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JUSTICE BETWEEN REALITY AND LEGAL FICTION

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Abstract:
Justice as a public activity seen between reality and legal fiction is a topic of deep reflection, but also a continuous challenge for legal professionals who have to analyse the close connection between the purpose of justice and the artificial legal constructions of legal science, that is, between real and fictional justice or, in other words, formalised justice. Law as a science, in all its endeavours to regulate various conducts and situations, has found the solution to resort to a legal construct called legal fiction, a construct which has become almost indispensable, but which can sometimes irreversibly distort the profound purpose of justice as a civilising act of any civilised society. At the same time, it is necessary to analyse, with a great deal of prudence and professionalism, the double perception of justice in the first sense as this symbolic and normative construct called legal fiction, and in the other sense as a real, concrete and institutionalised public activity with a real impact on the subjects of law, exercised as an exclusive attribute of the rule of law in establishing and maintaining the legal and constitutional order.
Keywords: *justice; legal fiction; legal construct; rule of law; normative construct.*

Justice - conceptual elements

The theory of justice [1] represents the normative essence of law and the social order and which underpins the values that are defended by laws and legal institutions, whether it is procedural, distributive, commutative or corrective justice, this theory provides a social framework without which a just and functional society cannot be built, a basic characteristic of a functional rule of law.

Justice as a theory must and it is absolutely necessary to evolve to respond to the inevitable challenges of globalisation [2] in the sense that it is no longer sufficient to discuss fairness and justice in a single state but must reflect those global responsibilities, transnational solidarity and institutions capable of upholding justice across borders.

In this sense, global justice is not only a moral necessity, but also a condition for stability and peaceful coexistence in today's world. The unavoidable and much-discussed globalisation almost automatically triggers an extension of the scope of justice from nation-state to global justice and implicitly from a system of domestic law to a system of international law and implicitly of transnational rights.

Justice must therefore be seen both as a moral value and as an institutional mechanism, with the role of ensuring a balance between rights and obligations, between states and the international organisations and treaties to which they are party, between the individual and the state, between law and ethics, between law and morality. Achieving effective justice requires not only the interpretation and application of the law, but also a critical and rational awareness of its meaning, which is continually adapted to the social and cultural context existing in society at a given historical moment.

Justice must represent that normative principle which expresses justice [3], fairness and respect for the rights of every person, and is associated with the idea of fair and impartial treatment of individuals within an effective legal or social system, in an effective and functioning rule of law.

Throughout its history as a concept and theory, but also as a concrete activity, justice is both a legal construct called legal fiction, the aim of which is to provide order and coherence, and a public activity with a real impact on people's lives. In the tension between these two aspects, justice and legal fiction, the very credibility and effectiveness of the rule of law is called into question, and the balance between them can only be achieved by interpreting and applying legal rules with reason, sense and responsibility, exclusively in the service and in the interests of the citizen as the ultimate recipient of the law.

Justice is also characterised as a fundamental constitutional guarantee [4] and in this sense it expresses the idea that the right to fair and accessible justice is a fundamental characteristic of a functioning rule of law, a right enshrined in modern constitutions as a supreme guarantee of respect for all other fundamental rights and freedoms of the citizen.

Legal fiction - conceptual elements

The concept of legal fiction [5] is a fundamental legal construct in the study of general legal theory and can be defined as a statement which is considered to be true by the legal rule, even if objectively the statement is considered to be non-existent or false, but which is used for the purpose of enabling the interpretation, application or extension

of the provisions of the legal rule in a rational, coherent and efficient way in order to resolve the cases before the court and to ensure legal certainty.

Legal fictions are totally different from hypotheses, errors or suppositions, because they are consciously assumed by the legal system, they cannot replace reality, but only help to shape it in order to better help the fairness and functionality of legal rules [6], but their use must be made with great discernment, the aim must be not to turn the achievement of law into a mere formal exercise that is totally divorced from reality, because real justice requires that legal rules, even if they are fictitious, must serve the common good as the sum of the individual good in society and have a real and effective impact on the litigants. [7]

Functions of legal fictions

For a better understanding of the importance of legal fictions and their usefulness in maintaining the coherence and effectiveness of law it is necessary to list their most important functions, as follows:

- Extending the applicability of the provisions of legal norms [8] to the law and implicitly to the legal protection of the litigants - this implies that by means of a certain legal fiction it is allowed to include atypical or unregulated situations into the scope of legal norms with the purpose of the achievement of law. An example of this is the principle "nemo censetur ignorare legem" - no one is innocent of ignorance of the law, a generally applicable principle by which legal fiction is used to prevent a possible challenge of the law on the basis of ignorance of the law. [9]

- Resolving legislative lacunae [10] - a function which is intended to reflect the way in which the law, through recourse to legal fictions, fills regulatory lacunae where the laws do not expressly provide for a particular legal situation but regulation is absolutely necessary to avoid a legal vacuum and ensure the continuity of the legal order. An example is the situation where the legal death of a natural person is established under the strict conditions laid down by the law, i.e. where that person has been missing for a long time, which allows the marriage to be terminated or the estate proceedings to be initiated.

- Ensuring the stability of the legal system [11] - a function that reflects the essential role that this conceptual legal construct plays in maintaining the continuity, coherence, adaptability and predictability of the law, even in the face of the social changes inherent in the evolution of the world or situations that escape direct regulation. In the absence of stability in the legal system, legislative incoherence, arbitrary decision-making and a crisis of confidence in the law can arise, which can lead to the principle of legal certainty being distorted from reality to desire.

- Normative adaptability [12] - this function of legal fictions expresses the ability of the legal system to adapt and respond to social, technological or cultural changes without the need for immediate legislative changes, by means of legal constructs that assume as if certain situations already exist in the form necessary for the application and achievement of law. As an example, some digital entities or artificial intelligences are assimilated as subjects of law in situations where there are no explicit regulations to this effect.

- Facilitating legal reasoning and interpretation [13] - a function that is intended to help legal professionals to find equitable solutions using analogies and rational legal constructions in the absence of a direct legal rule. For example, the existence of will, as an ad valididatem element, in adhesion contracts, where one of the parties has no real bargaining power.

Therefore, on the basis of these functions of legal fiction, it can be pre-concluded that this legal construct [14] is a very important but also necessary tool of normative modelling, which helps law to be flexible, coherent and applicable by those entrusted to do it; however, it must be used with great caution and above all with discernment, so as not to turn the law into a formal exercise divorced from reality, because real and effective justice requires that legal rules, even if they are fictitious, must serve fairness and the common good and must take account not only of purely formal rules but also of the truth as experienced by the citizens.

Justice as legal fiction

Justice as a legal fiction represents a profound but also challenging analysis of legal professionals [15], which assumes that justice, in its two forms, institutional and

normative, cannot necessarily be just an objective reality, but is a highly elaborated conceptual construct that is created, adapted and maintained by a legal system with the aim of guaranteeing legal order and social balance in society, thus it can be said to function as a regulated legal fiction, necessary and functional for the legal certainty of the subjects of legal norms, the litigants.

In this context, it can be concluded that justice is supposed to be perfectly fair, impartial and objective - although or even if legal reality does not always reflect these features. However, justice is constructed as that normative ideal - towards which the application and achievement of law is directed, even if this goal is not completely fulfilled. This justice is also legitimised both symbolically and institutionally, through the courts, their decisions and the legal norms applied by them, which reflect the will of the law and the legislator.

The legal fiction of justice would be that the state, as the holder of the monopoly on the achievement of justice as a public activity and public power, achieves justice through the courts - as if the state were infallible and equidistant, although the courts entrusted with the achievement of law may err or even be influenced by various internal or external factors.

Manifestations of justice in its existence or approach to it as a legal fiction are reflected in the comparisons between the legal aspects of justice and its conventional character in the following senses:

- Regarding the total independence of justice [16] in a strictly legal sense, in reality there political or social pressure may be exerted on it in such a way that it may lead to more or less wilful mistakes in the act of achievement of law;

- Regarding the absolute impartiality of judges taken strictly legally, however, it must be borne in mind that judges are "the living law" and they have their own beliefs, interpretations and potential biases; [17]

- Regarding the similar application of the law to all litigants, however, it must be borne in mind that there are many discrepancies in application depending on the context in which the law is applied, there being similar but never identical cases;

- Regarding equal and free access to justice, in reality there are many inequalities in resources, time and representation of parties in court.

- Regarding the normative ideal that justice represents and not a universal reality, it must, however, be taken into account that each historical period and its corresponding system of government defines justice differently;

- Regarding the fact that the legal system is based on presumptions and legal constructs, legality is always different from the concept of fairness;

- Regarding the possibility of miscarriages of justice in the sense that human justice is imperfect and subject to interpretation and that is why it is said that an unjust settlement is often much better than a just judgement, because it reflects the understanding of the parties.

However, reality has shown that justice is much more than a legal fiction if the following points are borne in mind:

- Justice is and must remain a real ideal towards which one strives, even if it is not attained to its fullest extent and thus completely directs the entire legal system;

- Through legal institutions [18], through the procedures regulated by law and implicitly by guaranteeing the rights of litigants, certain concrete forms of justice are achieved, i.e. justice is considered to be achieved by simply applying the law.

- Modern basic legal rules enshrine justice as a fundamental principle, not just a conventional one, once justice is established, enshrining the principle of legal certainty.

Therefore, this kind of legal structure, legal fiction, as justice can be categorised, has a character of necessity, at least because without it the rule of law would become ineffective and would collapse, but also because citizens accept the authority of the state through the dispensation of justice because they assume that justice is done. Also, even if sometimes unjust or imperfect, justice is still applied and accepted by citizens as a legal fiction in order to maintain social cohesion in the state.

Ignoring justice [19] as a legal fiction can lead to significant risks in the sense that:

- Moving towards an excessive idealisation and overuse of justice as a term can lead to a lack of trust in the judicial system [20] and implicitly in the rule of law as the guarantor of the achievement of justice and the protection of the rights of its citizens;

- The existence of a mere legal formalism [21] may lead to the risk of the perception that the legal rule is applied unprofessionally and without the interests of the citizen being emphasised, thus ignoring the human and social context of the effects of the legal system;

- In the event of a blockage in the reforms of the judicial system, it may lead to the maintenance of illusory perceptions of a 'perfect justice', without any real correction and adaptation of the dysfunctions of this system.

It is therefore imperative that justice should be transparent, given that it is a public activity, that it should be an activity directed towards the interests of citizens, not a purely formal activity, and that it should also be continually adapted to social relations and not remain an abstract systemic form.

Conclusions

In conclusion, therefore, it can be said that the theory of justice remains essential for the evaluation and orientation of current legislation because in a rapidly changing society, legislation must not only be lawful, but also legitimate, i.e. it must be in full agreement with the moral principles of fairness, liberty and respect for the individual. Thus, contemporary justice must go beyond formalism and adapt to new social and technological realities without losing its fundamental values. In fulfilling its role as guarantor of the rule of law, justice is seen both as a legal fiction designed to provide order and coherence and as a public activity with a real impact on people's lives. In the tensions between the two approaches, the very credibility and functionality of the rule of law is essential. Legal fictions are a necessary tool in the achievement of justice and in the construction of the system of justice, but they must be used with reason and prudence, under constant ethical and democratic scrutiny. It should be borne in mind that fictions can in no way replace reality, but can only reshape it in order to better serve the fairness and functionality of the legal rule. Justice, interpreted as a legal fiction, must not be a lie, but exclusively an ideal legal construct with the ultimate aim of guiding the achievement and application of law. Justice is and must remain a form of fiction created and supported exclusively by the state, with the aim of guaranteeing social order, legal balance and respect for legal rules and the legal system. Awareness of this fictitious nature of justice does not diminish its importance, but is intended to make it more accountable and to make justice less a legal fiction and more a legal reality necessary for the functioning of a society characterised by respect for the law and ensuring the legal security of its citizens as the final subjects of legal rules. Justice must be a legal fiction only insofar as it is

treated as perfect, automatic and infallible, but it must not become a mere illusion and must tend towards a necessary, constructive, balanced and functional ideal, which is the very purpose of law, because without this kind of legal fiction - justice - confidence in the functional rule of law and in the legal order would turn into an unachievable ideal.

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STRATEGIC PRIORITIES AT EU LEVEL FOR THE 2024-2029 PERIOD

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Abstract:
The Strategic Agenda of the European Union is a document or set of priorities guiding the EU actions and policies over a given period of time, usually established by the European Commission in collaboration with the member states. It defines the major objectives and strategic directions to respond to global and internal challenges, promoting the interests and values of the Union.
The strategic agenda of the European Union for the next five years incorporates both the traditional values and founding documents of the bloc, as well as the reforms and new challenges that have emerged in recent years. The European elections have given a new configuration to the European Parliament and the other European institutions. The new cycle also means defining the Union's strategic agenda for the next five years, a document that lies under the responsibility of the European Council. This strategic orientation was prepared starting with the second half of 2023, during the Spanish presidency, and was finalized during the Belgian presidency in the first half of 2024.
Keywords: *strategic agenda, priorities, directions of action, European policies, solidarity.*

Preamble

It is well known that every five years, the European Union leaders agree on the EU political priorities for the future, a process that takes place in the context of the European Parliament elections and before the appointment of each European Commission. The establishment of these priorities stems from the very need for the member states to continue their efforts to achieve common objectives.

The need to identify these priorities arose in the context in which the European Union was marked by increasingly complex crises and challenges of an economic and geopolitical nature. This is also the reason why European leaders had the mission to establish a precise strategic plan for the coming years and, at the same time, to provide a solid framework for immediate actions. Specifically, the EU strategy includes key actions based on a detailed action plan to promote the objectives of the Union, as well as the development of a "culture of preparedness by design" in all EU policies.

At the European level, a great importance is given to *strategic planning*, a process by which the EU defines its vision, mission, objectives and strategies, as well as how it will allocate resources to achieve these objectives within a certain time interval. The EU strategy envisages a coherent set of policies and actions designed to overcome the most important challenges it faces. [1]

Adopted by the European Council, *The Strategic Agenda of the European Union* represents a comprehensive strategic framework that defines the political priorities, medium and long-term objectives and the directions of action of the European Union for a given period, usually a 5-year institutional cycle, linked to the mandate of the European Commission. The Strategic Agenda is considered a "compass for the coordination of policies and actions of the EU institutions, member states and external partners" [2], aiming to strengthen the unity, competitiveness and global influence of the Union, in the context of internal and external challenges, such as geopolitical changes, economic crises, digital transformations, climate change and security threats.

Chronologically, the first Strategic Agenda was adopted in June 2014 and was the product of a particular political context. The Prime Minister of Great Britain at that time, David Cameron, opposed the appointment of Jean-Claude Juncker as President of the European Commission and, as such, asked the European Council to draw up a document setting out the main directions of Juncker's mandate, which the British considered as being too "federalist".

The 2019 strategic agenda underwent a longer development process, involving more significant institutional elements, compared to those specific to the 2014 document. It attempted to highlight the unity of the European Union after Brexit and, at the same time, established a set of ambitious, and at the same time, vaguely formulated, political priorities that covered a wide range of areas: rule of law, security and defense, the achievement of the Banking Union and the Capital Markets Union, digital transformation, artificial intelligence, entrepreneurship, small and medium-sized enterprises, the European competition framework, climate neutrality, the energy market and others.

The process of drafting the Strategic Agenda is based on consultations between the leaders of the member states within the European Council, taking into account the analyses of the global context, the contributions from the European Commission and

resolutions of the European Parliament. The document reveals a political consensus among the member states, an aspect which sometimes makes its formulation a complex process, requiring the balance between national interests and the common objectives of the Union.

The agenda influences the allocation of financial resources (e.g. the EU multiannual budget), legislative initiatives and EU positions in international negotiations. For example, the European Green Deal was a direct consequence of the strategic priorities set in 2019.

For the period 2019-2024, the European Council defined the strategic agenda in June 2019 and pursued four priorities for the Union [3]: protecting citizens and freedoms; developing a strong and vibrant economic base; building a climate-neutral, green, fair and social Europe; promoting European interests and values on the world stage.

The EU Summit in Granada [4], Spain, in October 2023, represents the meeting in which the Strategic Agenda 2024-2029 was launched. This opened the way for discussions in the following months to develop the strategic agenda [5], coordinated by former President Charles Michel, through close collaboration with the leaders of the EU countries.

It is important to note that the strategic agenda is not a binding legislative document, but a political guide that directs the work of the EU institutions (the European Commission, the European Parliament, the Council of the EU) and of the member states. It integrates priorities from multiple areas – economic, social, environmental, security, foreign policy – to ensure a coherent and integrated approach.

The responsibility for implementing the Agenda lies primarily with the European Commission, which translates priorities into concrete policies, and with the member states, which implement them at national level. The European Parliament plays a key role in approving and monitoring these policies. The doctrine considers [6] the Strategic Agenda to be a document that is adaptable to unforeseen changes, such as geopolitical or economic crises. For example, in 2022, the EU adjusted its priorities to respond to Russia’s invasion of Ukraine, emphasizing energy security and military support.

Implications of the development of the 2024-2029 Strategic Agenda

The Strategic Agenda reflects the EU's commitment to promoting democracy, the rule of law, fundamental rights and solidarity, which is achieved both within the Union and in external relations, by supporting multilateralism and a rule-based international order [7]. This document sets out the EU priorities and its strategic orientations for a 5-year institutional cycle. More specifically, it guides the work of the EU institutions [8]. The work on the agreed priorities is taken forward by EU institutions and member states and is reflected within the Multiannual Financial Framework, the EU long-term budget.

The strategic agenda refers to the general role of the European Council, as it is enshrined in the Treaty on European Union (TEU), in Article 15, which provides that it is the one that gives the EU "the necessary impetus for its development" as well as "the general political directions and priorities" [9]. However, the development of a strategic agenda is not an attribution expressly stated in the Treaty, and the European Council has not been formalised with a fixed procedure or methodology.

The agenda is developed in the global and European context, addressing challenges such as climate change, digitalization, geopolitical tensions, migration, economic inequalities or health crises. For example, in the context of the war in Ukraine or the global economic competition, the agenda included measures for security, economic resilience and green transition.

The process of developing the 2024-2029 strategic agenda, launched at the informal meeting of the European Council in Granada on 6 October 2023, targeted the main priorities and actions necessary for a strong, dynamic, competitive and cohesive Europe in a changing world [10].

During the meeting, EU leaders noted the achievements to date and set long-term priorities for strengthening EU's strategic autonomy. The discussions culminated in the adoption of the Granada Declaration, in which they outlined the main priorities and actions aimed at transforming Europe into a strong, dynamic and competitive power. Thus, building on the work of previous meetings of the European political community, leaders also discussed ways in which Europe can become more *resilient*, more *prosperous* and more *geostrategic*.

In terms of method, it was essential to define the strategic orientations for the Union in a collective and inclusive way. The preparation of the strategic agenda required multiple efforts, both at the level of the European Council and at the level of the teams involved. The approach was based on close cooperation with the EU institutions, taking into account the work carried out to date. Particular attention was paid to factors such as: the new geopolitical context that brought enlargement back to the centre of debates; the enlargement process and the capacity of the EU to absorb new members; the implications of enlargement on various EU policies and their financing, and also on our decision-making methods.

In the months that followed (November 2023 - April 2024), EU leaders regularly discussed the direction and objectives of the EU for the years to come. Thus, consultations between the President of the European Council and the leaders of the member states took place in 2023 in Berlin (13th of November), Copenhagen (14th of November), Zagreb (16th of November) and Paris (28th of November), followed in 2024 by those in Vilnius (2nd of April), Bucharest (3rd of April), Warsaw (11th of April), Vienna (12th of April). Against this background, two meetings of the European Council were held, on 14th -15th of December 2023 and 21st - 22nd of March 2024, as well as an extraordinary meeting on 17th - 18th of April. The Strategic Agenda was subsequently adopted on the 27th of June 2024.

By referring to the documents that precede it, from 2014 and 2019, it was considered that the Strategic Agenda 2024-2029 is a “typical agreement package” [11], but without an action calendar, it has a rather ambiguous expression, given the complexity of the internal and external challenges that the European Union is facing, and the objectives are more likely declarative, without being accompanied by a prioritization of actions.

Moreover, analysing the form and manner in which it is developed, it is stated that the Strategic Agenda is not, despite its name, “strategic” [12], since a strategy mentions the objectives to be achieved based on a detailed plan of actions correlated with the use of clearly defined political, institutional and financial means, necessary for implementation. However, the fact that the Strategic Agenda 2024-2029 comes at a historical moment full of challenges for the EU should not be neglected.

Shaped around three pillars – *a free and democratic Europe, a strong and secure Europe, a prosperous and competitive Europe*, the 2024-2029 Strategic Agenda, sets out, in concrete terms, the priorities that the European Parliament, the Council of the European Union and the European Commission must put into practice in the next institutional cycle. The document mentions the objectives to be achieved. Thus, a free and democratic Europe pursues, as general objectives, among others: protecting the respect for the rule of law, strengthening democratic resilience, protecting the freedom and pluralism of the media and civil society, countering foreign interference and combating attempts at destabilization, and, at global level, promoting peace, justice, stability and democracy, universal human rights and the achievement of sustainable development goals.

A strong and secure Europe considers the importance of EU enlargement as a geostrategic investment in peace, stability and security, a stronger and more capable European Union in the field of security and defence, supporting Ukraine *"in its fight to preserve its independence and sovereignty and to regain its territorial integrity within its internationally recognised borders"*, expanding capabilities and strengthening the industrial and technological base of European defence.

A prosperous and competitive Europe has as its main objectives the strengthening of the EU long-term competitiveness, by strengthening economic sovereignty overall and in strategic sectors, and transforming Europe into a technological and industrial power. This entails closing the gaps that the Union faces in terms of growth, productivity and innovation compared to its international partners and main competitors. Deepening the single market, in particular in the areas of energy, finance and telecommunications, is another major objective of the Strategic Agenda. The European Union also aims to accelerate financial integration by achieving the Capital Markets Union and completing the Banking Union, while reducing harmful dependencies and diversifying and securing its strategic supply chains.

In concrete terms, the European institutions have started to put into practice some of the objectives set out in the Strategic Agenda. Thus, at the European Council meeting of 20th -21st of March 2025 [13], the priorities for the 2025 European Semester were considered and the invitation was launched to approve the Recommendation on the

economic policy of the euro area. It was also established that rapid and decisive progress is needed in developing an Economic and Investment Union, with a particular focus on the Capital Markets Union, to mobilise economies, unlock the necessary investments and accelerate financial integration, in order to support the competitiveness of the EU. The meeting also mentioned the progress made in implementing measures on migration.

The European Council held a first exchange of views on the multiannual financial framework and its own new resources. In essence, in support of innovation, investment, convergence, growth, connectivity and economic resilience, the European Council called for increased efforts at all levels to ensure a clear, simple and smart regulatory framework and to deliver rapid results in reducing administrative, regulatory and reporting tasks. These issues [14] are also reflected in its conclusions of April 2024, in the Budapest Declaration on the New Deal for European Competitiveness as well as in the Commission Communication entitled “Compass for Competitiveness” of 29 January 2025.

In the context of the challenges facing democracies in the European space today, the Polish Presidency of the EU proposed to draw up a set of Council conclusions on strengthening the democratic resilience of the EU [15]. The conclusions aim to strengthen the EU capacity to address current challenges to democratic resilience. These emphasise the importance of a whole-of-society approach, highlight the essential role of civil society organisations and underline the need for adequate funding of measures to strengthen democratic resilience. Other aspects of the conclusions include the need to support democracy through civic education programmes, cyber and media literacy campaigns and independent media, the importance of fair elections and the need for active responses to foreign manipulation of information and foreign interference, including disinformation.

The Council of the EU has started preparations for the European Council meeting on the 26th -27th of June 2025 by discussing an annotated draft agenda, which includes the issues to be addressed by the European leaders [16]: the war of aggression of Russia against Ukraine, the latest developments in the Middle East, the European security and defence, the EU in the world, competitiveness and migration. The preparatory work will continue at the next General Affairs Council meeting on 24 June 2025.

It can be seen that, at the EU level, efforts are being made to ensure the achievement of the objectives mentioned in the Strategic Agenda, with each institution having a specific role [17] in implementing the actions intended to lead to the achievement of these objectives.

Conclusions

The Strategic Agenda 2024-2029 bears the imprint of a historic moment full of challenges for the EU, when it must ensure and strengthen economic security, develop its defence capabilities, while reducing the public debts of the member states, protect the well-being of its citizens, achieve the climate and digital transition, in an international context marked by growing instability and increased strategic competition. The Agenda includes proposals and presents ambitious objectives, being considered a genuine instrument for real long-term political choices and consistent planning.

There has also been criticism [18] of the new EU Strategic Agenda for 2024-2029, partly due to its form and the way it is drafted, and also because it does not explicitly prioritise health issues, including the European Health Union Initiative (EHU). This omission has raised concerns among health organisations and publications monitoring European policies, who argue that health should remain a central element in EU strategic planning [19]. It has been argued [20] that this focus of the Strategic Agenda on broader objectives such as economic growth and security, while important, may diminish the need for dedicated health initiatives. Health advocates have argued that, without explicit commitments to health, the EU risks failing to achieve its objectives of building a truly resilient and healthy Europe. Thus, it is requested that the new European Commission reaffirm its commitment to the European Health Union and ensure that health remains a central pillar of EU policies.

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MANIFESTO FOR INTER- AND TRANSDISCIPLINARY RESEARCH

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Abstract:
The technological effervescence of today and tomorrow, the need for interconnection of sciences or the scale of phenomena such as globalization or universalism, already "settled" in the "echo" of the consciousness of the last generations, "awaken" in us, researchers, the desire to "reset" and rethink the act of creation but also the need to look "with different lenses" everything around us. This "metamorphosis" of socio-economic reality seems to "reveal" and "complete" what we today call interdisciplinarity or transdisciplinarity, in the idea of interweaving different ideas, from different fields, which are not excluded and which do not generate "a source of disorder" in science, but reconfigure the conceptual boundaries of disciplines and research.
Our research focuses on observing the phenomenon of inter- and transdisciplinarity in research, being inspired in turn by the writings of great researchers with affinity and openness to this vision.
Keywords: *interdisciplinary/transdisciplinary research, interference between branches of law, artificial intelligence, new branches of law and human rights.*

Introduction

"*By definition, there can be no transdisciplinary experts, only researchers with a transdisciplinary attitude. Transdisciplinary research can only be based on the various activities of art, poetry, philosophy, symbolic thinking, science and tradition, themselves understood in their multiplicity and diversity. They can lead to new freedoms of mind, thanks to transhistorical or transreligious studies, for example, to new concepts such as transnationality or to new transpolitical practices, inaugurating a transdisciplinary education and ecology*" [1].

Research, the sacred act of innovation, of the "sweat" of interpreting and deciphering the mysteries and "high notes" of science and sciences, claims its right to reset, to rethink the way words, interpretations or theories are born, researchers increasingly advocating the transdisciplinarity approach, defined by what is between, above and beyond any discipline. If we accept the idea of transdisciplinarity, we realize, in fact, the complexity of this "legislative world" but also the subtle links between disciplines, reconfigured more and more by the presence of artificial intelligence in our lives. Entering the realm of interdisciplinarity and transdisciplinarity reflects nothing but the need to adapt to the diversity and dynamism of developments, "mutations" and global challenges.

As stated in the Paris Declaration of 2-6 December 1991, "*the challenge of transdisciplinarity is to generate a civilization on a planetary scale that, consolidated through an intercultural dialogue, opens itself to the singularity of each individual and to the integrality of human being*".

Temporal incursion

"*How could we reach the heart of old and new cultures if we ignore, discard and/or silence their symbols, messages, creations and stories with which they captured and wanted to reveal and evoke their most beautiful deeds and ideals, as well as their violence, fears and deepest passions*?" So beautifully captures and dresses the late Pope Francisc this idea of maintaining the connection between all that has been said and all that will be said, between everything that researchers or writers have tried to "hide" in their words, and everything that we, researchers, today strive to "educate" hearts and minds, moving in the direction of "a free and humble exercise of our own rationality, of the fertile recognition of the pluralism of human languages, of the growth of our own human sensitivity, and, finally, of a greater spiritual openness to hear the voice through so many voices". [2].

Origins of *interdisciplinarity* are placed in the 1920s, in the United States, at which time the Social Science Research Council was created, with a view to promoting research targeting multiple disciplines. Thus, interdisciplinary programs were initially used in the

USA, being taken over by the UK and expanded as Bachelor's and Master's specializations and subsequently initiated throughout the European Community. [3]

Also, an important role in promoting interdisciplinarity was played by the National Science Teachers Association (NSTA), established in the United States of America, which elaborated in 1964 a list of fundamental concepts common to sciences in order to enrich the curriculum [4]. At the same time, UNESCO has played a key role in promoting the principle of interdisciplinarity, initiating at the beginning of the seventh decade projects based on integrated sciences.

A prominent epsiod in promoting interdisciplinarity was also represented by the report published in 1972 by the Centre for Educational Research and Innovation (CERI), structure of the Organization for Economic Cooperation and Development (OECD), a report that triggered a joint international effort in this direction, going on the idea of preserving the disciplinary identity, but without rejecting certain forms of conceptual, methodological integration, by addressing the following definition: "*Interdisciplinarity is an adjective that describes the interaction between two or more disciplines. This interaction can go from the simple communication of ideas to the mutual integration of organizing concepts, methodology, procedures, epistemology, terminology, data and the organization of research and education from a wide field of study. An interdisciplinary research group consists of people with training in different disciplines, with different concepts, methods and data, organized in a joint effort around a common problem, based on permanent communication*". [5]

Under the aegis of the OECD, many international conferences on the advantages, disadvantages of interdisciplinary research were conducted, working seminars were held in prestigious universities, activities that gradually led to the shaping and development of the principle of interdisciplinarity, the interdisciplinary route characterizing the peak of modern science and the revival of the educational system. [6]

The interest in promoting the approach of interdisciplinary education and research has also intensified through the establishment of organizations such as Association for Integrative Studies - AIS, International Association for the Study of Interdisciplinary Research - INTERSTUDY, Center for the Study of Higher Education, etc., made up of members from governments, industry, business area, specialists in various fields co-

opted from universities, which have focused on strengthening the methodology, interdisciplinary research strategies and approach of an interdisciplinary curriculum within the educational system.

Regarding transdisciplinarity, its foundations were laid in the framework of the Venice Colloquium, entitled "*Science and the Boundaries of Knowledge: the Prologue of Our Cultural Past*" and organized by UNESCO in collaboration with the Giorgio Cini Foundation on March 3-7, 1986 [7], at which point the idea was promoted that scientific research and knowledge have reached the point where a dialogue with other forms of knowledge can begin. Thus, the urgency of a truly transdisciplinary research was put at the forefront through a dynamic exchange between the "exact" sciences, the "human" sciences, art and tradition, such a transdisciplinary approach being inscribed in our own brain through the dynamic interaction between its two hemispheres. In this regard, the researchers concluded that "*the joint study of nature and imagination, of the universe and of man, could thus bring us closer to the dimension of the "real" and allow us to better face the various challenges of our time*".

The ideas of the transdisciplinary vision were consolidated at the Congress of "Science and tradition: transdisciplinary perspectives, openings towards the 21st century", held in Paris and organized by UNESCO from 2 to 6 December 1991, at which time it was proposed to build a new scientific and cultural approach -transdisciplinarity. [8] The ideas resulting from this Congress were translated into a declaration, called *The Paris Declaration,* UNESCO, 2-6 December 1991, in which it was noted that "*transdisciplinarity does not seek to build any kind of syncretism between science and tradition: the methodology of modern science is radically different from the practices of tradition. Transdisciplinarity is looking for points of view from which we can make them interactive. It seeks spaces of thought that value their unity while respecting their differences, especially thanks to a renewed conception of nature*".

The year 2025 marked 31 years of existence of the Charter of Transdisciplinarity, an immense joy and satisfaction for researchers thirsty for transdisciplinary vision. The Charter of Transdisciplinarity, adopted at the First World Congress of Trandisciplinarity, Convento da Arrábida, Portugal, 2-6 November 1994, promotes the idea of opening all disciplines to what they have in common and to what lies beyond their borders, in the

hope that a higher degree of analysis is reached, capable of interpreting the planetary complex dimension, so that humanity can face the contemporary danger of the material and spiritual self-destruction of our species, as affirmed by the researchers who promote and create through the filter of transdisciplinarity.[9] This document, developed by the greatest thinkers of the contemporary world, paved the way for numerous studies and made a huge contribution to the evolution of scientific research worldwide. Its rapporteurs were Lima de Freitas, Edgar Morin and Basarab Nicolescu. In order to achieve this goal, Basarab Nicolescu highlighted "*three pillars of transdisciplinarity - levels of reality, logic and complexity, which determine the methodology of transdisciplinary research*".

Thus, the promoters of transdisciplinarity invoke the interconnection between things, sciences but also complexity, in the sense that besides the analysis of the object itself, other aspects of the object are taken into account, namely the global context, the multidimensional, which in no case exhausts the object of research and does not cancel the disciplinary research, but offers a richer analysis when the elements of analysis are positioned in a complementary relationship.

In the spirit of promoting transdisciplinarity, Centre International de Recherces et d'Etudes Transdisciplinaires - CIRET [10] was also established, elaborating in collaboration with UNESCO "*The Transdisciplinary Evolution of the University"*, project whose foundations were consolidated in the International Conference "*Which University for Tommorow?*" in 1997. This is the moment that "seeded" in the vision of the great academicians the idea and the need to create an educational system based also on the transdisciplinary approach, being promoted the establishment of transdisciplinary research workshops and the elaboration of doctoral theses that aim to transpose the principles of the Transdisciplinarity Charter.[11] Moreover, CIRET constantly organizes conferences dedicated to world peace, education, spirituality and energy, through the immense potential of transdisciplinarity, through every contribution, every collaboration and every dialogue, this organization demonstrating its commitment to a more united, empathetic and, hopefully, wiser world.[12]

We must also consider *World Transdisciplinary Network*, at whose World Congress, personalities from all over the world, manage to introduce in the same "mixer" of analysis and research, peace, the universe, the human spirit, the human being,

biosphere, intelligence, culture, art and the perspective of the future. Thus, in a transdisciplinary dialogue that starts from a global vision of the human being, specialists manage to consolidate solid bridges between science, law, morals or faith, the law coexisting with all aspects and phenomena of socio-economic life.

Law remains a humanistic science, which evolves at the same time as people, by creating “channels” of coexistence with sociology, psychology, history, philosophy, morals and even religion. Moreover, the preamble of The Book of Transdisciplinarity reinforces the idea of a double belonging of the human being, namely, to a nation, but also to the Earth, this last aspect outlining the universal values and the need for balance in which the human being must find himself/herself with them. Let us therefore give the law the “right” to penetrate into all aspects of life, so that life in all its forms, nature, animals, human beings, enjoy respect, evolution and protection, the legal norms representing the “business car” of humanity. It is from them that our spiritual and moral values, as well as the degree of civilization reached, emerge.

The boundary between interdisciplinarity and transdisciplinarity. “Plea” for new research visions

If disciplinary research is characterized by “scientific rigidity”, the interdisciplinary approach stimulates innovation, creativity, the ability to analyze and connect concepts and ideas from different, even contrasting perspectives, developing new research areas that correspond to current social, economic and political interests.[13]

We must start from the premise that law is a dynamic phenomenon, constantly resized by the social, historical, cultural, moral, political and economic context, which gradually renounces the status of an autonomous, closed system, moving towards an open, integrative, interdisciplinary system, specific features. In fact, our century is a century of complexity. This vision is based on actual reality, complexity being “a state of the natural, social, human world”.[14]

Moreover, man is by nature a complex human being, which evolves in an even more complex world, which imposes an overall, integrative perspective but also a capacity to synthesize, in order to adapt and achieve a balance between the needs of the human being, the society regarded as a single whole with the specific implications of economic,

legislative, social, political, administrative, but also the environment characterized by its own universal rules. In this sense, we could refer to M. Djuvara who stated that “all history, all past, all social forces, language, economy, industry, trade, agriculture, politics, moral and scientific conceptions, compete to exert a strong influence on legal evolution, just as law exerts a strong influence on their evolution”. [15]

The research involves a rigorous path of knowledge, starting from the deepening of the disciplinary type, segmented, to understand the essence, then following the multidisciplinary, pluridisciplinary approach, juxtaposition of information, respectively interdisciplinary approach, which offers that integrative vision, synthesizing, up to transdiciplinarity, which involves overcoming disciplinary boundaries and the ability to work with concepts, theories or methodologies that are not actually specific to any discipline, branch. This high level of knowledge actually offers the opportunity to be able to respond in a favorable way to such complex global challenges.

The border between interdisciplinarity and transdiciplinarity is almost imperceptible, extremely “fine” in nuance.

The interdisciplinarity of scientific research creates a multiplication of perspectives, resulting in fragmentation of branches of law, cohesion with other sciences, setting up new institutions of law, new branches, ensuring a complex research of legal phenomena in an attempt to shape an all-encompassing legal order, capable of adapting to the dynamics of social, economic, administrative, environmental, health, etc.realities, triggers of the legal mechanism.

Basically, in the interdisciplinary approach, strict boundaries of different sciences, institutions are ignored and common aspects of different objects of study are identified, disciplinary boundaries are thus blurred.

Transdisciplinarity transcends all boundaries and creates bridges between people and disciplines.[16] This remains the highest degree of integration of the sciences, reaching the perfect merging between them and the “multifaceted” of the object subject to research until its integration and “disintegration” in the complex reality determined by the social, economic, political or cultural context.

Transdisciplinarity does not claim to be a hyper-science or a science of all sciences, but defends the existence of a unity of science that is achieved through

articulation between the plurality of research areas and the establishment of a true network in which each discipline retains its autonomy, but participates in a larger unity that represents the complex system.[17]

In a realm of the analytical approach, we tend to start from the premise that transdisciplinarity represents an abstract, purely theoretical, philosophical notion, but we cannot deny its profound, marked imprint on society in general, man by his nature being a complex human being, who lives, creates, builds and evolves in a world “hit by the magnitutdine of challenges”.

Moreover, new technologies, which subtly and surely penetrate everything that means legislation, economy, business environment, education, research fields and disciplines, certainly “unravel” the road to transdisciplinarity, [18] phenomenon capable of creating the necessary bridges between science, law and morals or faith, through a comprehensive view of reality.

We must also take into account the fact that at present the resonances of AI on research are revolutionary, inciting researchers to develop new methods or to combine them in an innovative way to “overturn” the paradigms of the science of law and to be fully consonant with the revolutionary trend of digital transformation, abundant in quantum computing software and applications.

For example, in the same “tones” of inter- and transdisciplinary research, researchers are increasingly talking about *jurimetry* [19], which comes from *jus, juris*-law, respectively *metrum*-measure, a method that involves the analysis of legal phenomena in relation to mathematics and statistical data, practically competing with AI, capable of storing huge amounts of data and instantly making statistics based on algorithms.

In any case, law is in itself a science, [20] and not just a documentation and interpretation activity, each “work” of jurisprudential or doctrinal nature contributing to the development of positive law, the stakes of scientific research being more complex and adapted to the new realities.

The research of today and tomorrow claims an analysis passed through the filter of the challenges of the globalized world, achieving “a nodal point”, a binder, between the object subject to research and its “anchoring” in the socio-economic reality, according to

the principle of “sphere in sphere”, the law being “a living instrument”, “shaped” and “reshaped” permanently by the given context.

Reconfiguration of traditional branches of law under the “impulse” of inter- and transdisciplinarity

The social and economic realities are constantly “reshaping” the normative form, the real context imprinting a slow or sudden transformation in the legal content, through fragmentation of branches of law, their mergers or break-up of some law institutions that gradually substantiate their status as a branch of law based on their own principles, procedures and resources.

Interdisciplinarity and transdisciplinarity are only answers to the diversity of changes, and the “decompartmentalization”, the “decomposition” of a discipline or even the “assembly” of a new one, are inevitable effects of globalization and interdependencies generated more recently by technological innovations, the law being after all “a living instrument”, having to adapt to the constantly changing realities.

In fact, disciplines interact in time and space, generating new disciplines, branches and fields of knowledge that involve many social, economic, technological, ecological, political, legislative factors, etc.

The traditional branches of law are gradually reconfigured, oscillating between fragmentation and fusion, which determines the emergence of new disciplines, fields, legal institutions, inevitably creating “bridges” between the legal sciences and auxiliary sciences through connections, transfers of concepts, ideas, methods and techniques of analysis, interrelations, interference, imposed by the exigencies of the legal approach in shaping the set of legal norms that retain their identity.

Law has been explored in all its hypostases, starting from the fundamental division, public law - private law, traditional division of legal systems that retain their actuality, followed by multiple ramifications under the impact of external factors. Thus, legal regulations have expanded and continue to expand in the most diverse areas of life, constituting branch legal sciences, such as civil law, commercial law, criminal law, administrative law, constitutional law, etc., branches that have fragmented in their turn into law institutions (Special contracts, Main rights in rem, Obligations, Administrative act,

Insolvency, etc.), legal orders, fragmentation continuing to produce other “legal pieces”, [21] and smaller ones of analysis, studied and in-depth individually.

In the tumult of this normative flow emerged sciences ancillary to the legal sciences, which, however, participate equally in the research of the legal phenomenon and its concrete application, namely: legal sociology, legal ethnology, legal anthropology, legal logic, legal psychology, legal economics, legal informatics, etc., these representing, in fact, interdisciplinary sciences. Therefore, law cannot remain singular in its approach, since it interferes with numerous other sciences and creates connections, interference, transfers of concepts, manifesting itself in diversity, from which it cannot evade and by virtue of which it oscillates between unification and specialization.

Perhaps fragmentation gradually produced a phenomenon of absolutization of research by approaching a complex perspective. However, many legal institutions have managed to define themselves and create their own rules and principles, thereby breaking away from a particular branch of law and gradually claiming the title of branch of law. Such examples are: electoral law, detached from constitutional law, environmental law, public health law, urbanism law, detached from administrative law or maritime law, negotiable instrument law, transport law, competition law, insolvency law, detached from commercial law.

Moreover, “crossing” the traditional jurisdictions, the legal norm has undergone new “constructions” due to interference with international, Union norms of law, the birth of international law, European Union Law, Corporate Law, international arbitration, cross-border insolvency, etc.

The complex research of legal phenomena is the one that ensures the dimension of synthesis and deepening, by exceeding the level provided by the branch sciences.[22]

The boundary between a branch of law and an institution can often be imperceptible, which is a controversial topic in the literature. The shaping of a new legal discipline, or even of a real branch of the legal system, knows a thorough and long-term path, such as that of the insolvency institution, which gradually manages to impose itself with a new status, going beyond the stage of a legal institution crowned by the provisions of the Commercial Code, with its repeal and the entry into force of the New Civil Code, a

revolutionary moment that marked the affirmation and evolution of special, particular rights.

We must admit that gradually new branches of law will be born, one of them being certainly the law of artificial intelligence, the start of testing such a "coagulation" of regulations being given by French professors researchers of the University of Paris and Sorbonne [23], meaning in which they declared it as a stand-alone law, built by virtue of their own principles and institutions of operation that touches areas such as ethics, persons law, liability and insurance law, autonomous vehicles, justice, criminal law, intellectual property, personal data, labour law, health law, military law, administrative decision-making and cyber security, blockchain, civilian drones and even international law.

New branches of law and new rights that "revolve" around the hard core of AI (artificial intelligence) regulations

Around the hard core of AI (artificial intelligence) regulations, outlined by *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence* [24] and *Council of Europe Framework Convention on AI and Human Rights*, [25] as the first international treaty on AI, new branches of law or special rights related to robotics, autonomous vehicles will gradually emerge. These two normative acts, one related to the Union and another international, which have merged, we would say, into the "hard core" of AI law, foreshadow new milestones, stimulate the consolidation of new human rights and open horizons to a new world legal order, which will mark human existence in the coming period. The mission of law will be to adapt at a rapid pace to the new metamorphoses of the legal equation.

All these "metamorphoses" of rights will generate, will foreshadow new principles and concepts, new challenges in rethinking the "world of law subjects", new challenges in shaping other categories of human rights, such as "*the human right to the beneficial use of artificial intelligence*", "*the primal right to existence of man as a species among species*" and new interferences between the branches of law, the researchers foretelling the birth of a new branch of law, that of AI, as a multidisciplinary scientific discipline. [26]

Preserving the “picture” of these emerging interdependencies that cause a reassessment of how domains and disciplines influence each other, researchers [27] speak of a new branch of law called *international corporate governance law*, particularly targeting the interference of digital transformations with transnational businesses, society and the environment. In this sense, corporate governance is no longer so far from international law, but penetrates law into the midst of legal, political and societal phenomena of visible interference. Such a path could have, why not, also the development of a *digital economy law*.

Therefore, law is forced to conceptualize new links, to contribute to the evolutionary actions of the economic-social system, to face different forms of crisis, all branches of law being permanently “connected” to the same circuit although they can function autonomously. The lack of a permanent connection to socio-economic evolution would cause legal norms to remain without form and meaning.

It is obvious that the fourth scientific-technical revolution, which outlined a new reality, a reality of humanoid robots, of Metaverse or quantum computing, but also the new context of geostrategic re-establishment, generated by demondialization and the creation of new power poles, triggered the need of society to adapt quickly to this complex picture by identifying the “new legal”, well “articulated and coagulated” so as not to “slip” into the abyss of the chaos of humanity.

This “new legal construct”, this normative corpus “unveiled” by the reality generated by AI, was also debated at the last Action Summit on AI which was held on 10-11 February 2025 in Paris, during which Paris became the “world capital of artificial intelligence”, through the induced orientation and the positions expressed laying the foundations of the global governance in the matter and shaping, at the same time, the continental legal model, which becomes the founding core of the law of artificial intelligence, a law based on its own principles and functioning institutions, which will in turn generate the crystallization of new branches of law. [28]

The world AI Summit in Paris created the favorable context for the conclusion of the *Statement on Inclusive and Sustainable Artificial Intelligence for People and the Planet* and affirmed and reinforced the importance of the legal dimension in “mastering”

and keeping under the control of humanity of AI (r)evolution, through everything that means international law, humanitarian law, human rights.

However, extremely radical mutations of law are looming, the last years being evidence of an “avalanche” of regulations and a “technologization” of law. And here we consider *Digital Service Act, Digital Market Act* or *AI Act*, an ambitious strategic plan for the development of a regulation on quantum chips - *EU Quantum Chips Act*, [29] all these legal instruments being of the type *hard law* and no *soft law*, which once again reinforces the importance and urgency of such less flexible regulations in implementation and application through transposition at national level. The new regulations underline the need for a global reflection on the interference between AI and international law, intellectual property law, consumer protection, but above all interference with humanitarian law and human rights.

At the same time, let’s not forget that on 22 September 2024 the UN General Assembly adopted *The Global Digital Compact* [30] as part of *The Pact for the Future*, together with the Declaration on Future Generations, setting out the objective principles and general actions to be taken to ensure an open and secure digital future centered on the human being, aligned with the UN Programs and Charter.

Moreover, new fundamental rights such as digital rights, neurorights, digital human rights in the context of AI challenges, the human right to the beneficial use of atificial intelligence, the primary right to existence of man as a species among species, the right to security from the risks of AI technologies, the human right and responsibility to control an AI [31], the right to a sustainable AI [32], the need to reconfigure traditional branches and institutions of law being increasingly present in doctrinaire and jurisprudential concerns.

It will require a constant creative effort, “articulated” by the given context, on a “changing terrain” of legal norms in a process of “remodeling”, resetting and multiplying. In fact, the last few months have triggered a real legislative inflation under the “domination” of AI.

Conclusions

"*Who truly learns to see, approaches the invisible*!" [33]

We have to overcome the narrow framework of monodisciplinarity in favour of innovation and creation "reborn" from transdisciplinary approaches, this being the new reality in which legislation is emerging and reforming.

It is said that once you connect to "this frequency of research", it becomes part of the way of looking at the world around you, it becomes part of your way of being, it becomes a "way of life" of the researcher and why not, a way of life of the student, Master dtudent, Doctoral student and subsequently, the professional, who will seek "intensity and colour" in the subjects studied and thus deepened in a holistic manner, by integrating any idea into the absolute.

This high and refined level of knowledge is becoming the answer to increasingly complex global challenges. The transdisciplinary vision is felt, not imposed, it is discovered and gradually sedimented, through the inevitable acquisition of a new attitude towards research and knowledge. We must give that space to the complexity of human nature in its dimension, which is not only rational, but also emotional.

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SERBIA IN THE FIRST WORLD WAR AND THE PARIS PEACE CONFERENCE

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Abstract:
In June 1914, the Austro-Hungarian army held military maneuvers in Bosnia that simulated an attack on Serbia. Austro-Hungarian heir to the throne Franz Ferdinand, together with his wife Sofia, visited Sarajevo on Vidovdan. Members of the secret revolutionary organization Mlada Bosna, which opposed the annexation of Bosnia and Herzegovina, understood this act as a provocation of the Serbs, and guided by that idea, they organized the assassination of the Archduke. The assassination of the Austro-Hungarian heir to the throne was entrusted to Nedeljko Čabrinović, Trifko Grabež and Gavril Princip, who carried it out on Vidovdan, June 28, 1914. After hard battles and victory in 1914, all members of the Central Powers attacked Serbia and retreated to Corfu in Greece. Serbia broke through the Thessaloniki front in 1918 and directly influenced the capitulation of the great powers. The Paris Conference in 1919 was supposed to resolve relations after the war and establish a more lasting peace.
Keywords: *Paris Conference, World War I, decision, power*

1. World War I in Serbia

The assassination of Franz Ferdinand was taken as the reason for the outbreak of the First World War. [1] Although the investigation did not prove the involvement of the Serbian Government in the assassination in Sarajevo, Dragutin Dimitrijević Apis, head of the intelligence department of the Main General Staff of the Serbian Army, participated in its preparation. Using his position in the military and leadership in the Black Hand, Apis built a network of confidants. [2] Franz Joseph insisted on a strong reaction towards Serbia, considering that the monarchy was attacked by this act. The war against Serbia was already defined on June 30, 1914. The Prime Minister of Hungary, Istvan Tisa, requested that no action be taken until the investigation has established the involvement

of the Serbian Government in the assassination. Regarding the war, Austria-Hungary consulted with Germany in everything. Berlin believed that there were extremely high chances that the war with Serbia would turn into a world war, while part of the Austro-Hungarian society was under the delusion that the war would be of a local character. The decision to use the assassination to start the war was made at the meetings of the Joint Ministerial Council on July 7, but it was then advocated that Serbia should be reduced, not destroyed. On July 23, MP Baron Vladimir von Giesl delivered an ultimatum to the representative of the Serbian Prime Minister, Lazar Paču, Minister of Finance. The Serbian government was given a deadline of 48 hours to respond to it, with a note that the response could be "accepts conditions" or "does not accept". The ultimatum was worded in such a way that no European government could accept its terms. On July 25, the President of the Serbian Government, Nikola Pašić, submitted the answer to the Austro-Hungarian representative. On the same day, in the evening hours in Vienna, an order was issued on partial mobilization against Serbia and Montenegro, and a month after the assassination in Sarajevo, on July 28, Austria-Hungary declared war on Serbia in an open telegram. [3]

The alliances and secret agreements between the great powers grew into two opposing military alliances: the Central Powers (Germany, Austria-Hungary, Italy until the Treaty of London when it sided with the Central Powers, Bulgaria and the Ottoman Empire) and the Entente (Russia, France and Great Britain). [4] Entering the war, the Serbian state could mobilize between 350,000 and 400,000 soldiers. [5] The army was organized into three armies, the Užice army and the defense troops of the city of Belgrade. The supreme commander was the regent Aleksandar Karađorđević. At the head of the Supreme Command was Duke Radomir Putnik, while his deputy was General Živojin Mišić. The First Army was commanded by General Petar Bojović, the Second Army was commanded by General Stepa Stepanović, the Third Army was commanded by General Pavle Jurišić Šturm, and the Užice Army by General Miloš Božanović. The Austro-Hungarian army designated its Balkan army (Fifth and Sixth Armies) commanded by General Oskar Poćorek for the attack on Serbia. The Serbian Supreme Command expected the main attack from the north, across the Sava and Danube, but it was carried out across the Drina. The operations of the Austro-Hungarian Balkan army with the aim

of crushing the Serbian resistance by conquering Valjevo and Užice began on August 12, 1914. The first blow was accepted by the units of the Third Army. On the night between August 15 and 16 near the village of Tekerish, on Mount Cer, a battle took place that surprised both sides. The next day, on August 16, Serbian units inflicted a decisive defeat on the Austro-Hungarian army. The Battle of Cer ended on August 20 with the defeat of the Fifth Austro-Hungarian Army and its withdrawal to Bosnia.

After the victory at Cer, the Supreme Command launched broad offensive actions towards Austria-Hungary. On September 6, the units of the First Army crossed the Sava and penetrated into Srem, surprising the enemy who managed to destroy one part of the units of the Second Army and capture another. Units The first armies entered Zemun, conquered Nova Pazova and came close to Inđija and Ruma. During September, units of the Second Army withstood the attack of the Fifth Austro-Hungarian Army. During that time, the Sixth Army managed to occupy the area between the Jadra and the Drina. In the following days, heavy battles were fought on Gučevo and Mačkov kamen.

The new Austro-Hungarian offensive began at the end of October, with the attack in Macva. In November the situation was very bad because the Allies did not send help in arms and ammunition. On the night of November 14-15, Serbian units crossed Kolubara and established a new line of defense (Kolubara - Ljig - Maljen - Užice). At the end of November, the Supreme Command entrusted the leadership of the First Army to General Živojin Mišić. The decision to shorten the front line turned out to be extremely important. In this way, he got time for the rest of the soldiers and the consolidation of the units. On December 3, Živojin Mišić ordered the army to launch a counterattack. The decisive battle took place at Suvobor and Kolubara. After the victory in the Battle of Kolubara, the Allies stopped the pressure on Serbia to cede part of its territories to Bulgaria. [6] Most of the murders by the Austro-Hungarian army were committed in Macva, Jadr and Posavina.

At the time of receiving the declaration of war, Serbia had only two formal allies: Montenegro and Greece and "cooperated closely with Russia". [7] Greece would provide assistance only in the event of a Bulgarian attack on Serbia. In addition to the demands of the Allies to cede part of the territories won in the Balkan Wars to Bulgaria, the Allies

also conducted negotiations with Italy and Romania, which were promised territories at the expense of Serbia (the Eastern coast of the Adriatic and the Banat). [8]

At the beginning of September, the position was formulated that "a strong south-western Slavic state should be created from Serbia, which would include all Serbs, all Croats and all Slovenians". The sketch of the new state was drawn up on September 21, and at the end of October a part of the program on the internal organization of the future state was created, which would be a constitutional and centralist monarchy with a joint government and assembly. [9] The turning point was the Niš Declaration. On December 7, the Government of the Kingdom of Serbia made a statement in the People's Representative Office in which, among other things, it is stated that "the only task is to ensure the successful conclusion of this great war which, at the moment it began, became at the same time a struggle for the liberation and unification of all our unliberated brothers Serbs, Croats, and Slovenes." [10]

Serbia entered 1915 devastated and very weak. During 1915, numerous problems arose. Some of them are: huge human losses, shortage of ammunition, epidemic of infectious diseases, ruined economy, increasing indebtedness. Retreating, the Austro-Hungarian soldiers left typhus behind which spread very quickly and mortality was high. The fight against the epidemic was helped by allied countries, but help also came from neutral countries.

Petrograd agreed to negotiations with Italy after the confirmation of the British government that it agrees with the cession of Constantinople and the Straits to Russia, and France joined it. The negotiations between the Entente members and Italy ended with the signing of the secret London Treaty on April 26. Italy was promised South Tyrol, the Julian Territory with Trieste, Gorizia and Postojna, Istria, the Kvarner Islands, northern Dalmatia up to Cape Planka with Zadar and Šibenik, and several Adriatic islands, while in Albania, Wallona and the island of Saseno were to belong to it. The Serbian Government was not officially informed about the start of negotiations or about the conclusion of the contract. [11] The Treaty of London became one of the biggest obstacles in the process of creating the Yugoslav state. The agreement concluded by the Allies with Russia on the issue of Constantinople and the agreement signed with Italy formed the basis on which two military operations were prepared - the attack of the Italian they formed

the basis on which two military operations were prepared - the attack of Italian troops across the Alps on Austria-Hungary and the British-French operation in the Dardanelles. It turned out, however, that none of those offensive actions produced the desired result. [12]

Serbia was still required to hand over part of Macedonia to Bulgaria. On September 1, the Serbian government declared that it was ceding the territories requested by the allies to Bulgaria on the condition that it "attack the Ottoman Empire with all its forces in the shortest possible time and that the allies promise that Croatia and Rijeka will unite with Serbia, that they will be freed from Slovenian lands with the right of self-determination and that Serbia will receive a part of the Banat". [13] The Bulgarian government simultaneously negotiated with the Central Powers, deciding to accept their offer - all of Macedonia and parts of Serbia up to Velika Morava. [14]

Germany joined the Balkan battlefield, whose troops were commanded by German Field Marshal August von Mackensen. On October 14, Bulgaria declared war on Serbia and, as part of military operations towards Skopje, cut the Nis-Thessalonica railway and prevented the withdrawal of the Serbian army towards Greece. The Serbian government was forced to leave Niš and retreat to Raška, where it spent the second half of October and the first half of November 1915. Unable to withstand the attacks of Mackenzie's armies and the Bulgarian army, the Serbian army began its retreat through Montenegro and Albania towards the Adriatic Sea on November 12, and the last units left Serbia on November 28. [15]

Together with the members of the Serbian Government headed by Nikola Pašić, parliamentarians, high government officials, cultural and public workers and a large number of refugees, foreign diplomats also crossed the Albanian mountains. [16]

The allies were asked to deliver food and military equipment to the places where the Serbian army was moving, since it was planned that they would be ready for new battles a month after the crossing of Albania.

A remarkable battle took place near Mojkovac on January 6 and 7, 1916, when the Montenegrin army under the command of serdar Janko Vukotić won a victory that prevented the Austro-Hungarian offensive from the north and east. On January 23, King Nikola II Petrović of Montenegro concluded and signed the capitulation agreement with

Austria-Hungary on January 25. The Serbian army retreated through Albania in three directions. The first was Peć - Andrejevica - Podgorica - Skodar, the second Prizren - Ljum Kula - Spis - Fleti - Puka - Skadar - Lješ, and the third Prizren - Ljum Kula - Piškopeja - Debar - Elbasan. [17] The government reached the Albanian coast on November 30, and the regent Aleksandar Karađorđević a day later, while the Serbian Supreme Command was transferred longer than planned and reached the coast on December 6. The main part of the army and the people arrived in the area between Shkodër and Durres at the beginning of January 1916. The evacuation of the Serbian army from Durres began on January 6. The number of soldiers that had to be evacuated was large and the Albanian ports had a small capacity, the allies demanded that the embarkation be done in Valona. Later, the organization was taken over by the French Navy. Serbian soldiers were transferred to the islands of Corfu and Vido only at the end of the month. The civilians were transferred to Bizerte, a French port in Tunisia. There is still no consensus on the exact number of evacuees.

At the end of the spring of 1916, the Serbian army was transferred to the Thessaloniki front, where it fought with the British and the French. In the autumn of 1916, after fierce fighting, she captured the mountain top of Kajmakčalan, and then Bitola. The front settled down and did not move for the next two years.

In February 1917, an armed uprising broke out against the Bulgarian authorities - the Toplic uprising. The uprising affected the territories of Toplica and Jablanica, southern Pomeranian Voivodeship, the Kopaonica and Kruševac regions, and parts of eastern Serbia. The population fleeing the Bulgarian mobilization took refuge in the forests, where they joined the Chetnik detachments. Kosta Vojinović and Kosta Milovanović from Pećanac were at the head of the uprising. Kuršumlija, Lebane, Prokuplje and Blace were liberated. The uprising was crushed by the end of March 1917. Punitive expeditions killed around 20,000 Serbian civilians.

In mid-September 1918, the Entente forces launched an extensive offensive on the Thessaloniki front. On September 25, Serbian units liberated Skloplje and Štip and crossed the Vardar. This led Bulgaria to capitulate on September 29. The victory over the German units was won on October 12 near Nis. By November 1, the whole of Serbia was liberated, and then the pursuit of the enemy across the Sava, Drina and Danube rivers

continued. On the Salonica front, two volunteer divisions, composed of soldiers from the Austro-Hungarian army that fought on the eastern front, as well as volunteers of Serbian and South Slavic origin who arrived from America, fought as part of the Serbian army.

Austria-Hungary capitulated on November 3, 1918. With the capitulation of Germany on November 11, 1918, the First World War ended. At the peace conference in Versailles, treaties were concluded with the defeated countries, Germany was designated as the main culprit for causing the war, new states were recognized, new borders were drawn and the League of Nations was founded. The First World War brought down four great empires - Germany, Austria-Hungary, Russia and Turkey. All these states became republics.

There are different data on the total human losses of Serbia in the First World War. Immediately after the war, it was considered that the losses of Serbia amounted to about a 1.370.000 people, and about 370,000 military and other civilian victims. According to the estimate of the SHS delegation at the peace conference in Versailles, Serbia's war damage amounted to 7 to 10 billion gold francs, which was half of its total national assets at the time.

On December 1, 1918, the creation of the Kingdom of Serbs, Croats and Slovenes, the first South Slavic state, was proclaimed.

2. Peace Conference in Paris

At the end of the war, the allied and associated countries were faced with major political, economic and social problems which, above all, demanded the conclusion of peace treaties with the defeated states as quickly as possible and the determination of the borders of the new states that were created by the collapse of the empires. One of the most important tasks was the reconstruction of the economy and the mitigation of the sharp social contradictions that arose as a result of the war, in order to reduce the dissatisfaction of the broad masses of the people and the working classes.

When in the autumn of 1918 it became obvious that the war was coming to an end, the representatives of the Entente and the allied powers met in the Trianon Castle to decide on the new situation. They concluded that decisions on the foundations of international life will remain in the competence of the great powers and that it is necessary

to reconcile the secret treaties concluded during the war and Woodrow Wilson's Fourteen Points in order to find solutions to current problems. Under the influence of the President of the USA, the Entente powers accepted to take the Fourteen Points and their amendments, which were adopted by the American Congress on July 4, September 27 and October 21, 1918, as the program basis of the Peace Conference. Accepting Wilson's ideas meant agreeing with several basic principles: the principle of public diplomacy, the principle of self-determination, the principle of equality of all peoples, the principle of determining strategic boundaries, the principle of vital economic interest and the principle of historical law.

In addition to the victorious countries, some neutral countries, as well as Russia, could not participate in the conference. The participants were divided into two groups. The larger group consisted of small and medium-sized countries and this group had only limited rights. Their representatives could submit proposals and give notices, participate in plenary sessions and accept decisions. The smaller group consisted of five large countries: USA, Great Britain, France, Italy and Japan. All decisions were made by these five states. Representatives of the five powers made up the Supreme Council, the highest body of the conference, in which the heads of delegations and foreign ministers had the status of full members. At the end of March 1919, the presidents formed a narrow body in order to deliberate more secretly. Most of the decisions were in the hands of Georges Clemenceau, David Lloyd George, Woodrow Wilson and Vittorio Orlando. The presence of countries from only one camp at the conference did not mean that their interests were aligned. On the contrary, all countries, especially the great powers, came to the conference with separate and conflicting demands. [18]

The official opening of the conference was held in the castle of the French kings in Versailles on January 18, 1919, and was officially opened with a speech by the president of the host country, Raymond Poincaré. About ten days earlier, the delegations of the participating countries started arriving in Paris, and the heads of the delegations of the USA, Great Britain, France and Italy held a preliminary meeting in the building of the French Ministry of Foreign Affairs on January 12, 1919, when they agreed on the agenda and the way of working at the conference. [19] The conference sat continuously for a year and consisted of two phases. The first phase was from January 18 to June 28, 1919,

when the peace treaty with Germany was prepared and the League of Nations was founded. The second was from June 28, 1919 to the middle of January 1920, when contracts were prepared with other defeated countries - Austria, Hungary, Bulgaria and the Ottoman Empire, and disputes between the victorious and new countries were resolved. The first phase was marked by American and the second by Anglo-French influence in the work of the conference. More than 30 allied and associated countries participated in the conference, but their actual participation in the work of the conference was formal. The major powers refused to discuss the most important issues in plenary sessions. In the first phase of the conference, seven plenary sessions were held. The most important issues were resolved by the great powers, and others were only informed about it. The body of the Council of Ten consisted of the heads of delegations and foreign ministers of the five great powers. The Japanese delegation took part in the discussion only when it came to the Far East. The work of the Council of Ten was ineffective for two reasons. The representatives of the great powers did not want to express their true views in the presence of a large number of people, but did so in the private contacts of the heads of delegations. Another reason was the longer absences of the most prominent personalities. From March 1914, the most important issues were decided by the Council of Four - the Supreme Council, in secret meetings. In addition to the Council, there were also five ministers of foreign affairs who discussed the issues entrusted to them by the heads of delegations. Important bodies that prepared materials and proposed decisions for each problem for the Supreme Council and the Council of Ministers of Foreign Affairs were the expert commissions. The most important among them were: the Commission for Territorial Affairs, the Commission for the League of Nations, the Commission for War Responsibility, and the Reparations Commission. [20]

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TRANSPARENCY AND PUBLICITY OF PROPERTY RIGHTS

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Abstract:
The protection of property rights and the imposition of standards of publicity and transparency constitute an intrusion or a necessary and equitable manifestation in a test of proportionality in a democratic society in the conditions of the exercise of the attributes of property by subjects other than those who have certain obligations given by the exercise of a public office. The certainty and predictability of legal norms in the social exposure of property is absolutely and impetuously necessary in the context of the defense of property rights.
Keywords: *property rights, publicity and transparency of property rights, social exposure of property rights.*

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Introduction

The right to property is one of the fundamental human rights, benefiting from extensive normative regulation in international, European [1] or national legal instruments, but any right, even fundamental, is subject to forms of exercise, adapted to the needs of the society that protects it.

Starting from the reality that the right to property is a fundamental right that has the greatest correspondence in private law [2], for efficient protection it is necessary to know and enforce this right against third parties.

Depending on the real estate or movable nature of the asset whose ownership is being analyzed, the system of publicity and opposability is different, so if in the case of movables it is sufficient to establish a presumption of ownership for the owner, completed with a register of movable guarantees, within real estate a system of publicity of the right of ownership has been established, in our country, this being ensured by the land books.

Beyond the publicity and opposability of the right of ownership, in special and expressly regulated cases, society, as a reaction to transparency in the good management of public funds, has also imposed a series of measures of good governance and management of public funds, requesting specialized subjects to make the patrimony

transparent from the moment of access to the situation of impact on public funds and until the completion of this legal situation.

In some cases, for reasons related to the need for better management of public funds, the legislature has enacted legal norms that extend transparency measures beyond the qualified subject who manages or is paid from public funds and to some members of their family.

Like the legal situation of extended confiscation, this legal situation calls into question the extension of justified measures towards the holder of a property right and towards third parties towards the acts of the legal entity that generate the social and legal impact.

A recent decision of the Constitutional Court of Romania [3], although it clarifies certain aspects, gives the legislator the task of reconciling the need for transparency of property with interference with the property rights of other persons in the family of the person subject to the transparency procedure, a fact that argues, from my point of view, the need for as many analyses and proposals as possible in order to achieve the goal of predictable and efficient legislation, which are also the objectives of this study.

Transparency of property rights in national legislation

Law no. 176/2010, although it was previously subjected to other analyses by the Constitutional Court, on the occasion of which the legal norm was deemed constitutional, as an example we indicate Decision no. 651/2022, no. 309/2014 etc. through a decision not published at the time of this study, was assessed in a revival of jurisprudence as being unconstitutional regarding part of the publicity of the statements of those exercising public functions.

The decision focuses on two aspects considered unconstitutional:

The first aspect would be the one related to the unconstitutionality of the obligation to make a declaration for the assets of the husband, wife and adult children in maintenance. Without prejudice to the proportionality test stated in the press release of the constitutional court, I appreciate that beyond the impossibility of assuming a declaration on the assets of other persons even if they are part of the families in maintenance of the declarant, there are other aspects that justify the adopted solution.

These relate to the very ambiguity and lack of efficiency of the legal norm, which is also this aspect retained by the court.

First of all, the legislation does not take into account the possibility of separating the assets between spouses, as it does not take into account the situation of the declarant's life partners, and here perhaps there would be an argument in support of the introduction of civil partnership, which nevertheless requires further analysis and discussion. At the same time, the segregation of the situation of adult children in maintenance from those of age who are not in maintenance of the declarant is even questionable. The existence of maintenance and the right to own property do not require an interdependence of declaration, the situation of the adult child but not in maintenance not justifying a difference in legal treatment.

Beyond the above, it is correct not to require a declarant under criminal penalty to make a description of the assets of a third party even if they are a close family member but an adult. The state of majority implies a natural separation of assets, in some cases affectivity, however, it is not fair and proportional for an adult to assume the evidence of the assets of another adult.

In another line of thought, the issue of transparency of the assets, including the declarant's, is not justified on constitutional grounds since the exposure is not necessary, the constitutional court considers.

Here we cannot fail to note that the system of advertising real rights over immovables ensures sufficient transparency over the assets of the declarant or their family members. Just as we cannot fail to note that patrimonial transparency over movable assets cannot be satisfied with current public means.

Or precisely here there is and is necessary a special attention to the equalization of the public interest with the private one, following that the legislative will analyze this right of transparency not through the objective access of only one or some interested categories but through the perspective of an efficient public access.

In all the criticisms expressed after the Constitutional Court's decision, what is claimed is in fact not only the principle of transparency but of the accessibility of information with public impact [4]. And it is true that the "guardian of democracy" or “watchdog of democratcy” [5], namely professional and decent journalism, is deprived of

means of information, analysis and presentation of some slip-ups. Here we specify that the criminal investigation organs, the ANI inspectors, undoubtedly still have access to declarations and very importantly to means of verification and analysis of movable and immovable property, here we mention access to tax declarations, accounts, land registry extracts, etc. but for other categories this access is suppressed for the most part, mainly due to regulations regarding the protection of personal data.

And we can say that it is absolutely difficult to create a legal framework that would allow journalists and other potentially interested persons access to at least identification data of persons, let alone of the patrimony that needs to be identified by owner.

What is evident at the current national level is that without any possibility of guaranteeing a margin of access, cumbersome and quite inefficient, exists, in terms of advertising movable and immovable property, but we can also say here that an analysis or "journalistic investigation" is obviously unlikely to succeed.

Without setting ourselves up as the defender of journalism, we cannot help but notice that it does not benefit from a clear, predictable and effective framework of access to what the constitutional review court has imposed, perhaps transforming itself into a positive creator of legislation, by declaring unconstitutionality, respectively maintaining the obligation to submit personal statements to ANI.

Conclusions and proposals for lege ferenda

However, what will pose a problem to any attempt by the legislature to reconcile the principle of transparency as it has been analyzed and constitutionally resolved with the constitutional provisions but also with the rest of the legislation will be access to personal data.

Although we have a specific and comprehensive legislation, there are specific situations that need to be resolved.

In the present case, the issue of access to declarations of assets and interests filed with ANI, this obligation still subsisting personally, could be resolved by granting accreditations to those interested with clear obligations regarding access, dissemination and deletion of the applicant's personal data.

The same accreditation, with access possibilities according to name criteria, should also be granted to all databases that ensure the publicity of movable and immovable property rights, thus ensuring a necessary balance between all those involved.

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THE RULE OF LAW AND THE GENERAL CONTROL OF THE APPLICATION OF THE CONSTITUTION IN CONTEMPORARY CONDITIONS

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Abstract:
The control of the constitutionality of laws is one of the legal guarantees of the supremacy of the Constitution. This control is included in the principle of equality, because normative acts must be developed according to a predetermined procedure and the Constitution, on the one hand, and on the other hand, the law, including the Constitution, must be respected by all state bodies. Control is understood as an activity of verifying the application of the principle of conformity of the law with the Constitution and as an institution of constitutional law, which includes rules brought together due to the same regulatory object. Only the law, as a legal act of the Parliament, as well as normative acts with legal force equal to that of the law (ordinances, decree-laws) are subject to control. Administrative documents are not subject to this control because they are issued in the execution of the law.
Keywords: *Constitution, state, right, law, control, separation, powers*

In contemporary conditions, the concept of the rule of law as the only alternative for the development of states in accordance with the authentic social values of contemporary societies has been particularly updated. In this context, the rule of law can be understood as a political-legal concept that defines a form of democratic government regime from the perspective of the relations between the state and law, between power and law, by ensuring the rule of law and fundamental human rights and freedoms in the exercise of power.[1]

The theory of the rule of law first postulates the administration's submission to the law: the executive must obey the rules that constitute the foundation, framework and limits of his action; obedience, guaranteed by the existence of a control exercised either by the ordinary judge or by special courts.[2]

The rule of law as a historical reality and concept presents indisputable requirements and certain advantages as a contemporary value, being at the same time perfectible, in relation to historical experience and trends of social progress.[3] Thus, in the Constitution of Romania, in article 1 paragraph (3) it is provided that: *"Romania is a state of law, democratic and social, in which human dignity, the rights and freedoms of citizens, the free development of the human personality, justice and political pluralism represent supreme values and are guaranteed."*

The general control of the application of the Constitution is the essential condition of the rule of law, because in its absence the Constitution has only a symbolic importance. The control of the constitutionality of laws is an organized activity of checking the conformity of the law with the Constitution.[4]

The idea of the constitutionality control of the laws appeared against the background of the development of the constitutionalist movement, from the need to ensure the guarantees that make the mandatory superior force of the Constitution respected in relation to the public powers and the acts issued by them.[5]

The principles of law are the expression of the values promoted and defended by law. Thus, values are of interest to the legal order both in the process of creating law, since the legislator constructs the legal norms in this axiological space, as well as in the process of realizing the law, the values thus promoted being defended by effective legal means.[6]

The general control of the application of the Constitution is the essential condition of the rule of law because in its absence the Constitution has only a symbolic importance. In contemporary constitutionalism there are two guarantees by which the balance between powers is obtained and preserved.

Thus, the control of the constitutionality of laws is organized in two large systems:

a) control by a judicial body, also called the American system and is used in the American states.

b) control through a special and specialized body called the European system.

The first model, the American one, in which control is exercised by ordinary courts appeared in 1803, starting with the famous "Marbury C. Madison" decision, when the US Supreme Court of Justice affirmed that the supremacy of the Constitution is imposed on

all, including courts that must refuse to apply a law that it considers unconstitutional, subject to the final interpretation by the Federal Supreme Court, guarantor of the uniformity of decisions.[7] The reasoning on which the decision of the American court was based was the following: either the Constitution is a superior and sovereign law impossible to change by ordinary means and, consequently, a contrary legislative act is not a law, or it is a law like any other, at discretion of the legislator and then it is absurd to attribute to him the power to limit a power unlimited by its nature.

This model is realized through two systems:

- the diffuse system (USA, Japan, Argentina, etc.), when the control can be carried out by any court in the respective country.

- the concentrated system, when control belongs to a supreme court (Switzerland, Australia, Romania during the interwar period, etc.)

The procedure and the institution of the control of the constitutionality of laws was not born on the basis of the will of any parliament (therefore positivist legal thinking), but it was born on the basis of a system of thought that is part of natural law.

Those who designed written constitutions designed them to represent the fundamental and supreme law of the nation and therefore the principle of any government in a state of law must be, that a law of Parliament contrary to the Constitution is void.

The European model entrusts the responsibility of checking the constitutionality of laws to a special and specialized body - the Constitutional Court, an institution first introduced in Austria in 1920 at the initiative of H. Kelsen, a system introduced after the Second World War in most Western European countries, and after 1989 and in the countries of Eastern Europe, including in the Constitution of Romania from 1991 and of the Republic of Moldova adopted in 1994.

The two systems (American and European) pursue the same goal, and the tendency between them is to approach, the particularities of the constitutional courts tend to progressively diminish due to the growing movement of jurisdictionalization, translated by the development of the contradictory nature of the procedure, as well as the search for ways of referral by citizens and a better articulation with judicial and administrative tribunals.

In our opinion, the control of the constitutionality of laws is the organized activity of verifying the conformity of laws with the constitution, and as an institution of constitutional law, it must include the rules regarding the competent authorities to make this verification, the procedure that must be followed and the measures that can be taken after this is accomplished procedures.

We agree with the opinion of prof. I. Muraru who specifies that in principle the control of the constitutionality of laws concerns only the law as a legal act of the Parliament or normative acts with legal force equal to that of the law.[8]

Only the acts of the parliament raise this problem, because the public administration bodies, being executive bodies, issue normative acts only in the execution of laws.[9] Administrative acts cannot contain primary regulations, and the control of their legality is carried out through usual means of control, including through administrative litigation.

Regarding the documents of the judicial bodies and the prosecutor's office, the problem does not arise here because, in principle, they apply the law and do not issue legal norms.

We believe that in principle the control of constitutionality concerns only the law or other normative acts with legal force equal to that of the law, because some constitutions provide that other normative acts with less legal force than the law can be subject to this control.

We quote in this sense art. 53 of the 1965 Romanian constitution, according to which the decisions of the Council of Ministers were also subject to constitutionality control.

The fact that in some constitutional systems the law and the constitution are adopted by the same state body (Parliament), the appearance of inconsistencies between the constitution and the law seems at first sight impossible. Considering the requirements of the government in a state of law, the removal of some fundamental provisions by laws is contrary to such a government. However, the constitutional practice of the states has recognized the possibility of the existence of these inconsistencies, and we consider the existence of the institution of the control of the constitutionality of laws to be indisputable proof. In federal states, the control of the constitutionality of laws is justified by the need

to harmonize the general interests of the federation with the specific, concrete interests of the member states.

Therefore, the control of the constitutionality of laws is the result of some state and legal realities, it is the guarantee of some constitutional structures and principles of the rule of law. The functions of this control are of particular importance because they aim to guarantee the separation/balance of state powers, as well as the protection of human rights.[10]

The control of the constitutionality of the laws presents a guarantee for the effective expression of the parliamentary opposition. If the adoption or amendment of a constitution can be achieved with the vote of two thirds of the parliamentarians and are therefore difficult to achieve without opposition, the adoption and amendment of a law require a smaller quorum. Here, in this latter situation, the opposition can also express itself through the right it has to ask some constitutional authorities to pronounce.

Constitutional practice shows that the appeal of the opposition has often found a favorable solution.

The usefulness of the control of the constitutionality of laws explains its expansion in the world, especially in the last half century, today we are talking, as L. Favoreu shows, of two great systems, namely the American and the European. [11] However, there are also constitutions that do not provide for such control (the Constitution of England).

We express our opinion that the exercise of constitutional control is necessary due to the existence, on the one hand, of the principle of separation (balance) of powers in the state and, on the other hand, constitutional control is based on the principle of the supremacy of the constitution.

As the French author J. Barthelemey shows, the principle of the supremacy of the constitution is characterized as a "generator of legality and legal stability in the democratic constitutional organization".[12]

In Romania, the 1991 Constitution introduced a mixed system, in which the control of constitutionality prior to the promulgation of laws and the subsequent control carried out by way of exception are combined in the hands of the same body, the Constitutional Court. This control is regulated by art. 142 – 146 of the Romanian Constitution and Law 147/1992 with the amendments brought by Law 138/1997 (published in M.O. no. 170 of

July 25, 1997). The Constitutional Court carries out its activity in plenary, and its acts are adopted by the vote of the majority of judges, unless the law provides otherwise.

Regarding the appointment of Constitutional Court judges, the operation involves several criticisms because their appointment is made at the discretion of some par excellence political bodies:

- Chambers of Parliament;

- The President of the Republic.

In the opinion of prof. Tudor Drăganu this operation is destined to take place under the sign of politicism.[13] The subordination of the Constitutional Court to influences foreign to its purpose is a real danger, all the more so since its members, once appointed, cannot cumulate this mandate with another public or private position, with the exception of teaching positions in higher education, so that when the mandate expires, if they are not cumulards and if the appointment was not made on the condition of reserving the previous post, they will depend for their appointment to another position on the goodwill of the Government whose interests they will be forced to cultivate.[14]

Under these conditions, the provisions of art. 145 of the Romanian Constitution, which provide that "Constitutional Court judges are independent in the exercise of their mandate and irremovable for the duration of it, are rather cosmetic because, as specified by prof. T. Draganu, once their recruitment is politically motivated, it risks having the following consequences:

- at the time of its appointment, the Constitutional Court will be formed by members close by their political sympathies and by their visible or invisible interests to the parliamentary majority and the government emanating from it. Therefore, as long as this majority remains in power, it is unlikely that the newly created court will declare unconstitutional a law that the governing party considers essential for the achievement of political goals.

- when the opposition would come to power, it would risk seeing its laws passed by Parliament declared unconstitutional under various pretexts by judges inclined to support a party that has lost the trust of the electorate.

- in such a situation the Constitutional Court would act as the third chamber of the parliament which, through its members appointed for 6 or 9 years, would ensure a political

party overthrown from power the possibility of continuing to exercise a decisive influence in the management of the state.

- considering the fact that a third of the members of the Constitutional Court are appointed by the President of the Republic, their objectivity will be questionable even when they are called upon to give their opinion on the proposal to suspend him from office (art. 146, letter h of the Romanian Constitution).

In order to eliminate these consequences, we propose a ferenda law for the members of the Constitutional Court to be elected by vote from the body of magistrates and specialists with high professional competence in legal activity or in higher legal education, thus, they being independent from power and from political forces, to be able to exercise constitutional control in the name of the sovereign people.

Another shortcoming of the 1991 Constitution is that it is not the Constitutional Court that has the last word, but the Parliament as a non-specialized political body, which amounts to a partial renewal of the system established by the 1965 Constitution, according to which the Grand National Assembly exercises general control over the application of the Constitution. Our opinion is that in a real democracy, the last word on the unconstitutionality of a law must be given to the Constitutional Court as a specialized body. The exception of unconstitutionality is an effective procedure for the defense of public rights and freedoms. It can be raised before the court by one of the parties or ex officio by the court. The Constitutional Court will decide on such an exception (from a law or ordinance), only if the resolution of the case depends on it.

In the Republic of Moldova, the activity of the Constitutional Court began only after 16.06.1995 when the parliament adopted the Code of Constitutional Jurisdiction.[15] According to the constitutional provisions, the task of the Constitutional Court is to guarantee the supremacy of the constitution, to ensure the principles of separation of power in the state, in legislative power, executive power and judicial power, and to guarantee the responsibility of the state towards the citizen and the citizen towards the state.

Unlike the Constitutional Court of Romania, which consists of 9 judges, the Constitutional Court of the Republic of Moldova is composed of 6 judges appointed for a 6-year term.

In order to preserve the balance of power in the state, two judges are appointed by the Parliament, two by the President of the Republic and two by the Superior Council of the Magistrate. In order to be appointed judges of the Court, candidates must meet certain conditions established by law. Examining the provisions of art. 135 of the Constitution of the Republic of Moldova, we will note that the Constitutional Court is authorized both to control the constitutionality of some categories of notified normative acts and to assess the constitutionality of some actions or measures undertaken by some public authorities.

In Romania, the Constitutional Court carries out the constitutional review, as a rule, upon referral, and ex officio only on initiatives to revise the Constitution.

The control upon notification works, as the case may be, "a priori" or "posterior", and the ex officio one works only in the form of prior and preventive control.

We support the opinion of prof. I Deleanu [16], who believes that it would be appropriate to introduce, following the model of other countries (Italy, Germany), and an abstract a posteriori control, when reporting the same subjects, but also of others (especially the County Councils) in consideration of the following reasons:

- the combination of prior and posterior abstract control would ensure the fullness of the Constitutional Court's vocation and obligation to guarantee the supremacy of the Constitution, as one of the sine qua non beliefs of the rule of law and constitutional democracy.

- often only in the process of applying the law are its unconstitutionality flaws relevant;

- the existence of prior control cannot be an immunity clause of the law under the aspect of its constitutionality, it cannot be converted into an absolute presumption of constitutionality, which prevents the exercise of a subsequent control.

- the exercise of subsequent control, through the exception of unconstitutionality, cannot replace the non-existence of an abstract a posteriori control, since the two types of control are essentially different - one is abstract, and the other is concrete.

- concrete control is by definition a heterogeneous control and under certain aspects even heterogeneous. It is a processive and long-lasting control, thus maintaining a possible constitutional inconsistency and instability.

The local public authorities through the county councils would thus have at hand an instrument for guaranteeing and emphasizing their autonomy, but also for the protection of the prerogatives conferred on them by the Constitution against possible non-constitutional laws.

The abstract and "a priori" control is an optional control at the origin, by conditioning its exercise on the existence of a notification, but it is mandatory, after the notification to the Constitutional Court. Therefore, within this control system, in a first phase, the vocation of the Constitutional Court is random, and then in a second phase, the constitutional control is mandatory, the Court not being able to refuse to fulfill an attribution that is part of its constitutional competence.

We believe that it should be institutionalized in the form of prior control and ex officio control, as prof. I. Deleanu.[17]

Multiplying the possibilities of constitutionality control cannot be a cause of upheaval of the constitutional state of law, but can even be a factor of its consolidation. The fundamental effect of the constitutionality control is that of the constitutionalization of the right, i.e. the elimination of obstacles to the recognition of the supremacy of the constitution in the sense of achieving compliance with it of the entire legal system.[18]

The constitutionality of a law is a matter of public order, so it cannot be the prerogative of political authorities only.

The recognition of the right to refer to the Constitutional Court in favor of the County Councils, we consider that it would enrich and emphasize the principle of local autonomy in a state of law, a principle enshrined in art. 121 of the Romanian Constitution or art. 112 of the Constitution of the Republic of Moldova.

Since the Constitutional Control concerns the law regardless of its regulatory object, all laws are susceptible to control despite their variety in terms of the regulated matter (financial laws, laws on the ratification of international treaties, electoral laws, laws having as their object crimes and the regime of their execution etc.). Laws adopted by referendum cannot be subject to constitutional review.

The law resulting from the referendum is a law that expresses the will of an "original power" and no "derived power" can defeat it. The direct exercise of national sovereignty

by the people through a referendum based on art. 2 paragraph 1 of the Romanian Constitution is by definition uncontrollable.

The Constitutional Court ensures compliance with the procedure for organizing and conducting the referendum and confirms its results (art. 146, letter c of the Romanian Constitution).

The principle of constitutionality is an essentially legal principle, involving, among other things, the hierarchical ordering of legal norms, including those that take the form of law, as well as ensuring the material and formal conformity of these norms with those of the Constitution; the principle of opportunity is essentially political, it implies an option of time and method, in concrete circumstances and based on the ranking of certain values or strictness, an option objectified by a supreme political authority - the legislative authority. The Constitutions of a number of nations contain expansive provisions regarding human rights and freedoms and the legal status of the individual.[19]

The Romanian Constitution of 1991 enshrined the idea of the rule of law precisely as a reaction against the omnipresence of the totalitarian state in the period preceding the events of December 22, 1989. It was wanted to emphasize in particular the fact that in the future, in Romania, the entire state activity will be subordinated the right, the laws, not allowing any deviations from their principles. Under the conditions of the rule of law, the values of democracy appear for the first time as no longer being simple declarative statements, but genuine values, guaranteed by the mechanism of the defense of the law. Respect for citizens' rights and political pluralism become natural consequences of the resettlement of the entire Romanian political life based on the principles of law.[20]

As Professor Antonie Iorgovan pointed out, *"The modern doctrine of the state is based on the healthy theses of the social contract, of natural rights, of the separation of powers. To define the state, at present, without referring to freedom and human dignity means nonsense"*[21].

The desired rule of law and democracy constituted the premises of the constitutionality control around the adoption of the Romanian Constitution of 1991. That is precisely why, in our country, the European model of control of the constitutionality of laws was chosen. Thus, the Constitutional Court has prerogatives to control the constitutionality of laws before their promulgation and a posteriori control powers over the

laws and ordinances of the Government, which are in force and on which the resolution of cases before the courts depends. Considering the constitutional tradition of our country, the Constitutional Court has been transformed into a "watchman" that forces state institutions not to exceed their constitutional prerogatives. Proclaiming, promoting, defending and guaranteeing the inalienable fundamental rights of man is another basis of constitutionalism as such and of Romanian constitutionalism, in particular. The enshrinement of human rights is closely related to the existence of a judicial appeal.

Conclusions

1. The rule of law in theory is an integrative concept aimed at the political-legal correlation. It represents a certain stage and an expression of the relationship between social leadership and normativity, between power and normativity.

2. The rule of law is a political-legal concept that defines a form of democratic government regime from the perspective of the relations between the state and law, between power and law by ensuring the rule of law and the fundamental rights and freedoms of man in the exercise of power.

3. The corollary of the rule of law must be the consecration, guarantee and promotion of human rights at the level of international standards, the creation of a favorable climate for the manifestation and valorization of the human person; the state and law must work effectively for man. The rule of law must act on the basis of law and respect its form as an expression of the general will.

4. From the perspective of practice, we emphasize that the functionality and optimization of the political-law relationship in building the rule of law is gradually achieved by always confronting and overcoming the contradictions of social life. The rule of law is a perfectible concept, open to science and social practice. The rule of law faces a variety of problems in the context of globalization, and the future development of the democracy of the states could be greatly strengthened by the construction of transnational forms of democracy.

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TOWARDS A LEARNING ORGANIZATION: THE ROLE OF HUMAN RESOURCES DEVELOPMENT AND KNOWLEDGE MANAGEMENT IN THE TRANSFORMATION OF SERBIA'S PUBLIC ADMINISTRATION

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Abstract:
This paper explores the role of human resources development and knowledge management in the transformation process of the public administration of the Republic of Serbia towards a learning organization model. The focus of the research is the analysis of the implementation and evaluation results of training programs conducted by the National Academy for Public Administration (NAPA) during the period January-December 2024 and February 2025. Based on theoretical frameworks of the learning organization concept, human resources development, and knowledge management, the paper analyzes the extent to which the implemented trainings contributed to strengthening employee competencies, improving organizational culture, and enhancing the capacity for adaptation, innovation, and knowledge-based decision-making. By combining quantitative and qualitative analysis of evaluation indicators, the research identifies key challenges and barriers in applying acquired knowledge, as well as factors that contribute to the successful integration of trainings into organizational learning processes. Particular attention is given to the need for establishing a sustainable knowledge management system in public administration, which would enable systematic collection, sharing, and application of knowledge as a foundation for further professionalization and modernization of the state administration. The research results may serve as a basis for improving training programs and defining human resources development policies aimed at building a more efficient, transparent, and adaptive public administration.
Keywords: *human resources development, knowledge management, learning organization, public administration, training programs, organizational culture*

Introduction

Contemporary trends in public administration management are increasingly characterized by the need for constant adaptation to changes in both external and internal environments, rapid digitalization, and the growing expectations of citizens and service users. In such a dynamic context, traditional management models are no longer sufficient,

and there is a growing emphasis on developing institutional capacities for learning, innovation, and agility. Consequently, human resources development and knowledge management have become strategic priorities, especially for public administrations undergoing comprehensive reform processes, such as the case of the Republic of Serbia.

The concept of the "learning organization," which emphasizes an institution's ability to continuously acquire, share, and apply knowledge to improve its performance, stands out as a relevant framework for modern public administration [32]. Within this model, human resources development is not limited to the acquisition of individual skills, but rather entails the systematic shaping of an organizational culture based on learning, collaboration, knowledge sharing, and continuous improvement.

Public administration reform in the Republic of Serbia, guided by strategic documents and aligned with the principles of the European Administrative Space, has identified the professionalization and capacity building of civil servants as key goals. The National Academy for Public Administration (NAPA) plays a central role in achieving these goals, being responsible for planning, organizing, and implementing training and professional development programs for public administration employees. The evaluation of previous training programs indicates a strong potential for improving organizational practices and empowering employees in public administration, particularly through topics related to leadership, change management, teamwork, and professional development [23]. However, several challenges continue to hinder the full realization of these benefits. These include issues related to the long-term sustainability of training systems, limited integration of acquired knowledge into daily work routines, and underdeveloped mechanisms for institutional knowledge management. The absence of formal tools for knowledge transfer, along with insufficient institutional support for continuous learning and innovation, highlights the need for deeper analysis to identify the factors that facilitate or hinder the implementation of the learning organization model. This research addresses precisely these issues by examining the broader institutional, organizational, and individual dimensions of learning processes in public administration.

In light of these challenges, a key research question emerges: how and to what extent do professional training programs contribute to the transformation of the public administration of the Republic of Serbia toward a learning organization, and how can

these processes be further improved to enhance efficiency, professionalization, and institutional resilience? This paper aims to examine the role of human resources development and knowledge management in the modernization of public administration, with particular emphasis on the institutional mechanisms that facilitate or hinder the integration of knowledge into everyday practice. Through the analysis of training evaluations and the identification of key challenges and good practices, the study seeks to offer recommendations for improving human resources and knowledge management systems as a foundation for building a modern, agile, and professional public administration operating according to the principles of a learning organization.

Theoretical backround

Effective and efficient functioning of public administration requires a civil service system based on skilled, knowledgeable, and competent personnel. This system relies on proper workforce planning, continuous professional development, and mechanisms for monitoring employee performance and supporting evidence-based decision-making in the field of human resource policy. Employee development and improvement is viewed as a continuous process that includes formal education, work experience, additional training, interpersonal interactions, and systematic assessment of skills and competencies [5]. Strategic human resources management is essential not only for the success of individual organizations but also for the advancement of society as a whole. In the context of globalization and rapid technological changes, competitive advantage is increasingly based on human capital knowledge, skills, and creativity of employees [12].

Training and education are no longer seen merely as costs but as strategic investments in organizational capacity [6]. Jackson and Schuler [15] emphasize the distinction between training (focused on current organizational needs) and development (oriented toward future job requirements). Luoma [17] outlines three approaches to HR development: the open (needs-based) approach, aimed at closing competency gaps through training; the closed (opportunity-based) approach, focused on changing organizational culture through workshops and teamwork; and the organizational structure change approach, which assigns a strategic role to HR development. In this context, HR managers are expected to align training strategies with organizational goals and change

management processes. A system for evaluating the effectiveness of training is essential, with a clear link between learning outcomes and operational performance.

Knowledge management has become a vital function of modern organizations. Differentiating knowledge from data and information is the first step toward its strategic use [37] [16], McDermott [22] and Mårtensson [20] highlight several characteristics of knowledge: it is the result of human action, context-specific, difficult to store and transfer, and cannot be separated from the human mind. Nonaka [25] distinguishes between two types of knowledge: tacit and explicit. Explicit knowledge is documented, structured, and easily shared, while tacit knowledge is embedded in experience, informal, and difficult to articulate [31]. Effective knowledge management includes the identification, development, exchange, and use of knowledge to achieve organizational goals [13]. Armistead [2] identifies three key processes: knowledge creation, knowledge transfer, and knowledge embedding. These processes must be harmonized and coordinated for successful strategy implementation.

Studies show that organizations that successfully integrate knowledge management strategies into their HR practices achieve better outcomes in knowledge transfer, retention, and creation [36] [28]. Denford and Chan [9] define several key dimensions of knowledge strategy: sources of knowledge (internal/external), key processes (creation/sharing), knowledge focus (exploration vs. exploitation), learning radicalness, learning speed, and knowledge breadth. A holistic approach to HR management, as suggested by [33], links business strategy and knowledge strategy through four phases: analysis of the internal and external environment, goal setting, strategic initiative development, and institutionalization of the strategy.

One of the central goals of public administration reform in Serbia is the establishment of a professional, competent, and merit-based civil service system. The Law on Civil Servants [17] along with related bylaws, introduced modern principles of recruitment and career advancement based on merit, performance, and continuous professional development. A career system was established to allow for promotion, transfers, and structured evaluation based on clearly defined criteria, as specified in the Regulation on Civil Servant Evaluation [11] and the Law on Salaries of Civil Servants and State Employees [24].

These mechanisms form an institutional framework for strategic HR management, creating conditions for the development of an organizational culture that encourages learning, evaluation, and knowledge application in the public sector.

Contemporary approaches to public administration reform increasingly emphasize the integration of multiple internal development processes as a foundation for achieving institutional effectiveness and responsiveness. In this regard, the transformation of public administration requires coordinated action between two key strategic functions: **human resources development** and **knowledge management.** Their interaction enables the creation of internal capacities, promotes competence development, and fosters the establishment of systems that support learning and innovation. This dynamic is conceptualized in the integrative model shown in Figure 1.

Model of Integration of Human Resources Development, Knowledge Management and Learning Organization in the Context of Public Administration Transformation

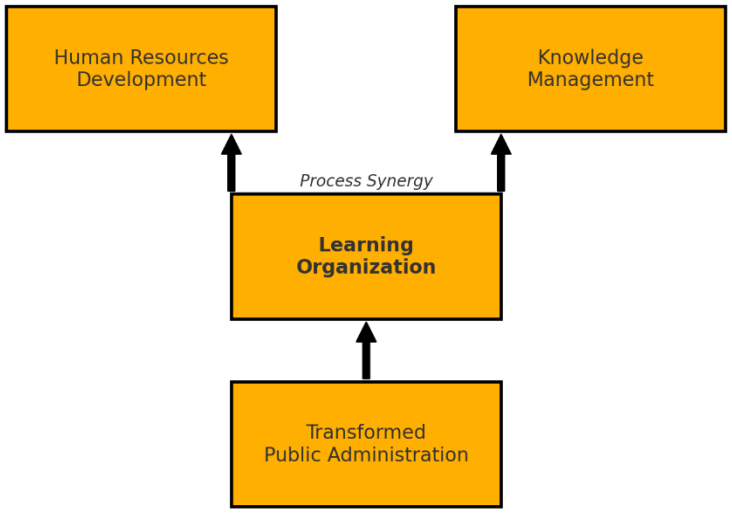

Figure 1. Model of Integration of Human Resources Development, Knowledge Management, and Learning Organization in the Context of Public Administration Transformation.

Source: *Author, based on own conceptualization*

The presented model illustrates the integrative relationship between human resources development, knowledge management, and the concept of a learning organization, with the ultimate goal of transforming public administration into an adaptive,

efficient, and knowledge-based system. At the foundation of the model are two key pillars: Human Resources Development and Knowledge Management. These processes represent the essential drivers of organizational change, enabling capacity building, the enhancement of individual and collective competencies, and the systematic acquisition, sharing, and application of knowledge within the organization. The interaction and synergy of these two processes lead to the establishment of a Learning Organization, characterized by continuous learning, organizational adaptability, openness to change, and the fostering of an innovation-driven culture. This stage is central to the model, as it creates the structural and cultural conditions necessary for sustainable transformation.

Finally, the learning organization serves as the catalyst for the transformation of public administration, supporting the development of a professional, transparent, and citizen-oriented administration that is capable of responding to the challenges of a dynamic environment and contributing to the creation of public value. The arrows in the model emphasize both the sequential and interactive nature of the processes, while the central positioning of Process Synergy underlines the importance of harmonized and integrated approaches to managing knowledge and human resources in order to achieve organizational excellence and long-term transformation in the public sector.

The concept of the learning organization implies a constant connection between individual development and organizational growth, shifting employee roles toward greater responsibility and participation, as well as a transition from hierarchical to horizontal structures. Knowledge management, within this framework, encompasses the processes of identifying, generating, sharing, and applying knowledge, thereby contributing to increased organizational flexibility and innovation [7] [34] [21]. Successful implementation of both concepts requires the synergy of several factors: organizational culture, human resource management, information and communication technologies, and performance-based reward systems. Organizational culture is identified as the key driver of transformation, as it enables the integration of knowledge into both strategic and operational flows [29][35]. The primary purpose of organizational learning and knowledge management systems is to enable both adaptive and generative learning - that is, learning that not only optimizes existing processes but also questions the fundamental assumptions behind organizational action [4]. Organizations that successfully implement

these processes demonstrate an increased capacity for innovation, anticipation of change, competitive advantage, and sustainable development.

Research context

The focus of this research is the analysis of the impact of training programs implemented by the National Academy for Public Administration [23] on enhancing employee competencies and transforming public administration towards the model of a learning organization. Special attention is devoted to examining the extent to which these trainings contribute to human resources development and the strengthening of professional capacities among civil servants, as well as how the outcomes of the implemented programs influence the development of organizational learning processes and knowledge management in public institutions.

In this context, the research addresses the key factors that facilitate or hinder the integration of acquired knowledge into the daily functioning of the administration. It also analyzes the potential of training programs to stimulate institutional changes leading to the establishment of sustainable mechanisms for knowledge sharing, innovation, and learning through practice. Based on the collected data, the study aims to determine how professional development programs can be strategically utilized as a tool for the modernization of public administration and its transformation into a more flexible, efficient, and knowledge-based system. A particular aim is to formulate recommendations for improving existing human resources development policies and knowledge management systems, in line with contemporary challenges and ongoing reform processes in the public administration of the Republic of Serbia.

The research was designed as an applied case study, focusing on the activities of the National Academy for Public Administration during the period from January to December 2024 and February 2025. The primary subject of the research is the evaluation of the effects of the conducted training programs on the development of public administration employees' competencies, as well as their contribution to shaping an organizational culture that fosters learning and knowledge management [23].

A mixed-methods approach was applied, combining quantitative analysis of data from training evaluation reports with qualitative interpretation of findings in light of relevant

theoretical models: the learning organization, knowledge management, and human resources development. Data were collected from post-training evaluation forms, which included assessments of training quality, the applicability of acquired knowledge, and participants' self-assessment of their competencies before and after the training.During the analyzed period, the National Academy for Public Administration organized a total of 712 training sessions, with 22,056 participants, representing a notable increase compared to previous years [23]. The programs covered a broad range of topics relevant to strengthening the capacities of public administration, with particular emphasis on the development of management and leadership skills, the promotion of ethics and integrity, as well as communication, teamwork, and change management competencies.

A distinctive feature of the training programs is the diversity of delivery formats, which reflects the application of modern educational models aligned with the principles of a learning organization. The distribution of formats clearly demonstrates a strategic shift toward blended learning methodologies. As illustrated in **Figure 2 below**, 49% of the trainings were conducted in traditional classroom settings, 22% through virtual classrooms, 11% as online courses, and 7% in the form of consultations [23].This combination of approaches enhances accessibility, flexibility, and responsiveness to the diverse learning needs of public administration employees.

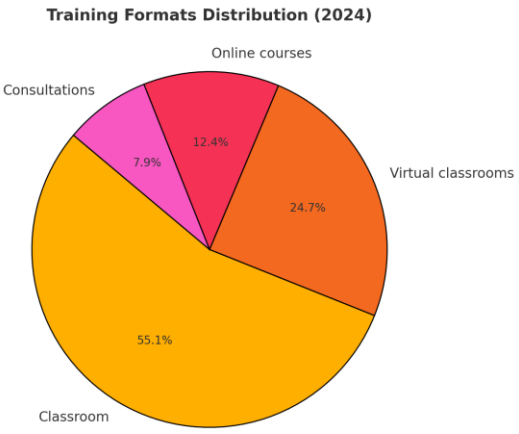

Figure 2. Distribution of Training Formats (2024), *Source:* Author's calculation based on the data of the NAPA [23]

The evaluation results demonstrate a high level of participant satisfaction. On a scale from 1 to 4, the average overall training quality score was **3.79.** Regarding the

applicability of the acquired knowledge, the scores ranged from **3.69 to 3.78**, indicating that participants not only rated the quality of the training highly but also perceived the content as directly relevant to their professional responsibilities [23]. One of the most significant indicators of training effectiveness is the difference in participants' self-assessed knowledge levels before and after the training. As shown in **Figure 3**, the average self-assessment score increased from **2.13 before** the training to **3.36 after,** reflecting a positive change of **+1.23** [23].

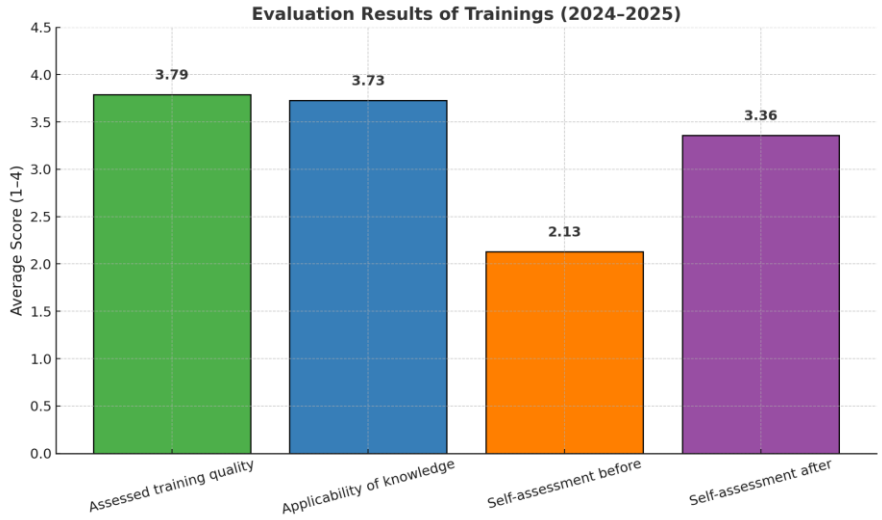

Figure 3. Evaluation of Trainings Conducted by NAPA (January–December 2024 and February 2025, *Source:* Author's calculation based on the data of the NAPA [23]

This outcome highlights the substantial contribution of the training programs to the development of individual competencies and reinforces the view that structured professional development plays a crucial role in the transformation of public administration. By integrating these quantitative indicators with qualitative insights, this research provides a comprehensive foundation for assessing the strategic role of NAPA's training programs in fostering a culture of continuous learning, improving administrative effectiveness, and supporting the evolution of Serbia's public administration into a modern, knowledge-based system.

Discussion: Challenges and Perspectives for Transformation towards a Learning Organization

Although the evaluation results of the training programs conducted by the National Academy for Public Administration point to high levels of participant satisfaction and measurable improvements in individual competencies, several persistent challenges continue to limit the full realization of the learning organization model within Serbia's public administration. One of the key barriers is the **insufficient integration of acquired knowledge into the practical, day-to-day functioning** of institutions. Despite the participants' improved self-assessed competencies, the transfer of learning outcomes into organizational routines and processes remains inconsistent. This gap highlights the need for a stronger linkage between training content and institutional priorities [26]. The key findings of the evaluation confirm that the training programs delivered by NAPA have had a significant positive impact on the individual level most notably in terms of participant satisfaction, the perception of knowledge gained, and the applicability of acquired skills to everyday work [23]. The high ratings for soft skills training such as communication, teamwork, emotional intelligence, and leadership underscore a growing recognition within the public sector of the need to develop interpersonal and managerial competencies. These skills are especially vital for effective change management and the promotion of a service-oriented, adaptable administration.

Furthermore, the successful implementation of blended learning models, combining traditional classroom training with virtual and online formats, demonstrates the system's capacity to adapt to different learning needs and operational conditions. This flexibility not only expands access to training across diverse administrative levels and geographic locations but also supports the broader objective of fostering a culture of continuous learning. However, despite these achievements, the identified challenges reveal **structural and cultural limitations** that hinder the translation of individual learning into broader organizational transformation.

First, the **limited integration of knowledge into decision-making and operational processes** indicates a disconnect between training efforts and institutional functioning. Knowledge gained through training often remains at the individual level, without being embedded in procedures, workflows, or team-based practices. This is partly

due to the **lack of structured mechanisms to follow up and evaluate the long-term effects of training** especially in terms of its influence on organizational culture, employee behavior, and institutional performance indicators.

Second, **resistance to changes in work practices**, including skepticism toward new learning approaches and digital tools, remains prevalent among a portion of employees. This resistance often stems from deeply rooted organizational norms, fear of increased workload, or uncertainty regarding expectations [30]. Addressing this challenge requires **strong leadership**, clear communication of reform objectives, and the active inclusion of employees in the change process [3].

Third, the **absence of institutionalized knowledge management practices** limits the potential for knowledge diffusion and collective learning. In many public institutions, knowledge remains person-dependent and informal, without adequate systems for documentation, sharing, or reuse [8]. As a result, the transformative effect of individual trainings is weakened, and the possibility of cumulative organizational learning is significantly reduced.

To move forward, Serbia's public administration must **bridge the gap between learning and practice** by ensuring that professional development is not viewed as an isolated intervention, but as an integral part of organizational strategy and performance management [10]. This includes aligning training content with institutional priorities, promoting accountability for knowledge application, and embedding learning into organizational routines.

Finally, **developing a supportive environment** for organizational learning through leadership commitment, incentives for knowledge sharing, and recognition of learning achievements, will be essential for building sustainable capacities and advancing the transformation toward a responsive, innovative, and knowledge-driven public administration

Another major obstacle is the **absence of systemic knowledge management mechanisms**. In many public administration bodies, knowledge remains fragmented and dependent on individual initiative, rather than being supported by structured, organization-wide systems for capturing, storing, and disseminating institutional knowledge [1]. This results in inefficiencies, repetition of efforts, and limited institutional memory, especially

in the context of staff turnover or restructuring [14]. In order to address these challenges and accelerate the transformation process, it is necessary to implement a set of coordinated strategic measures aimed at embedding learning and knowledge management into the core of administrative practice.

Improving the training and knowledge management system within Serbia's public administration requires a comprehensive approach that bridges theoretical knowledge with its practical application in real work environments [19]. In this regard, it is essential to develop integrated and practice-oriented professional development programs that go beyond traditional instructional formats, incorporating mentoring, coaching, experiential learning, and communities of practice. These approaches foster continuous professional growth and encourage the application of acquired knowledge in day-to-day responsibilities.

A key challenge remains the need to ensure long-term monitoring of the impact of training on participants' job performance. It is necessary to establish mechanisms for systematically evaluating the effects of training over time, including peer feedback, post-training follow-ups, and the use of performance indicators directly linked to learning outcomes [27].

Furthermore, the development of functional internal knowledge management systems across public administration institutions is a priority. This involves institutionalizing knowledge-sharing practices through the creation of knowledge repositories, digital collaboration platforms, and the organization of workshops for experience exchange. Such systems facilitate access to best practices, identified challenges, and expert insights, thereby promoting organizational learning and inter-institutional cooperation.

An important aspect of this process is the enhancement of leadership capacities in the domain of change management. Targeted investments in leadership development programs equip managers and supervisors with the critical competencies needed to drive organizational change, model desired behaviors, encourage innovation, and integrate learning objectives into team and institutional strategies.

Finally, aligning human resources development and knowledge management with the broader public administration reform agenda is fundamental for achieving sustainable

transformation. It is necessary to ensure coherence between training initiatives and strategic priorities through clearly defined success indicators, integration of learning outcomes into performance management systems, and the promotion of lifelong learning principles within human resources policies.

Conclusion

The transformation of the public administration of the Republic of Serbia towards a learning organization represents a complex and multidimensional process that requires a strategic approach to human resources development, knowledge management, and institutional learning. The findings of the research confirm that the training programs organized by the National Academy for Public Administration (NAPA) during the period January-December 2024 and February 2025 [23] contribute to the development of employee competencies and the strengthening of their professional orientation, with particular emphasis on training in leadership, change management, and teamwork.

However, despite high participant satisfaction and positive assessments of the applicability of acquired knowledge, the research identified key challenges that hinder the full realization of the learning organization concept. A notable lack of systematic procedures for transferring knowledge from the individual to the organizational level was observed, as well as the absence of formal mechanisms for knowledge management in most institutions. Knowledge remains predominantly personalized and confined to individuals, which limits its broader use for organizational change and innovation.

Therefore, it is crucial that training programs are not perceived as isolated educational events but rather as integrated elements of a broader institutional system that promotes continuous learning, reflection, collaboration, and innovation. In this regard, NAPA has the potential to become a central actor in organizational learning by introducing mentoring programs, communities of practice, digital platforms for knowledge exchange, and change management initiatives.

In addition to institutional mechanisms, transformation towards a learning organization requires a redefinition of the concept of competencies and performance management. Human resources management should focus on creating an organizational culture in which individual contribution, professional development, and teamwork are

valued. The introduction of a competency-based approach enables the establishment of performance-based reward systems and supports the professionalization of public administration. Although the research largely relied on secondary data sources and subjective self-assessments by training participants, the findings provide important insights into institutional capacities and challenges in the process of building an efficient, modern, and citizen-oriented administration. NAPA positions itself as a key institution that not only implements training programs but also has the potential to initiate deeper organizational changes through the synergy of human resources development and knowledge management. Finally, building a learning public administration cannot rely solely on formal strategies. It is necessary to develop managerial practices based on clear strategic maps and aligned goals, where human capital is integrated into the organizational vision and becomes the key driver of change. Only through such a holistic approach can a sustainable transformation of public administration be achieved towards a more efficient, transparent, and resilient system of public services.

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THE RELEVANCE OF THE CONCEPT OF AUTONOMY FOR THE PROTECTION OF PERSONS BELONGING TO NATIONAL MINORITIES

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Abstract:
In its evolution, the science of international relations has paid increased attention to the human being treated individually, often relegating to the background the fundamental importance of the group. Political life is based on conflict, but not every form of conflict. A particular situation is the conflict between the majority and the minority, which a responsible authority must resolve by avoiding those confrontations that lead to violent manifestations. For this, it is imperative to correctly identify the fundamental needs of the minority group, their relevance for the very preservation of its identity. The present study aims to highlight the aspects that must be taken into account in any approach towards establishing an autonomy regime.
Keywords*: national minority; human rights; self-determination: international intervention; humanitarian aid.*

Ancient and modern history has witnessed many efforts made by those lacking political power in order to gain as much control as possible over their own destinies. In this context, the designation of a human group as a *majority* or *minority* is irrelevant, since political power does not respect the rule of the majority, in the sense of modern democracy.

The struggles for power of dissident or anti-state groups, which are located on a territory defined by them, based on the fundamental principle of International Law entitled the right of peoples to self-determination, have always had as their objective the rejection of the governing authority, using as a pretext the principle of majority rule, in its numerical sense and not in the political sense.

Not in all cases of internal social and political conflicts can a solution be found through free and fair elections, these having rather the role of deepening the feeling of belonging of a certain population to a certain territory, which is most often achieved on

the basis of the existence of information, this being often difficult to support with indisputable evidence.

The position that a group adopts on a particular issue, on which it intends to organize a referendum, is inevitably influenced by notions about the actual population of a territory, the significance of population movements, in more distant or more recent times, and especially, whose rights will prevail. The establishment of the obligation for individuals not to have certain rights violated was achieved as a result of a long evolutionary process, during which anachronistic, elitist, and totalitarian concepts that opposed the recognition of human equality and the idea of respect for fundamental human rights and freedoms were overcome. [1]

In the 19th century, groups that were internationally recognized as nations with the right to establish new states became majorities, and aspirants who failed in the struggle for statehood remained in the minority.

Later, as will be analysed in this volume, persons belonging to these minority groups, who consented to remain on the territory of the new nation-states and contributed to the formation of a nation, precisely because of their membership in the respective nation were classified as *national minorities.*

The political concept of nation crystallized in the 20th century, with a great interest in its construction. Analysing recent history more deeply, it can be stated that nations are either destroyed or their relevance diminishes within the state, due to the governmental authority, which holds the legitimacy to use force, even against its own peoples under its jurisdiction.

All empires, throughout history, starting with the Egyptian, Greek or Roman and ending with the British, French, Ottoman or Tsarist, have encouraged political and legal theories through which they achieved the separation of *ethnicity* from *religion* and of the *nation* from the *authority of the government*.

Those empires that were not formed through a process of colonization have always wanted to impose only political or economic control over their subjects, even if their governments were naturally linked to a certain culture. An exception to this rule is the attempts made by missionaries, who aimed to religiously convert the population of the colonized territory.

The identification of the *nation* with the *state* took place at the end of the 19th century and the beginning of the 20th century, in the form of the political concept of the *nation-state*, which substantially changed the fate of empires, in a dramatic sense for the latter.

In the new political approach, the concept of a multi-ethnic state became *impossible to sustain*, since the central elements of the European concept of governance were represented by democracy and the theory of the social contract.

The political and legal state entities that were to be formed on the basis of the new concepts used the argument offered by the effects of the phenomenon of *ethnic* or *linguistic homogenization*, both in order to justify their separation from the empire to which they were subjected, and to legitimize the appetite for territorial expansion.

Examples of disintegration under the pressure of ethnic nationalism are both the Ottoman and the Austro-Hungarian Empires, whose disintegration process was also due to the aid given by their rival powers to the native population, instigating them to movements demanding self-determination.

If we accept the validity of the argument by which the new overseas empires justified their existence, namely the assessment that the peoples they ruled had levels of development that did not entitle them to organize themselves coherently into a state, it can be said that these peoples fought for the affirmation of statehood against European domination, more precisely the Great Powers that were leading the fate of the old continent.

National self-determination is a characteristic concept of the 19th century, which formed the basis for the development of *territorial self-determination*, specific to the 20th century.

In some cases, the *nationalism* of the new state was created exclusively on ideological grounds, while there were also situations of compatibility between attempts to transform the majority or dominant culture into that of the state as a whole. Such approaches to the establishment of a national culture can be noted in similar efforts made for the construction of post-war Europe.

In the general context of the undeniable influence of modern ideologies, such as national self-determination and the maintenance of territorial integrity, the new states, no

matter how artificially they were created, approached, in principle, a position of *rejection of the rights of persons belonging to national minorities*.

In both developed and developing countries in the 1950s and 1960s, the *centralization of state power* was a primary objective of political power, a phenomenon that led in some cases to a *forced assimilation* of minority groups and indigenous peoples.

Identifying progress in the process of national liberation, in the absence of logical, philosophical, or sociological limits to nationalism, becomes a matter of *political choice*. For many national minorities and indigenous peoples, this choice amounts to a return to the rhetoric of the *ethnolinguistic* state characteristic of the 19th century.

However, indigenous groups and national minorities have abandoned their ideal of forming a state populated by a single nation in order to maintain their own national identity, recognizing that *ethnic* or *cultural loyalty* cannot be affected by *political loyalty* to an existing state of which they are a part.

Consequently, indigenous groups and national minorities have reduced the level of their claims, utopian in the context of the direction in which the international community was evolving, replacing the standard they wanted by establishing an ideal nation-state with another, corresponding to *obtaining guarantees* for a life away from the threats that an obtuse state would represent, dangerous to their existence, in which the central or majority government would not recognize ethnic diversity and would thus generate division or fragmentation. [2]

Theoretically, the protection of current forms of national minorities and indigenous peoples should be achieved through the full exercise of ethnic self-determination on linguistic, religious or other grounds for self-definition.

However, practice indicates without hesitation that the prospect of the emergence of thousands of homogeneous but small independent states, defining themselves primarily in ethnic, linguistic or religious terms, should rather *inspire concern*, since shifting borders in order to create conditions for greater ethnic purity is much more likely to lead to an era of intolerance than to one characterized by mutual respect and tolerance.

There are also idyllic approaches of some peoples regarding the nature of their community, which are placed, in contradiction with their own principles, between the idea

of a supposedly ancestral community and the opposition to ethnic prejudice, which determines them to want to be fair to all other peoples.

It is obvious that both hypotheses cannot be followed at the same time. If a community was really ethnocentric and wanted to perpetuate itself as it really was, this approach would bring inevitable prejudices to foreigners, an aspect that affected the idyllic image mentioned. The Nazis also found themselves in such a contradiction, their problem being that they were much too consistent on this aspect.

The concept of self-determination does not recognize the right of the majority to impose its will in a *discretionary* manner, in a manner in which the *rights of others would be violated*. This interpretation is valid regardless of whether the society is secular, modern or pluralistic, promoting the assimilation of minority groups, or whether it is a homogeneous, traditional society, seeking to exclude various dissident minorities under the pretext of national, ethnic or religious purity.

It is obvious that, regardless of the care with which borders are drawn, individuals and minorities will continue to exist, and the individual cannot be forced to conform to the majority's conception in the name of a perfect society, since this approach would be as reprehensible as the destruction by dominant colonizers of so-called backward societies.

The idea of ethnic unity, in the context of the exercise of power by a state, must not materialize in the rejection of the legitimacy or importance of responding to the natural needs of identity or dignity of the group.

The evolution of the science of international relations, especially after the Second World War, has emphasized the human being taken individually, on the individual, moving into the background and, often, undermining the fundamental importance of the group.

In particular, in the collective mentality of Western states, the importance of maintaining smaller and more homogeneous societies has been diminished, which is in contradiction with the increased attention paid to the creation of small and homogeneous states, but which is the goal of the central governments of the states. [3]

It is well known that political life is based on *conflict*, but not every form of conflict. A responsible authority must avoid those confrontations that lead to violent manifestations, such as can occur between the majority and the minority, in the context of the problem of obtaining a certain form of autonomy.

The problem to be solved is not the existence of differences, the relative development of ethnic groups, but the way in which peoples and their governments know how to respond to these differences, to the fears and claims that accompany them. [4] The common feature of ethnic conflicts, which have led to serious violence, is the *violation of fundamental human rights*.

Human rights violations are often much more responsible for escalating existing conflicts than for creating divisions that did not exist before. Failure to respect fundamental human rights leads to the *exacerbation of political or economic differences*, by transforming them into open, violent conflicts.

An example in this sense is the discrimination committed against Catholics in Northern Ireland in the issue of securing housing and jobs, as well as the one that refers to the denial of the right of people to use the Kurdish language or to be able to recognize their Kurdish identity in Turkey.

There are also examples where people belonging to national minorities are the ones who cause violent confrontations, such as terrorism committed by minorities or guerrillas, which lead to the escalation of other types of conflicts, most often deliberately, even though most of these events only occur when state violence has reached a fairly high threshold.

The colonial period fuelled many ethnic conflicts, as the policies of the dominant power exacerbated existing ethnic divisions, adding an additional element of tension by introducing *new minorities* into territories that had previously been homogeneous.

Contrary to the declarative attitude of transforming poorly organized Asian and African societies into structures closer to the Western state model, the colonial powers did not really show their interest in developing a sense of nationhood among the colonized. Despite this, or perhaps precisely because of this, the peoples within the colonial borders found a common ground in their opposition to colonial rule.

Although colonialism practiced the classic policy of *divide et impera*, used by European colonists, thus emphasizing tribal divisions, it rarely provoked ethnic conflicts, and when it did, it occurred in territories where such confrontations had previously occurred.

There have been a few exceptions that have given rise to conflicts between groups that previously had only sporadic contact, such as the importation of foreign workers into an initially homogeneous society, the settlement of border issues, or the colonial policy practiced within them.

As can be seen from the analysis of European history, there are numerous examples that prove that the main cause of the outbreak of violent religious or ethnic conflict is not colonialism. In this sense, often, the basis of contemporary conflicts has been the *intervention of external factors*, often requested by interested dissident or minority groups.

Although this type of intervention can be decisive for the outcome of struggles in favor of autonomy, most often the effect of external intervention has been to repress, rather than encourage, minority or secessionist movements.

For example, the most common effects of international involvement in favour of separatists in a violent conflict are: ceasefires, armistices, or concessions made to autonomy or secession. “By opting for external aid, secessionists risk losing control over their destinies, in favour of states that have different, often much more limited, objectives. [5]

The most common form in which external intervention materializes is the agreement given to dissident groups to take refuge on the territory of the interventionist state, as a safe haven for them, as well as by offering weapons or training guerrilla groups.

Also, the state that supports the minority can relatively destabilize a rival or even neighbouring state, through specific instruments, which are intended to encourage their efforts. It is natural that minorities that are ethnically linked to a neighbouring state, receive the aid of that state, however, *active intervention in favour of the minority* in question is not a recommended procedure, although in history there have been cases, such as the intervention of Turkey in Cyprus, of India in Bangladesh or of the U.S. in Nicaragua.

If a minority group is supported from outside, the perception of altering the legitimacy of their claims is induced, in the sense that their wishes could be used as a means of maneuver in geopolitical struggles at another level.

International intervention is different from extra national intervention and may consist of promises made to minority or indigenous groups, even if multilateral support will have no effect on the recognition of the right to secession.

Attempts made after the end of the First World War to guarantee the rights of persons belonging to national minorities with the help of international supervisory forces have had partially some success.

However, contemporary initiatives belonging to the *United Nations*, regarding respect for Human Rights in general, as well as the rights of persons belonging to national minorities and indigenous peoples in particular, contribute to a better understanding and increased protection of weaker communities.

When resorting to international intervention, one must take into account the limits of persuasion within which the powers requested to intervene can act, given that this is the most effective instrument that international bodies have.

In this context, it must be highlighted that international doctrine and practice regarding the respect of Human Rights constantly discourage initiatives that lead to discussions about autonomy or the political rights of persons belonging to minorities.

In order to avoid reaching such extreme situations, the *Human Rights Committee* frequently uses the procedure of interviewing states in relation to the treatment they apply to ethnic or other minorities.

On the other hand, much more effective than the official approaches belonging to intergovernmental bodies are the pressures exerted through the international media and non-governmental organizations.

The Romanian Constitution declares the equal rights of citizens, irrespective of their race, nationality, ethnic origin, or language, without regard to their money or social background. This is due to the fact that individuals from various nationalities, including Hungarians, Roma, Germans, Serbs, Turks, Jews, and Armenians, have contributed to the realization of national ideals. [6]

Regional bodies may be more effective in such situations, depending on how states are more willing to discuss more delicate issues, such as the rights of persons belonging to national minorities, in a more restricted, more family-like setting.

On the other hand, regional bodies are naturally less interested in what is happening in third countries. In this regard, an example can be given of the attitude of European states, which did not analyse the provisions of the *European Convention on Human Rights* and, as a result, did not react to the treatment of the Kurds by the Turkish authorities.

A similar approach is taken by Latin American states, which are less interested in the rights of indigenous peoples in the opinion of their neighbours, given that numerous indigenous communities live on their territories.

Conclusions

The political-legal, but also historical, argumentation regarding the evolution of the concept of autonomy entitles us to affirm that the fundamental objective pursued by the applicants for an autonomy regime is control over the territory. On the other hand, the territorial integrity of the state and the unity of the political power of the nation represent a fundamental principle of international law that is at the basis of the current world order, being most often inseparable from that of self-determination.

The desire to own a territory is not an exclusive characteristic of the modern or contemporary era. It has manifested itself since ancient times within groups that felt threatened, as a universal necessity for the purpose of ensuring physical security.

Any regulation that a sovereign authority proposes to achieve on its territory of self-determination must have as its fundamental objective the achievement of a climate of peace and social security. National constitutions, at least of states with a democratic form of government, are the ones that place this desire at the rank of a fundamental principle of state organization and functioning. This logic also includes the granting of autonomy regimes, which thus becomes a political option of state power.

From what has already been mentioned, it follows that autonomy is a political instrument, through which other needs are guaranteed to be adequately addressed. Autonomy should not represent an end in itself, since its simple achievement is not able to guarantee progress or the preservation of a culture threatened with extinction. The form that a certain manifestation of autonomy can take will have to relate both to the goals of

the community that wishes to obtain this autonomy, and to the requirements of the national policy of the central authorities of the state.

In political or legal documents, but also in specialized works, the concepts of autonomy, self-government or self-management are frequently used, with the meaning of delegation or recognition of certain powers of local authorities, as well as a certain distribution of the attributes of state power between central and local bodies, through which a broader or narrower spectrum of competencies, necessary to solve problems of interest for the territorial units that make up the state, are left to the discretion of the latter

The application of the principles of local autonomy to the communities within its scope of exercise must also respect, at the same time, the principle of non-discrimination, an aspect that requires all administrative-territorial units of the state to have the same set of competencies, in order to establish some connection between the concept of local autonomy and that of the ethnic origin of the inhabitants of a territorial unit.

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PRINCIPLE OF ACTUARIAL EVALUATION AND UPDATING OF THE BALANCE OF THE PENSION SYSTEM IN ROMANIA AND THE EUROPEAN UNION

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Abstract:
The national pension systems in Romania and the European Union are usually based on the principles of social solidarity and contributory so that they are composed in such a way as to be self-sustaining through contributions to pension systems but from other contributions, so that the state, in the case of Romania, intervenes as little as possible with budgetary allocations to support the pension system. Unfortunately, these pension systems, based on a certain historical path approved by time, tend to no longer satisfy the sustainability of these pension systems so that we felt the need to come up with some analyses and ideas to support the sustainability of the pension system. At the level of the European Union, there is even a sustained, at the level of principle, assessment of the actuarial update of the pension system according to the Statute of the European Civil Servant, so that we suggest that within the Statute of the Civil Servant in Romania as well. But not only that such a principle be introduced and that such an issue be emphasized.
Keywords: *sustainability, pension system, actuarial valuations and updates.*

There are many studies and reviews about pensions and the sustainability of the pension system that analyze this aspect, so in our study we will try to make some references to these aspects through the incidence of applying the principle of actuarial evaluation and updating of the balance of the pension system, both in Romania and in the European Union.

The Romanian pension system faces significant challenges, driven by demographic, economic and social changes. The actuarial assessment and updating of the balance of this system is an essential tool to ensure financial sustainability and

intergenerational equity. This study aims to present the actuarial methods used to assess the pension system, the main challenges Romania faces and recommendations for its adaptation and modernization.

This system is based on a pay-as-you-go (PAYG) model, in which contributions from current employees are used to pay current pensions. This model is sensitive to demographic variations and its equilibrium depends on the ratio between the number of contributors and the number of pensioners.

1. *General aspects regarding the principle of actuarial assessment of the balance of the pension system*

1.1. General notions

Actuarial value is a concept used in the fields of insurance and finance to evaluate the present and future financial value of a financial commitment or benefit, taking into account the probabilities of certain events occurring and the associated risk factors. More specifically, actuarial value can be defined as:

a) The present expected value of a future stream of payments. This means calculating the present value of a series of payments to be made in the future, taking into account the interest rate and the probability of payment.

b) Assessing risks and determining the correct price of insurance products. Actuaries use statistical and probabilistic methods to estimate the frequency and severity of insured events (such as death, illness, accidents) and to calculate the insurance premiums needed to cover these risks.

c)Calculating the reserves needed to cover an insurance company's future liabilities. This involves estimating the amounts an insurance company needs to set aside to be able to meet future claim payments.

To better understand what we are referring to, we will first try to define the concepts we use in this study.

Thus, the actuarial value of the pension system is an essential indicator for assessing its long-term financial sustainability. It reflects the balance between contributions collected from the active population and future pension payment obligations,

taking into account demographic and economic factors, such as life expectancy, contribution rates, inflation and economic developments. In Romania, the legislative framework regulating the public pension system also establishes the actuarial methods used to assess its balance.

2. Analysis of several aspects regarding the application of the principle of actuarial assessment of the balance of the pension system in Romania

2.1. Introductory considerations

The legislative framework of the pension system in Romania is represented by Law no. 360/2023 on the public pension system. This law is the basic normative document that regulates the functioning of the public pension system. It establishes the calculation principles, the rights and obligations of contributors, as well as the framework for actuarial valuations. Over the years, the law has undergone amendments to reflect new demographic and economic realities.

The above-mentioned law represents the primary regulation incident in this analysis, which does not exclude the introduction into the equation of adjacent regulations, pertinent in this field. These secondary regulations are the orders and regulations of the Ministry of Labor, Family, Youth and Social Solidarity that include specific methodologies for calculating the actuarial value, establishing the basic parameters – such as life expectancy, contribution rates and annual adjustments – necessary for assessing the sustainability of the pension system, as well as actuarial reports and studies. In the context of the application of the law, institutions such as the National House of Public Pensions and other audit bodies carry out periodic actuarial studies, which are developed according to the methodologies established by legislative norms and administrative regulations.

Thus, we can appreciate that actuarial valuation represents the mathematical and statistical analysis of the financial flows of the pension system, with the aim of determining whether the income (contributions of current employees) is sufficient to cover future expenses (payment of pensions). This valuation involves the use of mathematical models to estimate key variables such as demographic evolution, life expectancy and economic

dynamics, and to determine the "actuarial value" - that is, the ratio between available funds and future obligations.

In practice, actuarial value is determined using various methods and mathematical models that take into account factors such as interest rates, mortality, morbidity, withdrawal rates and other demographic and economic data. In conclusion, actuarial value is an essential tool in financial risk management and in pricing insurance products, thus guaranteeing long-term financial sustainability.

Pension systems are one of the essential pillars of social security, providing financial support to people after retirement from professional activity. Maintaining the financial balance of these systems is crucial to ensure long-term sustainability and solvency. Actuarial valuation plays a vital role in this context, providing a detailed analysis of the risks and resources involved. Actuarial valuation is based on a series of mathematical and statistical rules and techniques to estimate future payment and income flows. Among these, the main components include:

-Demographic projections: These involve estimating the future number of pensioners and contributors based on demographic data (birth rate, mortality rate, migration, etc.).

-Financial analysis: Evaluating the future income and expenditure of the pension system. This includes projections of contributions, pension benefits and other administrative costs.

-Economic development rates: Considering the evolution of wages, inflation and other economic factors that can influence both contribution income and pension expenditure.

-Discount methods: Using the discount rate to calculate the present value of future payment and income flows, providing a clear picture of financial equilibrium.

2.2. Applying actuarial valuation in our pension system

Projection of future obligations

An essential aspect of actuarial valuation is the estimation of future pension payment obligations. This involves calculating the present value of all pension benefits

that will be paid to participants in the scheme, taking into account life expectancy, retirement age and other relevant variables.

Projection of future income

In parallel [1], actuaries estimate the future income of the pension system, based on current and future contributions from employees and employers. This involves analyzing the employment rate, wages and other economic factors that influence the contribution base.

Sensitivity testing

A critical part of actuarial valuation is testing the sensitivity of projections to changes in key assumptions. For example, how would a change in the birth rate, life expectancy, or employment rate affect the financial balance of the pension system?

2.3. The importance of actuarial balance

The actuarial balance of a pension system is essential to ensure its long-term sustainability. An unbalanced system can lead to financial deficits, requiring external interventions, such as government subsidies or adjustments to benefits and contributions. Maintaining a healthy actuarial balance ensures that the pension system can meet its obligations to beneficiaries without compromising financial stability.

2.4. Evaluation methodology

Like any research concept, this one assumes a certain evaluation methodology which, in our opinion, refers to:

•Demographic projections: These are carried out based on historical data and future scenarios, in order to estimate the evolution of the active population and pensioners.

•Calculation of financial flows: Since it is a matter of considerable expenses to support the pension system, the contributions collected, pension expenses and other elements that influence the financial balance are analyzed.

•Sensitivity analysis: In this regard, certain factors that influence the system are taken into account so that the impact of variations in parameters (for example, changes in life expectancy or contribution rate) on the sustainability of the system is evaluated.

Starting from the general concepts we previously discussed, we will see that we can identify, in the case of Romania, the same pertinent evaluation methods that are related to this system.

2.5. The legislative framework of the pension system in Romania

This framework, as we mentioned, is given by Law No. 360/2023 on the public pension system [2].

This law is the basic normative document that regulates the functioning of the public pension system. It establishes the calculation principles, the rights and obligations of contributors, as well as the framework for actuarial assessments. Over the years, this law has undergone amendments and adaptations to reflect new demographic and economic realities.

We have seen that actuarial valuation is the mathematical and statistical analysis of the financial flows of the pension system, with the aim of determining whether the income (contributions of current employees) is sufficient to cover future expenses (payment of pensions).

This valuation involves the use of mathematical models to estimate key variables such as demographic evolution, life expectancy and economic dynamics, and to determine the “actuarial value” – that is, the ratio between available funds and future obligations.

2.6. The importance of a constantly updated and adapted legislative framework

This framework requires permanent adaptations and modifications to adjust the sustainability of the Romanian pension system to the daily challenges it faces. In this context, we identify the following benchmarks:

•Adaptability: Legislative changes aim to adapt the pension system to demographic and economic changes, by constantly updating the parameters used in actuarial valuations.

•Transparency and accountability: Legislation requires transparency in the calculation and reporting of actuarial values, which is essential to inform the public and to inform political decisions on pension system reforms.

•Sustainability: Actuarial valuations are fundamental for establishing system adjustment measures, such as changing the retirement age or contribution rates, to ensure the long-term financial viability of the system.

2.7. Challenges and prospects

Current challenges

•Population aging: Declining birth rates and increasing life expectancy put pressure on the balance of the pension system.

•Labor migration: The reduction in the contributory base affects the system's revenues.

•Economic volatility: Changes in the economic environment can affect the collection of contributions and the system's ability to pay pensions.

Future prospects

•Modernization of actuarial methodologies: Implementation of more sophisticated mathematical models, adapted to the new economic and demographic realities.

•Legislative reforms: Continuous adjustment of the norms, including Law no. 360/2023, to maintain the financial balance of the pension system.

•Integration of funding sources: Diversification of the financing of the system (including through private pension funds) to reduce pressure on the PAYG system.

2.8. Conclusions

The actuarial assessment and updating of the balance of the pension system in Romania are crucial tools for ensuring its sustainability. The legislative framework, dominated by Law no. 360/2023 and complementary regulations, establishes the basis for determining the actuarial value, and the mathematical and statistical methods used allow for the rigorous analysis of financial flows. In the context of current demographic and economic challenges, continuous adaptation of parameters and legislative reforms are imperative to ensure a fair and viable pension system in the long term.

3. Regulation of the principle of actuarial assessment and updating of the balance of the pension system for European civil servants [3]

According to the Statute for European Civil Servants, in Annex XII Chapter 1, there is talk of a principle that results directly from the wording of the chapter and indirectly from its content. It is about "The principle of actuarial assessment and updating of the balance of the pension system".

Thus, starting with 2004, the European Commission effects, once every five years, the balance of the pension system in order to establish the contribution of European civil servants to the pension system and to see if this contribution is sufficient to finance at least one third of the cost of the system. Therefore, the Commission annually updates this contribution according to several criteria, namely:

-demographic evolution;

-interest rate;

-annual variation coefficient of the European civil servant salary scale.

The evaluation and updating is carried out for each year based on the number of active members of the pension system on December 31 of the previous year.

Any update of the contribution rate shall take effect from 1 July, at the same time as the annual update of remuneration pursuant to Article 65 of the Staff Regulations. Updates may not result in the contribution being increased or decreased by more than one percentage point compared with the rate applied in the previous year. The difference between the update of the contribution rate resulting from the actuarial calculation and the update resulting from the abovementioned variation shall never be recovered and shall therefore not be taken into account in subsequent actuarial calculations.

Actuarial valuations are carried out every five years and establish the equilibrium conditions that take into account, within the pension system's expenses:

- old-age pension;

-disability allowance;

- survivors' pensions.

The actuarial value of pension rights acquired before the calculation date represents the obligations corresponding to previous periods of employment, while the actuarial value of pension rights that will be acquired during the year of activity starting on the calculation date represents the service cost.

By assumption, all retirements (excluding invalidity) will take place at a given average age. The average retirement age is updated only on the occasion of the actuarial review, carried out every five years, and is not necessarily the same for all categories of staff.

When establishing the actuarial values:

(a) account shall be taken of the subsequent evolution of each official's basic salary between the date of the calculation and the theoretical retirement age;

(b) pension rights acquired before the date of the calculation (obligations corresponding to previous periods of employment) shall not be taken into account.

An adjustment procedure is applied to determine the real discount rate and the annual coefficient of variation of the salary scales of officials of the European Union. This is obtained using a 30-year moving average of the interest rate and the salary scale increase.

Conclusions

The principle of actuarial assessment of the balance of the pension system is crucial for ensuring its sustainability and solvency at the level of the European civil service. Through detailed demographic and financial projections, sensitivity analysis and continuous monitoring, the European pension system can be adjusted to meet future challenges. Implementing proactive policies and structural reforms based on rigorous actuarial assessments can significantly contribute to the stability and fairness of pension systems.

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URBAN FORESTS. EUROPEAN ADMINISTRATIONS' CONCERN FOR THEIR ESTABLISHMENT AND MAINTENANCE

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Abstract:
In recent decades there has been increasing talk about global warming and its devastating effects. In recent summers, the whole of Europe has felt trapped in unbearable heatwaves, with countries like Greece. Spain and Portugal have felt the full impact of temperatures of at least 40 degrees in the shade. Against the backdrop of these types of problems, several European institutions and state public authorities have decided to launch afforestation or reforestation programs, generating a degree of satisfaction both at the general level, the state, but also at the level of local communities involved in projects to create what we call urban forests.
This study aims to assess what efforts have been made in recent years by countries such as Romania, Hungary or Poland in this regard, what have been the steps taken by the governments of these countries, how NGOs or foundations have been involved in the emergence and development of urban forests and what amounts of money were needed to launch, run and maintain these efforts.
Keywords: *Urban forests, authorities, government, projects.*

I. Introduction

Looking at the planet's biodiversity, many species are on the brink of extinction, while others no longer exist. Ecologists insist that urban environments suffer from an acute lack of biodiversity and that there is a need to create those spaces in urban areas that are not disturbed by humans, such as urban forests [1].

Today, many EU Member States have provisions related to nature restoration and maintenance in their own legislation, reflected in the EU Birds Directive (2009/147/EC), the EU Habitats Directive (92/43/EEC), the EU Water Framework Directive (2000/60/EC), the EU Floods Directive (2007/60/EC) and the EU Marine Strategy Framework Directive (2008/56/EC) [2].

As a response to the whole issue of biodiversity and climate neutrality, the European Commission has come up with the solution of an EU forest strategy. This

involves planting more than 3 million trees in the EU by 2030, based on basic ecological principles. Afforestation and reforestation support biodiversity and ecosystem restoration to be promoted through CAP strategic plans and cohesion funds [3].

International bodies have also recognized the relevance of urban forests. The Sixth Assessment Report of the 2022 IPCC Intergovernmental Panel on Climate Change (IPCC) revealed the importance of sustainable urban planning from an infrastructure design perspective. Green roofs, urban parks and forests, urban agriculture are useful tools to mitigate the effects of climate change [4].

II. History and evolution of the concept

The urban forest concept has its roots in the 1960s in North America. Initially in Europe, it took shape in the United Kingdom and Ireland in the 1980s, and was later taken up and developed in the Netherlands and Northern Europe [5], [6], [7].

Looking at things historically, most cities in Europe did not have green spaces, but in those days cities were not large and most of the population lived in rural areas. From this point of view the relevance of green spaces for city dwellers was only recognized in the 1850s. [8], [9], [10].

In Canada, for example, the term urban forest emerged late, not until 1965 as the title of a graduate thesis on the success and failure of tree planting in Toronto [11[, [12].

Subsequently, in the period 2000-2006 there was an increase of green spaces in the urban area, whereas in the period 1990-2000 no significant evolution in this sense took place. This increase occurred particularly in cities in Western and Southern Europe, while in Eastern Europe there was a decrease in interest in green spaces due to the decrease in the number of inhabitants in these areas [13].

Recently, in a specialized article focusing on the situation in at least 300 European cities, it was analyzed that between 20 and 40 percent of urban green spaces are found in northern and central areas of Europe, while less than 10 percent of urban green spaces are found in southern Europe [14], [15].

According to EUROSTAT, in the 398 European cities analyzed in the aforementioned study, the share of green urban areas ranges from 0.1% (Matera, Italy)

to 26.3% (Karlovy Vary, Czech Republic), with an average of 7.1%, this percentage covering all green areas and not only the forested ones [16], [17].

In recent years the European Parliament has recognized the existence of a certain climate urgency, and the European Council has recognized that climate change is "an existential threat. As such, the EU has decided to endorse a program called the 2020 Leaders' Commitment, which prioritizes the climate and diversity crises [18], [19].

Another important program (and focused on this theme) at European level is the Green City Accord. This is in fact a movement of European mayors who impose on their mandates to transform the cities they manage into "cleaner and healthier" cities. Its aim is clearly to increase the quality of life throughout the European area, but also to speed up the implementation of relevant European environmental legislation. By joining the agreement, the signatory cities have committed themselves to manage five particularly important areas in the future, namely "air, water, nature and biodiversity, circular economy and waste and noise" [20].

By adhering to the above-mentioned pact, cities will make additional efforts to cover 5 environmental areas, which are needed by 2030, taking into account the Green Deal requirements. The signatory cities have committed to making considerable progress on maintaining and improving the biodivesity of cities and restoring urban ecosystems [21].

For the same purpose the EU has also created Natura 2000, which is the world's largest coordinated network of protected areas [22].

III. Romanian situation

In Romania, the MMAP - Call C2/I.1.C "Creation of urban forests" - call for projects entitled "Creation of urban forests" financed from the component C2: Forests and biodiversity protection within the National Recovery and Resilience Plan (NRRP) [23].

The role of this call is to set up urban forests that can add value to the already existing green environment but insufficient in terms of surface area and diversity, thus creating real 'green lungs' that can bring several benefits such as cleaner air, less noise, less anxiety and raise the level of public health [24], [25].

In the framework of this project, the applicant or its members shall provide evidence to demonstrate ownership or possession (public or private) of the land where the investment is to take place, i.e. to demonstrate the right of management or concession or free use for a period of at least ten years from the date of the last payment under the project [26], [27].

In the case of projects submitted under the PNRR, the amount of VAT related to eligible expenditure will be charged to the state budget, from the budget of the coordinator of reforms and/or investments for Component C2 - FORESTS AND BIODIVERSITY PROTECTION, in accordance with the legislation in force [28].

In the city of Cluj-Napoca, for example, an urban-type forest is to be created in the area Blvd. Muncii, 21.3 hectares, Youth Park - Cluj Forest. This type of green space is intended to meet the needs of schools or NGOs that promote the idea of nature and quality environment, the total value of the project is 22.861.202, 24 lei. The European funds were obtained under the Regional Operational Programme 2014-2020, Priority Axis 4 - Supporting sustainable urban development, Os. 4.2. Conversion and refunctionalization of degraded, vacant or unused land and areas in the municipalities of the county residence [29].

It is intended that Cluj municipality will have the largest Romanian biodoversity park, called East Park, an area of 54 hectares of urban forest composed of natural meadows and eco-sustainable paths. This project in Cluj intends to create educational and cultural facilities, the appearance of thematic gardens and information centers on biodiversity. All this will have as a fundamental role to raise awareness of the importance of maintaining a quality environment in particular and its protection in general.

On the basis of this initiative in 2019 Cluj-Napoca City Hall obtained a European funding of 10 million euro for this park. The total amount of investment for the realization of the East Park is 743.437.082, 11 lei, including VAT (149 million euro) [30].

In the same context, the URBFORDAN project aims to capitalize on the sustainable management of natural heritage and green areas in the Danube region and in this respect it was agreed by the local decision-makers that a "transnational approach" will be needed. Therefore, URBFORDAN is designed to provide a change of vision on urban and peri-urban forest management and ecosystem utilization in 7 partner cities of

the project: Ljubljana, Budapest, Cluj-Napoca, Vienna, Zagreb, Belgrade, Ivano-Frankivsk.

In the city of Cluj the project was promoted by the Cluj City Hall which has allocated a budget of 145.682,15 Euro, of which the ERDF contribution is 123.829,82 Euro, the co-financing of the Ministry of Regional Development and Public Administration is 13% (18.938,68 Euro) and the own contribution is 2% (2.913,65 Euro [31].

In another western city in Romania, Timisoara, the Act for Tomorrow Association, together with the Timisoara City Hall had an urban regeneration initiative in the neighborhood called Fabric, where they want to transform an unused land into an urban forest, useful for the inhabitants of the area. This welcome initiative is intended to be a first step in terms of collaboration between local authorities and civil society, the aim being the planting on a 750 square meters of land of trees and perennial plants selected to improve the quality of the environment and to serve the Timisoara community. Among the aims of this project would be to lower temperatures, filter the air and provide protective space for pollinating insects and birds [32].

Another idea of setting up miniature forests in Timisoara is one of the eight projects declared as winners in the 2022 participatory budgeting program and aims to reduce pollution, noise and dust levels in the city by creating small "green oases" in certain heavily trafficked places. The municipality wants to have seven such mini-urban forests in Timisoara in the next two years, and the Foundation for Protected Areas Propark is working to this end to start such a project on the land provided by the Timisoara City Hall, in the East Railway Station area. The second miniature urban forest looks set to take hold in the East Station area [33].

IV. Hungary

European Union on climate neutrality, a position also maintained at the December 2019 European Council. At the same time, Hungary has maintained that it will strive to achieve climate neutrality by 2050. Based on the National Energy and Climate Plan and the National Clean Development Strategy 2050 the government in Budapest wants to give value to complex climate, energy and environmental policies to support the Hungarian state on low-carbon and greening as symbols of an economy of the future [34].

In 2010 the Hungarian Minister of State mentioned that the state forestry enterprises manage one million hectares of forest and since the same time the government has spent HUF 33 billion to invest in forest ecotourism. As a result of these efforts by the Hungarian central authorities, the forests have become one of the most visited domestic tourist destinations.

Thus, as an effect of the above-mentioned projects, thousands of people in Hungary are taking advantage of a cleaner and greener environment, enjoying the green spaces ween end to weekend, which has exponentially increased the number of hikes in mountain areas, which is expected to reach 40-50 million in 2023 [35].

In 2024 the local authorities of Budapest implemented a project aiming for an urban park of about 7 hectares on the Danube bank, north of the Római side, in cooperation with Főkert, and when the character of the new park was determined, "an innovative, ecological, nature-oriented design was chosen instead of the 'traditional' development of urban parks". One of the pillars behind the creation of this type of park was the circular economy, which is useful both in terms of creating and maintaining the park. The concrete foundation of the footpaths was abandoned, its remains being used as a foundation for the streets. The development of the site was achieved by balanced earthworks to minimize the amount of soil delivered and transported [36].

Community forums were held during the design process to assess the needs and expectations of park users. The scope of users was broadened to include different age groups as well as cyclists, dog owners, people with disabilities and lovers of different sports.

During the course of the design process citizens were also consulted, the community forums played a defining role in establishing and assessing the needs and expectations of future park users. These groups included a variety of potential users such as the elderly, cyclists, dog owners, people with disabilities and sports enthusiasts, whose opinions were taken into account by the project developers [37].

Recently, as part of a new initiative in this area of urban green space development, the Great Forest (Nagyerdő) in Debrecen won a public internet vote in a competition organized by the Ministry of Agriculture; and the Minister of Agriculture, István Nagy, presented the certificate attesting to the qualities of the aforementioned forest.

Against this background, the Ministry of Agriculture initiated a public vote on the internet in which more than 61 000 people participated, and the result was in favor of the Debrecen Forest, which is in a leading position as the first nature reserve in the country, and has also acquired the status of the most beautiful Hungarian forest [38].

On the other hand, the Budapest 2030 Strategy aims to transform Budapest into one of the greenest capitals in the EU by 2030, which means improving transportation infrastructure, increasing the number of bicycle lanes and creating green spaces [39].

As a conclusion, a land use plan up to 2026 was established based on Urban Atlas Data after studying several rural settlements in Hungary. Unfortunately, with some exceptions, in terms of local strategies of cities dealing with climate issues, it can be concluded that local governments do not consider land occupation and land use change as significant concerns and therefore no large-scale projects are carried out in this respect and not in all the evaluated localities significant measures have been taken by the authorities to protect the environment. Efforts are however being made in large cities, including electrification of urban transportation, increased energy efficiency of public buildings etc. [40].

V. Poland

In Poland, the legislative basis for the management and maintenance of forest land is provided by the 1991 Act on Forests (Act of September 28, 1991), and in case of a change in land use, the 1995 Act on the Protection of Agricultural and Forest Land (Act of February 3, 1995) [41].

The Polish State Forestry Policy was launched in 1997 and the program for increasing forest mass in 1995 are aimed at increasing the evident interest in the development of green areas (forests in particular) in the state. The National Program for Increasing Forest Cover as well as the State Forestry Policy assumed an increase of Poland's forest cover to 30% in 2020 and 33% after 2050 [42].

However, the European Commission has so far found that the Polish forest legislation as amended by the government authorities is not compatible with the EU Birds and Habitats Directives. It also accused Poland of not allowing communities to challenge forest management and the authorities' forest management plans in court [43].

Currently, Polish forest governance is clearly dominated by the state, which owns about 80% of Poland's forests, while 96% of these state forests are managed by the SFH - an influential organization with almost 25 000 employees that combines aspects of a public authority and a quasi-corporation [44].

Today, about 60 percent of the Polish population lives in urban areas, and the cities are quite different in terms of demographics, population size and density, as well as environmental quality in urban areas. The Ministry of Climate and Environment is working on the implementation of legislation in the field of urban trees and forests. Respectively on the amendment of the Environmental Protection Act in order to strengthen the climate dimension of urban policy and proper coordination of adaptation activities at urban level. [45].

The state climate ministry has presented a strategy for the establishment of 14 "community forests" that will lead to the creation of so-called "green rings" around major cities. The creation of community forests is planned around Warsaw, Krakow, Gdansk, Gdansk, Sopot, Gdynia, Wrocław, Łodź, Poznań, Katowice, Bydgoszcz, Toruń, Szczecin, Kielce and Bielsko-Biała. They are intended to be available to some 13 million of Poland's 36 million inhabitants [46].

The Community Forests Project is created with the help of 150 NGOs that have made a significant contribution to the preparation of this project. Minister Hennig-Kloska expressed her gratitude to the participants of the National Forest Council for their contribution to the mapping [47].

Another large-scale project in this field has been launched in consultation with experts from the University of Life Sciences in Warsaw, and it aims to create so-called "connected Polish forests", taking into account that the foundation that launched the project - Las Na Zawsze Foundation - is already taking care of more than 40 hectares of ecologically valuable land in Poland. At the moment, the foundation aims to create an area of over 2000 ha of forest land equivalent to the area of the Ojców National Park, and in the long term, the plan is to establish a network of mature forests throughout the country [48].

VI. Conclusions

Without doubt, the above mentioned shows, in part, the efforts made by the Romanian state, but also by some neighboring states for the development and implementation of a concept that, until the 60s, was just an isolated term mentioned in a bachelor's thesis by a student.

We can consider that in the last 10 years most local and central public authorities as well as some European institutions - the European Council and the Commission - have not remained impassive to the increasingly acute needs of city communities that are surrounded by huge concrete blocks or tall glass buildings, which does not guarantee a climatic comfort for the inhabitants of large or small European cities.

What is important as a conclusion of the above study is that not only have the states themselves made legislative or financial efforts to ensure that these urban forests and parks appear and develop, but there has been a real effort by the communities directly concerned and even by other structures passionate about greening or interested in better harmonizing the urgent interests of citizens with the investments of local administrations.

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BRIEF CONSIDERATIONS REGARDING THE NECESSITY OF CRIMINALIZING MERCENARY ACTIVITY

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Abstract:
Starting from the danger posed by mercenary activities, this article provides a concise overview of how the phenomenon is addressed at the international level, both through international treaties and the domestic regulations of certain European Union member states. Additionally, the situation in Romania is described, highlighting the passivity of the national legislator and briefly presenting the two legislative proposals that have been initiated in our country. The article concludes by asserting that it is imperative to criminalize mercenary acts in a comprehensive manner, covering all relevant forms of the mercenary phenomenon and taking into account all categories of active subjects who may commit such offenses.
Keywords: *mercenary, criminal offence, mercenarism, armed conflict, Criminal Code*

I. Introduction

Mercenarism is an activity, a phenomenon, that has accompanied armed conflicts throughout history [1], carried out by individuals driven exclusively by material interest, without any state affiliation or ideology for which they participate in the conflict, aptly referred to as ‘merchants of chaos’ [2].

At present, mercenarism represents a major risk to state security. This assertion is supported by the fact that the types of armed conflicts have diversified significantly, involving both state and non-state actors, with the participation of private entities and paramilitary groups. Mercenaries have become extremely dangerous individuals, being equated by some authors with terrorists, given their close interaction with representatives of various terrorist organizations and their frequent status as members of such organizations. [3] The threat being evident, a firm legislative response is required, one that must occur on two levels: at the level of international law, and at the level of each individual state. On the one hand, a common international vision is needed; on the other

hand, states must adopt provisions within their own legislation that criminalize acts of mercenarism.

In Romania, there is no legal provision that criminalizes mercenarism, which constitutes a major legal vulnerability, making a prompt intervention by the legislator extremely necessary. The absence of any regulation may lead to the emergence and development of structures that could eventually act against the interests of the state. It would be far more difficult to respond and repress such actions once they have occurred than to prevent them through rigorous legal regulation.

II. International standards

The need to regulate mercenary activity, an activity which, in most cases, runs counter to the fundamental principles of international law regarding non-intervention in the internal affairs of states, territorial integrity, and independence, [4] has naturally led the international community to adopt legal instruments aimed at establishing clear limits concerning the status of mercenaries. Among the most significant are Additional Protocol I (1977) to the Geneva Conventions of 1949 and the International Convention against the recruitment, use, financing and training of mercenaries of 4 December 1989.

Additional Protocol I of 1977 to the Geneva Conventions of 12 August 1949 on the protection of victims of international armed conflicts represents the only document with general, *erga omnes* applicability concerning mercenaries and is the first international instrument to define the term “mercenary.” According to Article 47, paragraph 2 of the Protocol, a mercenary is defined as any person who: (a) is specially recruited locally or abroad in order to fight in an armed conflict; (b) does, in fact, take a direct part in the hostilities; (c) is motivated to take part in the hostilities essentially by the desire for private gain and is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and function in the armed forces of that party; (d) is not a national of a party to the conflict or a resident of territory controlled by a party to the conflict; (e) is not a member of the armed forces of a party to the conflict; and (f) has not been sent by a state which is not a party to the conflict on official duty as a member of its armed forces. In order for a person to qualify

as a mercenary, all the conditions provided for in Article 47 of the Protocol must be met cumulatively.

The Convention has several functions, the most important of which is the deterrence of mercenarism by depriving mercenaries of rights, including those equal to members of regular armed forces, as well as by engaging the responsibility of the states to which they belong [5]. Thus, first and foremost, mercenaries are not entitled, according to Article 47, paragraph 1 of the Protocol, to the status of combatant or prisoner of war, which means that they do not benefit from the provisions of the Convention.

Subsequently, through the United Nations Convention against the recruitment, use, financing and training of mercenaries [6], adopted by General Assembly Resolution 44/34, the provisions of Protocol I to the Geneva Conventions regarding the prohibition of including mercenaries in the categories of combatants and prisoners of war were extended.

The Convention adopts the definition of a mercenary from Article 47 of the Protocol and significantly expands it. According to Article 1, a mercenary is considered to be any person who:

(a) is specially recruited, either locally or abroad, in order to fight in an armed conflict;

(b) is motivated to take part in the hostilities primarily by the desire for personal gain and is, in fact, promised material compensation by or on behalf of a party to the conflict, substantially greater than that promised or paid to combatants of similar rank and function in the armed forces of that party;

(c) is neither a national of a party to the conflict nor a resident of territory controlled by such a party;

(d) is not a member of the armed forces of a party to the conflict; and

(e) has not been sent by a state which is not a party to the conflict on official duty as a member of its armed forces.

Additionally, a mercenary is any person who, in any other situation:

(a) is specially recruited, locally or abroad, for the purpose of participating in a concerted act of violence aimed at:

(i) overthrowing a government or undermining the constitutional order of a state; or

(ii) undermining the territorial integrity of a state;

(b) is motivated to take part in such an act primarily by the desire for significant private gain and is induced by the promise or payment of material compensation;

(c) is neither a citizen nor a resident of the state against which such an act is directed;

(d) has not been sent by a state on official duty; and

(e) is not a member of the armed forces of the state on whose territory the act is carried out.

The Convention establishes liability both for the mercenary and for the state of origin and, additionally, provides for liability for complicity in acts of mercenarism. State parties are prohibited from recruiting, using, financing, or training mercenaries, and are also obligated to prohibit such activities. Furthermore, the Convention condemns any person who recruits, uses, finances, or trains mercenaries. The document imposes upon state parties the obligation to adopt national legislation establishing penalties for violations of the norms set out in the Convention.

Despite its importance and the fact that it offers a clear international framework for defining and sanctioning mercenaries, the United Nations Convention against the recruitment, use, financing and training of mercenaries enjoys limited applicability, as it has been signed and ratified by a relatively small number of states.

III. Criminalization of mercenary acts in the domestic legislation of certain european states

Although not all states, at least those that have signed and ratified the Convention against the recruitment, use, financing and training of mercenaries should have adopted domestic rules to sanction mercenarism, this has not occurred in practice. Many states invoke as reasons for refusing to ratify the Convention concerns related to its vague applicability or incompatibilities with domestic legislation concerning private military companies.

Nevertheless, beyond these aspects, there are a significant number of states that, recognizing the danger and prioritizing national security above political or economic interests, have chosen to criminalize acts of mercenarism and impose criminal sanctions.

In *France*, mercenary activity is explicitly criminalized. Law no. 2003-340 of 14 April 2003 on the repression of mercenary activity [7] introduced in the French Criminal Code [8], under Title III of Book IV, Chapter VI, the section titled On participation in a mercenary activity. This chapter contains five articles, 436-1 to 436-5, which establish the legal definition of a mercenary, criminalize the organization and leadership of mercenary activities, as well as participation as a mercenary in specific operations, and prescribe penalties applicable to both natural and legal persons involved.

Italy adopted Law 210/1995 [9], through which it ratified and implemented domestically the UN Convention against the recruitment, use, financing and training of mercenaries. The law introduces in Article 3. And 4 specific criminal offenses related to mercenarism and sanctions not only those who act as mercenaries, but also those who facilitate mercenarism through recruitment, organization, financing, or training activities. Furthermore, the Italian Criminal Code [10] provides in Article 288 for the offense of unauthorized recruitment or enlistment of an Italian citizen in the service of a foreign state, and in Article 244 criminalizes acts by a person who, without the approval of the Italian Government, recruits or engages in other hostile acts against a foreign state in a manner that exposes the Italian state to the danger of war. [11]

Germany has not ratified the UN Convention against the recruitment, use, financing and training of mercenaries and does not directly criminalize offenses related to mercenary activity, although German legal doctrine considers that such activity primarily threatens the state's military security [12]. Nonetheless, the German Criminal Code [13] indirectly addresses the concept, sanctioning under Article 109h any person who, on behalf of a foreign power, recruits a German citizen for military service in a military or paramilitary organization, or refers them to the recruitment services or military structures of such an organization. In essence, the law penalizes both the recruitment of German citizens and the facilitation thereof.

Poland has expressly included in its Criminal Code offenses relating to mercenary activity. Thus, Article 141 of the Polish Criminal Code [14] criminalizes the act of a Polish

citizen who undertakes military obligations in a foreign army or military organization without the consent of the competent authority, as well as the act of undertaking service in a military formation prohibited by international law. Article 142 provides, in paragraph (1), for the offense of recruiting Polish citizens or foreign residents of the Republic of Poland for military service in a foreign army or military organization, and in paragraph (2), for the offense of recruiting such persons for service in a military formation prohibited by international law or paying, organizing, training, or using such a service. [15]

In *Portugal*, the Criminal Code [16] stipulates in Article 238 the offence of recruiting mercenaries, which consists in the act of a person who recruits or attempts to recruit mercenaries for the military service of a foreign state or for any armed organization, national or foreign, that seeks, through violent means, to overthrow the legitimate government of another state or to undermine the independence, territorial integrity, or normal functioning of that state's institutions. The definition of a mercenary is taken from international law, with paragraph (2) of Article 238 specifying that a mercenary is defined as such by international law. Although the Portuguese Criminal Code sanctions the act of recruiting mercenaries, it does not include any offence related to the actual conduct of mercenary activities.

It should be noted that the offence has not been continuously provided for in the Criminal Code. For a brief period, Article 238 was repealed, and the offence was transferred, identically in content, to Article 18 of Law no. 31/2004 on Violations of International Humanitarian Law [17], a legal act representing the instrument by which Portugal aligned itself with the Statute of the International Criminal Court and international humanitarian law, amending its criminal legislation. After a relatively short period, the offence was reintroduced into the Criminal Code, again under Article 238, through Law no. 59/2007 [18].

IV. The situation in Romanian legislation

Romania ratified Additional Protocol I of 1977 to the Geneva Conventions of 12 August 1949 on the protection of victims of international armed conflicts through Decree no. 224/1990 [19]. According to Article 11, paragraph (2) of the Romanian Constitution, this makes the treaty part of domestic law.

On the other hand, although Romania signed the United Nations Convention against the recruitment, use, financing and training of mercenaries on 17 December 1990, it has not ratified the document to this day. The reasons for this lack of ratification remain unclear; however, this passivity adds to the broader legislative inaction at the national level regarding mercenary activity. As a result, Romanian legislation has never expressly provided for a criminal offense related to mercenary activity.

At the level of legislative initiative, in 2007 a draft law was proposed regarding the prohibition of mercenaries [20], which aimed to ban activities specific to mercenaries, as well as their recruitment, use, financing, and training by Romanian public authorities and institutions or by natural and legal persons located on Romanian territory (Article 1). The proposed legislation offered a definition of the mercenary and sought to criminalize the following acts as offenses: engaging in mercenary activity; initiating, organizing, or establishing paramilitary structures on Romanian territory that are not subject to state authority and control, as well as providing any form of support to such structures; recruiting and training mercenaries; hiring and using mercenaries; providing goods or raising and collecting funds for the purpose of supporting or financing illegal paramilitary structures or mercenary activities; managing assets belonging to paramilitary structures; and supporting mercenary activity.

As stated in the explanatory memorandum [21] of the draft legislation, the bill was deemed necessary to complement laws on national security and the fight against terrorism. It therefore proposed harsh penalties for such offenses, of up to 20 years imprisonment, similar to those established for terrorist acts. In the case of legal entities that recruit, use, finance, or train mercenaries, the proposed sanctions included monetary fines and judicial dissolution.

The legislative proposal was ultimately unsuccessful, being rejected by vote in both chambers of Parliament.

Recently, following the discovery that Romanian military personnel on parental leave had fought as mercenaries in the Republic of Congo, a new legislative proposal was introduced in 2025. As stated in the Explanatory Memorandum [22], its aim is to strengthen the national legal framework concerning the activities of active personnel in

the defense, public order, and national security structures by prohibiting their participation in mercenary activities.

The draft law [23] seeks to amend several legal acts - Law no. 51/1991 on Romania's National Security, Law no. 80/1995 on the Statute of military personnel, Law no. 384/2006 on the Statute of professional soldiers and non-commissioned officers, Law no. 360/2002 on the Statute of the police officer, and Law no. 145/2009 on the Statute of penitentiary police officers. The proposal provides a definition of mercenary activities and prohibits members of these professional categories from participating in mercenary activities, as well as in private security and protection services. The proposal also includes the introduction of a new article in the Criminal Code, Article 437¹ - Participation in prohibited activities, with the following legal content: "(1) Participation, in any form, by active military personnel, active professional soldiers and non-commissioned officers, public servants with special status from public order and national security structures, and penitentiary police officers in mercenary activities or in personal security and protection activities, or in activities carried out for private security and protection companies, without authorization from the Romanian authorities, shall be punished by imprisonment from 5 to 10 years and the prohibition of certain rights. (2) If the act provided for in paragraph (1) is committed during a state of war, the penalty shall be life imprisonment or imprisonment from 15 to 25 years and the prohibition of certain rights. (3) Attempt shall also be punishable." At the time of writing this article, the draft law is undergoing the legislative procedure, having been referred to the standing committees of the Chamber of Deputies for report. The legislative proposal is a welcome initiative, given the absence of any domestic legal provision prohibiting such activities. However, beyond the obvious positive aspects, we consider the initiative to be incomplete, as it only regulates the situation of active military personnel. The threat to national security posed by participation in mercenary activities is just as serious when private individuals are involved, individuals who do not belong to any of the structures covered by the legislative proposal. Indeed, the draft addresses the issue from the perspective of the military and their active personnel, but it does not provide a general and comprehensive solution to the problem of mercenarism. Moreover, considering that one of the arguments made by the initiators in the Explanatory Memorandum is that involvement in mercenary or private security

activities without public oversight may result in the transfer of military know-how to foreign entities or non-state actors - an issue representing a major vulnerability for national security - it would be appropriate to extend the provisions to include retired personnel, at least for a limited period after their transfer to the reserve (a proposal also made by the Economic and Social Council in its advisory opinion on the draft law).

V. Conclusions

As outlined in the previous chapters, states have recognized the danger posed by mercenary activity and have taken measures against this phenomenon by adopting firm legal provisions to sanction individuals who engage in mercenary or related activities.

Contrary to this trend, Romania has remained in a state of continuous passivity, as its domestic legislation contains no provision prohibiting and criminally sanctioning mercenary activity, this legislative void creating the premises for the commission of acts related to mercenary activity without the possibility of holding the perpetrators criminally liable Through this, Romania becomes part of a category of states that may be described as passive-states which, by accepting acts of aggression committed by their own citizens on the territory of another state without taking reasonable measures for protection and for sanctioning the perpetrators, disregard their own obligations to respect the territorial integrity and political independence of other member states of the international community. [24]

Romania has failed to implement the few legislative initiatives aimed at addressing the phenomenon. As previously mentioned, the only legislative proposal that went through the full legislative process and reached a vote in Parliament, the one from 2007, was rejected by lawmakers. The second proposal, introduced in 2025 and currently undergoing the legislative procedure, while commendable as a step in the right direction, remains incomplete, as it limits the category of active subjects of the offense solely to active members of military structures.

In order to constitute comprehensive regulation, the scope of active subjects should be extended to include reservists, as well as civilians who have had no connection with military institutions, with the possibility of differentiating penalties accordingly. Moreover, those who recruit personnel for mercenary activities, train mercenaries, or

finance, manage, or lead such operations must also be held criminally liable. In addition to individuals, legal entities involved in such activities must likewise be held accountable.

To achieve its intended purpose, the legal provision must cover all relevant forms of mercenarism; only in this way can effective protection against the phenomenon be ensured.

The subject remains open, timely, and of major interest, with numerous implications, which requires further development in the future, with the ultimate goal of adopting coherent criminal provisions that effectively sanction mercenary acts.

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NON-PATRIMONIAL EFFECTS OF DIVORCE RELATING TO RELATIONSHIPS BETWEEN PARENTS AND THEIR MINOR CHILDREN

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Abstract:
Divorce is one of the most complex legal institutions in family law, in terms of the ways in which it can be achieved, but also in terms of the implications for the relationships between spouses, but also between parents and their minor children, which has led to a constant involvement in its detailed regulation.
The article aims to analyze the legal institution of judicial divorce in relation to the non-patrimonial relationships between parents and their minor children after the dissolution of the marriage, including in relation to related aspects that are mandatory to be established in the situation where minor children resulted from the marriage relationship at the date of the divorce between their parents, namely the exercise of parental authority and the establishment of the children's residence.
At the same time, this scientific research aims to debate the importance of respecting the best interests of minors in making any decision in the divorce procedure with minor children, but also of establishing which aspects the court is obliged to rule on ex officio.
At the end of the scientific approach, it will be concluded that divorce constitutes a fundamental institution in family law, which, when spouses have minor children, determines not only the involvement of the court, but also of administrative authorities, such as the Guardianship Authority departments within the City Halls or the County General Directorates for Social Assistance and Child Protection.
Keywords: *divorce, parental authority, minor's residence, public authorities*

Introduction

The legal institution of divorce has always benefited from detailed regulation determined by the impact on the relationships between spouses, but also between them and their minor children, including from a non-patrimonial perspective.

Thus, chronologically analyzing the legal framework, we show that in the Family Code, currently repealed, art. 42 paragraph (1) mentioned that upon the pronouncement of the divorce, the court had the obligation to decide to which parent the minor children, born out of wedlock or adopted by both spouses, would be entrusted, and the parent to whom the minor children were not entrusted, had the right to have personal ties with the children and to participate in their upbringing, education and professional training, and

the parent to whom the court entrusted the minor children, exercised all rights regarding the person of the children and their property, which determined the situation in which parental rights were not exercised equally by both parents.

In order to grant custody to minor children, the court was required to take into account the possibility that the minor could be separated from his or her parents or from one of them against their will, only in the cases expressly and limitedly provided for by law, subject to judicial review and only in the event that the principle of the best interests of the minor was respected, which corresponds to the child's right to benefit from physical and moral development appropriate to his or her age, the parents retaining the right to have personal contact with the children and to supervise the way in which they are raised; another mandatory aspect on which the court had to rule was related to the parents' contribution to the expenses necessary for the raising and education of the minors, but this concerned patrimonial relations.

We note that the legislation prior to the entry into force of the current Civil Code exclusively regulated divorce by court, regardless of whether the spouses had minor children or not, or whether they agreed with the accessory claims or not, with no possibility of simplifying the procedure or establishing the responsibility of other entities to pronounce on the divorce.

With the entry into force of the current Civil Code on October 1, 2011, family relations benefited from a detailed legal regulation [1], the institution of divorce being analyzed in a more complex way than in previous normative acts, in the sense that the law enshrined divorce by administrative means, by notarial means, but also by judicial means, the last two types of dissolution of marriage being the only ones permitted by law when the spouses have minor children born or conceived during the marriage.

We note that with regard to the non-patrimonial effects of divorce regarding the relations between parents and their minor children, it is mandatory to take into account the aspects regulated by art. 396 of the Civil Code, namely the children's domicile after divorce and the exercise of parental authority, it being essential for the guardianship court to take into account the best interests of the child, the parents' consent, as well as the conclusions of the psychosocial investigation report; At the same time, in the case of minors who have reached the age of 10, the court is obliged to hear them in chamber, but

the law also provides for the possibility that minors who have not reached the age of 10 can be heard when the court considers this necessary for resolving the case.

We show that in cases where the legal situation of minors is regulated, the procedure must be carried out expeditiously, taking into account the need to respect the rights of both parents and their minor children, also taking into account the fact that the passage of time can have an impact on the relationship between the child and the parent with whom he does not live [2], the severance of the bond between them can sometimes produce an irreversible distance, and the protection of minors is a central aspect in family law legislation.

Exercise of parental authority

In cases where the court is entrusted with resolving a divorce application, in which the parties have minor children, one of the heads of claim on which it is obliged to rule is the exercise of parental authority, which represents the set of rights and obligations that the parent has over his child, with reference to the person and property of the minor, and, according to art. 397 of the Civil Code, this, as a rule, will be made jointly by both parents, given that the divorce should not affect the relationship between the divorced parents and their minor children; the exercise of parental authority by both parents has as its main component the consultation of them in making important decisions regarding the upbringing and education of the children, the current decisions regarding the care and education of the child being made by the parent with whom the child lives, the other being consulted only regarding important decisions.

However, the legal provisions mention exceptions to the rule according to which parental authority is exercised jointly by both parents, namely in the case where parental authority is exercised by a single parent, but also in the situation in which it will be exercised by other persons.

For the first hypothesis presented, namely the exercise of parental authority by a single parent, the legislator requires the existence of well-founded reasons, which must be analyzed in relation to the principle of the best interests of the child, which justify one of the parents not exercising parental authority over the minor, but retaining the right to supervise the child's upbringing and education; the exercise of parental authority will be

carried out by a single parent if the court finds well-founded reasons that would affect the best interests of the child if custody were joint, being assessed on a case-by-case basis whether this is for the benefit of the child, because the law does not precisely specify the meaning of the notion of well-founded reasons.

Situations where only one parent exercises parental authority must be reported to the evidence administered, in order to guarantee that the measure is for the benefit of the minor as long as the law does not limit the cases in which the exercise of parental authority exclusively can be ordered; in addition, we point out that parents cannot agree on the exclusive exercise of parental authority by only one of them, but their eventual agreement must respect the best interests of their child, therefore, this measure can only be ordered through the court and only following the administration of evidence.

In analyzing the evidence for granting exclusive parental authority over the minor, we consider that the existence of a risk on the part of the parent to the minor must be taken into account, which most often involves disinterest in relevant aspects regarding the education, health and upbringing of the child, as well as the impossibility for the parents to discuss and make joint decisions regarding the child, exclusive authority not being perceived as a sanction for the parent against whom the court decision is issued, but rather constituting a way of protecting the child and respecting his or her best interests.

Also, the legal attribute of the court to admit a request for granting exclusive parental authority which implies preserving the parent's right to supervise the child's upbringing and education and to continue to have personal ties with him/her cannot be confused with the deprivation of a parent from the exercise of parental rights, which presupposes as a precondition the endangerment of the child's life, health or development through ill-treatment, through the consumption of alcohol or narcotics, through abusive behavior, through serious negligence in fulfilling parental obligations or through serious violation of the child's best interests. At the same time, we specify that the exercise of parental authority by one of the parents should not be confused with the situations provided for in art. 507 Civil Code, when the exercise of parental authority is done by a single parent, because the other is deceased, declared dead by court decision, placed

under interdiction, deprived of the exercise of parental rights or, for any reason, is unable to express his will.

The second hypothesis concerns the situation in which the exercise of parental authority by other persons, an exceptional measure, by which the guardianship court may decide to place the child with a relative or another family or person, with their consent or in a protective institution, they exercising the rights and duties that are incumbent on the parents with regard to the person of the child, and, with regard to the rights and obligations relating to the child's property, the court will decide whether these will be exercised by one or both parents.

The purpose of this measure is to remove the parents from exercising parental authority, the most frequent situations that may justify this measure being related to the parents' negligence towards the children, violence towards them, the parents' immorality, or other cases in which it is proven that the exercise of parental authority by both parents or by a single parent does not respect the best interests of the child.

We note that the exercise of parental authority ceases, as a rule, when the child reaches the age of 18 or upon the death of the minor, but, exceptionally, it may also cease when the 16-year-old minor has been judicially recognized as having full capacity to exercise it.

Determining the child's residence

Another mandatory aspect to be established when pronouncing divorce in the case of minors is the establishment of their residence, meaning that the guardianship court will either take note of the parents' understanding regarding this claim, if it is in the best interest of the child, or will administer evidence if the parents do not have a common point of view or do not respect the interest of the minor.

When determining the children's residence, courts usually consider as criteria the age and gender of the child, the attachment to the parents and the parents to them, the material and housing possibilities of the parents, their moral conduct, keeping siblings together, and legal criteria [3] are also established, namely the willingness of one parent to involve the other in decisions regarding the child and to respect the latter's parental rights, the willingness to allow the other parent to maintain personal relationships, the

housing situation of each parent in the last 3 years, the history of parental violence against the child or other persons, the distance between each parent's home and the institution that provides education to the child.

The guardianship court establishes the child's residence either with one of the parents, if the child lived with both parents until the divorce, or with the parent with whom the minor lives permanently, if the child did not live with both parents until the divorce, or, in a special way and with respect for the principle of the child's best interests, with relatives or other persons with their consent or with a protective institution.

As an exception, in the situation where the exercise of parental authority is vested in a third person, through the placement measure, the child's residence is with the institution, family or persons to whom the child was placed in placement [4].

The reason why the legislator regulates the permanent establishment of the minor's residence with one of the parents stems from the need for organization in the child's schedule, predictability, and balance, it being essential for him to have a reference point of stability, in order not to be further emotionally affected, also taking into account the fact that the separation of the parents inevitably affects minors and can directly cause a regression in their normal development; therefore, the legislator is oriented towards establishing a single domicile, which does not automatically imply the severance of the child's relations with the other parent, but which ensures stability for the minor that must be achieved in compliance with the principle of his best interests, but also with guaranteeing his possibility of normal development in the future, including through the prism of emotional balance.

In recent years, the concept of alternative housing for minors has crystallized in the doctrine, which assumes the lack of a single domicile for the child after the separation of the parents and the child living equally with both parents in order to respect the principle of equality, which is closely connected with non-discrimination [5], which is prohibited by Romanian legislation in various forms [6], and to develop the relationship between the child and both parents, trying to overcome the classic conception that divorce between spouses inevitably leads to the child distancing himself from the parent with whom he will no longer live permanently.

However, we believe that the lack of a single domicile for the minor can have much more serious effects on him/her, taking into account that he/she will live in two different environments, each with its own rules, different family activities, different parental standards, and the discomfort of moving weekly or bimonthly, which does not ensure that the minor has a stable schedule, which can also affect school performance and the possibility of getting involved in extracurricular activities, the child being forever concerned about moving between two homes, without actually having a space of his/her own.

Although the main reason for which the establishment of an alternative residence in favor of the minor is invoked in the courts is related to respecting the minor's interest in having equal ties with both parents, but also to the right of the parents to be equally involved in the upbringing and education of their child [7], in reality this is often related to the parents' pride, without really taking into account the negative effects of this decision on their child.

However, we appreciate that at this point in the way of regulating the institution of the minor's domicile in Romanian legislation, there is no clearly established possibility of establishing an alternative residence for the minor, the internal legal norms outlining the idea of the existence of a single domicile, which is to be established either with one of the parents, or with other persons, in exceptional cases, the practice not unanimously agreeing with the admissibility of a request to establish an alternative residence [8] , especially due to the lack of explicit legal regulation, although the possibility of its application could result from the analysis of art. 8 of the European Convention on Human Rights regarding respect for family life.

In addition, we believe that a good relationship between the child and the non-resident parent can also be maintained by providing a more extensive personal contact program, but which does not imply residential instability, which can cause multiple practical and psychological problems in terms of the obligation for the minor to constantly adapt to changes, which could constitute a disruptive factor in his or her normal development and may diminish his or her school performance.

We note that a distinction must be made between the exercise of parental authority exclusively by one parent and the establishment of the minor's residence with that parent,

on the one hand, and the situation in which parental authority is exercised jointly by both parents, but the child's residence is established with relatives, grandparents or other persons or with a protective institution to ensure optimal upbringing and education of the minor, respecting his or her best interests, on the other hand; however, although the exercise of parental authority and the establishment of the child's residence are two separate legal institutions, they are closely connected, the establishment of the minor's residence having an indirect effect on the exercise of the parents' rights with regard to the child, given that decisions regarding current aspects related to the upbringing and education of the child will be made by the parent with whom the minor resides.

Also, parents who do not live with their children retain the right to have personal ties with minors, to oversee their education, upbringing, teaching and professional training, these rights being analyzed in correlation with the provisions of art. 8 of the European Convention on Human Rights and Fundamental Freedoms, as part of the right to family life, the state authorities having the positive obligation to take measures so that these rights are effective and can be applied in practice, and the parent with whom the child lives being obliged to encourage and support the existence of relationships between his child and the other parent, in order to contribute to the normal socio-emotional development of the minor; we show that the limitation of personal ties between parents and their minor children can be achieved only in exceptional cases, proven with ample evidence, situations such as mental illness of a parent not being able to justify a different treatment compared to other parents [9] who benefit from the right to have personal ties with their children.

Involvement of public authorities in the judicial procedure for regulating relations between parents and their minor children

In cases involving divorce in which the parties have minor children, the involvement of public authorities is mandatory, their contribution being essential in guaranteeing respect for the rights of parents and children, the role of specialized personnel within public authorities being to protect the child's interest [10].

Thus, the most important public authorities involved in this procedure are the General Directorates of Social Assistance and Child Protection and the guardianship

authorities within city halls, each with clearly determined responsibilities that aim to respect the best interests of the minor.

Regarding the General Directorates of Social Assistance and Child Protection, we note, as a novelty, that Law No. 123/2024 [11] established the obligation to hear minors only in the presence of a psychologist from this institution, who writes a report of findings that will be attached to the case file, the hearing of minors being carried out imperatively as the last act in the judicial investigation, the minor's point of view having the value of a relative presumption; This aspect determined the change from the previous judicial practice in which the hearing of minors was carried out as the first act in the judicial investigation and in which it was not necessary for the hearing of minors to take place in the presence of a psychologist except in exceptional cases, but we mention that in the doctrine [12] it was shown that by participating in this procedure exclusively by psychologists from the DGASPC, the cases could be delayed, taking into account the lack of personnel and the multitude of files in the field of minors and family in which the hearing of the minor child is a mandatory procedure.

However, the court is obliged to go through the procedure of hearing minors under the conditions established by the provisions of Law No. 123/2024, but it is not obliged to take into account only the aspects related by the minor, but will pronounce a solution based on the corroboration of all the evidence administered in the case in order to have a complex vision of the factual situation and the relationships that exist between children and their parents, so that the ruling pronounced respects the best interests of the minors.

Also in order to respect the best interests of the minor, in procedures involving minors it is mandatory to carry out a psychosocial investigation, a task that falls to the guardianship authority department within the City Halls, in relation to the provision of art. 229, paragraph 1, letter b) of Law no. 71/2011 implementing the Civil Code, transitional regulation until the establishment of the guardianship court; this investigation must contain relevant aspects regarding the psychological, economic and social situation of the minor, as well as his/her family, including the extended one, if they live with the child, also involving field trips to the minor's home to verify his/her living conditions and the possibility that they will provide him/her with the ability for normal physical and emotional development, it being mandatory that the minor can grow up in a suitable environment,

this aspect being to be established by the court of law not only on the basis of the investigation carried out, but also on the basis of the rest of the evidence administered.

In this context, the involvement of public authorities, namely the General Directorates of Social Assistance and Child Protection operating at county level and the guardianship authorities within the city halls in divorce procedures guarantees compliance with the principle of the best interests of the minor, which implies placing children first, respecting their needs and interests [13], as well as their right to have the decision-making process concerning them and their housing regulated after the separation of the parents.

Conclusions

The principle of the best interests of the minor constitutes a cornerstone of family law, being the main benchmark according to which court decisions are made that aim to regulate the legal situation of children, in the case of divorce between their parents, being a complex concept that must be analyzed in an interdisciplinary manner, not only from a legal perspective, but also from a psychological one.

The divorce process between spouses when they have minor children can be a difficult one from the perspective of how to manage the relationships between the partners, with reference both to the reasons that led to their separation, and to making the best decisions regarding the children, in order not to affect their normal psycho-emotional development and not to transfer onto them the dissatisfactions from the couple's relationship.

In this context, the regulation of the non-patrimonial effects of divorce in the relationship between parents and their minor children must be analyzed in relation to the rights of minors, the exercise of parental authority over children and the establishment of their residence being aspects on which the court rules ex officio, even if the parties have not mentioned them distinctly, as grounds for the claim, and scientific research has revealed the essential involvement of public authorities in this procedure to complete the evidence in the file, so that the decision rendered respects the best interests of the minor.

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TOURISM AFTER THE PANDEMIC: SAFETY AS A PILLAR OF TRUST AND GROWTH

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Abstract:
The COVID-19 pandemic caused unprecedented disruptions in global tourism, with a sharp decline in tourist flows during 2020 and 2021. Although the sector has shown remarkable resilience and recovery began as early as 2022, the process of rebuilding trust in tourism is still ongoing. In this context, tourist safety becomes a key factor not only for restoring consumer confidence but also for the stable growth and sustainable development of tourism. This paper analyzes the role of safety in the modern tourism environment, with particular attention to the challenges arising in the post-pandemic period, including changes in tourist behavior, rising costs, labor shortages in the sector, geopolitical tensions, and the impact of climate change. The importance of integrating safety measures into tourism policies, destination promotion, and planning is also discussed. The aim of the paper is to highlight that safety, as the foundation of trust, is a necessary condition for the long-term growth and competitiveness of the tourism industry in an era of increasing global uncertainty.
Keywords: *tourism, safety, pandemic, trust, sustainable development, tourism policy*

Introduction

The global COVID-19 pandemic marked a turning point for modern tourism, causing multiple disruptions and losses that led to the deepest crisis in the history of the industry. As tourism gradually recovers and returns to pre-pandemic levels, academic and professional attention is increasingly focused on issues of sustainability, resilience, and safety as key pillars of the sector's future development. Tourism, as a complex socio-economic phenomenon, is extremely vulnerable to various types of crises from health and safety issues to economic and climate-related disruptions [9]. Therefore, the need to redefine and strengthen safety systems is not only a condition for survival but also a prerequisite for restoring the trust of travelers, local communities, and investors.

Mass tourism, characterized by large numbers of visitors in limited spaces, requires a clearly defined set of fundamental measures aimed at ensuring stable and harmonious development in the interest of travelers, service providers, and the local population. The exposure of people to traffic accidents, the risk of criminal attacks during travel, in hotels or on excursions, and the dangers of fire, food poisoning, and infectious diseases all strongly influence the choice of destination, length of stay, repeat visits, and tourist recommendations. Therefore, countries that seriously consider tourism a core economic activity must develop comprehensive laws and standards for tourist safety.

Contemporary tourist destinations face numerous challenges that go beyond the pandemic the energy crisis, inflation, geopolitical tensions, migration, climate disasters, and resource shortages further complicate the process of sustainable development planning [13]. At the same time, tourists are exposed to various risks from crime, infections, and natural disasters to cultural misunderstandings and lack of adequate information. According to the classification of the World Tourism Organization (WTO), sources of risk are present both within and outside the tourism sector, including individual tourist behavior and the physical characteristics of the environment [23].

Tourist safety must be ensured throughout the entire journey and stay at the destination. In this context, this paper explores the importance of safety as a foundation for the recovery and growth of tourism in the post-crisis period. The focus is on the integration of safety measures into sustainable destination development strategies, the protection of tourists' consumer rights, and the implementation of participatory planning that involves all stakeholders – local communities, tourists, policymakers, and service providers. The aim is to emphasize that safety is not merely a technical or logistical aspect of tourism, but a crucial social and developmental factor that enables a stable, inclusive, and long-term sustainable tourism system.

Theoretical Framework of Tourism Safety

Safety in tourism encompasses a complex set of factors arising from diverse risk sources, posing challenges for states, the tourism industry, and travelers themselves. According to the classification of the World Tourism Organization (WTO), safety risks in tourism are divided into four main categories: risks stemming from the human and

institutional environment outside the tourism sector, those originating within the tourism sector and commercial operations, individual risks related to tourists' personal behavior, and environmental risks including natural, climatic, and epidemiological factors [23]. This typology highlights the multi-layered nature of vulnerabilities in tourism, indicating the need for cross-sectoral cooperation involving public authorities, private stakeholders, and civil society.

In the current context, especially following the global pandemic, increased attention is given to the distinction between natural and anthropogenic risks [19]. Natural risks refer to events that occur independently of human action, such as earthquakes, floods, or the spread of infectious diseases. In contrast, anthropogenic risks result from human activities either unintentionally, due to technical failures, negligence, or human error, or intentionally through violence, crime, or terrorism. An added challenge emerges when tourists, due to unfamiliarity with local language, customs, or legal systems, become particularly vulnerable to misinterpretations or legal and cultural misunderstandings [11].

One of the most important normative international documents addressing safety in tourism is Resolution A/RES/284 (IX), adopted in 1991 at the Ninth Session of the General Assembly of the World Tourism Organization in Buenos Aires [22]. The resolution affirms that safety is a fundamental human need, particularly in the context of international travel, and that ensuring safety contributes to achieving the social and cultural goals of tourism, building international trust, and promoting human rights. The document emphasizes the development of national tourism safety strategies, the adoption of health and sanitary standards, environmental protection, and the provision of accurate and timely information about potential risks. It also underscores the importance of diplomatic and consular support mechanisms and improved consumer protection procedures within tourism services.

From this perspective, the rights of tourists should be viewed through the lens of their status as consumers, particularly focusing on the right to information, physical safety, and legal protection. Accordingly, states are encouraged to establish effective mechanisms for protecting tourists who fall victim to criminal acts, as well as efficient complaint and dispute resolution procedures. Institutional support also includes facilitating access to consular assistance, especially in cases where tourists are unable

to manage emergency situations on their own [5]. Furthermore, governments are expected to assist tourists in cases requiring emergency repatriation or, in extreme situations, in the transfer of mortal remains.

Tourist safety is not limited to the moment of arrival at the destination, rather it spans the entire travel experience from preparation and departure, through the stay and use of services, to the return home [1]. Every actor within the tourism supply chain from transport providers and guides to hoteliers and tour operators bears responsibility for upholding a high standard of safety to ensure sustainable and responsible tourism development.

Harmonization in the Field of Tourist Insurance and Protection in the European Union

Within the development of the single market and the freedom of movement of people, the European Union has paid particular attention to the protection of passenger and tourist rights, aiming to ensure legal certainty and equal treatment across all Member States. The process of harmonization in the field of tourist insurance and protection involves aligning the legislation of Member States, particularly in areas such as consumer rights, passenger rights in air, rail, water, and bus transport, as well as the right to compensation and assistance in cases of trip cancellations, delays, or service disruptions [6].

One of the key instruments of the EU in this area is Directive (EU) 2015/2302 [8] on package travel and linked travel arrangements which protects travelers in cases of insolvency of travel organizers, ensures the right to reimbursement or repatriation, and defines clear obligations for service providers regarding consumer information. Additionally, Regulation (EC) No. 261/2004 [7] governs air passenger rights, including compensation for canceled flights or denied boarding, while Regulation (EU) No. 2021/782 [6] harmonizes the rights of passengers in rail transport.

An important segment of harmonization also relates to the development of the European Health Insurance Card (EHIC), which allows EU citizens to access emergency medical care during temporary stays in another Member State under the same conditions as nationals of that country [3]. This instrument represents a significant step toward

standardizing tourists' rights to healthcare and reducing legal and financial uncertainty during international travel.

Through institutions such as the European Consumer Centre Network (ECC-Net), the European Union provides support to tourists in cross-border disputes, offering free advice, mediation, and complaint resolution [4]. These mechanisms contribute to strengthening trust in the internal tourism market and affirm the idea of safe and responsible tourism aligned with the fundamental values of the Union.

Harmonization in the area of tourist insurance and protection in the EU is not merely a technical or legal process, but also a reflection of political will to ensure that all EU citizens are equally protected, regardless of the Member State in which they are located [2]. This creates a foundation for the development of sustainable and safe tourism that respects consumer rights, reduces risks, and enables rapid response in crisis situations.

Current Trends and Challenges in International Tourism After the Pandemic: Implications for Safety and Sustainable Development

According to the latest data from UN Tourism, an estimated 1.4 billion international tourist arrivals were recorded in 2024, indicating a near-complete recovery (99%) compared to 2019 levels [21]. This represents an 11% increase over 2023, or 140 million more arrivals, highlighting strong post-pandemic demand, economic recovery, and the successful resurgence of destinations on the global tourism map [21].

The highest growth relative to the pre-crisis period was observed in the Middle East (+32% compared to 2019), while Africa and Europe also surpassed 2019 levels by 7% and 1%, [12] respectively. Standout destinations include El Salvador, Saudi Arabia, Ethiopia, Morocco, and the Dominican Republic, all of which recorded double-digit increases in both arrivals and tourism receipts [12]. Meanwhile, the Asia-Pacific region, although still slightly below 2019 levels, demonstrated significant recovery rising from 66% in late 2023 to 87% in 2024 [12].

International tourism receipts reached a record USD 1.6 trillion, while total export earnings (including passenger transport) amounted to USD 1.9 trillion, surpassing pre-pandemic performance [20] (TravelBizNews., 2025). Particularly noteworthy is the

stabilization of average spending per tourist, estimated at around USD 1,100 in 2024 above the pre-pandemic average of USD 1,000 [20].

While the 2024 data confirm the quantitative recovery of tourism, qualitative development remains a challenge, especially in terms of safety, inflation, geopolitical tensions, and climate-related disruptions. More than half of respondents from the UN Tourism Panel of Experts identified high transportation and accommodation costs, economic pressures, geopolitical risks, extreme weather events, and staff shortages as key barriers to continued growth. Despite this, most experts (64%) expressed a positive outlook for 2025, with international arrivals expected to grow by 3–5% [21].

In the context of this dynamic recovery, the need to balance growth with sustainability becomes increasingly critical. Two global tourism trends are gaining prominence: the search for sustainable practices and the rising popularity of lesser-known destinations. These shifts have direct implications for tourist safety and call for more flexible and proactive risk management strategies, along with the reinforcement of regulatory consumer protection mechanisms in tourism.

This leads to the central argument of this paper: quantitative growth in tourism must be accompanied by the establishment of universal and adaptable safety standards, to ensure that the development of the sector remains sustainable and inclusive, without compromising the rights and safety of travelers. In this regard, enhanced international coordination, the implementation of crisis protocols, the development of digital tourist information systems, and the alignment of safety standards with both local contexts and global challenges are strongly recommended.

Discussion and Key Lessons Learned

Contemporary tourism, faced with the consequences of a global pandemic and a dynamic geopolitical-economic environment, is encountering complex challenges that go beyond traditional safety frameworks. The COVID-19 pandemic not only disrupted the physical movement of tourists but also profoundly shook the foundations of trust that destinations had built over years. Therefore, safety can no longer be viewed as a secondary component of service quality, but rather as a central pillar of tourism development in times of crisis [13].

Within the context of crisis management, there is a clear need for an anticipatory approach identifying potential risks, ensurin g institutional preparedness, and enabling swift response [17]. Many destinations, particularly in developing countries, have not established sufficiently standardized emergency procedures or early warning systems, nor have they developed mechanisms for effective inter-sectoral coordination. This often results in fragmented crisis management, insufficient protection for tourists, and a damaged destination image.A particular challenge is the asymmetry in tourist information, especially concerning their rights, protection options, and access to assistance during travel. Issues such as emergency repatriation, access to healthcare, loss of personal documents, or contact with consular offices require clearly structured support mechanisms that are accessible, understandable, and responsive [16]. In light of emerging trends, it becomes evident that the quantitative recovery of tourism must be accompanied by qualitative improvements in safety standards and the strengthening of institutional resilience. In this context, the issue of "overtourism" is gaining attention, as it further complicates the management of space, resources, and safety capacities, especially during peak tourist seasons [15].

Experiences from European destinations indicate that there is no universal model for addressing the challenges of unbalanced or crisis-affected tourism. Instead, a contextualized, multidimensional, and participatory approach is required. Local communities, in collaboration with the tourism industry, state institutions, and tourists themselves, must take part in shaping policies that balance development, protection, and sustainability [3].

To improve safety and resilience in the tourism sector, it is necessary to develop an integrated system encompassing various aspects of tourist protection and effective crisis response [10]. It is essential to implement internationally recognized safety standards in tourist facilities, including hygiene and sanitation conditions, food safety, fire prevention, environmental protection, and access control at tourist sites. Additionally, national and local crisis management strategies should be developed with clearly defined action protocols for situations such as natural disasters, epidemics, terrorist threats, and other emergencies.

Information about the safety conditions at destinations must be accessible, clear, and distributed through multiple channels such as educational digital platforms, mobile applications, and multilingual travel guides with emphasis on emergency contacts and recommended actions in crisis situations [18]. At the same time, it is necessary to introduce systematic training for tourism sector employees in crisis communication and safety procedures, so they can respond efficiently, professionally, and calmly in critical moments.

Sustainable tourism development also entails empowering local communities, which should be actively involved in planning and implementing crisis mitigation measures, thereby strengthening the sector's resilience and promoting broader societal inclusion. Finally, it is imperative to enhance the legal framework for consumer protection by clearly defining the responsibilities of travel organizers, improving refund mechanisms, and ensuring easier access to healthcare and consular services. Only through a comprehensive approach combining prevention, information, education, and legal protection can long-term, safe, and sustainable tourism development be achieved [14].

Tourism in the post-pandemic era requires new foundations of trust, with safety as its essential pillar. It is not merely a technical or legal matter, but deeply connected to the perception of security, the sense of control, and transparent risk management. By establishing a comprehensive and integrated safety system, tourist destinations can achieve not only greater resilience but also strengthen their competitive position amid growing global uncertainty.

Conclusion

Tourism safety, as a multidimensional concept encompassing physical, health, legal, and informational aspects of tourist protection, has become a foundational element in planning sustainable tourism development. **Theoretical frameworks and practical experience confirm** that tourist vulnerability stems not only from natural factors but also from human behavior, institutional gaps, and socio-cultural misunderstandings. This underscores the need for a comprehensive, anticipatory, and participatory approach to risk management.

In this context, **safety should no longer be viewed as a peripheral issue**, but rather as a central strategic priority, one that directly influences trust, competitiveness, and long-term resilience in the tourism sector. All actors involved from governments and industry professionals to local communities and tourists themselves share responsibility for ensuring a safe and stable tourism environment**. The travel experience must be protected at every stage**, from planning and departure, through stay and service use, to return requiring a holistic chain of responsibility and coordinated response.To that end, it is crucial to develop an integrated system of tourist protection, incorporating internationally recognized safety standards related to hygiene, food safety, fire prevention, environmental sustainability, and access control at tourism sites. National and local authorities must adopt clearly defined crisis management strategies, with action protocols tailored to specific threats such as natural disasters, epidemics, or acts of terrorism. Equally important is the **accessibility, clarity, and dissemination** of safety-related information. Destinations must ensure that tourists receive timely and reliable guidance via digital platforms, mobile applications, and multilingual materials, especially regarding emergency contacts and recommended actions during crises. Moreover, tourism workers should undergo systematic training in safety and crisis communication procedures, enabling them to respond calmly, competently, and effectively in emergency situations.

Sustainable development in tourism also requires the **active engagement of local communities**, not only as service providers but as full participants in decision-making processes. Their involvement enhances destination resilience, ensures a fairer distribution of benefits, and fosters greater public acceptance of tourism. Consumer protection frameworks must also be improved, particularly by clearly defining the responsibilities of travel organizers, strengthening refund mechanisms, and ensuring prompt access to medical and consular services.

In light of these imperatives, it is evident that tourism in the post-pandemic era must rest on new foundations of trust, with safety as its essential pillar. It is not merely a technical or legal issue, but one deeply rooted in the perception of control, transparency, and preparedness. Establishing a comprehensive and well-integrated safety architecture will not only strengthen resilience but also enhance the global competitiveness of

destinations in an increasingly uncertain world. Long-term, safe, and sustainable tourism development can only be achieved through a combined commitment to prevention, information, education, community engagement, and legal protection.

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SOME CONSIDERATIONS REGARDING GOOD NEIGHBORLINESS IN INTERNATIONAL LAW

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Abstract:
Neighbourliness is based on Public International Law and Customary International Law. The concept of neighbourliness is an ancient term, both geographically and politically, as well as historically undeniable. History demonstrates that no nation or population exists without neighbours, with whom they may have experienced amicable relations or conflicts, misunderstandings, and battles that occasionally escalate into wars.
Good neighbourliness in public international law represents an ideal and a fundamental principle that emphasizes the importance of harmonious relations between states, as a basis for maintaining international peace and security. In an interdependent world, characterized by globalization and cultural diversity, the concept of good neighbourliness receives particular relevance, being anchored in the norms and values that govern international interactions. "Any serious foreign policy is based primarily on good relations with neighbouring countries." [1] Good neighbourliness requires not only respect for state sovereignty but also open dialogue, transparency in international dealings, and mutual commitments to safeguard each other's rights.
Keywords: *Public International Law, Good Neighbourliness, Legal Framework, Globalization, Peace and Security.*

Introduction

The principle of "good neighbourliness" is commonly referenced by States, case law, and doctrine, appearing in various international documents; however, it lacks a comprehensive legal analysis and explanation. Henry Clay [2] is the one who invented the term "good neighbour" in the 19th century. In doctrine, the term is attributed to US President Franklin Delano Roosevelt, who used it in his inaugural address in 1936 as the "Good Neighbour Policy" [3].

In International Law, Good Neighbourliness is a political-legal concept denoting the requisite relationship between two or more states, irrespective of shared borders, characterised by collaboration, mutual understanding, and consideration, grounded in the fundamental principles of International Law and mutual respect.

The concept of good neighbourliness derives from the principle of cooperation, which is found in numerous international instruments, including the Charter of the United Nations and various bilateral and multilateral treaties. It imposes a moral and legal responsibility on states to manage their external relations through dialogue, mutual respect and the peaceful settlement of disputes. Thus, the framework of good neighbourliness is expanded to include not only economic and trade interactions, but also environmental issues, migration and human rights. This approach emphasizes that good neighbourliness is not a simple foreign policy principle, but an essential criterion for the sustainable development of international relations.

Legal framework

Public International Law instruments related to good neighbourliness can be classified into treaties and customary rules, both accompanied by an identification of instances of relevance and a description of their content.

The Preamble to the UN Charter enshrines the commitment of member states: “to practice tolerance and live together in peace with one another as good neighbours” [4] and Resolution 1236/XII confirms the principles of Peaceful and neighbourly relations among States [5], and Resolution 1301/XIII the Measures aimed at the implementation and promotion of peaceful and neighbourly relations among States [6].

The rules that need to be followed regarding international affairs, which are binding on states and other entities, are established in treaties, customary practices or recognized principles of international law. Hence, states are restricted to certain behaviours and/or are prohibited from certain behaviours. In extreme cases of noncompliance, states/international organizations have a right to take action against a noncomplying entity due to legitimate interests which remain authoritative.

Particularly relevant to the concept of good neighbourliness are the Treaty on Principles of International Law concerning Friendly Relations and Cooperation among States, which was adopted by the United Nations in 1970 [7]. The United Nations treaty specifies principles such as sovereign equality of states, that states must refrain from threats and usage of force against the territorial integrity and political independence of other states, respect for human rights and self-determination, and that states must

cooperate in good faith to solve international problems. In combination with the United Nations Charter, it expresses the doctrine of good neighbourliness.

The development of good neighbourly relations, understanding and cooperation between the states of the world, regardless of social order, was promoted and adopted by consensus by the UN General Assembly in December 1979 and entitled “Development and strengthening of good neighbourliness between States” [8].

These so-called general rules treaties have been sanctioned by the international community and have been successively applied and interpreted. In addition, among the special treaties, it is important to mention those treaties prohibiting actions that are threatening or forceful towards a neighbouring state, such as the treaties on good neighbourhood or border treaties. Any interference can be sanctioned or the states can be called responsible for violations. Regarding responsibility, there is a category of actions that definitively have a character of obligations.

Principles of Good Neighbourhood

The concept of good neighbourliness in public international law refers to a set of principles and norms that regulate relations between sovereign states, aiming to promote a climate of cooperation and prevent conflicts. Good neighbourliness implies not only respect for the sovereignty of states, but also open communication, transparency in international relations, as well as mutual commitments to respect each other's rights. The principles of good neighbourhood in international law have developed through judicial decisions, resolution of international organizations, treaties, and customary law states.

1. Sovereignty and Territorial Integrity: The territorial state has the exclusive power to legislate and regulate activities and conduct within its territory, as well as the right to control its natural resources. Sovereignty also requires a state to refrain from making or permitting to be made any action in its territory which is contrary to the freedoms, rights, or legitimate interests of other states. In the legal relations between states, there is an ethical approach whereby every state is regarded as a subject of this ethical order. Only states that respect the internationally recognized sovereignty of other states may play a role in this international legal order.

2. Mutual Respect and Cooperation: Riverine states must mutually respect the equal rights of all states to benefit from the use and exploitation of shared resources in areas of common interest. In fulfilling the comprehensive nature of every duty, proper regard must be given to the legitimate interests of others. A state's activities must be performed with that level of care and diligence which is expected, taking into account local conditions. For co-operative watercourse management, it is important that state parties meet periodically to discuss shared watercourse problems, activities, or developments and that co-operative activities are institutionalized through joint or river basin commissions.

3. Non-Interference in Domestic Affairs: By accepting these principles, governments guarantee that the social or political system existing within their territory will be respected. No economic or political assistance, nor the influence of international organizations, may be used to change a state's political system without that state's consent. Similarly, a state is prohibited from employing economic or political sanctions with the aim of disrupting or changing the social or political system of another sovereign state.

Case study - European Union

The European Union (EU) is a political and economic association of 27 member states, which is willing to put the law and economy at the service of peace, security, stability, and human rights. The EU nations practice a policy of good neighbourhood both abroad and within the Union itself regarding European citizens. The EU is an area without internal frontiers where the free movement of goods, persons, services and capital is ensured. The EU internal market entails an EU citizenship which grants the right of free movement within its territory to any citizen of the EU. The area of free movement within the EU is complemented by the free movement of goods, persons, and services with Switzerland, Norway, Iceland and Liechtenstein that came about through bilateral agreements. The EU aims to establish a sustained cooperation with other neighbouring states enabling justified cross-border and temporary accommodation of EU citizens. In the first regard, we will examine and assess two EU agreements, namely the Euro-Mediterranean Partnership [9] and the European Neighbourhood Policy [10]. To limit the

scope of the study, the focus will be more on the latter. Moreover, it is shown that the early optimism regarding the ENP has now turned into disappointment and scepticism due to the underperformance and failure of the policy.

The European Neighbourhood Policy (ENP) underpins a new approach to the relations

between the European Union and its neighbouring countries, which goes beyond the traditional cooperation approach [11]. The ENP was proclaimed by the EU in 2004 in response to changing regional circumstances, particularly the perspective of enlargement, and was motivated also by internal security concerns. It was claimed to be a celebration of the vision of an area of stability, security, and prosperity, providing an opportunity to improve cooperation with neighbouring countries on an array of common challenges, such as justice, freedom, and security. The ENP provides potential neighbours with the prospect of closer economic integration through free-trade accords, convergence with EU rules, and the possibility of trading in regards to mobility, like student exchanges and visa facilitation. However, on the political side, the conditionality principle was weakened considerably in the ENP compared with enlargement, only poor nations with alarming levels of cross-border crime, terrorism, and drugs trafficking risk being deprived of benefits.

The ENP as the main instrument for good neighbourhood did not strengthen bilateral ties substantially. There was always potential for diverging perceptions of the neighbourhood. Several ENP partners, like Ukraine and Moldova, situated in Central and Eastern Europe, harboured hopes of greater EU integration, while the Arab countries viewed the ENP largely as a corrective to their bilateral agreements with some member states. The topicality of the neighbourhood Europeanization through ENP is undoubtful, particularly due to the fact that the Republic of Moldova has taken a claimable European integration direction and is striving to fulfil the requirements stipulated in the EU-Moldova Association Agreement [12]. The Arab Spring further complicated the situation, as the EU strategy of promoting regional stability through insisting on reform on the wire was met with a fundamental and immediate challenge. For a moment, in 2011, the ENP stood on the verge of radical overhaul, with member states clashing on the issue between welcoming the change and taking a cautious wait-and-see stance. With regard to the

good neighbourhood in the law on international level, convergence on rights in agreements under the auspices of the UN, the World Bank, or the GATT/WTO is the most relevant alternative to good neighbourhood.

Challenges in applying the good neighborly principle

The principle of good neighbourliness in public international law, although essential for maintaining harmonious relations between states, faces numerous challenges that affect its implementation and functionality. In the context of globalization, diverse national and cultural interests can generate tensions, difficulties in negotiating and respecting international commitments. This diversity sometimes results in frictions in the application of the principle, especially in areas with territorial disputes or limited natural resources.

Territorial integrity means the right of a state to have boundaries that are relatively secure against external attempts at acquisition of territory or attempts by revolutionary groups to detach territory. Territorial integrity means that a state should not come under aggressor attacks, plots or mischief aimed at destabilization.

Resource management transcends the simple allocation of resources and enters the realm of values. In many cases, the quality of good neighbourly relations is closely associated with adequate representation in resource management. Through representation, neighbours learn something from this realm of values, and if good neighbourly relations are to govern, the neighbourly relationship will be determined and sustained by shared values.

Cultural conflicts, whether intergroup or intragroup in nature, are rendering themselves more and more visible in the present-day scenario. A grievance or grievance group may be said to be asserting an ongoing cultural claim against the state if it wishes for the state to take some steps to. A claim for recognition is the most basic form of a cultural claim since it merely appeals to the state to notice the grievance.

International conflicts have a profound and often lasting impact on neighbouring relations, influencing both bilateral interactions and regional stability. In the context of public international law, these confrontations can create not only temporary ruptures in diplomatic relations, but also long-term effects through changes in mutual perceptions and security. For example, following armed conflicts, neighbouring countries can develop

resentment and distrust, which can lead to a spiral of tensions and adverse reactions, beyond the simple military side. Russia's aggression against Ukraine has triggered one of the largest humanitarian crises in Europe. [13]

In this context, to overcome the challenges in the application of the principle of good neighbourliness, it is essential to promote diplomatic dialogue and inter-state collaboration. International organizations, such as the UN and the European Union, play a crucial role in mediating disputes and facilitating cooperation between states. Conflict resolution mechanisms and bilateral negotiations can be effective in building trust and creating a framework in which the principle of good neighbourliness can be properly applied. Addressing these challenges requires an approach based on respect and co-responsibility, given that regional prosperity and stability are closely linked to compliance with international obligations.

Future of Good Neighbourhood in International Law

While the general principles of good neighbourhood are ancient and hence now considered part of customary international law, the prescriptive good neighbourhood norms are comparatively recent, with an epoch-making impact on international relations, regional integration, and globalisation. The original meanings of the term “good neighbours” – respect for human dignity, tangible assistance for development, and a hospitable environment for peaceful co-existence – are also relevant to international law. The concept of “good neighbours” is gradually being recognised as benefitting not only the immediate neighbourhoods of a state but also the entire humanity and the natural environment. With the concurrent emergence of various definitions of “good neighbours”, however, future scholars and practitioners of international law need to discern between provenance-based and normative definitions; between a set of legal norms that are invoked by initiating states but do not receive specific responses from the rest; or a “social fact”, said to exist independently of the law, which, in actuality, hopeful states invoke and do not receive. The prescriptive norms in the 1970s, despite initial scepticism regarding their legitimacy and value, have since been welcomed as based on the realities and aspirations of inter-State relations and as capable of inducing fraternal and co-operative behaviour. Perhaps for this reason, a few post-colonial and developing countries have

courted resistance to climate change policies and initiatives, regarding such as violating States' rights to self-determination. The espousal of "good neighbour" conduct in general and each prescriptive norm in particular pose a challenge to the addressees of disputes, on the one hand, and to the initiators proposing general frameworks and measurable criteria, on the other.

Conclusion

Within the field of international public law, the idea of good neighbourliness becomes rather important for promoting peaceful relations between countries. This analysis makes clear that following good neighbourliness is not only a moral or ethical goal but also a need for preserving world peace and security. As nations negotiate the complexity of globalization, the interdependence moulded by social, environmental, and economic aspects emphasizes the need of group action. The general conclusion is that international treaties and agreements should include strong legal frameworks more actively incorporated under the influence of good neighbourliness to help to prevent and resolve conflict.

This study leads one important recommendation: the improvement of bilateral and multilateral systems meant to foster openness and communication between surrounding governments. These kinds of systems should be made to solve not only current conflicts but also promote long-term cooperative relationships emphasizing mutual interests. Additionally, international bodies such as the United Nations could take a more proactive role in mediating conflicts grounded in neighbourly disputes, establishing platforms for dialogue that leverage existing treaties and agreements. Moreover, states are encouraged to adopt best practices in conflict resolution that prioritize negotiation and mediation, drawing on case studies of successful cooperation that exemplify the benefits of adhering to good neighbourliness.

It is crucial to recognize the role of education and capacity building within states, as these form the bedrock upon which sustainable relationships can be built. Developing a culture of good neighbourliness within the framework of public international law will require concerted efforts towards legal literacy and diplomatic training. States must invest in developing skilled negotiators who can navigate the intricacies of international relations

while prioritizing mutual respect and understanding. By fostering a commitment to good neighbourliness through legal mechanisms and educational initiatives, the international community can achieve not only a reduction in conflicts but also an environment conducive to economic cooperation and societal growth, thereby reinforcing the foundations of sustainable peace.

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