formal and substantive conditions in order to be validated for constitutionality. Or, in this chapter, the Administrative Code is rather defective and this is mainly because it was adopted through an emergency ordinance. Even if the Act voted by the Parliament regarding the Administrative Code of Romania has been declared unconstitutional as a whole, the legislative body had the possibility to introduce a new bill referring to the same topics and adopt an Act that can pass the test of constitutionality. The Act regarding The Administrative Code has been declared unconstitutional, through the Decision of the Constitutional Court no. 681/2018 [2], because the Parliament of Romania did not observe the procedure to adopt it. The

Constitutional Court has shown, in this case, that the principle of bicameralism has been violated, the parliamentary procedure to send back the Act has been violated and the endorsement has not been asked from the Economic and Social Council, the consultative specialty body of the Parliament and of the Government. According to the practice of the Constitutional Court, the moment the Constitutional Court finds that the procedure of adopting a law has been violated, they declare the normative act unconstitutional as a whole. Regarding this aspect, the constitutional litigation court shows, in the content of the aforementioned decision, the fact that "the situation determined by the finding that the law is unconstitutional as a whole [...] has a definitive effect with respect to that normative act, the consequence being the standstill of the legislative process in regard to that regulation" and invites the Parliament, in the case of introducing a new legislative process, to observe the indications comprised in the decision of admittance of the Constitutional Court referring to the vices of extrinsic unconstitutionality discovered. The film of events related to the Administrative Code shows us that the one who answered the invitation of the Constitutional Court was the Government, not the Parliament, who, unfortunately, made the same mistake, in the sense that they did not observe the procedure to adopt this important normative act. Moreover, as I have been pointing out, a Code is a complex legislative work, its construction must be contributed to by all persons interested in the issue of the administrative phenomenon, and its content must show a coherent vision, compatible with Romania's status of a member state of the European Union. Unless new legislative solutions are brought to the juridical order to improve the present institutional architecture, to increase the quality of the public service provided to the citizen and capitalize the opportunities offered by the status of member state of the European Union, it is useless to adopt a new regulation.

The Odyssey of adopting the Administrative Code through an emergency ordinance

As it is well known, the legislative delegation gives the Government the possibility to intervene in the legislative plan, within certain limits and in compliance with certain conditions, the possibility being materialized in adopting ordinances, i.e. acts comprising

norms with power of law [3]. Through its specificity, the legislative delegation represents a complex institution [4]. By legislative delegation, The Government acquires a precise, limited legislative competence [5]. Using this possibility recognized by the Constitution, the Government of Romania has adopted the Administrative Code through an emergency ordinance. According to the Constitution, an emergency ordinance comes into force after being submitted to the Parliament and published in the Official Gazette. At the same time, the constitutional text, interpreted through the case law of the Constitutional Court, establishes three conditions that must be cumulatively met for the ordinance to be in accordance with the constitutional provisions, namely: that there should exist an extraordinary situation; that the regulation of this situation could not be postponed; that the emergency should be motivated in the content of the ordinance. The constitutional litigation court also shows that the emergency ordinance, as a normative act that allows the Government, under the control of the Parliament, to face an extraordinary situation, is justified through the necessity and emergency of regulating that situation which, because of its circumstances, imposes that immediate solutions be adopted in order to avoid a serious detriment to the public interest.

If the Government initially announced they adopted the Administrative Code through an emergency ordinance in the meeting of 25 June 2019, on the 3rd of July another Government meeting took place, where the executive discussed the normative act adopted in the meeting of 25 June, specifying that certain clarifications and small adjustments have been made, also generated by the recommendations comprised in the endorsement of the Legislative Council. But the emergency ordinance adopted in the Government meeting of 25 June was not published in the Official Gazette, therefore, under art. 108 paragr. 4 of the Constitution, not publishing the ordinance in the Official Gazette brings about its inexistence. Instead, in the Official Gazette of Romania, Part I, no. 555/ 5 July 2019, they published the Government Emergency Ordinance no. 57/2019 regarding the Administrative Code, adopted in the Government meeting of the 3rd of July 2019. Therefore, if we relate to the document issued in the Official Gazette, the Government adopted in the meeting of 3 July 2019 a new emergency ordinance regarding the Administrative Code, they did not make certain clarifications and small adjustments to the normative act adopted on the 25 of June, as stated by the

Government in public. It is also interesting that the agenda of the Government meeting of the 3rd of July 2019 did not include the adoption of this emergency ordinance. Moreover, those so-called "clarifications and small adjustments" [6] announced by the Government are, in fact, new legislative solutions that required compliance with the legislative technique rules. For instance, admitting the right of the local public authorities to decide through a council decision the use of minorities' language also in cases where the said minority does not reach 20% in that town/ city represents an exception from the constitutional and legal rule, with deep implications on the administrative practice at the local level and on the fundamentals of the Romanian state. With respect to the importance of complying with the legislative technique norms in the legislative process, the Constitutional Court shows [7] that "observing the provisions of the Act no. 24/ 2000 regarding the norms of legislative technique for the elaboration of normative acts represents a genuine criterion of constitutionality".

Synthesizing, the film of events would be the following: on the 25th of June the Government adopts a text of the ordinance, together with a substantiation note and approvals from ministries and other entities (the Legislative Council, the Economic and Social Council), the documents being valid for the text of the said ordinance, the ordinance is not published in the Official Gazette, and on the 3rd of July, without being on the agenda of the meeting of the Government of Romania, the text of the ordinance adopted in the Government meeting of 25 June is called back into question; new legislative solutions are included and a new normative act is adopted, being the only one that is published in the Official Gazette.

Why is adopting the Administrative Code through an emergency ordinance unconstitutional?

The regulation through emergency ordinance of a vital area of society, the area of public administration, represents defiance of the Parliament and of the case law of the Constitutional Court and disregards the doctrinarian opinions that insist on the need to adopt the Administrative Code by law. At the same time, through its approach, the Government did not take into account the previous experiences in the state practice either, which showed that the normative acts of a certain importance, adopted pursuant

to legislative delegation without a serious debate and where political interests prevailed have been declared unconstitutional. It's not by coincidence that the doctrine shows the fact that "in the state practice, issuing emergency ordinances has often turned from a constitutional exception into a common rule" ignoring any kind of constitutional barrier.

What results from overseeing the way of adopting the Administrative Code by the Government, related to the constitutional provisions?

1. The Emergency ordinance adopted by the Government on 25 June 2019, related to art. 108 paragr. 4 of the Constitution, does not exist, because it has not been published in the Official Gazette;

2. As long as this act does not exist, the Government had nothing to amend or clarify. Despite this, the Official Gazette no. 555 of 5 July 2019 publishes the Emergency ordinance no. 57 of 3 July 2019, i.e. an act of the 3rd of July meeting, where the Government announced that they only made a few adjustments and clarifications to the text of the ordinance adopted on 25 June;

3. According to the norms of legislative technique, an emergency ordinance must be accompanied by a substantiation note to justify the emergency, approvals from ministries and other approvals stipulated by the law. Or, these documents have been valid for the variant or the ordinance adopted on 25 June, not for the text adopted on 3 July and published in the Official Gazette. Likewise, if some adjustments have been made to the bill, further to the suggestions and observations made by the approving bodies, the initial motivation must be reconsidered accordingly [8], which did not happen.

4. The variant of Administrative Code published in the Official Gazette comprises new legislative solutions, which were not present in the initial variant of the ordinance adopted on 25 June and which required remaking the presentation and motivation instruments, which must accompany the normative act.

5. Failure of an emergency ordinance to come into force immediately is a contradiction in terms [9], because, the situation they regulate being an extraordinary one, its coming into force cannot be postponed.

6. If on 25 June the emergency could not be justified, it is even more unlikely to justify the adoption of the Administrative Code through an emergency ordinance on the 3rd of

July. The mere mention of emergency in the preamble to the ordinance, as a constitutional basis of regulation, through an emergency ordinance, would be, in accordance to the doctrine [10], rather a figure of speech than an approach meeting a constitutional requirement. As shown by the Constitutional Court numberless times in its case law [11], the emergency need not be claimed, it must be real, fully motivated and must justify the intervention of the Government in the legislative plan. The fact that, initially, they adopted a normative act that was not published in the Official Gazette and in a few days they adopted a new normative act with amended and completed content as compared to the initial form and which was published in the Official Gazette in order to produce legal effects, indicates the inexistence of emergency and of the extraordinary situation. Or, the intervention of the Government in the legislative plan through the emergency ordinance is required when an extraordinary situation occurs, whose regulation cannot be postponed, the Executive having the obligation of motivating the emergency of adopting this normative act.

Conclusions

All the presented aspects lead to the conclusion that the adoption of the Administrative Code through an emergency ordinance is unconstitutional. In such situation, it is the duty of the People's Advocate to notify the Constitutional Court with an unconstitutionality exception, and, if this does not happen, the ordinance must be adopted by law and then that law must be challenged in front of the Constitutional Court. We believe that, during the constitutionality check, the Constitutional Court shall discover the unconstitutionality of the Emergency Ordinance regarding the Administrative Code, because, as we have seen, through the way in which it was adopted, this normative act comes into contradiction with the constitutional provisions. There is also the variant of the Government abrogating the Emergency Ordinance no. 57/2019, since it entails suspicions of unconstitutionality, and introducing a new bill that the Parliament should debate on and present an Act that meets all the substantive and formal conditions in order to be validated from the constitutionality point of view by the Constitutional Court. Romania needs the codification of legislation in the area of public

administration, but such endeavour must be made within the limits and conditions established by the Constitution.

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GREENHOUSE EFFECT AND CLIMATE CHANGE IN EU LEGISLATION

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Abstract
We can easily see that the planet undergoes changes in what the climate is concerned. Due to the increase in greenhouse gas emissions, the average global temperature is also increasing.
Increasing meteorological conditions have a negative impact on the economy, the environment, health and everyday life.
Climate change is a major challenge for the world population. We need to consider taking proper measures in order to combat climate change while also respecting the precautionary principle.
Keywords: *the environment, climate, greenhouse gases, pollution.*

History of related legislation

At a global level, humanity faces significant climate change.

A first action to combat the phenomenon took place in Rio de Janeiro in 1992, by signing the United Nations Framework Convention on Climate Change.

In our country, this Convention was ratified by Law no. 24/1994.

Under the Convention, the 194 signatory countries agreed to act swiftly and on a long-term basis against environmental pollution, this being done by stabilizing greenhouse gas concentrations so that people no longer dangerously impact the climate system.

In 1997, in Kyoto, Japan, developed countries took action to combat climate change by taking commitments to limit and reduce greenhouse gas emissions in the period 2008-2012.

It takes the effort of all countries, including the effort of developing countries, in order to significantly reduce greenhouse gas emissions.

It is hoped that global emissions of greenhouse gasses will fall by at least 50% by 2050 in comparison to the 1990 greenhouse gas emission levels.

The European Union unilaterally adopted in 2007 the commitment to reduce greenhouse gas emissions with 20% by 2020 compared to 1990.

Also in 2007, the European Commission initiated the establishment of a policies to promote measures to mitigate the negative effects of climate change in different sectors of activity.

In 2009, the European Union promoted the legislative package "Climate Change - Energy" [1], in order to achieve the established goal.

The average global temperature continues to rise, despite constant efforts to reduce emissions of greenhouse gases, generating further negative impact on anthropic and natural systems.

The European Commission published in 2009 the 'White Paper - Adapting to climate change', which sought to ensure a minimal negative impact on economic and social system sat European level.

The National Climate Change Strategy 2013-2020 addresses both the process of reducing greenhouse gas emissions to meet national targets as well as adapting to the effects of climate change, taking into account EU policy, in the field of climate change.

An amendment to the Kyoto Protocol, which sets out the regulatory norms for the second commitment period, 2013-2020, was adopted in 2012.

The provisions of this amendment have begun to be applied from 2013 onwards.

In December 2015, at the United Nations Climate Change Conference in Paris, participating countries around the world agreed to limit global warming.

A key mechanism for combating climate change is the EU emissions trading system.[2]

Article 191 of the Treaty on the Functioning of the European Union (TFEU) establishes an objective of the European Union's policy on the environment and the fight against climate change.

The Kyoto Protocol includes the following legislative acts:

- Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community.

- Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020.
- Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006.
- Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.

A proposal for a Regulation of the European Parliament and of the Council on the mandatory annual reduction of greenhouse gas emissions by Member States was drafted in Strasbourg on 12-15 June 2017 between 2021-2030, with a view to achieving a resilient energy union and respecting the commitments made under the Paris Agreement, and amending EU Regulation no.525/2013 of the European Parliament and of the Council on a mechanism for monitoring and reporting greenhouse gas emissions.

The report presented on behalf of the Committee on the Environment, Public Health and Food Safety includes 49 amendments to the proposal for a Regulation of the European Parliament and of the Council on the reduction of greenhouse gas emissions during the period 2021-2030.

In the debate on this proposal, on 13 June 2017, MEPs welcomed the step taken to reduce greenhouse gas emissions.

They have highlighted the ambitious long-term perspective, although 2018 was the starting date for reducing the gas emissions included in the report.

Some Member States may face difficulties but receive EU support in order to achieve their objectives at a realistic pace and which will support the agricultural sector.

L. Fabius provides an excellent analysis of role that climate change has in law: ,,There are many concrete vectors to combat climate disruption, especially new green technologies. But right is here, essential, because it defines the normative framework in wich all actions of society must lie. Right has the power to direct the action of administration, businesses, citizens in a direction more or less favorable to the

preservation of our planet. For this, the climate issue is a transversal legal stake that equally concerns health law, labor law, intellectual property law, the right of property." [3]

Greenhouse effect and climate change – the challenge of the 21st century

The greenhouse effect is a natural phenomenon where part of terrestrial infrared radioation is retained by the terrestrial atmosphere. The greenhouse effect is caused by the amount of carbon dioxide and other substances accumulated above the soil. These substances lightly pass the ultraviolet rays, turning into thermal energy, and this heat passes much harder back, forming the greenhouse effect.

The greenhouse effect is beneficial for plant and life development, but in too large a rise in temperature. The oceans [4] of the world absorb large amounts of carbon dioxide, which increases their acidity, which threatens the survival of many marine species. [5]

The term "climate" generally defines the average weather profile in a given area, determined over a period of several years.

Changes in the ecosystem, Earth's energy balance (radiation) have played an important role in climate change.

Climate warming is a phenomenon accepted by the international scientific community.

,,The pivot of current climate change is a more and more rapid process of warming the atmosphere." [6]

The main factors that lead to climate warming are both natural (variations in solar radiation and volcanic activity) and anthropogenic (changes in atmospheric composition due to human activities).

Europe's climate warmed almost a degree Celsius in the last century, faster than the global average.

According to the 2007 IPCC report [7], other consequences of climate warming have also been listed: declining productivity of all grains at low latitudes, increased mortality due to heat waves, floods, droughts.

Natural causes of climate change

Insolation – exposure of an area to solar radiation.

The Milankovic parameters – correspond to the three astronomical phenomena that affect certain planets of the solar system.

The Eccentricity of the terrestrial orbit – is due to the gravitational pull between the Earth and other planets of the solar system.

Anthropic causes of climate change

- Burning fossil fuels
- Cutting tropical forests
- Animal farming, waste disposal, etc.

These activities generate enormous amounts of greenhouse gases.

The effects of climate change

Among the most visible at the global level and which significantly influences economic and social life:

-melting glaciers and rising sea levels,

-extreme meteorological phenomena, change of precipitation regime.

Other effects of climate change:

-risks to flora and fauna,

-risks to human health,

-costs for society and the economy.

Combating climate change at international level

Greenhouse gas emissions continue to increase with each year. All states, both developed and developing ones, are making efforts to combat climate change.

In the effort of States to combat climate change, a number of Conventions or Agreements have been adopted, namely:

- The United Nations Framework Convention on Climate Change (UNFCCC) in Rio de Janeiro,
- 1997, the Convention is complemented by the Kyoto Protocol, which entered into force in 2005,
- The 2007 Bali Action Plan,

- 2010, Cancun, Mexico has decided to create institutions dedicated to key points, such as the Green Climate Fund.
- 2011, the Durban Platform for Consolidated Action was set up to develop a protocol, another legal instrument applicable to States Parties to the Framework Convention,
- The Doha Conference, 2012 – established a second commitment period of the Kyoto Protocol (2013-2020).
- Climate Change Conference in Warsaw, Poland, 2013 and Lima, Peru, 2014 – the starting point for progress towards COP 21 at Paris 2015,
- Paris Climate Conference (COP 21), December 2015 – 195 countries have adopted the first international agreement on the issue of climate change. This agreement enters into force in 2020.

European Climate Change Programs

The European Union's efforts to combat climate change and to encourage carbon reduction, date back to 1990.

Since then, the EU has put in place a number of policy measures to reduce greenhouse gas emissions, notably through the European Climate Change Program (ECPP), 2002.

The European Union is the first region in the world that has adopted binding legislation to ensure that the objectives are achieved.

In October 2014, the representatives of the European states reaffirmed their commitment to increasing the safety and sustainability of the EU economy and energy system by adopting the climate and energy policy framework for 2030.

EU targets for 2030

The framework for action setting these targets for 2030 was adopted by EU representatives in October 2014. It is based on the 2020 climate and energy package.
The framework contains a mandatory emission reduction target across the EU at least 40% below 1990 levels by 2030.

The framework has necessarily set an EU-wide target to increase the share of renewable energies to at least 27% of EU energy consumption by 2030.

Objectives for 2050

In 2011, the EU Commission published a 'roadmap' that sets out the most cost-effective way of reaching a competitive economy by 2050. The following were set out:

- By 2050, the EU should reduce emissions to 80% compared to 1990 emissions;
- All sectors must contribute to the achievement of the objectives;
- The transition to low carbon emissions must be feasible and affordable.

Climate change at national level and combating climate change

Studies [8] carried out by the National Meteorological Administration revealed significant changes in the climate.

The issue of climate change at national level was addressed in the National Strategy on Climate Change, elaborated by the Ministry of Environment and Climate Change and adopted by GD no. 529/2013.

Implementation of this strategy is the responsibility of the Government for the period 2013-2020.

This Strategy identified the main areas where measures to reduce greenhouse gas emissions and to increase the natural carbon dioxide absorption capacity of the atmosphere should be implemented.

Climate action in Romania is supported by the European Union budget. At least 20% of the EU budget for 2014-2020 will be used for climate-related projects.

For 2014-2020, the most important programs that include measures to reduce greenhouse gas emissions and adapt to climate change are:

• Large Infrastructure Operational Programme [9] 2014-2020. Sectors - transport, environmental protection, risk management and adaptation to climate change, energy and energy efficiency.

• National Rural Development Program (PNDR) 2014-2020. Sectors: - economic and social development of rural areas in Romania.

- Regional Operational Program (POR) 2014-2020 – successor to the 2007-2020 Regional Operational Program.
- Sectoral Operational Program Increase of Economic Competitiveness – POSCCE 2007-2013.
- The Green House Program – the aim of this program is to improve the quality of air, water and soil, reduce pollution caused by wood and fossil fuel burning used to produce heat used for heating and domestic hot water.
- Law no. 121/2014 on energy efficiency, adopted on 1 August 2014, includes legal measures and obligations to improve energy efficiency. The law addresses both central and local public authorities and economic operators.

Coclusions

Anthropic activities directly and genuinely influence global warming.

If global action is not taken to reduce greenhouse gas emissions, climate change and the effects of global warming will worsen.

Integration of mitigation and adaptation measures to climate change in Romania's national strategies, policies and programs represents an important step in a green, ecologic and economic development with low emissions at a national level.[10]

Climate change effects can no longer be denied, they occur globally, regionally and locally, and must be addressed both by reducing the use of fossil and by reducing greenhouse gas emissions.

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THE ART OF DISCOURSE AND CONTEMPORARY LAW [1]

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Abstract
The art of discourse was (and it should still be) one of the main strengths of law professionals alongside with solid specialty knowledge, patience, perseverance, quick and logical thinking, openness to anything new.
Obviously, a successful discourse is based on elements related to psychology, anthropology, sociology, all these favourably intermingled to generate a register that is common both to the sender and to the receiver at the same time, and to create the premises of a feedback. Moreover, any legal speech cannot be a convincing one if we resort strictly to technical, specialty terminology.
The article herein is intended to demonstrate how the evolution of Romanian law from the last decades in conjunction with the turmoil in the area of legal practise have led to a change in mentality (to our point of view) with regards to the generation and structuring of the discourse as well as presenting it before interested auditorium.
Key words: *Discourse, speech, law, oratory, lawyer.*

1. Introduction

Communication resembles a "thick cloud" that is endlessly "blown away and shredded to bits" by the winds and that "floats above almost all sciences" [2],[3] the field of legal studies is also directly connected to anything meant by communication, speech art, message (be it verbal or nonverbal).

As for the contemporary speech of a legal specialist – lawyer, judge, prosecutor or counsellor – does it really presuppose prior training and preparation, research, struggling to write the finest phrases possible, reviewing the text, etc?

Once with the drafting of this material, I had the opportunity to apply certain questionnaires to people of various professional training and belonging to different environments (students, MA students, legal advisers or lawyers) and I was able to find out at least part of the reason why after centuries of training in the art of oratory and after the foundation of (since early Antiquity) major schools of oratory, common people, including those specialized in legal studies, are afraid to speak publicly and find is difficult to structure and present a public discourse.

Of course that such fright may be explained by various reasons, some of which may be considered ridiculous or even childish. However, according to recent research, due to a genuine “epidemics” of specialized information, it is difficult to find the path towards a legal discourse that is precise, coherent and to the point.

At a first glance, my research enabled me to note that people, in general, are afraid of the ridiculous. And sometimes this fear is so powerful that, paradoxically, it is compared to nothing less than the fear of death! Furthermore, such ridiculousness is becoming stronger and stronger depending on the sort of the “public”, namely a specialised one with solid knowledge of the terminology or of the issue under discussion, the speakers have to present their discourse to.

In one of the works studied for the material herein, namely Adrian Toni Neacşu – Convinge judecătorul! Tehnica şi arta convingerii instanţei (trad. Persuade the judge! The technique and the art of persuading the Court of Law),[4] in the third part entitled “Speak to persuade the judge” the author created a genuine set of rules that are worth being applied by the lawyers while supporting their closing arguments so that they are both as effective as possible and to pleasantly surprise the judge, to attract his or her attention to the case and the solutions suggested by X, considering that the judge is overcrowded and tries to equitably divide his or her attention to all the cases heard in a particular session. “Speaking before the Court of Law is mainly an issue of communication”, he would point out. It is a matter of efficiency not of verbal mastery. Just like any other method, the judicial communication that I am thus advancing, has its own set of rules, techniques and specific instruments. Its fundamental values are pragmatism, realism, minimalism, efficiency and disambiguation” [4].

Starting from the question “Why do you think people (including legal professionals) are afraid to speak in public?” I received the following arguments (from different students, MA students or legal advisers in 2019, generally people between 19-55 year old):

- not trusting oneself and one’s abilities;
- under appreciation;
- innate traits (shyness, emotivism);
- considering own discourse as being dull, lacking value or persuasive;

- inconsistency in own thoughts or opinions;
- lack of solid professional training;
- lack of experience (in case of interns);
- insufficient documentation, lack of solid knowledge;
- fear of not offering wrong data or that may be misinterpreted;

"Making the simple complicated is commonplace; making the complicated simple, awesomely simple, that's creative." would say Charles Mingus.

Following Pythagoras in his ascetic programme: "Be silent or let thy words be worth more than silence. Soon throw a pearl at hazard than an idle or useless word; and do not say a little in many words, but a great deal in a few" [5],[6],[7].

Other reasons would be:

- the overwhelming fear of failure, of losing the case/ clients due to subjective reasons, related to the nature of the discourse or the way information was exposed (closing statement);
- the fear of losing the interest of the public (it is important to remember that the "target" of our interest in the case of closing statements that are presented in spoken form, should be the judge and not the public!); the speech of a legal specialist needs to be as spectacular as possible; however, on should avoid turning it into a cheap show meant to attract potential clients who have no knowledge of the legal regulations and are temporarily delighted of the lawyer's theatrical representation; the speech must not have the unfortunate role of losing the attention of the magistrate;
- limited vocabulary; a prodigiously technical vocabulary that is yet limited to specialty matters may bore anyone, therefore the best instance is that when the technical and legal registers are intermingled with carefully chosen humorous phrases and why not references to literature or even life experiences that are finely presented and strictly related to the case on trial;
- the fear of not being erroneously "labelled" as a result of a oratorical failure.

"It is evident that speakers are framed into their own era and are regarded taking into account the specificity of that particular period alongside with the evolution of the language (i.e. Latin) as a means of expression". For instance, Cicero considered "D. Brutus was a man who spoke wonderfully for his age, while Cato's speeches, despite

being exceptional and also characterised by perceptiveness and finesse in choosing, as well as gravity and sobriety in exposing arguments, acerbity in criticism, ponderousness in eulogies, they were disadvantaged by the asperities characterised by the language at that time" [8], [9],[10].

2. What makes a legal specialist's message/ speech valuable?

Cicero would note in his works De oratore....and Brutus... that "the orator needs to be able to be neat and clear in stating the nature of his subject, warm and forcible in moving passions. He needs to have a profound and perspicacious spirit so that he may identify the heart of the matter, elegant diction, faithful memory, so that the speeches are finely articulated, without reiterations or inconsistencies, so that any attack from the adversaries may be counterattacked" [11], [9, pp.167-168].

Approximately two thousand years later, after having observed the oratorical impediments experienced by our legal specialists, we ask ourselves what makes a legal speech credible and what makes the speaker interesting?

Some specialists [12] would lay an emphasis on:

- the speaker's character, the expressiveness of the speech;
- the logic of the discourse;
- the quality of the information, its being to the point;
- the combination of specialised information with illustrations derived from literature or even the media;
- the impact of the on line environment and its influence on the discourse;
- other characteristics: the speaker being also a good listener, building his or her own credibility by adapting to the environment/ public, finding and using other trustworthy data (the quality of the information),
- managing the anxiety related to speaking in public [13].

Others considered that the extent to which a message may be considered original, is given by the type of used data. From a quantitative point of view, information may be measured both when it is issued as well as when it is received, so that one may accurately measure to what extent a message contains more information that another. With the intention of making sure that the message is accurate, the sender may be

preoccupied by issuing more information that would be required. Redundancy thus emerges, “the selective excess of signs to those that would be enough in order to convey the same quantity of originality” [14],[15],[3, pp.6].

It is important to remember that the rhetoric speech is present in areas of communication that aims at imposing opinions and ideas, chancing or keeping attitudes or behaviours: advertising campaigns, PR campaigns, elections, the Court of Law, managing the masses, education etc. furthermore, taking account of its wide sue, the rhetoric speech is mainly characterised by efficiency. A rhetoric speech may only reach its goal, that is to influence the public, it needs to fulfil three qualities: “ to please, to instruct, to assume” [16],[17].

Alongside with the formal characteristics, the power of persuasion also depends on the ethical involvement of the user. From this perspective, the speciality literature identified six “powerful weapons” that are successfully used in persuasion: sympathy (people offer credibility to those who sympathise with them); reciprocity (people usually respond with the same attitude); social proof (people respond in an affirmative way to the argument of the majority); commitment (people seek to o keep their promises); authority (people accept arguments based on authority – people of the law); rarity (people grant more attention to exceptions and arguments based on concluding examples) [18][,17, pp. 295].

2.a. The qualities/ traits of a remarkable legal speech as revealed by respondents:

The contents and the manner chosen to communicate are influenced by the context. Its evaluation also implies the analysis of certain contextual dimensions: physical, temporal, cultural, social and psychological. The receiver’s capacity of comprehension must never be ignored and the message needs to be carefully constructed. The intelligibility of a message is given not only by the amount of new information in terms of contents and form, but also but the structure that may be either excessively elaborated or to common and predictable. [3, pp. 7].

2.b. We consider that the following aspects related to the legal speech will turn it into a speech that is either of an exceptional quality one or at least up to standard:

- the grammatical accuracy of the sentence, its precision;
- the logical placement of the arguments in the presentation;

- flow, fluency, usually required in a free presentation (not read!);
- avoiding excess negations, attacks on the person;
- the technical information should be combined with the appeal to concrete cases (briefly, at the beginning of the discourse related to the case itself, but avoiding the emphasis on the case, already well known by the judge);
- presenting information to the point, avoiding deviations from the core of the problem;

That is why we have an opening argument:

a) "The topic is related to the theory of your case. You will have to combine the relevant facts that give the right of the party you defend to a favourable verdict. It has to be general" [19].

b) The trial consists of a series of small fables, and the fable has to focus on people, not the problem;

c) An effective opening argument is not very long but includes all the essential elements [19, pp. 10-11].

Then, in the end we have a closing argument :

a) The closing argument is exactly about the argumentation, not the reopening of the case in all its complexity, or the resumption of evidence and the tedious reading of the witness statements;

b) The time factor must be efficiently dosed in the closing argument [19, pp. 41-44] – an excessively ample closing argument is not necessarily a very valuable one, as the conclusions can be submitted in writing, so that in the final speech the lawyer should focus on the details that he thinks would confer strength to his case.

Other aspects that make a valuable speech could also be :

- intonation / tone (I saw lawy valuable ers who bothered by too much tone or by an exaggerated emphasis, although their speech was correct and well-grounded);
- the sense of humour / the call to small humorous tricks designed to relieve the tensions and to get "captatio benevolentiae" (concrete case: "God has endowed the defendant today with an impressive physical appearance, but unfortunately ..... God stopped here")[20];

- relevant research of the necessary aspects for the defence (plans, technical documentation, details from the experts - even if the lawyer is not a specialist, he must seriously lean on these details and master them);
- providing novelty elements strictly related to the exposed issue (jurisprudential, doctrinal, etc.);
- avoiding the excessive use of strictly theoretical references to the value of jurisprudence, although it is not recognized as a source of law);
- avoiding too long quotes [4, pp. 137].“There are rules about how to speak and there are rules about not to say! ”Those who persist in saying irrelevant things after a rallying by the judge risk punishment for contempt, and thus it is no exaggeration to describe a trial as a place people run the risk of imprisonment for saying things that a government official, a judge, believes to be unrelated to the matter at hand” [21].

We can also give other example, such as:
- not to make reference to evidence that has not yet been administered [4, pp.238];
- visual contact with the Court [22] (many speakers avoid making visual contact either because they are too shy or for fear of not observing the judge disapproving them);
- the ab initio understanding of the fact that the judge is not necessarily "a passive interpreter of the legal norm, under the absolute authority of the legal regulations / the law “[23];
- the lawyer must understand, in order to win the case or at least, to ensure a decent presentation of the conclusions, that "communication also relates to the power relations existing between the participants" and that "it involves the necessity of accommodating and adjusting behaviours”[3, pp.6].

3. Conclusions

One of the strengths of a good lawyer / legal counsellor is his speech - a real business card that indicates from the very beginning relevant aspects about his / her training and the way he or she approaches matters.

Of what was observed in practice (observed "in court"), the current era is no longer an era of theatricality and emphatic discourse, which once conquered both the audience and the judges. Although nowadays we may observe a different, more concise style,

based on the precise details considered relevant to the case, I think that most cases lost the charm of the ample, consistent and carefully prepared speeches of the type specific to the interwar period, when such a plea was prepared for months, becoming a real page of literature (for example Deleavrancea [24] in the case Caion–Caragiale-press defaimation):“ *Gentlemen, a Caion has well become aware of his littleness in addition to the monstrosity of the accusation. And not from his youthfulness, but from the cold account of his early pervasiveness, he understood that in order to hurt a Caragiale he needed some palpable appearances, some evidence that escaped from the usual arguments. Even before calumny he committed another crime, he invented an author and prepared some sheets. Well, gentlemen, this Caion has calumniated Caragiale. He invented an author, invented a translator, plastered a few pages he printed in Kirillic letters, and tried, armed with material evidence, to shatter and destroy a national pride. And yet why did you say that you have not judged such a case, in which not only a sore calumny, but also a startling fake, is punished! A perverse, moved by the abject hatred, seeks revenge against an opponent. He would want to involve him in a theft. It needs an inconvertible proof. And he does not find anything more appropriate to his hate than to imitate his writing and signature”* [25].

As finely observed by Istrate Micescu, the illustrious man of law who dominated the Romanian legal scene in the interwar period, unlike the other sciences that "are satisfied to conclude what it is and to express what it finds, the Legal Sciences are remarkable, the Legal Sciences have an extra claim: after having found, after having noticed, after breaking off the relationships as they are, they needs to judge them taking account of the moral values and, instead of looking with resignation to what it is, to impose with authority what must be” [26],[27].

It is certain that a lawyer's concluding argument should not reach the sensitivity of a motivational speech, nor fall into the ridiculous and banal of a talk of a worthy scandal television by appealing to person attacks or a tantalizing tone towards the party -or worse, the advocate of the adverse party.

Finally, following all the technical matters presented above, we emphasize that, since in all cultures the tone makes music and the beautiful words are crystal, while silence is diamond (ancient wisdom), it would be desirable that a pleasant and civilized

argument to represent the fortunate combination of serious and documented moments of argumentation with small moments of humour of good taste or wise silence.

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GENERAL CONSIDERATIONS REGARDING THE RECEPTION OF THE JURISPRUDENCE OF THE COURT OF JUSTICE OF THE EUROPEAN UNION IN THE PROCESS OF LEGISLATIVE CODIFICATION IN MEMBER STATES

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Abstract
The importance of the role of jurisprudence related to other spheres of thought also appears as a reflex under the conditions of the development of society and the emergence of new situations and realities. The new situations could not be resolved based on texts adopted centuries before, and, as a result, jurisprudents found, in the texts of the old laws, the means which, through ingenious interpretation, can be used to resolve new cases. In the legal systems of the founding states of the European Union, jurisprudence was not considered, in principle, a source of law, because the judgements of courts only produced effects inter partes. For this reason, the authors of the treaties did not include community jurisprudence in the nomeclature of sources of law. However, in the European legal system, jurisprudence has the value of source of law. The interpretation which the European courts give is imposed to all authorities, including national ones, an argument which confirms the status of source of law of European jurisprudence. As a consequence, no practitioner who must resolve an issue of European law may say that he has mastered this law, if he does not know the relevant judgements of the European courts.
Keywords: *jurisprudence; system of law; European legal system; European jurisprudence.*

Introductory elements

Modern society finds itself, mainly due to the diverse and modern means of communication, in a permanent and continuous process of eliminating political, cultural, legal, and, not least, economic barriers. The concepts of unification, uniformisation, integration, globalisation are becoming more and more frequent at a global as well as regional level. Political-economic phenomena such as the European Union have long ceased to shock anyone, and the success of such initiatives is gradually being accepted by their fiercest critics. The free movement of people, goods, capital tends to increasingly ignore country borders. International relations have achieved, in all areas, an importance which will increase each year, these aspects involving giving up

economic self-isolation and national pride in favour of opening to knowing and understanding other, similar or completely different, types of culture.

In certain historical eras, Europe was relatively more homogeneous than today, from a spiritual, cultural, economic and even political point of view. [1] The great states were formed and consolidated progressively, in constant competition and rivalry. The idea of a peaceful organisation of this type of Europe emerged numerous times, but it was never taken into consideration by those in power, who only chose between two policies: domination or balance. The idea of a united Europe is considered to be very old, finding its origins in Antiquity, when the Roman conquests were considered manifestations of such a tendency [2].

In the book Community jurisprudence it is said that, ”The EEC Treaty created its own legal system, which is integrated in the legal systems of Member States and which is mandatory in front of national courts of law. The subjects of this legal system are not only the Member States, but also their citizens, the legislation of the European Union also aiming to initiate certain rights which become part of their legal heritage. These rights arise not only where they are expressly guaranteed by the Treaty, but also due to the obligations that the Treaty imposes in a clearly defined manner to individuals as well as Member States and community institutions”[3].

Of course, the existence of a legal system cannot be conceived outside of social organisation, being ensured and guaranteed by the state, which, through its authorised bodies, drafts, adopts and controls the enforcement and compliance with the laws which govern the life of its citizens.

A comparison of the law of different states, even though it seems impossible at first glance, may bring out a series of similarities, especially from a pragmatic point of view. For these reasons, the call in favour of partial or complementary legislative unification was launched beginning with the 16th century.

Much later, with the emergence of the big supernational structures, politics truly understood the meaning and the usefulness of this call and partial legislative unifications or uniformisations were initiated. It should be taken into account that there have always been very big differences between the customs of one region and those of another, moreso between the customs of the territories of different states, but,

nevertheless, the history of European law is a whole and an old creation, whereas the histories of national laws are belated scientific creations, forced by the idea of the sovereignty of states.

Roman law, adopted by most European states, has, directly or indirectly, with different intensities, in different eras, in various forms, exercised a profound influence on the European legal systems. [4] Along with the states modernising and updating the law, a European legal science was developed and taken as a method and body of ordered and systematically organised rules, Roman in their essence, but European as expanse. With the appearance of codes these differences were accentuated, and in the second half of the 19th century foreign law systems were completely ignored. The motivation for the appearance of the codes resides in rationalism and in the principle of legal security, much invoked and exploited by the political power.

Today, the European Union is based on its own institutional and legal structure, which does not correspond to the classic principle of the separation of powers, the four Institutions being a dynamic body which responds to the interests in question and ensures the achievement of the aim of the Union.

The European institution which represents the interest of the law is the Court of Justice of the European Union. It manifests as an internal jurisdiction, invested by the European Union with all the necessary components for achieving justice, and which cooperates with the national jurisdictions, ensuring uniform interpretation and enforcement of European law, thus creating European jurisprudence as main source of law of the European Union, applicable in all member states.

Jurisprudence as a source of law - concept and historical evolution

As legal science, jurisprudence was created by jurisprudents – iuris prudentes, iuris consulti, by interpreting normative provisions in laws, resulting in certain given solutions, upon the resolution of cases by a jurisdictional body, by interpreting regulations provided in laws or other normative documents or by determining the applicable legal regulations for ongoing cases, with the help of the principles of the applicable legislation or the general principles of law. [5]

The importance of the role of jurisprudence related to other spheres of thought also appears as a reflex under the conditions of the development of society and the emergence of new situations and realities. The new situations could not be resolved based on texts adopted centuries before, and, as a result, jurisprudents found, in the texts of the old laws, the means which, through ingenious interpretation, can be used to resolve new cases.

In the continental countries, after the revolutions of the 17th and 18th centuries, although important codes and laws were adopted, which somewhat reduced the role and functions of jurisprudence; still, legal judgements and those of constitutional courts were considered source of law.

In the Anglo-Saxon system, however, jurisprudence has always kept its role and force as main source of law, the judge fulfilling the role of authority which sets the rules, and the sentences of the courts constitute a mandatory precedent for the future.

Thus, Mircea Djuvara states that [6], “an interpretation which leads to injustice is not a good interpretation, just as a law which leads to injustice is not a good law... but, in so many cases, the judge does not find a clear expression of the law. He must then first ascertain the facts, the social conditions, the legal judgements in the conscience of the respective society, to ascertain them with all the scientific rigour, and not arbitrarily”.

Furthermore, he opines that, “This is an extremely difficult scientific operation. We may imagine the enormous culture required from the judge and the jurisprudent in general in order to exactly ascertain, with rigour and the help of science today, all the factual circumstances, as well as all the currents of thought of the respective society... jurisprudence, thus understood, many times achieves justice differently from the strict letter of the law, custom or doctrine. In this respect, it can be said that it is the formal source of positive law” [7].

In the legal systems of the founding states of the European Union, jurisprudence was not considered, in principle, a source of law, because the judgements of courts only produced effects inter partes. For this reason, the authors of the treaties did not include community jurisprudence in the nomeclature of sources of law. [8] However, in the European legal system, jurisprudence has the value of source of law.

The role as creator of law was a necessity in the case of European courts, because the constitutive treaties were drafted as framework treaties, with general provisions, which needed clarifications and amendments. On the other hand, the multiple linguistic versions of the community documents have equal value as authentic documents, which – when there are differences between the versions – again raise the problem of discerning the precise sense of the regulations.

The interpretation which the European courts give is imposed to all authorities, including national ones, an argument which confirms the status of source of law of European jurisprudence.

As a consequence, no practitioner who must resolve an issue of European law may say that he has mastered this law, if he does not know the relevant judgements of the European courts.

The conclusion which may be drawn is that the national judge who is always in the centre of national law, and, therefore, of international law [9], is the main factor of European legal integration and the enforcement of European as well as international conventions.

Therefore, national and especially European and international jurisprudence represent a dynamising, efficient and effective factor of the procedures for legal harmonisation, of assimilation and implementation of European and international law, and not only of optimisation of internal law.

Thus, the idea that the judge essentially has the role of interpreter and public authority for the enforcement of European law, which involves a certain specialisation in the subject and the awareness of their responsibility as a decisive factor in European legal integration, in agreement with national particularities, becomes clear.

He is fully responsible for the uniform enforcement of the requirement of European legal order as a unifying virtue of the authentically common legal order [10]. He is, however, encouraged by the doctrine and jurisprudence of the European courts to “fully assume the national role of interpreter of European law and depository of its legal execution, since he can not deviate from his obligation to apply European law to the justice seekers who invoke it” [11].

The appeal to European jurisprudence shows that judges do not endanger national identity and democracy, since, on the contrary, the courts in Strasbourg and Luxembourg, stimulate the principle of subsidiarity and the protection of material and procedural law, asking the national judge to have an active role in a national procedural framework adapted to the requirements of European and international law.

The jurisprudence of the European Court of Justice implemented in the jurisprudence of the Member States of the European Union

In the absence of provisions of constitutive treaties regarding the hierarchy of the sources of European law, the hierarchy was established by the Court of Justice: Primary law, which groups the sources of law with supreme legal force ; General principles of law.; International agreements; Derived law documents.

Within derived law, there is a hierarchy between legislative documents and enforcement documents. The former are adopted through legislative procedures, and the latter enforce them, are based on them and must conform to them, under the nullity sanction. Certainly, a delegated acts must be subordinated to the legislative act which gives it the ability to bring about changes or amendments.

On the other hand, the classic classification of normative act and individual act exists in any legal system. A judgement adopted by applying a regulation in a concrete situation must be subordinated to it.

The general principles of European law were thus initiated and formulated in the judgements of the Court of Justice of the European Union in Luxembourg and then included in the Treaties Establishing European Communities or in the amending treaties, finally being consecrated as such in the Treaty of Lisbon, which was signed by the 27 member states of the European Union on 13 December 2007 and came into force on 1 December 2009.

The autonomy of the European legal order was affirmed by the Court of Justice of the European Union, first through judgements Van Gend en Loos (1963) and Costa v. ENEL (1964). The Court emphasised this characteristic of the legal system of the Union in order to free the European construction from the dependence on national legal systems, which would have altered its essence.

The legal nature and the meaning of European law and direct applicability were the main creation in judgements Costa – Enel – 1994, Walt Wilhelm (1968), Internationale H.-1970, and Limmenthal II – 1978, and others, in which other principles are affirmed:

- The TCE created its own European legal order, which has become an integral part of the legal order of member states, whose courts must obey (Costa-Enel)
- The legal system arising from the Treaty, an independent source of law, cannot be, due to its special nature, surpassed by internal legal regulations, being superior to them (Costa-Enel);
- Conflicts between European and national provisions must be resolved by applying the principle of precedence of European law (Walt Wilhelm);
- The validity of the measures adopted by European institutions may be interpreted only in light of European law, as its direct effect (Internationale H.-);
- Respecting fundamental rights is an integral part of the general principles of law protected by the Court of Justice (Internationale H.);
- The direct applicability of European law means the full and uniform implementation of its regulations in all member states, beginning with the date they came into force and as long as they are in effect (Limmenthal II);
- A national court has the obligation to apply European law and to ensure its full direct effect, removing, even ex officio, any contrary internal regulation (Simmenthal III).

By analysing all of these it can be observed that CJEU jurisprudence was tasked with – by the pretorian way of elaborating law – taking the decisive step from the objective obligation of the state to the legal subjective right of the individual. This was an act of exceptional temerity, since it characterises, the shift from the traditional order of international law to the autonomous European order, which obeys its own structural principles, in the sense of a supernational order for functioning.

The fundamental elements were established, for the first time, in the older sentence in case Van Gend & Loos, in which the CJEU granted article 12 of the TEC – which prohibits the introduction of new custom taxes and duties, having the same effect, as well as the increase of existing custom taxes and duties in relations between member states – direct effects, namely in the sense that this article establishes

individual rights, which state courts must respect. In the motivation of the sentence it is systematically and teleologically argued: if a certain regulation produced direct effect, it should be judged according to the spirit, the systematic and text of the Treaty.

The objective of the TEC is to create a Common Market, the functioning of which directly involves the European citizens, that is, the Treaty is more than an Agreement which only establishes mutual obligations between member states. The Van Gend & Loos judgement states that: “The conclusion to be drawn from this is that the Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only Member States but also their nationals. Independently of the legislation of Member States, Community law therefore not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage. These rights arise not only where they are expressly granted by the Treaty, but also by reason of obligations which the Treaty imposes in a clearly defined way upon individuals as well as upon the Member States and upon the institutions of the Community”.

Then, regarding art. 12 of the TEC, in question, it is emphasised that the Treaty contains a clear and open interdiction and – that is why, according to its nature – it is excellently suited to produce direct effects in the legal relations between member states and individuals subject to their laws, without an intervention of the state lawmaker being required.

Corresponding to establishing the preponderantly economic objectives of the Community, the fundamental rights with an economic and social connection form the main object of jurisprudence until now, still, there already is a succession of other different fundamental rights. In this respect, the lawyer specialised in German law notices the methodical and pragmatic predisposition of jurisprudence, which – regularly – proceeds in a result-oriented manner, and, with this occasion, even occasionally omits a more precise determination of the area of defence of fundamental rights, ensured by the right in question.

The following are included among the fundamental rights recognised by the CJEU: the right to property; the freedom to choose an occupation, the right to economic

activity; the freedom of assembly and of association; the freedom of religion; the freedom of opinion and information; the respect for private and family life; the confidentiality of correspondence with the legal defender; the right to not incriminate oneself; the inviolability of residence; freely choosing business partners.

The autonomy of the European legal order from the legal order of the member states is not absolute. At the moment the states founded the Union, it did not become a foreign entity, external to them. To support this idea, it is established that: the legal system of the Union and the national one apply to the same individuals, in their double quality of citizens of the member states and of the European Union; the law of the Union comes to life and reaches its objectives only when it is accepted in the legal order of the member states.

Therefore, there have been natural interactions between community law and internal law. In this respect, the member states provided in art. 4 par. (3) TEU the principle of sincere cooperation. The importance of the principle of sincere cooperation is also emphasised by CJ jurisprudence regarding the indirect effect of community regulations. Thus, based on this principle of sincere cooperation, the Union and the member states mutually respect and support each other in the fulfilment of the missions arising from the treaties. The member states adopt any general or specific measure to ensure the fulfilment of the obligations arising from treaties or resulting from the acts of the institutions of the Union.

The member states facilitate the Union's fulfilment of its mission, and abstain from any measure that may endanger the achievement of the objectives of the Union.
The principle was inserted in the treaty because it was realised that the legal order of the union could not reach the intended objectives by itself. Unlike the national legal systems, the EU system is not closed, and, in order to be applied, it needs the support of the national legal orders. All the institutions of the member states must admit that the legal order of the EU is not exterior or foreign to them, but that the member states and the EU institutions represent a whole , in order to achieve certain common objectives. As a consequence, the member states must not only respect the regulations of the Union, but also apply and bring them to life.

In order to manifest the cooperation between the European law and the national law, at a legislative level, the mechanism of the directive was applied, which establishes that the member states choose the most adequate form and means for their national specificity, in order to achieve the objectives set at a European level.

In this respect, the normative acts of the member states must answer to the necessity of a modern legislative framework of the European Union, represent a coherent and articulated response to the need for reformation of the fundamental institutions as well as mechanisms which pertain to the essence of socio-economic relations, as well as of procedural instruments.

The entirety of legal regulations (codes, methodological or implementation regulations, etc...) of the member states of the European Union must pursue the idea of promoting a monistic concept of regulating legal relations. In this perspective, these, the legal norms, must incorporate the entirety of European regulations regarding persons, family relations and commercial relations. Furthermore, the process of elaborating these norms must also take into account the provisions of private or public international law.

Therefore, by correlating provisions which originate from the tradition of national law, with provisions contained in European instruments as well as with international ones, by selecting the basic regulations by virtue of the solutions constantly offered by the European doctrine and jurisprudence over the years, the whole of legal regulations must respond to the necessity for adaptation of the current European legislation to the requirements of its socio-economic realities.

The jurisprudence of the Court of Justice of the European Union goes further and emphasises the priority of the Union’s law as needing to be general and absolute, that is, to manifest over the entirety of national law, including over the constitutional rules of the member states. [12] The example referenced in this respect is the Simmenthal case [13], case in which the Italian court which tried this case showed that, according to the judgements of the Constitutional Court, it could not remove the national regulation contrary to European law without prior notice to the Constitutional Court, which would declare it unconstitutional. The Court of Justice of the European Union, however, responded that, ” any national judge, notified under his competence, has the obligation to fully apply the community law and to protect the rights it grants to private persons, by

not applying any potentially contrary provision in national law, regardless whether it is anterior or ulterior to the community regulation". Therefore, the national court must itself ascertain, without delay, that the national regulation contrary to the EU one can no longer be applied.

In European law, obligations of result are usually states, giving member states the freedom to choose the means of fulfilling these obligations. The Court of Justice decided, constantly, that according to art. 5 TCE, recognising the power of Member States involves undertaking their obligations to apply community law, and the question of how such powers are to be exercised and executed, within the framework given by the Member States to their internal bodies, is solely a matter for the constitutional system of each state[14], and these community obligations of result are imposed to all internal bodies of the Member States, including, within their competences, to jurisdictional bodies [15].

According to art.10 T.C.E: the member states shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the present Treaty, and refrain from any measure which could jeopardise the attainment of the objectives of the present treaty.

Thus, the role of member states in the implementation of European law is structured on three principles : the participation of national authorities in applying European law, which is materialised in three areas: legislative, administrative and judiciary; the obligation of collaboration of member states resulting from the provisions of art.10 T.C.E. is also called the principle of community loyalty or of sincere cooperation and forces the member states to act, thus being a positive obligation, which corresponds to the principle of the materialisation of the principle of the supremacy of community law over national law; the principle of institutional and procedural autonomy which guarantees that the measures for applying community regulations are taken within state legal systems by national institutions and in accordance to the existing procedures in these systems.

In case of non-compliance to European law, a series of sanctions can be applied, such as: community administrative sanctions (art. 83 of Euratom Treaty sets the following sanctions: a warning, the withdrawal of financial or technical assistance,

seizure of the undertaking, total or partial withdrawal of source materials or special materials – the CJEU has the competence to control the sanction judgements established based on the regulation); national administrative sanctions which are established by the member states by enforcing the principle of procedural autonomy or which can only be applied by national authorities when they are provided in European regulations (e.g.; with regards to the common agricultural policy, the Commission, being delegated by the Council, may apply the sanction of exclusion from subsidies); penal sanctions, which do not fall under the competence of the European Union, not being established in treaties, thus the member states may penally sanction the violation of European regulations.

By virtue of those shown regarding the European legal order, the Romanian legislative system has begun to adapt the national provisions starting with the fundamental law, the Constitution of Romania, which, in art. 135, provides that "...(2) The State must ensure:... g) the implementations of the policies for regional development in accordance with the objectives of the European Union, and, in art. 148: Integration in the European Union provides that : "...(4) the Parliament, the President of Romania, the Government and the judicial authority guarantee the fulfilment of the obligations arising from the accession act and the provisions of paragraph (2).

These adaptations continue with the New Romanian Civil Code, which expressly provides the principle of priority implementation of community law in art. 5. "In the areas regulated by the present code, the regulations of community law shall be applied with priority, regardless of the quality or status of the parties."

Conclusions

In conclusion, the jurisprudence of the European Union consecrates the unification of European law as being compatible with a certain social and cultural pluralism; and in this respect national legal systems have a justified purpose with respect of European law, and the Member States have the competence to choose the most adequate means in terms of the requirements arising from European law, especially from the point of view of the proportionality principle.

Therefore, the member states of the European Union must make a legislative effort through which the internal legal order can be directly and harmoniously integrated in the European legal order, because only the Constitution and the national legislative power can transpose these objective, and, therefore, ensure that the national judge exercises the new responsibilities of an European judge.

These principles and purposes constitute landmarks which guide the adaptation of national law, making it directly compatible with the European law, so that the latter can also be invoked and applied through national legal paths.

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PSYCHOLOGICAL HARASSMENT IN THE WORKPLACE. AN OVERVIEW AT EU LEVEL

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Abstract
Psychological harassment in the workplace is a phenomenon that involves victims and perpetrators of all ages, educational and cultural backgrounds, incomes and social statuses, as well as different type of employers. The paper aims to present an overview of the main aspects related to the psychological harassment, such as they are reglemented by the European and national law.
Keywords: *Psychological harassment, mobbing, workplace*

Interest in workplace mobbing started in Sweden in the 1980s, where Heinz Leymann intensely explored the phenomenon, stating that „psychological terror or mobbing in working life involves hostile and unethical communication, which is directed in a systematic way by one or a few individuals mainly towards one individual who, due to mobbing is pushed into a helpless and defenceless position, being held there by means of continuing mobbing activities. These actions occur on a very frequent basis (at least once a week) and over a long period of time (at least six months)" [1]. In France, the psychiatrist Marie-France Hirigoyen defined moral harassment in the workplace as "any abusive conduct, in particular behaviour, words, actions, gestures, and writing capable of violating the personality, dignity, or physical or psychological integrity of a person, jeopardising their employment, or deteriorating the workplace climate" [2].

Currently, although there is not an official definition of mobbing at European level, the main elements of the concept rely on persistent and prolonged exposure to negative and aggressive behaviours of a primarily psychological nature. The Framework Agreement on Harassment and Violence at Work signed by BUSINESSEUROPE, UEAPME, CEEP and ETUC pointed out that „Harassment occurs when one or more

workers or managers are repeatedly and deliberately abused, threatened and/or humiliated in circumstances relating to work" [3].

Main organisational risk factors and working conditions associated with violence and harassment are related to job demands, such as work intensity, time pressure, high workload, physically and mentally demanding, fear and mental strain, high quantitative demands, work pressure, emotionally demanding tasks, job mentally demanding, working with tight deadlines, volume of tasks; unsocial hours, job insecurity and uncertainty. Hostile environment, internal conflicts, poor social relationships, poor personal relationships, internal competition, poor/lack of communication, lack of social support, rivalry among colleagues and personal resentment, poor level of cooperation, informal groups and cliques, strong identity groups, managerial authoritarian styles, limited managerial support, nonparticipative leadership, autocratic style, abusive management, inadequate staff policy were also identified as key factors in harassment environment [4].

At EU level, the employers' duty to protect workers against harassment and violence in the workplace is established by a number of directives related to equal treatment and safety and health of workers, such as Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Directive 2002/73/EC of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions and Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.

The number of employees subjected to harassment during the course of work over the last 12 months varies in the European countries, from 12,2% in France to 0,9% in Portugal [5]. It is important to point out that even if psychological harassment is prohibited in employment at EU level, including in relation to access to employment, vocational training and promotion, and come under health and safety considerations,

the awareness of the causes and consequences of violence and harassment may differ from country to country.

In France, for example, where the France Telecom case was highly debated, the extent of discussions and initiatives by social partners and governments were more important than in some other countries. The former chief executive of French telecommunications provider France Telecom, now known as Orange, six other executives and the company face trial, charged with engaging in or assisting with psychological harassment amid a massive restructuring plan between 2008 and 2010. France Telecom, a former state-owned company, partly privatized in 1997, embarked on a huge restructuring plan between 2006 and 2008 that aimed to cut head count by 22,000 workers while shifting 10,000 people into new jobs. 35 employees had taken their own life in the process. A 52-year-old technician who killed himself in July 2009 described the situation as “management by terror” in his suicide note.

The workplace bullying, known as ‘moral harassment’, is regulated under both the French Labour Law (2008, amended 2016) and the Criminal Code (2009). The Labour Law applies to both private and public employees, and addresses moral harassment, discrimination, and professional equality between men and women. The Criminal Code imposes a criminal sanction for moral harassment, in the Article 222-33-2, stating that “Harassing another person by repeated conduct which is designed to or which leads to a deterioration of his conditions of work liable to harm his rights and his dignity, to damage his physical or mental health or compromise his career prospects is punished by two years’ imprisonment and a fine of € 30,000”.

The French caselaw on moral harassment’ started in 1993, when La Cour de Cassation, Social Chamber passes a ruling that categorised an employer behaviour towards an employee as “insidious harassment” [6]. The courts judged as harassment actions like repeatedly requiring a worker to carry out heavy labour, against the instructions of the company doctor and in spite of the fact that it led to numerous work stoppages; requiring an employee to work seven days a week for more than two years; installing an employee in the office of a superior they did not get on with and then depriving them of the means for carrying out their work [7].

Since 2015, in Romania the mobbing is regulated by the Law 202/2002 regarding the equality of chances and treatment between women and men. According to article 4 letter d1 of the law, psychological harassment means any inappropriate behaviour that occurs at a time, is repetitive or systematic and involves physical behaviour, oral or written language, gestures or other intentional acts and which may affect personality, dignity or physical or psychological integrity to a person. The law prohibits any harassment, sexual harassment or psychological harassment, both in public and in private. Any harassment is punished by a fine from 3,000 to 10,000 RON, if the deed was not committed in such conditions that, according to the criminal law, it is considered a criminal offense.

A relevant caselaw is in process of being established. In a case, the court considered that the conditions of the employer's liability were met, in particular with regard to the illicit deed of the defendant's representatives to psychologically harass the applicant during his working hours and in connection with the service, the damage caused to him, consisting of the psychological suffering suffered, the indispensable causal link between the illicit deed and the damage caused.

In order to establish the amount of damages equivalent to the moral prejudice caused to the applicant, the court took into account the negative consequences suffered by the applicant on the psychological level, creating a state of permanent anxiety, the importance of the injured moral values, respectively the dignity and the moral integrity, the extent to which his family and work situation was affected [8].

Some other countries, like Finland and Norway, address mobbing via occupational safety and health legislation. The Finnish Occupational Health and Safety Act of 2003 obliges the employer to take action after becoming aware of the matter. The Act also states expressis verbis that employees themselves have a duty to refrain from harassment.

At regards the victims, at European level, Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (the Victims' Rights Directive) defines victim as "a natural person who has suffered harm, including physical, mental or emotional harm or

economic loss which was directly caused by a criminal offence". Therefore, it is important to determine if under national law the mobbing is considered or not a criminal offence.

A study on relevant case law in Italy identified five categories of victims: captive - the victim is able to recognize the harassment but it not able to prevent it from happening); passive - the victim is affable, incapable of saying "no"; ambitious - the victim works to keep high levels of effectiveness and efficiency; hypochondriac - the victim tends to feel depressed; and scapegoat - the victim is weak, accepts to be bear responsibility for other's fault. The study revealed that since the phenomenon is within the organization, it is mandatory to implement prevention at organization level, in order to ensure the well-being of workers, to perform conflict management, and to preserve the organization's reputation and public image [9].

Therefore, the protection assured by the mean of European and national legislation should be completed by organisational and employer-level measures aiming to inform, educate and change attitudes towards harassment and to develop an organisational culture harassment-free. Anti-mobbing policies and procedures are to be put in place, ensuring that justice prevails by investigating complaints and protecting the victims.

The Framework Agreement on Harassment and Violence at Work pointed out that raising awareness and appropriate training of managers and workers could reduce the harassment at work, therefore the enterprises were encouraged to have a clear statement outlining that harassment and violence would not be tolerated. The social partners recommended the establishment of suitable and efficient procedures based on the following rules:

- Discretion to protect the dignity and privacy of all parties
- Complaints investigated and dealt with without undue delay
- Impartial hearing and fair treatment
- Complaints backed up by detailed information
- False accusations should not be tolerated and may result in disciplinary action
- External assistance when needed

- Appropriate measures will be taken in relation to the perpetrator(s), including disciplinary action up to and including dismissal.
- Support for the victims and, if necessary, help with reintegration.

Moreover, a harassment-free organization is imperative for a socially responsible enterprise. Companies which value corporate social responsibility, while addressing issues of well-being of employees as a stakeholder, ethics and human rights, must enhance their responsibilities to prevent the safety of employees from psychosocial stress caused by mobbing and bullying. It is to be pointed out that a statistical research performed on 1512 employees representing 34 organizations revealed that the problems of mobbing/bullying as a social stressor were more effectively solved by the organizations that have not declared corporate social responsibility rather than by socially responsible organizations or by the ones that strive for this status [10].

Therefore, as CSR covers human rights, labour and employment practices (such as diversity, gender equality and employee health and well-being) it is mandatory that the companies implement detailed procedures addressing the mobbing issues. As an example, Médecins Sans Frontières (MSF) put in place procedures, including grievance and whistle-blowing mechanisms, to encourage prevention, detection, reporting, and management of all types of misbehaviour, harassment and abuse. Moreover, MSF published on the official website information about grievance complaints or alerts registered at headquarters, the variety of theses alerts (such as abuse of power, discrimination, harassment, and other forms of inappropriate behaviour), as well as the number of cases of abuse and/or harassment at the field level that were identified after internal investigations and documented at MSF headquarters [11].

Conclusion

Psychological harassment represents a serious problem in a variety of social settings including the workplace; and an important percentage of the European workforce is subject to bullying at the workplace. Psychological harassment should be recognised as severe psychosocial stressor with impact on victims' health, organisational functioning and career.

Prevention of such acts should be a priority for the EU, Member States but also for organisations. The action-oriented Framework Agreement on Harassment and Violence between the European Social partners with its request for organisational policies and procedures should be implemented at European level. However, organisational policies and procedures may not be able to solve the issue in all cases, especially for the non-unionized workplaces. It may be therefore appropriate that the Commission submit a proposal for a directive to tackle all forms of harassment, including an updated and comprehensive definition of harassment, and common legal standards on criminalising such harassment.

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