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EUROPEAN PUBLIC AUTHORITIES EFFORT WITH A VIEW TO DIGITIZATION THE NATIONAL OR LOCAL PUBLIC HEALTH SYSTEM [1]

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Abstract:
The Romanian public healthcare system is full of problems and shortcomings. Logistics raises numerous problems, as well as the adjacent health insurance system, both being closely related to the concept of digitization that is meant to support and modernize all the systems with which it interacts, regardless of their nature. In fact, the European Union's latest policies are focused on issues related to the modernization of the health system infrastructure, the improvement and efficiency of this system, and the modernization of medical devices.
The problems systematically encountered in this area and which this material will want to address are related to the processing of personal data, the safety of patients in terms of secrecy and the provision of details of their suffering or issues related to the provision of information on vaccines and efforts to modernize the public health system both in Europe and especially in our country.
Keywords: Health, system, device, digitalization.

1. DIGITALIZATION OF THE PUBLIC SYSTEM IN EUROPE. GENERAL ASPECTS

Currently, it is claimed that [2], [3] that the population that benefits from substantial incomes tries to obtain the best quality medical services, no longer being delighted with the available ones, is looking for ways to further increase the quality of paid medical services. This inevitably leads to a possible decrease, in the future, of the quality of services of this type for materially disadvantaged people [4].

These problems strictly related to the digitalization of medicine can have good but also bad consequences, which brings us to the trends of introducing electronic identity cards at a global and general level, triggering great dissatisfaction among people who see this instrument as a way for the authorities to constantly follow and monitor the lives of each of us [5].

In the sense of digitalizing European medicine, we find that in the name of the principle called Digital first - some European states are shaping their current local and central medical policies, creating new gender strategies. The essence of the principle is that European states can make a substantial joint effort to provide fast and high-quality medical services to their citizens and companies [6].

Some of the indicators taken into account in Europe of our days in terms of digitalization are surprised by the 2021 DESI [7]. ICT indicators that measure, for example, the adoption of gigabit services by private companies or those that have already adopted the e-invoicing system. Among the states whose administrations reacted more promptly in terms of digitalization, in general (including in relation to the medical environment) were Denmark, Finland and the Netherlands. There is a substantial percentage of mature citizens (over 90 percent of internet consumers) who interacted with the administration using government portals. Other peoples, including Romanians, interacted less in this regard, the percentage in this case being 40 percent lower than in the first listed states [8].

The year 2025 was a significant year in terms of the evolution and digital transformation of EU states, in which sense we recall the DDP, The Digital Decade Policy Program that helps the digital transformation of the EU. Based on it, a large-scale digitalization of some public services took place, 5G coverage, the use of high-performance programs based on which a fast and much more efficient data processing could take place. In this regard, European states presented some statistics that demonstrate that last year they took a series of measures in the area of digitalization of public services and administrations that involved serious investments of 288.6 billion euros, 1.14 percent of the EU GDP [9].

The previously mentioned digital transformation involves, as can be seen, both massive investments in infrastructure and technology, but also streamlining the activities of civil servants who are going to take command of such technologies in order to create the best possible access conditions for all interested citizens [10].

The great advantage of the era called Europe's Digital Decade is the fact that most of those interested and who have the necessary skills to handle specific technology can access various platforms connected to public services, including those in the health

sector, these connections being very useful especially for people living in villages, in mountainous areas and in remote areas, considered to be disadvantaged from this point of view [11].

Moreover, the great advantage of digital technologies and their application in the public services environment is precisely the fact that they obviously increase the quality of services and ensure much faster access for all citizens to a diversified range of them [12], [13].

It is known that medical services in former communist states, for example, are still far from the real needs of citizens. Even though medicine has evolved, a large part of state hospitals and clinics currently benefit only from specialized doctors and less from evaluated equipment or technologies (see “major burns”, cardiology, oncology sections etc.) As noted in the doctrine, one of the roles of smart digitalization is to "connect and unify access to public services" which also involves services provided by government authorities at local and central levels, usually known as smart city services [14].

We hope that this role will be taken over as quickly as possible by the Romanian health system, which has acutely shown its lack of performance, especially during the sad memory of COVID and the one that followed it. At that time, the hospital systems in Romania, but also other European states, demonstrated that they have many deficiencies and gaps and that they cannot provide resources or operative treatments, especially in the case of those affected by the pandemic wave and its disastrous consequences [15], [16].

Regarding the use of new, high-performance technologies in the medical field, we note that this brings to mind the term digital health. According to the World Health Organization, the term itself refers to the use of information and communications technology in the field to support health and related fields [17].

The digitalization of the medical field plays an important role in the sense that it involves faster and higher-quality interaction between doctors, patients, but also between the first two categories and other health specialists by facilitating the diagnosis of patients in hard-to-reach areas, for example [18].

Public expenditure on health and long-term care has been increasing over the last decades in all EU. In this regard, we can show that public spending on health and long-

term care of some patients has increased significantly recently, which shows, however, a significant contribution of states in terms of ensuring facilities granted to vulnerable people from a health point of view. Thus, if in 2015 these expenditures reached 8.5 percent of EU GDP, it is estimated that in 2060 they will reach 12.5 percent of it [19].

Despite these financial efforts, there are still major problems in the area of digitalization of healthcare systems, including resistance and a series of opposition and refusals from specialists and even patients themselves [20], [21].

Digital technologies can solve the problem of unequal access to healthcare services. For example, medical technology solutions such as telemedicine allow healthcare professionals and patients to be in different locations during treatment. This functionality can increase the availability of healthcare services, especially in regions with a shortage of outpatient care [22], [23].

2. ROMANIAN SYSTEM

A sad truth is that most hospitals in our country do not have their own advanced IT teams or technology, and there is currently no common denominator regarding the type of digitalization that is desired, especially in special cases imposed by delivery rooms, intensive care units or neonatology units [24].

In Romania, there is a widespread lack of trust among citizens and even staff regarding the use of data exchange or information, the provision of personal data from patients, etc., and central decision-making policies from the Ministry of Health are hampered by low technical capacity or lack of consensus. [25].

A Romanian study involving 423 accountants from the healthcare industry shows that digital technologies in Industry 4.0 will enhance healthcare costing processes, requiring adaptation and support from senior accountants for effective implementation/ 26],[27].

A specific study from the level of specific units in Romania - consisting of the analysis of the opinions of a number of 423 respondents from the healthcare industry, hospitals and other care units - shows that there is hope that digital technologies from the 4.0 industry will bring a significant improvement in terms of calculating medical costs,

which also requires an important contribution from experienced accountants and not only from specialists in strictly technical matters.

The healthcare digitization strategy, because it actually addresses some elements of providing a digital healthcare infrastructure in the short and medium term. The key initiatives are:

- Resizing, standardizing, and optimizing the health insurance IT platform (PIAS).
- Developing the single integrated IT system (SIUI).
- The electronic health insurance card system (CEAS).
- The National Electronic Prescription System (SIPE).
- Digitization of 60 public health institutions.
- Digitization of 200 public hospitals.
- Telemedicine [28].

Some of the goals pursued by the use of the technique in the medical field are also the development of interoperability through the National Agency for Health Digitization, which will have the possibility to use and comply with the standards regarding the GDPR or the EU space regarding patients' personal data and their health status [29].

From another perspective, namely the one offered by Datanet Systems, the IT system of a modern clinic should refer to the following sectors of activity - telemedicine and video collaboration, video surveillance, IT infrastructure and cybersecurity, all of which are necessary to ensure quality standards in the medical field, as happened, for example, in the case of the Oncology Department of the Municipal Hospital in Timisoara. Here, in 2020, Datanet Systems provided it with a video collaboration solution with potential clients (patients). This solution involved the integration of Cisco video terminals and the Webex platform, respectively the use of Cisco desktop monitors, equipped with high-quality webcams and microphones [30].

Among other things, video surveillance is one of the components of the new advanced technique highly sought after and applied in modern and digitalized clinics in Romania, remedying the old problems related to patient monitoring. This allows medical staff to intervene only in absolutely urgent cases, reducing the risk of incidents. For example, in the case of the Marie Curie Hospital in Bucharest, Datanet Systems developed a complex telemedicine system that provides medical staff with real-time audio

and video transmissions from mobile surveillance cameras, which ensures the possibility of medical staff to access and monitor useful and up-to-date information about patients from almost any area [31].

Also in our country, in 2023, the digitalization of hospitals was also achieved with the support of financing programs from the World Bank. With its help, the Ministry of Health was to equip approximately 130 emergency departments in county, municipal and city hospitals with modern telemedicine solutions [32]

For example, the Galați County Council has approved several projects to digitize the hospitals under its authority – the “Sf. Apostol Andrei” County Emergency Clinical Hospital, the Infectious Diseases Hospital, the Pneumology Hospital, the Târgu Bujor Town Hospital, and the “Anton Cincu” Hospital. The projects involve the purchase of IT equipment, communications equipment, operating licenses, the development of computer applications, and the training of medical staff.The value of the investments is 20.6 million lei, approximately 4 million euros [33].

Also, in the same county, the project "Digitization of the activity of the Clinical Hospital for Infectious Diseases "Sf. Cuv. Parascheva" Galați" was approved in 2023, with a view to financing it under the National Recovery and Resilience Plan - Component C7 - Digital Transformation - Investment I.3 Implementation of the eHealth and telemedicine system. Approves the total value of the project "Digitization of the activity of the Clinical Hospital for Infectious Diseases "Sf. Cuv. Parascheva" Galați," in the amount of 5,889,310.00 lei (including VAT). Art.4. The personal contribution to the project in the amount of 11,900.00 lei is approved, representing the payment of all ineligible expenses of the project [34].

Also, at the level of Galati county, the development of an innovative health information system - SANINFO presents support for increasing the competitiveness of members of the innovative Cluster "For Health Lower Danube" Galati, in the medical field (health), by concentrating resources within partners in the development of innovative services through the health information system [35].

The technologies underlying the development of the SANINFO platform are known as progressive web applications (PWA), as they consist of a combination of web APIs,

technologies and design concepts that create a native application experience in a mobile browser.

Their objectives are

1. Informing the public (with a focus on prevention) about various medical fields, especially medicine, engineering, nutrition, general medicine, ICT, dentistry.
2. Ensuring maximum visibility for medical studies and various scientific works.
3. Developing a technical tool that assures digitalization of the medical industry.
4. Ensuring 24/7 accessibility, regardless of the visitor's location [36].

3. SPAIN

The Spanish public health system is a typical system of this kind, which is largely financed by taxes and fees and which provides public health services to a large extent for the majority of Spanish citizens. Thus, at the level of this country, of the expenses incurred with the health system, 73.51% correspond to public expenses, and 26.48% to private health expenses.

In this state, the structure that deals with digitalization in the national medical system is the General Secretariat for Digital Health, Information and Innovation of the National Health System of Spain, which is responsible for projects to modernize, innovate, improve and transform the National Health System [37].

This structure is responsible for developing information systems, managing clinical and administrative information related to the department's competencies, as well as identifying the protected population and access to clinical and therapeutic information of the National Health System, controlling, standardizing and cataloging health information [38].

The e-health segment in Spain is a hot topic and is helping to transform and modernize the country's healthcare system. By 2024, there were about 2,100 e-health startups and scaleups operating in the country, all of which had attracted over 114 million euros in funding, according to Dealroom.co's Entrepreneurship Map. According to data from Dealroom. Co on Spanish e-health entrepreneurs (Plataforma ONE), various innovation centers specific to the field have emerged in cities such as Madrid, Barcelona, Valencia and Bilbao, which have incubators or accelerators dedicated to disruptive

projects in the field of digital health. The role of these start-ups is to offer novel solutions with regard to portable devices for monitoring the health of patients or telemedicine platforms that help patients located at appreciable distances to obtain high-performance medical services, regardless of location [39].

According to data provided by SEIS (2018), the most widespread telemedicine specialties in Spain are: teledermatology and teleophthalmology; oral anticoagulant treatment and telecardiology; telenephrology, teleassistance (medical care), teleneurology and telepulmonology. According to the 2018 survey, patient users were questioned about the frequency of video medical consultations and remote control of health indicators (glucose levels, blood pressure, etc.). The results regarding video consultations show that the use of this format is, for now, relatively low (2.61%). Similar results were also recorded in the case of the control of health indicators, which, although it has recorded infinitely better results than in previous periods (10.29%), is still used very little [40].

In fact, telemedicine involves two types of services. The first of the, would be teleconsultation, consisting of performing a specialized medical consultation without the patient having to leave their home [41].

Another is telecare, a remote assistance and monitoring at the patient's home, by means of devices such as bracelets, necklaces or belts that collect information that are transmitted remotely to the supervising medical team [42].

Currently, MediQuo, a platform that offers online medical consultations, has made a name for itself in this area. On the other hand, Biodata Devices is a startup specializing in device monitoring and telemedicine, contributing to more efficient remote health monitoring. Sycai Medical, which helps healthcare professionals, especially in radiology, combat non-invasive cancer through advanced algorithms based on artificial intelligence and Big Data [43].

CONCLUSIONS:

As can be seen from the above, European health systems strive year after year to promote telemedicine and online consultations or other forms of e-health, although there are still many obstacles regarding their implementation or functioning. The old health

systems are still cautious or even refractory to the new solutions that telemedicine brings. Instead, there is a sustained effort by the private sector or start-ups that have allocated substantial amounts of European funds to meet patients through innovative telemedicine methods. The best-looking part so far is the online remote consultations, which benefit patients who live in very remote areas or who could not afford to travel to a specialist doctor, and this represents one of the most obvious benefits felt by citizens from vulnerable categories.

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CURRENT ASPECTS OF THE EUROPEAN UNION'S ENLARGEMENT POLICY

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Abstract:
The present study addresses the issue of EU enlargement, considered the EU's most effective foreign policy instrument and one of the Union's most successful policies, which has so far proven its transformative power, bringing peace, democracy and prosperity. Although they are at different stages of progress, according to the European Commission's enlargement reports, most candidate countries aspire to complete their accession negotiations to the Union during this EU electoral cycle, which ends in the summer of 2029. Currently, the EU's enlargement policy targets ten states: nine have official EU candidate status (Turkey, Ukraine, the Republic of Moldova, Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia and Georgia), and one, Kosovo, is a potential candidate.
Keywords: *enlargement process, negotiation, instruments, responsibilities, priorities*

PRELIMINARIES

Since December 2024, the new European Commission has focused on actions to help Europe become stronger and more resilient. This has also been driven by the fact that the European Union must respond to challenges with boldness, determination and firmness [1]. Thus, a strong Europe takes responsibility for its citizens, proving that it can always live up to the responsibilities assumed by the Treaties, taking a firm stand against Russia's aggression against Ukraine and the war in Gaza.

On the 4th of November 2025, the European Commission published the annual package on the enlargement of the European Union. Therefore, the 2025 package reconfirms that the enlargement dynamic is a high priority today on the EU agenda. However, reform is a two-faced process, which depends on both domestic political will as well as on external support.

A recent Eurobarometer [2] survey shows that 56% of EU citizens support the enlargement, especially young and highly educated Europeans. At the same time, the desire of the citizens of the countries hoping to join the EU also reflects this aspiration,

confirmed, for example, by the referendum on the accession of Moldova to the EU and the parliamentary elections in Moldova, despite Russian interference.

PROSPECTS FOR EXPANSION

The European Union has approached its enlargement as a "geostrategic investment in the peace, security, stability and prosperity of Europe" [3]. In this regard, a series of instruments and policies have been mobilized towards the Western Balkans [4], Ukraine and the Republic of Moldova.

Over the past two decades, the EU enlargement has been studied as the most powerful mechanism in the EU's foreign policy toolbox, as it has allowed the Union to have a considerable influence on its neighbourhood [5]. In this respect, the Stabilisation and Association Agreements (SAA) are part of the EU Stabilisation and Association Process (SAP) and the European Neighbourhood Policy (ENP), whereas the Western Balkan countries are at the heart of the SAP.

Since Croatia's accession to the European Union in 2013, it has been observed that the European integration process of the countries in the region has been very slow, compared to other stages of enlargement, being marked by what the specialized literature has called "the enlargement fatigue" [6]. More specifically, the idea was deduced that the member states would not be sufficiently prepared to welcome new members, due to the changes that would occur in procedures and institutions.

After 2014, a year marked by the illegal annexation of Crimea and as a result of the increase in issues on the EU agenda, the European integration process no longer represented a political priority aimed at accelerating reforms and advancing in the integration stages. The doctrine has identified a number of causes for the delay in the process. One of the most recent concerns *the phenomenon of politicization of the EU enlargement process [7]*, which, initially, was conceived in technical terms, of normative transfer of the community acquis, managed at the supranational level by the European Commission and gradually brought directly in the hands of certain member states, which used veto in the Council to block the enlargement process.

From a political point of view, the subject of the European Union enlargement has been in the background for many years, but it has returned to the attention of European

leaders with the outbreak of the war in Ukraine, after the submission of applications for membership by this state and the Republic of Moldova. Thus, the events generated by Russia's aggression in Ukraine in February 2022 had a direct geostrategic impact on the enlargement of the European Union, and the immediate consequence was the increase in the number of candidate states by two. The main objectives set by the EU towards the candidate states are to promote peace, stability, democracy and the rule of law and to ensure alignment with all EU norms, values and legislation through legislative approximation. In a statement, the President of the European Commission, Ursula von der Leyen, publicly announced that "The Western Balkans belong to the EU" [8]. This aspect reveals that the ultimate goal of EU involvement in the region remains full EU membership, and for this a comprehensive approach is adopted, using the entire set of policy instruments in its attempt to bring the region closer.

The opening of accession negotiations with Albania and North Macedonia, after more than two years of postponement and blockages in the Council, as well as the granting of candidate status to Bosnia and Herzegovina in December 2022, along with its placement alongside the other two candidate states that had no prospect of accession before the war (the Republic of Moldova and Ukraine), can be considered steps that confirm the importance given to enlargement.

It could be observed that the energy price crisis in the autumn of 2021, which anticipated the outbreak of the war in Ukraine, brought the energy security to the top of the European public policy agenda [9]. The European Union opted for the role of an energy security actor and an integrated approach to Ukraine and the Republic of Moldova, an intention determined by the geopolitical and economic impact of the war in Ukraine, as well as by the granting of the status of a candidate country for accession. The synchronization with the EU energy market represented at the same time a political declaration by the Ukrainian authorities of adherence to European values.

THE ISSUE OF EU ENLARGEMENT

The EU's enlargement strategy has changed over time (especially after Brexit), and is itself, like the Union, in a continuous transformation. Russia's ongoing all-out war

against Ukraine together with the new geopolitical realities have strongly revitalized the enlargement process.

In correlation with the EU's role at international level, Europeanization can be regarded as "a process of construction, dissemination and initialization of formal and informal rules, procedures, policy styles and common beliefs and norms, which are first defined and consolidated in the Union's decision-making and then incorporated into the logic of internal discourse, identities, institutional structures and public policies" [10]. In an external context, including in the energy sector, the export of the European Union acquis is a main instrument of Europeanization [11].

The European Commission's proposals for improving the enlargement policy, launched since February 2020, are based on several key principles: more credibility on the part of political decision-makers in undertaking reforms; more political will for European integration, both on the part of decision-makers and at societal level; a more dynamic negotiation process; predictability [12]. Beyond the EU's obligations and expectations in relation to candidate states, the Union undertakes to respect meritocratic principles and objective criteria [13].

Each year, the Council usually adopts *Conclusions on enlargement*, assessing the progress made by each of the EU candidate countries and each of its partners on their European path.

The Annual Report on EU Enlargement, adopted by the European Commission on 4 November 2025 [14], provides a comprehensive analysis of the developments in the candidate countries over the past 12 months. The document reaffirms that the momentum for enlargement remains strong on the EU's priority agenda and confirms that the accession of new member states is becoming an increasingly concrete prospect.

The assessment of each country is accompanied by recommendations and guidance on reform priorities, thus providing a genuine roadmap for the partners in the enlargement process to achieve EU membership. The Commission has reaffirmed its commitment to supporting these future member states on their European journey, strengthening citizens' trust in the process and allowing enlargement to move forward smoothly.

In this context, the European Union has responded positively, using specific instruments to provide additional support for the political and economic reforms of the states that have expressed their intention to join the community bloc. In a European Commission factsheet of 24 November 2025, "Current stage - EU accession negotiations" [15], the candidate countries with open accession negotiations are specified: Albania, the Republic of Moldova, Montenegro, North Macedonia, Serbia, Turkey, Ukraine, and the candidate countries and potential candidates with not yet opened accession negotiations are: Bosnia and Herzegovina, Georgia, Kosovo.

Thus, as far as *Ukraine* is concerned, the Support Group for Ukraine (SGUA) was created in April 2014. The mandate of this operational structure was to provide assistance to Ukraine in the implementation of the Association Agreement and the Free Trade Agreement. This Agreement, signed in 2014 and entered into force two years later, provided additional incentives for Ukraine to implement and enforce the EU energy acquis. To date, the document is considered the most ambitious agreement the EU has ever offered to non-member states.

Ukraine is at the heart of the 2025 enlargement package [16], an aspect supported by its firm commitment even under the pressure of war. According to the Commission, "despite Russia's war of aggression, Ukraine remains strongly committed to the path of EU accession, having managed to complete the screening process and advance key reforms." The positive assessments emerging from the Commission's report on the measures taken by the leadership in Kiev concern: a plan on national minorities, roadmaps for the rule of law, administrative reform and the functioning of democratic institutions.

The Republic of Moldova submitted its application for EU membership in March 2022 and received the status of candidate country in June 2022. The closure of accession negotiations took place in June 2024, but it also cooperates with the EU within the Eastern Partnership.

The Republic of Moldova has been a member of the Energy Community since 2010, and its relations with the European Union in this strategic sector were formalized through the Association Agreement that entered into force on July 1st, 2016. As part of the European Union's commitment to provide support to the Republic of Moldova, the

High-Level Dialogue on Energy was launched in October 2021, a political-diplomatic cooperation format specially created to counter security challenges within this sphere.

The Republic of Moldova has made notable progress, as reflected in the 2025 Enlargement Package, as well as in the first EU-Moldova Summit in July 2025, a meeting that marked a new stage of cooperation and integration. It was noted that the Government in Chisinau adopted roadmaps for the reform of justice, public administration and the consolidation of democratic institutions. It also set itself the goal of completing the negotiations by early 2028, an ambitious goal that can be achieved by further accelerating reforms.

The European Union has opted for the role of an energy security actor and an integrated approach to Ukraine and the Republic of Moldova. This tactic has been favoured by the geopolitical and economic impact of the war in Ukraine, as well as by the granting the status of candidate country for accession.

Georgia could not immediately benefit from the same level of political and economic commitment from the Union. Another consideration underlying the EU decision is the disadvantageous geographical position of Georgia, which does not have common borders with the easternmost part of the Union. The geographical location in proximity to Russia may favour political closeness with it and, consequently, the regression of Europeanization and democratization, despite the population's support for accession to the Union.

After being denied candidate status in June 2022, Georgia succeeded in doing so in December 2023, but its accession process was subsequently suspended due to internal political developments. The country's European path of reforms was significantly slowed by the actions of the government in 2024. The parliamentary elections in October 2024 were held in a tense atmosphere, with controversial legislative amendments and voter intimidation, which undermined public trust in the electoral process. Comprehensive electoral and democratic reforms are required in Georgia to firmly resume its EU accession path.

Turkey has been an official candidate for EU membership since 2005, and its influence in the region should not be underestimated, as the country has historical and cultural ties with states and communities in the Western Balkans. Turkey's two-decade-

old bid to join the bloc has been frozen due to EU concerns over its human rights record, along with political disputes in the eastern Mediterranean and over Cyprus.

The European Parliament has debated the future of relations between the European Union and Turkey, with MEPs calling for an alternative to the accession of Turkey. A European Parliament Resolution [17] adopted by MEPs in Strasbourg plenary session shows that Turkey's accession process to the European Union should remain frozen due to its democratic backsliding. The European Parliament urges the Turkish government, EU institutions and EU member states "to continue to work towards a closer, more dynamic and strategic partnership, with a particular focus on climate action, energy security, cooperation in the fight against terrorism and regional stability".

Montenegro, which began accession negotiations in 2012, is considered the most advanced candidate among the six Western Balkan countries. Accession negotiations with Montenegro could be concluded by the end of 2026, if reforms continue, and those with Albania by the end of 2027 [18]. Montenegro has made significant progress towards EU membership, successfully closing four negotiation chapters in the past year, demonstrating its commitment to European integration. The country could conclude accession negotiations by the end of 2026 if it maintains the pace of reforms.

Albania has continued its accession process with four groups of negotiating chapters opened over the past year, making notable progress, in particular in the reform of the judiciary and in the fight against organised crime and corruption. Continued efforts are now needed to meet the interim benchmarks under the fundamental building blocks, following the completion of the necessary sectoral reforms. The Tirana government's objective is to conclude the negotiations by 2027, but achieving this depends on maintaining the pace of reforms and promoting inclusive political dialogue.

Serbia has been applying for membership in the European Union since 2009. Although the authorities in Belgrade had hoped to meet the necessary conditions after the country was granted candidate status in 2012, talks on accession have stalled. Over the past decade, all progress has been overturned by the nationalist rhetoric in Serbian politics. One of the most important reasons why Serbia is not part of the European Union is that the state has not resolved its problems with national minorities, which do not have a well-defined status. According to an OSCE document, there is no comprehensive anti-

discrimination legislation or a law on national minorities in the country. The constant tension in the region has maintained the distrust of European officials, who have noted the regression of Serbian democracy.

Bosnia and Herzegovina has recently achieved concrete results in its preparations for accession, as the state was marked by the political crisis in the Republika Srpska entity and the collapse of the governing coalition. Following the recent institutional changes in the Republika Srpska entity, Bosnia and Herzegovina has had the opportunity to implement reforms on the path to EU accession: full alignment with the EU's common foreign and security policy, adoption of key reforms in the area of the integrity of the judiciary, combating money laundering and conflicts of interest. These positive developments have allowed the opening of accession negotiations with Bosnia and Herzegovina in March 2024. The Commission is preparing the necessary negotiating framework, and the authorities need to continue reforms in full compliance with European standards and appoint a Chief Negotiator.

North Macedonia, a country that applied for EU membership in March 2004 and received candidate country status in December 2005, completed the analytical evaluation (screening) of the acquis at the end of 2023. During its European journey, it continued the measures [19] related to the rule of law, by protecting the independence and integrity of the judiciary and by strengthening the fight against corruption, public administration reform and the functioning of democratic institutions, as well as the action plan for the protection of minorities.

Kosovo submitted its formal application for EU membership in December 2022 and remains committed to its European path, enjoying broad public support. However, the delay in the formation of institutions following the general elections in February 2025 has slowed down progress on reforms. The Commission has stated its readiness to prepare its opinion on accession as soon as the Council so requests. The authorities in Pristina have made progress in the fight against organised crime, the business environment has improved, but cross-party cooperation is needed. In addition, a normalisation of relations with Serbia is needed together with the implementation of the commitments made during the dialogue. Visa liberalisation for Kosovo citizens entered into force on 1 January 2024. However, the 2025 enlargement report [20] highlights the need to step up efforts to

strengthen the rule of law, reform public administration and protection of the freedom of expression in Kosovo. The Commission has taken the first steps to gradually lift the measures against Kosovo, in force since May 2025.

CONCLUSIONS

The Union must always have the necessary means to act autonomously in the face of current and future challenges posed by the prospect of enlargement. Global changes are influencing the world order, and the Union must take measures, in this respect, to strengthen defence, competitiveness and, above all, European democracy. European leaders are concerned about finding solutions to the pressing problems of Union citizens related to the prospects of enlargement, in order to maintain their confidence, while ensuring stability, security and a protected future on the European continent. All decisions within the EU enlargement process, including the opening or closing of negotiation chapters, are subject to unanimous adoption by the Council of the European Union, reflecting the collective agreement of its member states. Consequently, it can be said that the EU's role in the enlargement policy is shaped by the commitments undertaken towards each partner state. The MEPs underline that the democratic and pro-European aspirations of the candidate states, especially among young people, are a major reason for the intensifying their European journey [21]. Hence the intensification and maintenance of a constructive dialogue and the deepening of cooperation in areas of mutual strategic interest.

Although the enlargement framework states that each country is assessed individually, through a strict, fair and merit-based process, the prevailing regional geopolitical conditions indicate that the European integration prospects of Moldova and Ukraine remain closely linked. At this stage, Moldova's decoupling from Ukraine seems unlikely. Just as Moldova has Romania as a model for its EU accession, Ukraine has Poland as a supporter of its EU accession [22].

The developments recorded by the candidate and potential candidate states during the year 2025 confirm the inclusion of the European enlargement policy in a geostrategic security vision. Enlargement is no longer just a technical process, but a strategic approach that supports the stability of Europe, and the EU becomes an actor capable of

maintaining security in the region [23]. The achievement of this objective is based on the fact that a united Europe can maintain peace on the continent.

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BUILDING A DIGITAL FUTURE: GOVERNANCE, SMART CITIES AND DIGITAL RIGHTS IN A GLOBALIZED WORLD

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Abstract:
Digital transformation is one of the most profound processes of reconfiguring contemporary societies, with a major impact on the way public administrations, cities, and citizens' rights are designed. This article explores, from an interdisciplinary perspective - legal, technological, sociological, and administrative - the evolution of digital governance in the context of globalization and the emergence of smart cities.
We analyse the EU regulatory framework that completes the digital picture of the future of governance, including the Digital Services Act, the Digital Markets Act, the Regulation on Electronic Identification and Trust Services (eIDAS Regulation), the AI Regulation, as well as the European Declaration on Digital Rights and Principles, documents establishing the legislative architecture of a people-centred digital transformation, fundamental rights, cross-border electronic transactions, online services, e-commerce platforms, blurring from the barriers that prevent the smooth use of trust services and electronic identification in all EU Member States. They are designed as regulations that function as a "genetic code" of the Union digital ecosystem, a code that encompasses a set of principles that shape how technology serves, but does not dominate the society.
Keywords: *digital governance, digital rights, digital services, smart cities, European Declaration on Digital Rights and Principles, Digital Services Act (DSA), Digital Markets Act (DMA), Digital Governance Summit 2025.*

INTRODUCTION

In the age when data has become the new energy of the world, and technology has turned borders into mere invisible lines on a digital map, societies are looking for a new sense of organization. Digital governance thus emerges as an architecture of the

future, a bridge between the needs of the citizen and the ability of the State to respond quickly, ethically, and transparently in a constantly changing world.

The contemporary world is in an accelerated process of transformation, driven by the intersection of globalization, technological innovation, and the need for more efficient, transparent and citizen-friendly administrative models. In this structural change, digital governance is no longer just a theoretical concept, but becomes the foundation on which public institutions, national economies and the very experience of citizenship are rebuilt.

1. THE CONCEPT OF THE SMART CITY

Cities, spaces where population, economic flows, critical infrastructures, and data networks are concentrated, become the main actors in this process. The emergence of smart cities is not only the result of the application of technology, but the expression of a new administrative philosophy, shaped by the use of data, artificial intelligence, interoperability, and digital infrastructures to create communities that are more efficient, resilient, and more oriented towards the real needs of the inhabitants. In this context, digital governance involves a set of mechanisms that bring together legislation, ethics, technology, and civic participation in an integrated model of public governance.

The concept of a smart city goes beyond the idea of a modern infrastructure. A smart city is a living, fluid ecosystem, in which mobility becomes predictive, public services become transparent, energy is optimized, and urban space is governed not only by material infrastructures, but also by invisible infrastructures: networks, algorithms, information nodes. At the heart of this model is not the technology itself, but the citizen, with his or her digital rights, with his or her needs for access, inclusion, and protection.

A smart city involves smart mobility, integrated transport systems, traffic management, green transport, smart energy through energy efficiency, smart metering, green infrastructures, digital public administration through end-to-end online services, electronic payments, rapid interaction with institutions, digital health through telemedicine, electronic records, alert systems, connected education, through e-learning platforms, digital infrastructures in schools, smart urban security, through sensors, monitoring, integrated prevention or community participation systems, through applications through which citizens can report problems, vote consultatively, propose

projects, etc. However, these processes raise important questions related to data ethics, privacy, democratic scrutiny and digital fairness, challenges that will be discussed in the following chapters.

2. DIGITAL GOVERNANCE: A MERE ADMINISTRATIVE CONCEPT OR AN INVITATION TO THE RECONSTRUCTION OF SOCIETY?

The phenomenon of digitization seen from the perspective of public administration, concerns three levels of interference[1]: the digitization of communication between the administration and citizens, the creation of a new mode of administrative, collaborative action, which envisages a greater involvement of the public in the elaboration of the administrative decision, and last but not least, the redefinition of the participation of citizens in the elaboration of the administrative decision, through public consultation.

At the heart of digital governance are features such as interoperability, representing the ability of institutions to communicate with each other through integrated systems, the existence of open data through free access to public information, resulting in transparency and innovation, automation and artificial intelligence, which optimize administrative processes, digital participation, by involving citizens in decisions through collaborative platforms, but also digital identity, the key to access efficient and personalized services.

Thus, digital governance implies a reconfiguration of the State's obligations towards the citizen, in the sense of ensuring digital access to services, guaranteeing data protection, maintaining cybersecurity, online decision-making transparency and ensuring non-discriminatory treatment in access to digital services.

As stated by the Organisation for Economic Co-operation and Development (OECD), digital governance explores and supports the development and implementation of strategies and initiatives that bring governments closer to citizens and businesses. It recognises that technology is a strategic factor not only for improving the efficiency of the public sector, but also for increasing the efficiency of policies and for making governments more open, transparent, innovative, participatory, and trustworthy. [2]

According to the OECD, digital governance is becoming the key to transforming government processes and services in ways that improve the responsiveness and

reliability of the public sector. In fact, during the COVID-19 pandemic, it has also proven crucial for the ability of governments to continue operating in times of crisis and to provide prompt services to citizens and businesses. However, for the digital transformation to be sustainable in the long term, solid foundations are needed, including adaptable governance mechanisms, a reliable and resilient digital public infrastructure, and a forward-looking approach to governance with emerging technologies such as artificial intelligence. The OECD Digital Government Investments Framework provides valuable guidance to help governments strengthen their governance, manage risks and pursue results-oriented investments. [3]

As public administrations adopt AI-powered solutions, digital ethics is becoming a central pillar of the global debate. Thus, algorithms can bring efficiency, but they pose challenges, and digital ethics implies transparency and accountability, meaning that public institutions remain responsible for decisions made with algorithmic support. From this perspective, the European Union has established itself as one of the most important architects of an ethical and responsible digital transformation. We can say that the EU legislator has developed in recent years some of the most robust public policies on digitization, placing fundamental rights at the heart of the digital transformation.

In conclusion, we believe that digital governance is not just an administrative concept, but an invitation to rebuild society, to redefine the relations between the State and the citizen and to reconceptualize cities as interconnected bodies.

3. DIGITAL GOVERNANCE IN THE EUROPEAN UNION'S VISION: PRINCIPLES, OBLIGATIONS AND LEGAL ARCHITECTURE

The digital transformation of public administrations and the development of smart cities cannot be understood without an in-depth analysis of the Union's regulatory architecture. Over the past decade, the European Union has built one of the most coherent and advanced human-centric digital space legislative systems, in which technology is put at the service of protecting fundamental rights, fair competition and good governance.

Thus, to ensure a fair and inclusive digital society, with respect for democracy (e-democracy or Internet democracy), it remains essential to focus the digital revolution on

people, with the *Declaration on Digital Rights and Principles [5]* being adopted at the European Union level in 2022, which protects and promotes Union values in the digital environment.

This Declaration represents a “flagship” contribution of the European Union to the complex process of constitutionalization of the digital society, becoming a point of reference for regional and international organizations as well. In this regard, we recall the Council of Europe’s International Framework Convention on AI [6], the OECD Declaration on a “reliable, sustainable and inclusive digital future" [7], launched in 2022, or the UN Global Digital Compact, adopted on 22 September 2024 by the UN General Assembly as part of the Pact for the Future [8], together with the Declaration on Future Generations, instruments that redefine the digital future and revolutionize the matrix of fundamental human rights and freedoms.

In the European Union, digital rights are conceived as an extension of the fundamental rights already enshrined: the right to privacy (Article 7 of the EU Charter), the protection of personal data (Article 8 of the EU Charter), freedom of expression, freedom of movement (including the movement of data), non-discrimination and equal treatment.

This set is extended by modern digital policies that enshrine new rights such as the right to digital identity, the right to cybersecurity, the right to algorithmic transparency (AI Act), the right to data portability (GDPR), or the right to secure and non-discriminatory connectivity (European Electronic Communications Code [9]).

These “extended rights” protect the citizen in the digital environment just as classical rights protect them in the physical environment. Smart cities, such as Tallinn, Helsinki or Barcelona generate huge amounts of data on mobility, energy consumption, urban behaviour, use of public services and social interactions, and without a robust framework of rights, this ecosystem can lead to excessive surveillance, discrimination, cyber vulnerabilities or power asymmetry between the citizen and the administration.

In this section, we aim to capture, in a non-exhaustive manner, the main EU normative instruments that structure the European digital ecosystem, because we are now more aware than ever that we are in the midst of a digital (r)evolution or artificial intelligence revolution, which asserts its supremacy through interdisciplinary and cutting-

edge technological advances such as humanoid robots, cyberspace, cloud computing, blockchain, the "Internet of things", quantum communication, Big Data, ChatGPT, computer security or the so-called metaverse, which are developing a new, virtual world, the human-machine interaction becoming more and more complex and deeper. This "augmented reality" has led to the extension of physical space, currently complemented by digital space, all social relations thus acquiring an obvious hybrid nature, in which the physical sphere is intertwined with the digital sphere, and the digital sphere cannot automatically be applied to classical legal norms and institutions.

Putting people at the centre of the digital transformation of societies and economies outlines the core of the European Union's vision, highlighted on the one hand in the overall policy programme of the Digital Decade [10] and in the European Declaration on Digital Rights and Principles on the other. Of course, Member States have stepped up their efforts to raise awareness of the relevance of a digital transformation, but they have made rather slow progress in translating fundamental rights into the digital sphere through concrete and tangible policies.

The EU Declaration on Digital Rights and Principles is a kind of "beacon" on the road to promoting rights, but also in advancing measures to transpose fundamental rights into the digital sphere. We are talking about traditional rights that can be activators for the development of new rights, found only in the virtual world, the Declaration offering elements of novelty in analysis and reflection on the interpretation of the corollary of existing rights and freedoms, vulnerable by the path of technology and artificial intelligence.

The doctrine speaks of a possible structuring of the fourth category of human rights, namely "digital human rights in the context of AI challenges" [11], including the human right to the beneficial use of artificial intelligence, the primordial right to exist of man as a species among species, the human right and responsibility to control an AI, the right to security from the risks of AI technologies or the right and duty to use AI to the common good.

In this context of recognising the importance of digitaization and the need to ensure clear rights and principles in the field, the European Commission has taken on the ambitious political agenda of the Digital Decade 2030. This program is a proactive

response to the challenges and opportunities that the digital age brings, through which areas such as digital education, personal data protection, cybersecurity, and digital inclusion are addressed.

Thus, we can say that the European Union is a pioneer in shaping the legislative premises of digitization, on 09 March 2021 the Commission presented the vision for the digital transformation of Europe as a mission to be achieved by 2030 in the communication called: "*2030 Digital Compass*: *The European path for the Digital Decade".* Subsequently, in January 2022, the Commission developed the Declaration on Digital Rights and Principles, with an agreement only reached between it, the EU Parliament, and the Council in November 2022, following the 'Special Eurobarometer' survey and an open public consultation, in which 8 out of 10 EU citizens considered it useful for the EU to define and promote a common European vision on digital rights and principles. The Declaration builds on Member States' previous package of digital initiatives, such as the Tallinn Declaration on e-Government, the Berlin Declaration on Digital Society and Values-Based Digital Governance and the Lisbon Declaration on Digital Democracy.

Of course, the Declaration and the rights contained therein have their roots in the Treaties and the Charter of Fundamental Rights and complement the European Pillar of Social Rights, building on existing digital policies such as the protection of personal data, e-privacy, labour rights, and the case law of the Court of Justice.

Stricto sensu, the Declaration on Digital Rights and Principles aims to shape European values through 6 key areas: a human-centred digital transformation, supporting solidarity and inclusion through connectivity, digital education, training and skills, fair working conditions and access to digital public services, reaffirming the importance of freedom of choice and a fair digital environment, encouraging participation in the digital public space, increasing safety, security and empowerment in the digital environment, especially for young people, but also promoting sustainability.

Although the Declaration is declarative in nature, its value should not be underestimated as a political importance, as it was signed at the highest level of the European Union and its implementation is a joint commitment and responsibility of its Member States. In addition, the Digital Decade Policy Programme states that Member

States and the Commission must take into account the digital rights and principles set out in the Declaration as the EU enters its first cycle of cooperation to achieve the desired degree of digitization by 2030. In fact, the Commission has committed to reporting regularly to the Parliament and the Council on the progress made in promoting and implementing the Declaration.

Of course, the efforts towards digitization and regulation can be found in the "avalanche" of instruments and legislative acts developed and approved in recent years at EU level in sectors specific to the digital transformation, a transformation around which EU legislation is being reconfigured. And here we are, first of all, considering Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR).

Let's also not forget the Digital Services Act (DSA) and the Digital Markets Act (DMA), which highlight the right to freedom of choice and provide innovative legislative rules to address the societal and economic impact of online services in the EU, ensuring the protection of fundamental rights and fostering opportunities for businesses. The two key objectives of these hard-law legal instruments are, on the one hand, to create a safer digital space in which the fundamental rights of all users of digital services are protected, and on the other hand, to establish a level playing field to boost innovation, growth, and competitiveness in the European internal market and beyond. At the same time, the DSA creates new comprehensive obligations for online service providers and intermediary services to reduce damage and counter risks, ensuring robust protection of the rights of online users.

The EU has also concluded the public consultation for the revision of the Digital Markets Act (DMA) on the regulation of gatekeeper platforms such as Apple, Google, Meta, Amazon, Microsoft and TikTok, with the Commission preparing a full assessment of enforcement, which includes issues such as – "what works, what doesn't and what would need adjustments, and concrete issues that will change for users include how to search and install apps, display of results and data collection". [12]

Regulation (EU) 2022/2065 on Digital Services Act (DSA) [13] is the cornerstone of regulating the responsibilities of online platforms, its objectives include creating a safe digital space where citizens' rights are protected, making online platforms accountable,

increasing the transparency of automated processes (including recommendation algorithms), tackling illegal content and systemic risks, and strengthening European oversight of very large platforms (VLOPs).

If we refer to the impact on public administrations and smart cities, we will of course take into account that smart cities use digital platforms, applications, and data-driven management systems. And the DSA sets rules for the providers of these services, ensures that data generated by citizens is protected, prevents the misuse of municipal platforms and increases citizens' trust in public digital services.

As regards Regulation (EU) 2022/1925 on Digital Markets Act (DMA) [14], it complements the DSA, targeting large technology companies with a 'gatekeeper' role. The objectives of the DMA are to prevent abuse of dominant position, to guarantee fair competition, to open the market for innovators and small enterprises, and to interoperability of key services.

It is clear that public administrations depend on large digital platforms for cloud computing, IT services, data infrastructures, and artificial intelligence. Thus, the DMA prevents technological lock-ins ("vendor lock-in") and allows cities to use interoperable and flexible solutions, encouraging competition and innovation at local level.

Thus, the digital transformation in the EU's vision also relies heavily on the digitization of public services, such as e-health services, which involve, for example, citizens' online access to medical records. At the same time, we are talking about access to an electronic identification, in the sense of ensuring EU citizens and residents a secure and reliable way to authenticate and share qualified data attributes online through a "digital wallet" that would allow transactions throughout the EU. In this regard, on 26 March 2024, the European Council adopted a new framework for a European digital identity, namely the European Digital Identity Regulation (EUDI) [15], according to which by 2026 Member States will provide citizens and businesses with 'digital wallets' that will be able to connect their national digital identities with proof of other personal attributes (e.g. driver's license, qualifications, bank account), with sufficient guarantees included to avoid discrimination against anyone who chooses not to use the wallet. Also, its use will always be voluntary.

The new regulation establishing a framework for a European digital identity is based on the 2014 Regulation on electronic identification and trust services for electronic transactions in the internal market (e-IDAS Regulation). [16] Thus, the e-IDAS 2.0 reform introduces a single digital wallet, recognised in all Member States, secure access to public services, digital certificates for education, health, and transactions. If we were to refer to the impact for administrations and smart cities, the single digital identity will certainly allow for fully digitized public services, the interconnection of local registers, simplified administrative procedures and the reduction of bureaucracy. Digital wallets will simplify the identity verification process, making it easier for citizens to access government services online and boosting their adoption. Also, the overall security of citizens' data will be increased and the risk of breach will be reduced.

To the same extent, sustainability and durability are key elements of the Declaration of Digital Rights and Principles, which promotes digital products and services with minimal negative impact on the environment and society, as well as digital solutions with a positive impact on the environment, which is in line with the perception of two-thirds (66%) of Europeans, who believe that technologies will play a crucial role in combating climate change. In this regard, we know that the production and disassembly of technological devices generates, huge amounts of electronic waste, with new methods of recycling and reusing electronic components being developed to reduce the negative impact, with the new EU Ecodesign for sustainable products Regulation [17] becoming an important item on the Commission's agenda in terms of ensuring sustainable and circular products.

To create a 'Union of Equality', ensuring the accessibility of online services is essential, and much progress is still needed to make public sector websites and mobile apps, for example, fully accessible to people with disabilities. In fact, according to the European Accessibility Act for products and services, a wide range of products and services, including e-commerce and ICT, should also be accessible to people with disabilities in the private sector. The declaration invokes the idea of connectivity and states that all EU citizens should have access to affordable and high-speed digital means, which is a key prerequisite for promoting equal opportunities in an increasingly digitalised world.

Data protection and privacy are also key fundamental rights in the digital age. Moreover, they are activating rights for the protection of other fundamental rights that may be affected, such as human dignity and freedom of expression. At EU level, the control over personal data is ensured by Regulation no. 679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data, which strengthens the fundamental rights of individuals in the digital age and establishes clear requirements regarding the processing of personal data. In July 2023, the Commission proposed additional GDPR procedural rules for public authorities in cases affecting individuals in more than one Member State to provide faster remedies.

In any case, the legal framework outlining the processing of personal data has undergone numerous changes over time, which has had a significant impact on the free flow of data. However, the Directive on the processing of personal data and the protection of privacy in the electronic communications sector, known as the 'ePrivacy Directive', adopted in 2002, has played an important role in protecting stored information, all the more so since, according to it, traffic data must be deleted or anonymised when it is no longer necessary for the transmission of a communication. Currently, on the negotiating table of the EU bodies is the ePrivacy Regulation [18], meant to complement the GDPR. It has been in the legislative process for several years and is counting on the introduction of stricter rules on electronic communications, cookies, and direct marketing.

With regard to interaction with algorithms and Artificial Intelligence systems, which are particularly aimed at freedom of choice, the Declaration states that artificial intelligence (AI) systems should enable people to make informed choices in the digital environment, while protecting them from health risks and harms, and fundamental rights.

Let’s not forget the Directive (EU) 2022/2555 (NIS2) which strengthens the security of IT networks and which has as its central elements the obligation to assess risks, report cyber incidents, advanced technical and organizational measures, but also strengthened controls and sanctions. For smart cities, NIS2 is vital, as it protects IT systems, ensures the continuity of public services, and prevents attacks on urban infrastructures. [19]

This wide range of EU regulations offers perhaps one of the most advanced regulatory frameworks in the world. Thus, the European Union proposes a distinct vision focused on digitization in the context of respect for fundamental rights, technology and

responsibility, innovation through citizen protection, smart cities oriented towards ethics, security, and inclusion.

The European Union does not regulate digitization only through technical normative acts, such as DSA, DMA or eIDAS, but builds a coherent model of digital governance, which combines law, ethics, competitiveness, and the protection of fundamental rights. The EU legislator treats digital governance as a regulatory ecosystem made up of rules, principles, standards, institutions, and supervisory mechanisms, with the EU explicitly stating in all its strategic documents (2030 Digital Compass, Declaration on Digital Principles, European Digital Identity Strategy, etc.) that digitization must be human-centric. It follows that technology cannot prevail over fundamental rights, that the citizen must be protected against misuse of data, algorithms must be transparent, verifiable, and non-discriminatory, while access to digital services is a right, not a privilege, and digital inclusion is an obligation of the Member States. Therefore, the EU is positioning itself differently from other global powers, as it does not only pursue efficiency and innovation, but the protection of human dignity in the digital environment.

Through eIDAS and the future European Digital Identity Wallet, citizens will be able to access any public service in any Member State, which raises digital governance to the level of a European administrative integration project.

Essentially, the EU aims to transform public administration from a fragmented system into a single European digital administrative space.

Furthermore, under the Path to the Digital Decade programme, the EU sets specific digital targets and sets clear indicators that Member Countries must achieve by 2030, namely: 100% of essential public services must be available online, 100% of citizens must have access to digital identity, 80% of citizens must have basic digital skills.

Through this mechanism, digitization is not left to the discretion of each State, but becomes an obligation derived from EU law, thus becoming a component of the European Union's compliance. The European Commission's State of Play report on the 2025 Digital Decade, which assessed the EU's progress in the four target areas for the EU's digital transformation to 2030, highlighted achievements and gaps in the areas of digital infrastructure, digitization of businesses, digital skills and the digitization of public services. [20]

Last but not least, we must remember the Artificial Intelligence Regulation (AI Act), which outlined the European architecture of ethical and responsible digital governance. The AI Act represents the world's first comprehensive legal framework dedicated to the regulation of artificial intelligence, adopted by the European Union in 2024 and in progressive implementation. This hard-law instrument is considered the "cornerstone" of the future European digital ecosystem.

Unlike the approaches of other regions, the AI Act aims neither to accelerate technology at any cost (as in Asia), nor to self-regulate the market (as in the US), but to protect the human in an ever-evolving digital environment. With the AI Act, Europe sends a strong message: technological innovation must be compatible with human dignity, fundamental rights, and democratic values. For example, we mention that among the 26 decrees signed by the new US President on the first day of his second term, namely 20 January 2025, there was also the one canceling the Order on "the development of safe, secure and flexible AI", stating that such an AI governance model would "curb innovation and impose radical left ideas on the development of this technology". [21]

We can say that the European model remains the most balanced, being a sophisticated mixture of legislation, ethics, competitiveness, and protection of the individual, with a vision that tries to avoid the excesses of Asian control, the lack of regulation specific to the American system or the over-efficiency of the emirates.

The EU is the only large-scale digital democratic ecosystem. Why? Because the United States innovates quickly, but regulates slowly, Asia innovates massively, but at the cost of freedoms, as the Middle East builds futuristic cities, but with intense centralized control. The European Union is the only digital area where technology is democratically regulated, there is parliamentary scrutiny, there are public consultation mechanisms and there is civic participation in digital policymaking. Key elements are: secure and audited digital infrastructures, a ban on mass biometric surveillance, transparency of algorithms, the right of citizens to challenge automated decisions and respect for privacy as a fundamental value.

In a future where technology can become intrusive, the European Union becomes the guardian of digital freedom. Moreover, the European Commission also recently announced a plan to allocate €1 billion to boost the use of AI in key industries and the

public sector, aiming to reduce the EU's dependence on technologies from China and the United States. Thus, in parallel with the Apply AI strategy, the EU aims to position itself at the forefront of scientific research and innovation based on artificial intelligence, through the "AI in Science" strategy. [22]

In fact, the EU is creating an exportable model, what specialists call the "Brussels Effect" [23], the phenomenon through which EU standards become a pioneer in global strategies and rules. It happened with the GDPR, taken over all over the world, with competition regulations, consumer protection standards, or AI rules, which are already influencing the legislation of the USA, Canada, Australia, Japan.

It should be noted that the Digital Europe programme has recently been amended to accelerate the Commission's digital ambitions [24], with DIGITAL [25] contributing to the AI gigafactory flagship initiative [26], aimed at accelerating the development of leading European AI models and the core of the AI Continent Action Plan [27].

CONCLUSIONS

In conclusion, the European Union does not compete by technological speed, but by the power of rules, by the ethical and legal force of its model, by its philosophy, which maintains the balance between progress and humanity, laying the solid foundations of a digital civilization. And this philosophy makes it unique in the world. As the doctrine states, in the international standardization action the EU takes the first place, meaning that "America innovates and Europe regulates". [28]

The European Union is building this legislative future like a careful architect who does not erect walls before laying solid foundations. The Union model is, perhaps, the most beautiful paradox of modernity, the most digitized administrative project that puts man at the center, and not technology. In this space, digital rights become an open declaration for human dignity. Beyond innovation, we must remain human.

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GENERAL ASPECTS REGARDING THE ROLE OF AUTONOMOUS AUTHORITIES WITH CONSTITUTIONAL STATUS

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Abstract:
In any democratic society, the state has a number of mechanisms at its disposal to ensure that the values of the rule of law are not violated, but rather preserved, and that the individual is at the center of these values. One of the state's objectives is to protect its citizens. Within the system of public authorities, there is a category of authorities that have constitutional status and to which the relationship of authority as a result of hierarchy does not apply. The role of these authorities is to use their legislative levers to help the state function as correctly as possible. These authorities are considered to be autonomous.
Keywords: *public authorities, autonomous authorities, constitutional status, rule of law, rights and freedoms*

INTRODUCTION

Human society has evolved over time, emphasizing certain values and aiming to preserve them for future generations. Since ancient times, Aristotle has discussed how the "city" should function and how important it is for the individual not only to be at the center of its concerns, but also to be a creator of values. That is why he tells us that man must also be a "zoon politikon," involved in the life of the city. The values of Athenian democracy are often discussed as an important benchmark for modern democracy and as an example of individual involvement in the governance of the city.

In his writings, Aristotle also talks about the need to separate powers in the state in order to prevent abuse of power when governing, promoting the idea of three functions in the state: legislative, executive, and judicial. [1] Aristotle's ideas influenced generations of philosophers who addressed, among other things, the themes of the state, the citizen, and how citizens exercise power.

In his work, The Myth of Democracy, author Lucian Boia discusses the particularities of Athenian democracy, highlighting its advantages, innovative ideas, but

also its limitations, especially in the context of restrictions on participation in government, the exercise of rights, or rather, the absence thereof in the case of certain social categories. [2] "Athenian democracy—if we move from myth to reality—was still far from being impeccably democratic, at least according to today's standards. It concerned only a small part of the population: the people who exercised sovereignty were only a small minority. Slaves—more numerous in Athens than citizens—were naturally excluded, as were metics (i.e., foreigners) and, of course, women. In addition, a large number of citizens, caught up in their own activities or lacking interest, did not participate in public debates. Ultimately, a few thousand men would gather to decide on the affairs of the city." [3]

The imperfections of Athenian democracy should not overshadow its importance and role in laying the foundations of the modern state, which is based on values such as the separation of powers, guaranteeing citizens' rights, equality, and, last but not least, the rule of law.

PRESENTATION OF CONCEPTS

The organisation of a state is thus designed to ensure the fulfilment of its interests, which correlate with those of its citizens. The state creates a series of structures to implement these interests, and the fundamental requirement is compliance with and enforcement of the law. From a territorial point of view, we can structure state authorities into centrally organized authorities and authorities that we find at the local level. At the local level, we can talk about both county authorities and authorities organized at the city or commune level. At the central level, we find a series of authorities with executive functions, such as:

The President of Romania who, according to the Romanian Constitution, represents the Romanian state and is the guarantor of national independence, unity, and national territorial integrity. He ensures compliance with the Constitution and the proper functioning of public authorities. To this end, the President acts as a mediator between the powers of the state, as well as between the state and society."[4] The President of the country has a number of powers, both in the executive sphere, where we naturally include

him, but also in relation to other authorities that either exercise the functions of other powers or have constitutional status.

The doctrine emphasizes the role of the head of state in three respects: as head of state; head of the executive (one of the two heads of the executive); guarantor of the Constitution and mediator between the powers of the state. [5]

The Romanian Government represents the executive branch and is responsible for the general management of public administration, as well as the internal and external policies of the state, as specified in the Romanian Constitution.

"The government is a public administration body with general jurisdiction which, pursuant to Article 15 of the Administrative Code, exercises the following functions: strategic, implementative, regulatory, state property administration, representation, and state authority."[6]

Ministries are specialized central public administration authorities that implement government policies in their respective fields. The Romanian Constitution does not specify a fixed number of ministries or their names. These aspects are regulated when the government is invested and its governing program is approved. As the government depends on a vote of confidence from the Parliament and its political structure at that time, the number of ministerial portfolios is directly proportional to this structure.

Parliament is a central authority, but within the sphere of legislative power. It is the country's sole legislative authority and its supreme representative body. It has a four-year term and a bicameral structure. In performing its legislative function, it adopts laws that may be constitutional, organic, or ordinary.

AUTONOMOUS AUTHORITIES WITH CONSTITUTIONAL STATUS

The Romanian Constitution identifies a number of authorities that are considered autonomous, and their powers are diverse, with the ultimate goal of promoting and consolidating the democratic values promoted by a state governed by the rule of law.

Constitutional Court

The only constitutional authority in Romania is the Constitutional Court, which is independent of any other public authority and is subject only to the Constitution and the laws in force. It should be noted that the Court only rules on the constitutionality of the

acts referred to it, without being able to amend or supplement the provisions subject to review. Several authorities are involved in the appointment of judges to the Constitutional Court: three judges are appointed by the House of Deputies, three by the Senate, and three by the President of Romania. [7]

The literature highlights a number of functions and characteristics of the Constitutional Court that are considered essential to its work: [8]

- it does not take over the functions of any of the three powers of the state, nor does it represent another power
- it has a political and a jurisdictional nature, the former resulting from the manner in which the judges of the Constitutional Court are appointed, the latter resulting from the powers vested in the Court
- as a public authority, the Constitutional Court has the role of guaranteeing the supremacy of the Constitution. The President of Romania has the same role
- it is a public authority that supports the proper functioning of public powers, and in this regard, it has the power to resolve legal conflicts of a constitutional nature between public authorities
- it is the only constitutional jurisdiction authority in Romania, and its organization, functioning, and exercise of powers are carried out in accordance with the principle of legality
- The composition of the Court is established by the Constitution and the law, and in exercising its powers, the Constitutional Court interprets the Constitution and the law; it cannot amend, supplement, or repeal a law
- The Constitutional Court is a guarantor of respect for fundamental rights and freedoms.

The role of the Constitutional Court is particularly important in upholding the principles of the rule of law, and it is essential that its work be separated from the political changes that inevitably occur, especially when a democracy is still being established, as is the case in Romania. The involvement of politically biased authorities in the appointment of the nine judges hinders this process.

Ombudsman

According to the Romanian Constitution, the Ombudsman is appointed to defend the rights and freedoms of individuals for a five-year term. The Ombudsman exercises

his or her powers ex officio or at the request of persons whose rights and freedoms have been violated, in accordance with the law. The appointment is made by the House of Deputies and the Senate in a joint session, and the term of office may be renewed once.

"Public authorities are required to provide the Ombudsman with the necessary support in the exercise of his or her duties. The Ombudsman shall submit reports to the two Houses of Parliament on an annual basis or upon request, which may include recommendations on legislation or other measures to protect the rights and freedoms of citizens." [9] The Ombudsman's office is organized territorially, so that citizens have as much assurance as possible that their fundamental rights and freedoms are respected.

Court of Accounts

The Romanian Constitution identifies the Court of Accounts' responsibility as exercising control over the formation, administration, and use of the financial resources of the state and the public sector.

The only authority that can request the Court of Accounts to audit the management of public resources is the Parliament, through its two Houses. The Court reports its findings, and the annual report of the Court of Accounts shall be published in the Official Gazette of Romania, Part III. The plenary session of the Court consists of 18 members appointed by Parliament, who are audit advisors. The Court of Accounts is managed by the plenary session of the Court, and executive management is exercised by the president, assisted by two vice-presidents, who are audit advisors. The president and other members of the Court of Accounts are independent in the exercise of their duties and in their decision-making, respecting the principles of collective management, publicity, and transparency. [10]

In order to function properly, a state must use its resources efficiently, avoid waste, and use these resources in effective and necessary public policies.

Legislative Council

Another particularly important authority is the Legislative Council, which reviews draft legislation with a view to systematizing, unifying, and coordinating all legislation, as provided for in Article 79 of the Romanian Constitution. [11] The activity of this authority is relevant for the proper functioning of the public authority system, because legislative

overlaps or contradictions must be avoided, otherwise there is a risk of hindering administrative activity.

Economic and Social Council

According to Article 141 of the Romanian Constitution, the Economic and Social Council is an advisory body to Parliament and the Government in specialized areas, as established by the organic law on its establishment, organization, and functioning. [12] The structure of this authority is tripartite, representing three significant structures in society: trade unions, employers, and civil society. It provides advisory opinions to the two structures, because it is important that when regulating issues related to economic and social life, etc., the informed opinions of the representatives of the three structures are known.

Supreme Council for National Defense

Article 119 of the Romanian Constitution establishes the role of the Supreme Council for National Defense. According to the regulations in force, it is an autonomous authority vested with the organization and unified coordination of activities related to national defense and security. For a state to function, it must be secure, and to this end, it establishes its courses of action both domestically and internationally. [13]

Superior Council of Magistracy

The Superior Council of Magistracy acts as guarantor of the independence of the judiciary. In this capacity, it has a duty to comply with the law and to implement government policies relating to the work of the judiciary, as established by law. The Superior Council of Magistracy protects the body of magistrates and its members against any act that could undermine the independence or impartiality of magistrates in the administration of justice or create suspicion in this regard. [14]

On the other hand, the Superior Council of Magistracy has a moral duty to ensure that magistrates carry out their work in accordance with ethical principles and professional conduct, so that the administration of justice does not suffer.

CONCLUSIONS:

The work of these autonomous authorities with constitutional status is extremely important and relevant for the development of the rule of law and for consolidating and

strengthening democracy, which is currently quite fragile. Their purpose is to protect society's values and ensure that citizens' freedoms and rights are respected.

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A HUMAN-CENTERED SMART CITY APPROACH TROUGH VERTICAL AND HORIZONTAL COORDINATION IN ROMANIA[1]

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Abstract:
This study investigates the implementation of the Smart City concept in Romania through the lens of vertical and horizontal intergovernmental coordination, emphasizing a human-centered governance model. The main objective is to assess the systemic and procedural limitations that hinder effective policy integration, citizen participation, and sustainable digital transformation at local and regional levels. The research employs a qualitative, analytical method, grounded in legal, policy, and institutional frameworks, supported by comparative insights and empirical data from public reports and academic literature.
The results reveal that while Romania has formal structures for coordination and access to substantial EU funding, the effectiveness of smart governance is constrained by weak administrative capacity, procedural formalism, digital illiteracy, and low citizen engagement. There is a visible mismatch between strategic ambitions and operational realities, with fragmented digital services, limited intersectoral collaboration, and political-centralism undermining local autonomy.
The study highlights the urgent need for cohesive planning, inclusive consultation mechanisms, and genuine citizen empowerment. It underscores that smart city development is not merely technological but fundamentally social and institutional. The findings have implications for policy reform, advocating for a culture of coordination, transparency, and digital competence as prerequisites for sustainable and citizen-oriented urban innovation.
Keywords: *smart governance, intergovernmental coordination, sustainable development, digital transformation, smart governance, public policy implementation, citizen-centricity*
***JEL Clasification**: K4, H7, R5*

INTRODUCTION

The 2030 Agenda for Sustainable Development Transforming our world adopted at the UN Summit on Sustainable Development (New York, 25-27 September 2015) targets 17 Sustainable Development Goals (SDG) that quantify 169 global targets that

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refer to key areas, such as poverty, human rights, food security, health, sustainable consumption and production, economic growth, employment, infrastructure, sustainable management of natural resources, oceans, climate change and gender equality.

The implementation of measures for a sustainable development led to the emergence of the “smart city” concept, followed by others, such as, “smart region” and “smart village”.

The smart city concept has evolved over time. At first it *focused on ICT* (Information Communications Technology) integreted systems, as Hall defined smart city [1] as “urban center of the future, made safe, secure environmentally green, and efficient because all structures - whether for power, water, transportation, etc. are designed, constructed, and maintained making use of advanced, integrated materials, sensors, electronics, and networks which are interfaced with computerized systems comprised of databases, tracking, and decision-making algorithms”, and Mohanty et al [2] as “a place where traditional networks and services are made more flexible, efficient, and sustainable with the use of information, digital and telecommunication technologies, to improve its operations for the benefit of its inhabitants”.

In another vision [3], ***the smart city is centered on citizen*** and is a one “well performing in 6 characteristics, built on the ‘smart’ combination of endowments and activities of self-decisive, independent and aware citizens.” From this perspective the municipalities must to advance in six key strategic action fields: Smart Economy (competitiveness), Smart People (Social and Human Capital), Smart Governance (Participation), Smart Mobility (Transport and ICT), Smart Environment (Natural Resources) and Smart Living (Quality of life).

Csukas and Szabo (2021) classified smart cities in 4 categories: ”*The Green City* – in which years of activities, cities are focusing on environmentally related objectives; *The App City* – in which years of activities, cities are focusing on developing and rolling out platforms and ICT applications to provide Quality of Life improvements directly for citizens; *The Socially Sensitive City* - in which years of socially sensitive activities are prominent; *The Participatory City* – in which years of activities citizen engagement is in focus.”

Regardless of how smart city development strategies are implemented, we should consider whether the occupants of these cities have the education needed to enable them develop, manage and live in these cities.

Now, there are two co-determiners that generate innovation and progress in cities, communities, societies: technological change and social and cultural change. ”The core element in both determinants is the *human factor* and this is what filters any external interventions in the process of self-conceptualization and self-construction, and then it replicates, in the larger context, all the results of this processing, preparation and refinement of change” [4].

§1. SMART GOVERNANCE

The Smart governance is identified as a “good thing” characterized trought: the participation of citizens in decision-making, public and social services that integrate technology in their operation, government transparency and a set of specific political strategies and perspectives [5].

In Romania, the public policies coordination system focused more on procedural dimension of public policy formulation.

The consultation procedure and policy advice are formal rather than practical [6] and the recommendations are taken into consideration mainly if they come from powerful employers’ associations or important unions [7] .

The concept of “governance” is based on the achievement of *common objectives in partnership*, which usually involve both governmental and non-governmental organizations. “The governance of a smart city requires that different stakeholders, including citizens, should take part in the planning and decision-making processes, share control over the development of initiatives, collaboratively address problems, and set priorities to build commitment and ownership of the final planning outcomes” [8].

The 12 *Principles* that are enshrined in *the Strategy on Innovation and Good Governance at local level* [9] (The Council of Europe, 2011) for a good governance are:

- *Fair Conduct of Elections, Representation and Participation*, with one of activities, citizens are at the centre of public activity and they are involved in clearly defined ways in public life at local level;

- *Responsiveness* - complaints over service provision are handled in a professional manner by the municipality;
- *Efficiency and Effectiveness* - people in this municipality are quite satisfied with the services offered by the municipality;
- *Openness and Transparency*, meaning that the municipality does a good job in informing citizens about issues on the local political agenda;
- *Rule of Law*, in order to common interests of all residents prevail, not the special interests;
- *Ethical Conduct*;
- *Competence and Capacity* - from the (most) elected officials in this municipality;
- *Innovation and Openness to Change* - in this type of municipality there are good procedures for handling citizen suggestions to improve public service delivery;
- *Sustainability and Long Term Orientation;*
- *Sound Financial Management* - municipality is doing a good job in informing citizens about what taxpayers get for their money;
- Human Rights, Cultural Diversity and Social Cohesion;
- *Accountability* – involves that municipality elected officials are good at explaining their decisions to residents.

But the municipality is a part of the state government and the effective role of governments in the governance of smart cities is essential, they can play the role of coordinator, funder, and regulator by bringing different interests and stakeholders together, providing funding for infrastructure and demonstrator projects, and ensuring that common standards and regulations are in place [8].

First, the government is “an institution of the state, political authority of the state, which represents, selects and implements state policy.” [10] The Government is based on centralization and control, whose relationships with other units of the policy network are asymmetric. [11]

Many schoolars revel the advantages of the administrative decentralization process – based on the principle of subsidiarity-, that brings government decision makers "***closer to citizens***", with positive consequences for democratic governance and accountability.

The administrative decentralization has three forms: deconcentration, delegation, and devolution and each of them have different characteristics.

If we consider the decentralization's disadvantages, we can bring to light the Condorcet's paradox that demonstrates it is impossible to construct any method that will faithfully discover the will of a group, with any type of democratic voting system, so, *it is not possible to design a perfect democratic governance system [12]*.

Smart governance is based on decentralization. But decentralization can take partial, blocked or hybrid forms, both among and within countries [13] and that is why ***a specific approach of decentralization in Romania is necessary.***

According to Romanian Administrative Code [14] the *decentralization* is "the transfer of administrative and financial powers from the level of the central public administration to the level of the public administration of the administrative-territorial units, together with the financial resources necessary for their exercise".

The consultation in solving local problems of special interest is seen as a way through which citizens can express themselves on how to be solved some of their problems through meetings between them and the autonomous authorities, submission of projects for public debate participation in the meetings of deliberative bodies, reporting by those citizens and other such means [15].

Some schoolars argued that "descentralization without coordination hampers response to crisis" [16].

§2. INTERGOVERNMENTAL COORDINATION (IC)

Charles Lindblom [17] defined coordination as: "a set of decisions is coordinated if adjustments have been made in it such that the adverse consequences of any one decision for other decisions in the set are to a degree and in some frequency avoided, reduced, counter balanced, or outweighed" [18]. From this perspective, *coordination is a way to harmonize individual interests in order to prioritize the general common interest*.

IC is the degree to which governments at different or identical levels effectively cooperate.

Romanian local governance is organized in a two-tier non-hierarchical administrative system, both directly elected bodies*: the local council and the mayor* and *the county*

council at upper-level. The county council includes a central government representative (i.e. the prefect), tasked with overseeing both local self-government authorities and deconcentrated public services [19].

The prefect is the appointed local representative of the central government, acting as a liaison with local self-government. Prefects oversee the conduct of local self-government and head the decentralized bodies of public administration. While there is no subordination between prefects and local authorities (article 123 para. 4) of the Constitution], this principle had been arguably undermined by the initial dependency of local authorities on central funding [20] but in the last years the situation seems to have improved [21].

In Romania, as central public administration bodies, are established autonomous administrative authorities.They operate independently in view of exercising their executive powers that have as main object the law enforcement operations, ensuring the proper functioning of certain public services, in this case there is no scenario involving the existence of any designated bodies or state authorities with higher status and command, having their own governing bodies and special responsibilities that are separated from other central administrative bodies. (e.g. On the basis of Romanian Constitution the Ombudsman (art. 58-60), the Legislative Council (art. 79), the Supreme Council of National Defence (art. 119), the Superior Council of Magistracy (art. 133-134), the Court of Auditors (art. 140), the Economic and Social Council (art. 141) or by organic laws, the Competitiveness Council, the National Audiovisual Council, the National Integrity Agency, National News Agency AGERPRES, the National Supervisory Authority for Personal Data Processing, The Permanent Electoral Authority, Private Pension System Supervisory Commission, The National Council for the Study of the Security Archives, National Council to Prevent Discrimination, The Romanian Intelligence Service).

The autonomy of these bodies does not exclude the existence of the judicial control on the administrative acts they issue and the specific parliamentary control (such as, appointment and dismissal of management of the body). ”Also, the Government’s decisions, by virtue of its function of exercising the general conduct of public

administration are also binding for the autonomous administrative authorities, having a greater judicial force than the normative acts issued by these authorities." [22]

The mayor has an executive role and is directly involved in the activity of the local council, with the former preparing and then implementing the decisions adopted by the latter.

A institution regards the function of *public administrator (known as the city manager*), inspired by the model existing in the Anglo-Saxon system, was created was created by a normative act in 2006 and subsequently preserved in all legislation regulating local public administration [23] [52].

According to article 244 paragraph 3 of the Administrative Code, the appointment of the public administrator is made by the decision of the mayor, respectively the president of the county council, as the case may be, which has as an annex a management contract in compliance with specified requirements that meets the rigors of an administrative contract [24].

The public administrator at the level of a commune, city, municipality or county is appointed to the position based on a competition.

Metropolitan areas in Romania are regulated by a special law [25], with the specification that a locality can be part of a single metropolitan area, as follows:

- Bucharest can be associated, in principle, with the localities of Ilfov county;
- county seat municipalities can associate with neighboring localities with which they have common borders - the first two urban crowns (but without exceeding the limit of the county of which the municipality is a part);
- municipalities that are not the seat of a county can only associate with localities in the first urban crown (but without exceeding the limit of the county of which the municipality is a part) [26].

In order to ensure a balanced regional development and to make the best use of social and economic potential, based on free associations of neighbouring counties, as per Law no.151/1998 (replaced by Law 315/2004 [27]), 8 development regions have been established that are not territorial administrative units and do not have legal personality.

In each region there is a *Regional Development Agency* (executive authority) and a Council of Regional Development (deliberative authority). Regional development policy is

managed at national level by the National Regional Development Council with deliberative function and the Ministry of European Investments and Projects.

The Council for Regional Development is made up of the presidents of the county councils and one representative of each category of local municipal, city and communal councils from each county of the region. This council elects a president and a vice-president, who cannot be representatives of the same county.

Political actors play an integral part in fostering or hindering the success of intergovernmental coordination [28]. Ideally, such coordination allows governmental actors to increase both the effectiveness and legitimacy of public decisions.

A good and coherent coordination of public policies is important because: it is possible to avoid duplication of some actions that can increase budget costs; harmonizing contradictions in the content of some programs or avoid blocking the actions of a public authority under the impact of measures taken by another authority, increase the political credibility and legitimacy, etc [29].

§3. SMART CITY COORDINATION IN ROMANIA

The local government has the key role in coordinating the implementation of smart city (or smart village, smart region etc.).

The term “local governments” is a widely used generic expression comprising a broad range of institutions whose denominations vary from country to country. (Zapata Garesché, 2007, p.19)

In Romania, “local governments” are structured as follows:

1. *Municipalities* and cities, regardless of their size, (urban or rural environment), with their distinct socioeconomic realities – Mayor and local council and in some municipalities the public administrator which becomes the executive chief officer;

2. *Counties* – 41 counties and the Municipality of Bucharest - President of the county council, County Council and the Prefect;

3. *Metropolitan areas* - each metropolitan area has its own governing bodies - the general assembly (in which the mayors represent the associated localities), the board of directors (the one that implements the decisions of the general assembly) and the board of censors (consisting of at least one chartered accountant or an expert accountant). The

association of localities in metropolitan area is done on a voluntary basis, but they are qualified as associative forms with legal personality. The association process in a metropolitan area does not lead to the emergence of a new administrative-territorial unit. The component localities, through the administrative authorities, delegate or transfer, in compliance with the legal conditions, part of the attributions, in order to jointly manage some services or run some activities and projects dedicated to the members of the local communities that make up the metropolitan area [30].

4. *Regions* – Romanian Development Regions are not administrative-territorial units and do not have legal personality, they have a Starting with the programming period 2021-2027, at the level of the 8 development regions of Romania, the Regional Development Agencies perform the function of Management Authorities for Regional Programs.

Many scholars agree that governance, which is based on negotiation and collaborative rationality, is fundamental to the design and implementation of smart city initiatives. When it comes to enhancing the legitimacy of the regulatory standards issued by the European Union (EU), political decision makers increasingly turn to network-based forms of governance, building on the horizontal interactions between public and private policy actors. Even though the European Commission has branded its funding programs for creating smart cities with a dedicated governance focus, it is not clear how a smart city should govern itself so that the sum of its human development becomes more sustainable in the long term [31].

The smart city coordination is based on an *intersectoral coordination* (it refers to policies and programs reconciliation in different sectors).

While all actors in principle agree that it is important that recipient governments manage external assistance and thus should be responsible for aid coordination, most of the poorer countries lack the technical and administrative capacity and skills to handle this efficiently. A more serious shortcoming may be their lack of political credibility and legitimacy, however, which is a dimension that requires more attention [32].

Even if Romania is a member of EU, has some technical and administrative capacity issues [33].

Successful *aid coordination* implies structural changes to resource flows – in particular that central agencies like ministries of finance take on a coordinating and thus a stronger role. This may often generate resistance from those within the local administration that feel they will lose out, such as aid-favored units in line ministries – a problem that should not be underestimated. Understanding the politics of aid coordination is therefore as important as understanding the economics of it [32].

”The number of such coordination activities has grown rapidly over the last years without clarity as to what the outcomes of them have been.”[32].

In the 2022 Report of Smart City Scan in Romania: Moving to building new urban spaces in Romania: smart city in the hidden city, Cornel Barbuț, CEO of Vegacomp Consulting mentioned that “*the current stage of the Smart City concept in Romania has gone beyond the pilot projects phase, going backwards and forwards at the same time, without advancing to consistent Smart City projects due, first of all, to the lack of competent staff in the local and central public administration. Without people in town halls, specially delegated for Smart City projects and with City Managers suffocated by administrative tasks, we have all kinds of funds available for nothing. This is why we stress, once again, the need to allocate resources for project management and IT&C (IT and connectivity)*” [34].

One of the major problems related to coordination in the Romanian system aims at the real efficient and effective collaboration of both, public actors, in vertical dimension [35] and between these and stakeholders at the local level, on horizontal coordination [36] because “coordination is about setting and implementing priorities as well as about merely getting organizations to work together smoothly and effectively” [37] .

There is no doubt that the governance of a smart city requires that different stakeholders, including citizens, should take part in the planning and decision-making processes, share control over the development of initiatives, collaboratively address problems, and set priorities to build commitment and ownership of the final planning outcomes.

Even though the people of smart cities are declared key stakeholders, they are often treated as peripheral [38] in Romania.

Information at the local level is deficient, citizens are not informed of the start and progress of some projects or certain decisions that meet the reluctance of citizens for justifiable reasons, they are not consulted and the necessity and opportunity of some projects are not explained to them. Posting information on the website or at the town hall headquarter is not a sufficient way of informing citizens, it is only a perspective by which the criterion of decision-making transparency is considered fulfilled.

According to Matei and Dogaru the concept of public policy coordination is ”the ability to take public policy decisions with strategic characteristics and to ensure the unity feature of how public policies are formulated (procedural perspective).

If we approach **the Romanian intergovernmental** coordination from an organizational point of view, there are a *procedural coordination* revealed before – local administrative organization – but ***substantive coordination*** **has failed** because it should concern itself with the content of the organization's activities, their interrelationships and how they are really managed. The lack of ”*practical character*” of public policies coordination system was mentioned in other studies, too [39].

The Government at both national and local levels has taken measures to improve transparency and accountability and open the administration through the adoption of open government principles and initiatives.

But, participatory budgeting, as implemented, can be a real tool only for digitally literate citizens. Unfortunately, the population that has minimal digital knowledge and is also actively involved in the life of local communities is quite limited. (e.g. Regarding Constanta City, based on the first edition of participatory budgeting in 2022, 10 projects that obtained the highest number of votes were approved for implementation, overall, 2,145 votes were registered, less than 1% of the municipality's population over 18 years of age.)

An analysis of the indicators shows ***a deterioration in the access to government information through the unwillingness of the authorities to publish exhaustive materials regarding their activities[7]***.

According [36]”public organizations did not learn the ability to learn, and strategic management at the level of public institutions remained anchored in the discrepancy

between the provisions of the legal framework and informal practices that limited the change and modernization of public administration".

Romania is highly centralised, as the share of the central government expenditure (70.4% in 2023*) is three times greater than the local government share* (22.9%).
In this way, the central government controls the local government. If one party is in charge at the central level and another party is in charge at local level, in most cases the local level does not get the amount of money it needs for full development in that local area [7].

Table no. 1. Evolution of Romanian government expenditure
Source: Author based on EUROSTAT database

ROMANIA	2015	2020	2023
Total expenditures (in % GDP)	36	41.8	40.2
Central government share (% in total)	73.7%	70.5%	70.4%
Local government share (% in total)	27.4%	22.9%	22.9%

A more serious shortcoming is ***the lack of political credibility and legitimacy in the Romanian public system***. In a recent study of IRES [40] around 60% of the Romanian believe that the corruption of Romanian politicians has not decreased after EU integration. ***In*** both, ***central and local public administration is a high degree of corruption [7] [33] [41]***. It can be argued that perception is a subjective representation of reality, with which it is not necessarily congruent, but it is relevant because it shapes and determines the action of individuals [42].

Romania rankes in 2022 and 2023 46 on the corruption perception index score (CPI) - 100 indicates that no corruption is perceived in the respective country. This score made Romania be the country with the third highest CPI in the European Union, after Bulgaria and Hungary, the average level for EU is 64. (Transparency International Romania, 2024)

It is important for countries to coordinate their public investments to find synergies between investments and deliver public services that are seamless from the perspective of citizens [3]. ***It is more important that the public service provided to be tailored on the real needs of the citizen.***

External planning, that includes visits to other cities and systematical search for new knowledge, must be a step in the right direction of a a good Smart City Strategy [43], but the application of good practices from senders localities is not always welcome for the citizens of the receiving community.

We underlined another still unsolved problem of the public administration: ***bureaucracy***. Also, bureaucratic procedures have diluted the law enforcement in Romania [7].

According to the DESI 2022 Connectivity Index, Romania ranks 27th out of 27, above the EU average. In the latest data calculated by Eurostat, the percentage of people with at least basic general digital skills was 28%, almost twice as low as the EU average (54%). The digital interaction between public authorities and the general public is low as well, as only 17% of internet users are using e-government services [44].

Some issues concerning the implementation of electronic one-stop shops for the decongestion of operative compartments "loaded" with a large volume of work and direct relations services with the public consist on: the lack of digital literacy for a part of the population, insufficient information of citizens, problems in operating the systems, the weak connection between institutions that require face-to-face actions that could be replaced by remote actions and so on.

Regarding the projects carried out in ***public-private partnerships*** (PPP), the number of these increased in the last few years, due also of the Government Emergency Ordinance no. 39/2018 on public-private partnerships that it is widely considered to be a clear improvement over the previous attempts and generally compliant with international best practice, although ***the legislative and institutional context in Romania*** (quality of government, level of corrruption, week informal institutions) is not very favorable yet to this type of initiatives [45] despite of the last legislative attempt [46].

Since 2016 is established in Romania the Romanian Smart City Association (ARSC) with over 350 members (in may 2024): town hall, county councils, universities, and

companies. In 2019, the ARSC launched the “Romania 2030 Charter”, which aims to encourage local administration on the road to the digitization and adoption of new technologies. The “Romania 2030 Charter” principles are:

- A creative-intelligent city puts the citizen at the center of its actions - around it builds and develops a holistic Smart City project, while technology will be put at the service of the inhabitants using the latest available discoveries;
- A fair Smart City project will respect all the principles of tolerance, equal opportunities, social inclusion, access to education and health, respect for all fundamental human rights, the Romanian Constitution, the international treaties to which it joined, but also preserving the identity and cultural heritage of the communities;
- Smart City projects will be developed on sustainable principles, respecting the 17 sustainable development objectives assumed by Romania;
- Development of educational projects in the community, alongside the academic and pre-university environment;
- Creating the necessary climate for the development of the entrepreneurial culture and environment, of start-ups and innovative initiatives [47].

Another key document on Romanian’s Smart Cities situation is the “Smart City Scan in Romania”, a report produced and presented annually by the consulting firm Vegacomp Consulting. Vegacomp Consulting was founded in 2004 and publishes an annual report on smart city projects in Romania.

The last Raport of Vegacomp Consulting (2022), reveals 1001 SC Projects in 144 cities of Romania (with only 470 implemented projects and 288 in ongoing phase).

As sources of financing for Smart City projects are mentioned: European funds (235 projects), local budget (101 projects), central budget (34 projects), external financing with, both, local and central budget participantion (23 projects), private financing (22) and PPP (20 projects) [48].

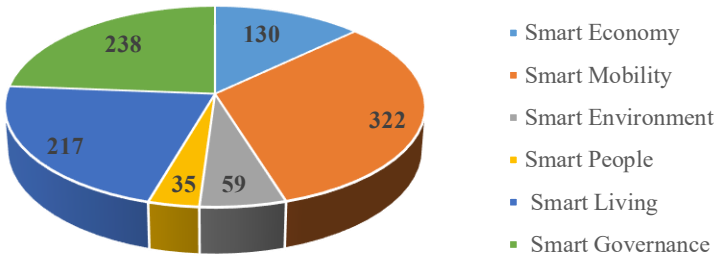

Figure no. 1. Distribution of projects on the pillars of the smart city

Source: Author based on Vegacomp Consulting Report, 2022

Private sector implication in Smart City projects is very low, and one issue is, according to the World Bank, Romania's policy unpredictability and lack of continuity that "limit the appetite of companies to invest and expand, add costs and discourage long-term business planning" [49].

Cluj Napoca is the city in Romania with the largest number of projects - 63, if we do not cumulatively take into account all 7 city halls of Bucharest - 115 Projects, climbing on the first position, followed by Iași with 56 projects [48].

From Figure 1 we notice that most SC projects aim at urban mobility (32.17%), gouvernance (23.78%) and living conditions (21.68%). The concern for the education of citizens in order to be capable of intelligently participating in smart urban life and adapting to new technologies that provide creative solutions, innovation and diversity in their communities is very low, only 35 projects. (Figure 1)

Romania, as other countries (Poland, Hungary or Greece), received more money from EU budget than it gaved to the European Union. Romanian Ministry of Finance, based on Net Financial Balance at 31 December 2024, reveals a positive balance of flows between Romanian an EU budgets 66,684.91 mil euro in period 2007- 2024. Romania received 99,288.33 mil.euro from EU between 2007-2024 and paid contributions of 31,953.48 mil.euro. (Table 2)

Table 2. Financial flows between Romania and the EU, 2007-2024

Source: Romanian Ministry of Finance data

(mil.euro)

ROMANIA	2007-2024 execution on 31.12.2024
Amounts received from the EU budget	**99,288.33**
Amounts received from the EU budget from the Multiannual Financial Framework 2007-2013	36,685.40
Amounts received from the EU budget from the Multiannual Financial Framework 2014-2020	51,065.39
Amounts received from the EU budget from the Multiannual Financial Framework 2021-2027	5,634.79
NextGenerationEU 2021-2023	5,902.75
Amounts paid to the EU budget	32,603.42
Romania's contribution to the EU budget	31,953.48
Other contributions	649.94
Net Financial Balance at 31 December 2024	**66,684.91**

The pandemic time delayed the start of the 2021-2027 programming period. Thus, Romania obtained the approval of the 16 operational programs of her (of which 8 regional programms) only at the end of 2022, and the first calls for projects were launched in 2023.

CONCLUSION

Strategic planning is commonly used as a managerial tool by local public authorities in Romania, due to the fulfillment of the legal requirement to access EU funds (more than 87% of authorities adopted a strategic plan in 2015) with a vulnerable point related to the evaluation and monitoring the entire process.[50]

The initiation of projects for the development of smart cities is primarily influenced by the informal interactions of external actors or in the shadow of the actors' formal positions and relationships. Such initiatives may never enter the political agenda or policy field without the informal interactions of actors (see the Study Case on three Norwegian

cities by Gohary et all, 2020; and *implemented based on intergovernmental coordination of a local strategy* documented (by both, internal and external planning) but only with ”specific components for each city” [43]

”The literature on the creative class has argued that the creative mind is greatly stimulated by the presence and enjoyment of cultural capital in a city, ranging from a rich historico-cultural ambiance to the abundant presence and enjoyment of cultural and artistic performance opportunities.” [51].

The educated citizen is a self-determined, independent and conscious citizen who is actively involved in the activity of the community. He will become a key factor for a smart city through his creativity and a culture built on knowledge and technology.

Digitization brings with it many opportunities for the development of society. The emergence of new technologies and the improvement of those already existing on the market allows the government to cut red tape, increase both, labor productivity and competition, and encourages innovation. Also, it contribute to the rapid exchange of information and increasing their level of accessibility, respectively reducing the time allocated to carrying out professional or personal activities.

Some steps in the digitalization of administrative system were made by Romanian government, but it is necessary to implement systems with a friendly interface, easy to use and connected between institutions so that the bureaucracy can be truly reduced. But, the digitization of activities can only be done with digitally literate users, and this is a week point in the Romanian current situation.

A better coordination between Romanian authorities imposes conditions as:

- an administrative culture which promotes horizontal cooperation, the good practice of a city in implementing a project can be the start for implementing similar projects;
- the consultation procedure and political advice become a real practice and not just a check-off procedure, based on a systematic dialogue between the actors;
- a strategic framework for public policies vertically coordinated so that the achievement of the objectives has the support of the necessary resources;
- mechanisms for mediation and solving the conflicts or the divergences between actors involved;
- a solid consultation with stakeholders.

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DIGITALIZATION, THE INFORMATION SOCIETY AND THE ENVIRONMENT

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Abstract:
Enviromental pollution represents a major issue of contemporary times. Human existence depeds on the environment, and environmental factors (air, water, soil) are constantly being negatively altered as a result of human use. AstfelThus, as a consequence of human activities and major scientific progress, digital pollution has also emerged. The numerous restrictions imposed during the Covid -19 pandemic brought discussions about global warming back into focus. Consequently, digitalization has expanded worldwide, and the internet has become indispensable.
As internet traffic, video streaming, the number of online conferences, and activities on social networks have increased various ,,costs" have appeared – among them, digital pollution.
Information and communication technologies (ICT) are no longer merely tools of efficiency but tre drivers of sustainable progress, capable of transforming the way people interact with the environment.
Keywords: *pollution, environment, impact, digitalization, information society.*

1. DIGITALIZATION AND IKTS IMPACT ON THE ENVIROMENT

Digitalization represents the technological process trough which activities, services and information are transformed into digital format. It is practical transformation that involves the use of information and communication technologies (ICT) to increase the efficiency of economic, administrative or social processes.

Although it is often perceived as a path toward modernization and efficiency, digitalization has both positive and negative ecological consequences.

Positive effects of digitization on the environment:

- Reduction in the consumption of material resources (digitalization of administration and business processes);
- Energy efficiecy and ecological monitoring (smart technologies – IoT, sensors, digitalized electricity networks);
- Promotion of the circular economy (car-sharing applications);

- Reduction in polluting transport and mobility (remote work , e-commerce and delivery services).

Negative effects of digitalization on the environmental:

- Increased electricity consumption;
- Electronic waste (e-waste);
- Digital carbon footprint;
- Extraction of resources for technology production.

2. GENERAL ASPECTS OF DIGITAL POLLUTION AND THE ROLE OF ARTIFICIAL INTELLIGENCE IN INCREASING THE DIGITAL

Currently, a term closely associated with the environment is pollution. Pollution represents the price that humans pay for the benefits brough by modern technology.

The significant decline in biodiversity, climate change, the depletion of the ozone layer, and the energy crisis have all led to numerous discussions about pollution. One of the major causes contributing to global environmental problems is the development of technology, but especially yhe way in which humans use it.

Technology, as a whole, is represented by the sum of tools and consequences created and accumulated by humans, aimed at producing objects that enhance natural physical capabilities to perform actions or tasks that would otherwise be impossible. The development of technology is a dynamic and cumulative process, offering advantages (visible benefits for society and industry) as well as disadvantages (impact on the environment and human health).

The implementation of new digital technologies leads to increased electricity consumption and digital pollution.

Digital technology is a form of technology that has expanded significantly in recent years. It has substantial effects on the carbon footprint, with devastating consequences for the environment. Devices and data centers, as well as the use of resources for producing electronic equipment, represent the various ways digital pollution manifests.

In a technology-dependent society, digital pollution is a controversial subject. Therefore, digital pollution can be defined as the type of pollution that arises both from the use of IT infrastructure and from the production of digital tools. The energy, resources

used, and discarded technological devices that become electronic waste are elements that pollute the environment and can be hazardous to humans.

The effects of digital pollution, resulting from excessive use of energy and resources, cannot be ignored. The problem of digital pollution is fueled by several factors whose management requires the attention of users, industry, and governments.

Artificial intelligence (AI), as it becomes increasingly integrated into our lives, can have a negative impact on the environment. The development and excessive use of AI raise issues related to high energy and resource consumption, with the most severe problem being the increase in ecological footprint.

For example, mining a single bitcoin uses more electricity than the combined consumption of Norway and Ukraine. Regarding water consumption, training the GPT-3 model required 3.5 million liters of water for data center cooling.

AI has become an integral part of our lives, from accessing smartphones and checking emails to interacting with virtual assistants (Siri, Alexa, Google), with people even becoming dependent on these systems, which poses threats to security, democracy, and job preservation.

The fact that AI continuously updates hardware and software to meet demands leads to high production costs for AI devices.

AI plays a significant role in increasing the digital footprint through intensive use of computing resources and energy. All of these factors contribute to digital pollution through the high energy consumption of AI models, intensive data center usage, heavy reliance on hardware, and increased data traffic.

Even though AI brings economic and technological benefits, it also contributes to the growth of digital pollution.

To mitigate its negative environmental impact, sustainable practices are necessary, such as algorithm optimization, the use of renewable energy, and regulation of resource consumption.

3. THE MAIN SOURCES OF DIGITAL POLLUTION

Each source of pollution has a significant impact on the environment. Among the common sources of pollution, we mention:

Data centers are buildings used to host computing equipment such as servers, telecommunications systems, networking systems, and storage devices. The main issues associated with data centers include energy consumption, greenhouse gas emissions, and infrastructure impact. Data centers consume enormous amounts of energy to power servers and cooling systems. Most of the energy used by data centers comes from fossil sources, which amplifies CO2 emissions and consequently contributes to global warming. Moreover, the construction and maintenance of data centers involve the use of materials and resources that affect the surrounding environment.

The production of electronic devices has a significant impact on the environment, both during the extraction of raw materials and throughout the manufacturing, usage, and disposal phases. At the European level, the **RoHS Directive** (Restriction of Hazardous Substances) limits the use of ten hazardous substances in electrical and electronic equipment. Additionally, the **WEEE Directive** (Waste of Electrical and Electronic Equipment) requires the collection, recycling, and reuse of electronic waste, while the **Basel Convention** regulates the transboundary transport of hazardous waste, including e-waste. Therefore, the production of electronic devices is important for the society we live in, but it also has drawbacks, as it comes with a high ecological cost. International regulations, technological innovations, and changes in consumer behavior can significantly reduce the environmental impact.

Although digitalization helps highly polluting industries improve their environmental performance by reducing the harmful effects of problematic production technologies, replaced with “green” versions, this does not necessarily or immediately translate into an overall increase in factor productivity [1].

Electronic waste (e-waste) refers to electrical or electronic equipment that is no longer functional or no longer wanted (phones, laptops, televisions, household appliances). Its impact on the environment is significant, as e-waste contains heavy metals such as lead, mercury, and other chemicals, which can contaminate soil, groundwater, and air if burned or improperly disposed of. In 2023, over 62 million tons of e-waste were generated globally, with only 17% being properly recycled; the rest ended up in landfills or was illegally exported to underdeveloped countries. In Romania, the

WEEE and **RoHS Directives** have been implemented, imposing obligations on manufacturers, including waste collection and the organization of awareness campaigns.

The energy consumption of personal devices depends on the type of device, duration of use, charging habits, and energy efficiency. While individual energy consumption of personal devices is relatively low, when aggregated, it becomes a significant source of consumption and CO2 emissions.

Although digitalization has brought and continues to bring benefits in the economy, education, and communication, it is not without ecological costs. **Digital pollution** is an "invisible" form of pollution, yet it has real effects on the planet. Environmental protection in the digital era must be based on the principle of sustainable development, integrating clean technologies, coherent legislation, and digital ecological education.

4. THE INFORMATION SOCIETY AND ENVIRONMENTAL PROTECTION

The **information society** represents a new form of human civilization, in which the equal and universal right to information, directly connected to a developed information and communications infrastructure, contributes to reducing poverty, improving quality of life, and achieving sustainable socio-economic development.

The transition to an information society is essential for maximizing the benefits of using digital technologies and the Internet in order to achieve sustainable development, increase productivity and competitiveness, create new jobs, and support social and societal progress [2].

The information society influences all areas of life, including environmental protection, providing tools for monitoring, transparency, public participation, and the optimization of environmental policies.

Environmental protection represents one of the most important social and legal values at both national and international levels.

The **European Union** defines three criteria to determine whether we belong to the information society: whether we use e-mail, whether we browse the World Wide Web, and whether we learn, work, and communicate using a computer network. New information and communication technologies are transforming old activities into new ones. Being part of an information society naturally raises concerns about its impact on

us and the environment, how we can protect it, and what opportunities the information society offers for environmental protection. It can be said that the development of information and communication technology can also help solve some environmental problems.

Digital technologies are transforming the way we monitor, analyze, and address environmental issues and provide solutions to promote sustainability and resilience. Digitalization and information technology contribute to environmental protection through energy efficiency and intelligent resource management but can also create risks, such as electronic waste and high energy consumption of IT infrastructure.

Research on the relationship between sustainable development and the information society has focused on the potential of information systems to help decision-makers monitor and assess environmental conditions.

Environmental Information Systems (EIS) programs aim "to improve the quality, efficiency, and accountability of decision-making processes through applications that systematically use environmental information." In this sense, the development of EIS seeks to enhance the use of harmonized environmental data by improving data availability, facilitating data access, and ensuring that different datasets are compatible [3].

Environmental information policy includes the elements of generation, dissemination, and management of information [4]. Generation refers to aspects of validation, data sources, classification and mapping schemes, quality, and format. Dissemination determines the extent to which information is shared among parties, as well as issues related to confidentiality. Information management policies regulate ownership, sharing, timeliness, and archiving of environmental information [5].

To ensure the compatibility of the development of the information society with the principles of sustainable development, balanced legal regulation is essential. In this regard, the Digital Agenda for Europe promotes internet access, interoperability, and the use of ICT for sustainability; Law no. 365/2002 on electronic commerce and Law no. 506/2004 on the processing of personal data in the electronic communications sector regulate aspects related to the functioning of the information society at the national level;

the National Digital Agenda Strategy for Romania 2020 promotes the use of ICT for energy efficiency and environmental protection.

At the global level, the main documents establishing the link between technology and environmental protection include: the Rio Declaration on Environment and Development (1992) – which promotes free access to environmental information and public participation in decision-making (Principle 10); Agenda 21 and the United Nations Sustainable Development Goals (2015) – which recognize the role of information technology in supporting sustainable development; and the Paris Agreement (2015) – which promotes technology transfer and data sharing to combat climate change.

5. CONCLUSIONS

The relationship between the information society and environmental protection is complex, and legal regulation is constantly evolving. The goal is not only to limit the negative effects of digitalization on the environment but also to leverage technological potential in favor of environmental protection.

Environmental protection directly benefits from digital advancements – intelligent pollution monitoring systems, platforms for reporting ecological incidents, open databases, and artificial intelligence in climate analysis provide a much clearer and faster perspective on environmental issues. Digitalization also brings new legal and ethical challenges, such as personal data protection, cyber security, and the management of electronic waste generated by technological expansion.

Future legislation will need to integrate the principles of sustainable development with those of digital governance, creating a coherent legal framework in which innovation supports the protection of nature rather than threatening it.

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THE RULE OF LAW AND THE NATION-STATE – TWO FUNDAMENTAL PARADIGMS OF MODERN POLITICAL ORGANIZATION

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Abstract:
The concept of the rule of law and the nation-state are among the most important pillars of modern political and constitutional thought. Both represent historical and theoretical responses to the need to legitimize power, guarantee individual freedoms, and ensure collective cohesion. The rule of law emphasizes the supremacy of law and the limitation of political arbitrariness, while the nation-state bases political authority on the cultural identity and common will of a historical community. The analysis of the relationship between these two models highlights the tensions, but also the complementarity, between the legal order and national solidarity, between the universalism of law and the particularism of identity.
Keywords: *rule of law, nation state, constitution, law, fundamental rights*

INTRODUCTION

In the modern history of political thought, the state has been perceived as the most evolved form of organization of power and collective life. It constitutes not only an institutional ensemble, but also the expression of a normative and symbolic order. Starting with the 18th century, social contract theories (Hobbes, Locke, Rousseau) laid the foundations of the idea of a legitimate state, founded on the consent of free and equal individuals. At the same time, the Enlightenment and liberal revolutions generated the idea that the law, not the will of the sovereign, should govern society. [1] In the 19th century, with the affirmation of liberalism, fundamental rights and romantic nationalism, two major directions of modern statehood emerged: the rule of law – as a rational-legal form of organizing power, and the nation-state – as an expression of ethno-cultural solidarity and collective self-determination.

These two concepts are not mutually exclusive, but their historical evolution has often been marked by tensions: between the universalism of law and the particularism of

identity, between the autonomy of the individual and the unity of the community, between procedural legality and symbolic legitimacy. The present study aims to analyze these two paradigms from a conceptual, historical and functional perspective, emphasizing their complementarity and contradictions within the contemporary state.

The analysis is also particularly relevant in the current context, in which global transformations – migration, supranational integration, new forms of communication and identity mobility – challenge both the principles of the rule of law and the cohesion of the nation-state. In a world of pluralistic values, it is essential to understand how law and identity can coexist without canceling each other out, in order to build an authentic and stable democracy. [2]

RULE OF LAW – DEFINITION, ORIGINS AND CHARACTERISTICS

The rule of law, known in the European tradition under the German term Rechtsstaat, represents a model of political organization in which the exercise of power is carried out under the law, and the fundamental rights and freedoms of the individual are guaranteed by clear legal norms and by the institutional control of public authority. [3]

Its origins can be traced to Enlightenment thought and liberal constitutionalism of the 18th–19th centuries. Philosophers such as Montesquieu, Kant, and John Locke supported the idea of the separation of powers and the rule of law as the only guarantees against tyranny. Montesquieu, in On the Spirit of the Laws, stated that "liberty consists only in the power to do what the law permits." [4].

This vision was completed by Kant, who defined the state as "the union of several people under common legal laws". [5]

The central idea is that freedom is not achieved through the absence of law, but through just and rational law. In Germany, the doctrine of Rechtsstaat was systematized in the 19th century, becoming a defining principle for European constitutionalism.

The fundamental principles of the rule of law – the supremacy of law, the separation of powers, the protection of fundamental rights, and the legality of administration – have gradually been codified in modern constitutions. [6]

Hans Kelsen, in *The Pure Theory of Law*, shows that the hierarchy of legal norms (the normative pyramid) guarantees the unity of the legal system and prevents arbitrariness. [7]

After 1945, the idea of the rule of law expanded with the international recognition of human rights. Habermas emphasized that the democratic rule of law presupposes not only legality, but also communicative legitimacy, that is, the participation of citizens in the normative process. [8]

Thus, the contemporary rule of law is no longer just a legal construction, but also a deliberative one, in which justice and democracy become inseparable. As Prof. Cristian Ionescu believes, the concept of the rule of law transposed into the new conditions of political development of states currently represents the form of state organization based on the principle of the supremacy of law, of the separation of the three powers (legislative, executive and judicial), on the assumption by the state of responsibility for the fundamental rights and freedoms of citizens, materialized in the constitutional enshrinement of human rights and in the legal guarantee of their unrestricted exercise. [9]

In essence, the rule of law means governance by law, not by people. The law becomes the supreme framework for public action, and state institutions are obliged to respect not only the letter but also the spirit of the law.

Its fundamental principles are well known:

a) the supremacy of the law – all citizens and institutions are subordinate to legal norms, including the state itself;

b) the separation of powers in the state – the legislative, executive and judicial powers operate independently, preventing abuses and arbitrariness;

c) the guarantee of fundamental rights – the protection of citizens' civil and political freedoms is essential;

d) the legality of administrative acts – all acts of public authorities must be based on clear and predictable legal norms.

The modern rule of law focuses on procedures, rules and institutional control of power, aiming to prevent arbitrariness and strengthen citizens' trust in the state. [10]

The evolution of the rule of law in the 20th century was marked by the expansion of the scope of rights: from civil and political to economic, social and cultural. After the Second World War, the concept was integrated into the architecture of international law through fundamental treaties such as the European Convention on Human Rights (1950) or the Charter of Fundamental Rights of the European Union (2000).

Today, the rule of law is considered an essential criterion of democracy and the legitimacy of government. It is not reduced to a set of rules, but implies a legal and political culture based on respect for the individual, institutional transparency and the responsibility of public authorities. [11]

Technological development and new forms of governance (digital, administrative or algorithmic) require a contemporary reinterpretation of the rule of law. Its classic principles – transparency, predictability and accountability of authorities – are challenged by the complexity of globalization and the need to regulate cyberspace. However, the essence of the concept remains the same: the supremacy of the law as an expression of political rationality and as a guarantor of human dignity. [12]

NATION STATE – DEFINITION, GENESIS AND CHARACTERISTICS

The nation-state is one of the most significant political inventions of modernity. It is based on the idea that a human community defined by a common cultural, linguistic and historical identity has the sovereign right to organize itself politically in a state of its own.

The concept of the nation-state emerged in the 18th and 19th centuries, with the affirmation of the ideas of self-determination and popular sovereignty. Historical examples include the formation of modern Italy and Germany, where linguistic and cultural unity was considered essential for the consolidation of the state. As a practical example, we can name modern France, which represents a classic example of a nation-state, where republican values and the French language are the pillars of state unity, and the state plays an active role in the consolidation of national identity.

France, Italy and Germany were classic models of the formation of the nation-state. In France, the state was the instrument of national unification through institutions, education and a common language. In Italy and Germany, the reverse process – of

territorial and political unification around a common culture – led to the consolidation of state identity.

The nation-state did not develop uniformly. In Central and Eastern Europe, it often emerged as a result of the struggle for independence against multi-ethnic empires, which gave it a special emotional and symbolic charge. In these spaces, the nation-state was not just an administrative form, but an expression of national revival, dignity and collective memory.

In today's globalized world, the nation-state is subject to double pressure: on the one hand, from above, through supranational integration (as is the case of the European Union), and on the other hand, from below, through cultural diversity and minority claims. However, it continues to remain the main framework of political loyalty and social solidarity – a space in which belonging, identity and a sense of community are negotiated. [13]

The nation-state is a form of political organization in which national identity (common language, culture, traditions, and history) constitutes the foundation of the legitimacy of the state. The main characteristics include:

a) cultural and linguistic unity – the state promotes a common national identity, and social cohesion is based on shared cultural values;

b) popular sovereignty – the legitimacy of power stems from the collective will of a nation;

c) territorial and ethnic exclusivity – sometimes the concept of nation can lead to policies of integration or marginalization of minorities;

d) strong connection between the state and the nation – the state acts as a guarantor of national identity and historical continuity, public institutions become the means of affirming, protecting, and perpetuating national identity. [14]

In the literature, the nation-state is presented as an instrument for building political and social unity and as a means of asserting national sovereignty internationally. However, the nation-state model also carries risks. In the name of unity, tendencies to exclude minorities or policies of forced assimilation may emerge. Today, the nation-state faces structural challenges: European integration limits national sovereignty, and global migration weakens cultural cohesion. However, it remains the main framework of political solidarity. As Habermas emphasizes, “democracy still needs a demos,” and this cannot exist without a minimum sense of common belonging. [15]

THE RELATIONSHIP BETWEEN THE RULE OF LAW AND THE NATION-STATE

The rule of law is based on legality, the law is supreme and binding, and has clear rules for all. The nation-state is based on national and cultural identity and is an instrument for affirming the nation.

The power of the rule of law is limited and controlled by the separation of powers, and the nation-state has power focused on promoting national unity.

In a rule of law, the rights of citizens are fundamental and legally protected, and in the nation-state, the rights of citizens are conditioned by belonging to the nation.

The rule of law aims to prevent arbitrariness and protect the citizen, and the nation-state aims to consolidate identity and social cohesion. [16]

Although they represent distinct theoretical models, the rule of law and the nation-state intersect in many ways. Both start from the idea of legitimizing power – one through law, the other through collective will. The rule of law seeks to limit power through rules, the nation-state seeks to justify it through membership. [17]

In a state of law, the emphasis falls on the individual: his rights are universal, and the law protects his autonomy. In the nation-state, the emphasis shifts to the collective: the common identity becomes the foundation of solidarity and political authority. Thus, while the state of law universalizes citizenship, the nation-state particularizes belonging.

However, modern history shows that these two dimensions can coexist harmoniously. Consolidated democratic states, such as Germany, France or Spain, combine the constitutional values of the state of law with national symbols and traditions. The constitution becomes, in this context, an act of synthesis between reason and identity, between law and culture. Norberto Bobbio noted that “without a moral community, the state of law cannot exist, because law presupposes trust and internalization”. [18] This observation suggests that the cultural dimension of the nation-state complements the normative dimension of the rule of law.

The tension between the two models becomes evident when universalist principles of law conflict with policies to protect majority identity. For example, measures to promote the official language or national traditions may be perceived as subtle forms of minority

exclusion. Conversely, the strict application of legal equality norms can erode the sense of national unity if it is not supported by a common identity.

However, in modern political practice, the two paradigms have merged into a dynamic equilibrium: the democratic nation-state functions, ideally, as a rule of law, and the rule of law exercises its authority within a national framework. Modern constitutions reflect this synthesis: they enshrine both individual rights and the fundamental values of the national community.

From a theoretical perspective, it can be said that the nation-state provides the rule of law with an affective and symbolic basis, while the rule of law provides the nation-state with a normative and predictable framework. The lack of either of these two elements generates imbalance: a nation-state without the rule of law can degenerate into authoritarianism, and a rule of law without national cohesion risks social fragmentation and lack of legitimacy. Max Weber [19] described the state as "the entity that claims the legitimate monopoly of violence", but its legitimacy depends on collective recognition. Therefore, the rule of law gives it legality, and the nation gives it meaning. The two dimensions are not opposed, but mutually supportive in maintaining political order and cohesion.

INTERDEPENDENCES AND CONTEMPORARY TENSES

In practice, the modern state tends to combine elements of both models. Tensions arise when the defense of national identity conflicts with strict respect for individual rights (for example, policies to protect the majority language and culture may marginalize ethnic minorities). Universal rules of law and the principles of the rule of law can be perceived as limitations on the sovereignty of the nation. This interdependence is illustrated by the situation in many European states, where fundamental laws protect the rights of all citizens, but national identity remains a central element of the legitimacy of the state. [20]

Globalization, European integration, and mass migration have brought back to the forefront the dilemma between the universalism of rights and the particularism of identity. [21] In Europe, the principles of the rule of law are imposed by common treaties and legal mechanisms, but they coexist with the diversity of national traditions. The European

Union, for example, frequently faces tensions between common standards of the rule of law and the claims of sovereignty of nation-states.

Thus, Poland and Hungary provide recent examples in which the protection of "national values" has been invoked to justify limiting the independence of the judiciary – a situation that illustrates the fragility of the balance between the two concepts. At the same time, in pluralist Western societies, the emphasis on individual rights has paradoxically generated crises of collective identity, and the reactivation of nationalist discourses demonstrates that the need for belonging remains a constant of political life. Habermas [22] proposes the concept of "constitutional patriotism" as a solution to this dilemma: attachment to constitutional values should replace exclusively ethnic loyalty. In a multicultural Europe, fidelity to the law becomes the new form of civic belonging.

Outside Europe, the relationship between the rule of law and the nation-state takes on other forms. In Asia or Africa, where state borders have often been arbitrarily drawn, the consolidation of the nation-state is a precondition for the establishment of a functional rule of law. In the absence of a stable collective identity, legal institutions remain fragile, and the law fails to become an internalized value. Thus, the relationship between the two models must be viewed contextually, as part of a historical process of balancing between normativity and legitimacy.

The contemporary state must therefore find a point of equilibrium between legality and identity, between justice and solidarity. Without respect for the law, the state risks becoming arbitrary; without a common identity, it risks dissolving into cultural fragmentation. [23]

CONCLUSIONS

The rule of law and the nation-state are not opposite forms, but complementary expressions of political modernity. The first guarantees the freedom of the individual in the face of power, the second provides cohesion and meaning to the community. The modern state manages to be legitimate only when it combines the legal rationality of the rule of law with the symbolic solidarity of the nation-state.

The challenge of the 21st century lies in maintaining this balance: between the universalism of democratic values and national specificity, between individual freedom and collective responsibility. In an increasingly interdependent world, the future of the modern state depends on its capacity to integrate diversity without losing its unity, to defend rights without weakening identity, and to transform the tension between law and nation into a source of democratic stability.

Ultimately, the maturity of a modern society is measured by how it manages to articulate these two dimensions: through a rule of law that does not become technocratic and distant, and through a nation-state that does not close itself off in exclusivism. Only in this way can the state remain, in the full sense of the word, an expression of freedom and human dignity.

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THE PRINCIPLE OF NE BIS IN IDEM AS A PART OF CRIMINAL LAW AND ITS INFLUENCE ON DISCIPLINARY PROCEDURE

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Abstract:
The principle "ne bis in idem" literally means "not twice about the same thing", and represents the key foundation of fairness and legal certainty. This principle guarantees that no one can be subjected to judicial proceedings or punishment again for the same criminal offense after a legally binding decision has already been made. The principle of ne bis in idem (also known as the prohibition of double jeopardy) is a comprehensive legal principle that protects an individual from double prosecution and punishment for the same offense. This principle, whose roots go back to Roman law, is today accepted in international and national legal systems and thus represents a basic component of the right to a fair trial. Its purpose is to prevent the arbitrariness of the state and protect the rights of the accused/defendant from unjustified re-persecution, thus ensuring legal certainty and faith in the judiciary. As the globalization of the legal order continues, the principle of "ne bis in idem" becomes increasingly important in the context of international legal processes, especially within the European Union and other international institutions. In legal practice, which refers to labor-legal responsibilities, the question arises whether the completed disciplinary procedure can be considered a decided matter according to the principle ne bis in idem, or whether it is not an obstacle, a procedural obstacle to the completion of the criminal procedure. There is also the issue of cumulation of criminal and some other court proceedings (misdemeanor, tax, economic-criminal, administrative, disciplinary). The answers to these questions differ from country to country and depending on the national or international validity of the ne bis in idem principle.
Keywords: *disciplinary procedure, administrative procedure, not twice about the same thing, judgment, solution.*

1. INTRODUCTION

Legal certainty is one of the basic values of modern legal systems, and the ne bis in idem principle occupies an important place in its balance. Its application includes not only national legal systems, but also international acts and documents, with great respect for judicial practice. This prohibition is not only of normative character, but represents a

system of a broader aspect of fairness and protection of human rights. The idea of banning prosecution for the same crime has its roots in Roman law, where this principle was known as "nemo bis vexari pro eadem causa", which would mean that no one should be punished twice for the same thing. During the Middle Ages, this concept was maintained through canon law, in order to experience its full development in the modern civil and criminal legal systems of Europe and the world. In modern international law, the principle is standardized through various conventions and treaties, and especially through the decisions and case law of the European Court of Human Rights.[1]

Looking comprehensively in the legal sense, the disciplinary procedure is not a part of the administrative procedure in the classic sense of the term, but it is conducted according to the rules of the administrative procedure, and therefore the decisions and legal protection are tied to the normative regulations of the administrative procedure, in accordance with and depending on the context of the legal act itself that regulates disciplinary responsibility. Therefore, it should be borne in mind that the disciplinary procedure is mostly based on and supplemented by the provisions related to the general administrative procedure. Accordingly, the decision made in the disciplinary procedure is an administrative act against which, after the second-instance decision, an administrative dispute can be conducted before the Administrative Court. [2]

2. BASIC CHARACTERISTICS OF THE "NE BIS IN IDEM" PRINCIPLE

It is important to repeat that this principle, above all, provides great legal certainty to a person who has already been subjected to court proceedings. It guarantees that he will not be subjected to the same procedure again, thereby avoiding the possibility of arbitrariness and abuse of the legal system. Ne bis in idem" is applied in various segments of law, including criminal law, misdemeanor law, labor law, as well as arbitration. There are certain exceptions to this rule. For example, in some jurisdictions, a retrial is possible provided that new circumstances or evidence that was not available during the original court proceedings are discovered. Different states have different interpretations and implementations of this principle. For example, in some legal systems, "ne bis in idem" can only be applied to the same legal qualifications acts, while in others it applies to different qualifications. The main features of this principle include: the prohibition of

double punishment (one person cannot be punished again for the same offense or acquitted); arbitrary prosecution or retrial). This principle is not only present in national legal systems, but is applied in international law to ensure respect for human rights. The principle of "ne bis in idem" has a deep-rooted place in judicial systems and contributes to justice and fair treatment of accused persons.[3]

3. LEGAL SOURCES

The legal sources of the legal procedure in question have their sources in international and domestic legislation. In international law, they are: 1) European Convention on Human Rights, Protocol 7, which stipulates in Article 4: "No one can be retried or punished in criminal proceedings under the jurisdiction of the same state for an offense for which he was already acquitted or convicted by a final judgment"; 2) The Charter of the European Union on Fundamental Rights, which stipulates in Article 50: "No one may be tried or punished again for the same criminal offense for which he was already convicted or acquitted"; 3) The International Criminal Court (Rome Statute, adopted on July 17, 1998) also recognizes this principle, which is specifically prescribed and contained in Article 20 and is called "Ne bis in idem".[4]

Most legal systems include this principle in their highest legal acts - constitutions or laws on criminal procedure. In the Republic of Serbia, it is contained in: 1) the Constitution of the Republic of Serbia, Article 34, paragraph 4, which stipulates that: "No one can be retried or punished for a criminal offense for which he has already been legally convicted or acquitted, in accordance with the law"; 2) The Criminal Procedure Code, which foresees procedural obstacles for re-conducting the procedure on the same grounds.[5]

4. RELEVANT COURT PRACTICE

With the judgment Zolotukhin v. Russia (2009), the European Court of Human Rights expands legal protection - if a person has already been prosecuted for the same facts, retrial is prohibited, regardless of the qualification of the act. The most important case in the development of the doctrine. The court decided that there was a violation of

Article 4 of Protocol 7 of the European Convention on Human Rights, because Zolotukhin was first disciplined and then prosecuted for the same facts.

With the judgment of Åkerberg Fransson (C-617/10), the Court of Justice of the EU assessed that the monetary sanctions for tax violations had a criminal nature and that a person cannot be prosecuted again for the same actions.

The judgment of Bond v. United States The US Supreme Court interprets the issue of double prosecution between federal and state authorities, allowing double prosecution in some cases. The US Supreme Court considered the issue of parallel jurisdiction of federal and state authorities and found that federal and state laws may in some cases allow for separate proceedings, which raises debates about the universality of the principle.

The judgment of the European Court of Human Rights in the case "A and B v. Norway" represents a turning point in the development of the interpretation of the relationship between criminal and administrative proceedings in the context of the application of the ne bis in idem principle. Until this decision, especially after the judgment Zolotukhin v. Russia (2009), the interpretation was strict and formalistic, and refers to the fact that every new reaction of the state, either in criminal or administrative proceedings, which refers to the same factual situation, was considered a violation of the prohibition of double prosecution and punishment. However, the judgment of A and B v. Norway introduces a new, more flexible standard, which significantly changes the relationship between criminal and administrative proceedings.

The court introduces the so-called "sufficiently close connection in substance and in time" test. This means that criminal and administrative proceedings can coexist, provided that: a) they have different purposes, but they are not contradictory, b) there is coordination between the authorities conducting the proceedings, c) there is no duplication of sanctions that would represent an additional burden for the defendant.

This judgment had a huge impact on the member states of the Council of Europe and the European Union because it relaxes the strict standard from the Zolotukhin judgment, which enables a more effective fight against serious financial and tax violations, increases the responsibility of states to establish clear mechanisms of coordination

between administrative and criminal authorities, and sets new standards of proportionality and fairness in the application of multiple sanctions.[6]

5. DISCIPLINARY PROCEDURE AND ADMINISTRATIVE PROCEDURE

The administrative procedure is conducted according to the rules of the Law on General Administrative Procedure and refers to the resolution of the rights, obligations and legal interests of natural and legal persons by administrative authorities. Disciplinary proceedings are internal proceedings carried out by a certain institution (e.g. public administration, school, police, army, etc.) against an employee or its member due to a violation of a work or official obligation. It has its legal basis, often in special laws or internal regulations. When disciplinary proceedings are conducted in the public sector (e.g. against a civil servant), certain rules from the administrative procedure are often applied (e.g. right to defence, inspection of files, possibility of appeal), so it can be said that it has elements of administrative procedure. Therefore, the disciplinary procedure is not an administrative procedure by its legal nature, but it can be conducted according to rules that are similar or the same as in the administrative procedure, especially if a decision is made that affects the rights of the employee.

In the case of the Ministry of Internal Affairs, the disciplinary procedure against employees is a special procedure that has certain elements of administrative procedure, but it is not a classic administrative procedure according to the Law on General Administrative Procedure. Disciplinary proceedings in the Ministry of Internal Affairs of the Republic of Serbia are carried out in accordance with the Law on Police and by-laws, with the corresponding application of the Law on General Administrative Procedure. However, although the disciplinary procedure is not a classic administrative procedure, the disciplinary procedure must respect the basic principles of fair treatment (right to defense, statement, inspection of files, etc.), which is in accordance with the rules of the Law on General Administrative Procedure.[7]

5. DISCIPLINARY PROCEDURE AND PRINCIPLE OF NE BIS IN IDEM

Due to its importance, this issue has become part of the normative system in all countries of the region. The Law on the Police in the Republic of Serbia stipulates that

responsibility for a criminal act, as well as misdemeanor responsibility, do not simultaneously exclude disciplinary responsibility for the same act that is the subject of disciplinary proceedings if the act of criminal or misdemeanor proceedings also constitutes a violation of official duty (paragraph 3, Article 203), and that exemption from criminal or misdemeanor responsibility does not presuppose exemption from disciplinary responsibility, which was the subject of the same action, if the action is qualified and as a breach of official duty (paragraph 4, Article 203).[8]

An identical provision is contained in the Law on the Police in the Republic of Croatia, which stipulates that criminal or misdemeanor liability does not exclude liability for breach of official duty if the act that is the subject of criminal or misdemeanor proceedings is also a breach of official duty (paragraph 3, Article 93), and that exemption from criminal or misdemeanor liability does not presuppose exemption from responsibility for breach of official duty if the committed act is prescribed as a breach of official duty (paragraph 4. Article 93).[9]

Also, the Law on Police Officers of Bosnia and Herzegovina stipulates that criminal responsibility for a criminal offense does not exclude the disciplinary responsibility of a police officer, if the commission of a criminal offense is also a breach of official duty (paragraph 2, Article 103), and that exemption from criminal responsibility does not imply exemption from disciplinary responsibility at the same time (paragraph 3, Article 103).[10]

The same is the case with the Law on Police and Internal Affairs of the Republic of Srpska, where it is prescribed that the responsibility for a committed criminal act and misdemeanor does not include the disciplinary responsibility of the police officer, as long as the commission of the criminal act and misdemeanor is also a violation of office (paragraph 4, Article 115), and that exemption from criminal and misdemeanor responsibility does not subject to caution and exemption from disciplinary liability (paragraph 5, Article 115).[11]

Article 3 of the Disciplinary Law of Police Personnel in the Republic of Greece stipulates that pardoning, rehabilitation or otherwise removing a criminal sentence or removing all or part of the consequences of a criminal conviction does not cancel the disciplinary punishment.[12]

Respecting the jurisprudence of the European Court of Human Rights, the Constitutional Court of the Republic of Serbia has set criteria on the basis of which an assessment is made as to whether the conduct of proceedings against the defendant for an act arising from the same life event constitutes a violation of the principle, and those criteria are: 1) whether both proceedings that were conducted against the defendant were conducted for an act that by its nature is a punishable offense, i.e. whether a sanction is threatened in disciplinary procedure by its nature criminal-legal; 2) whether the acts for which the defendant is being prosecuted are the same (idem); 3) whether there was a double procedure (bis). Therefore, only after fulfilling all three criteria can we talk about a decided matter.

The legal nature of the sanctions that could have been imposed on the defendant in the disciplinary procedure are of a labor law nature, since disciplinary measures limit or take away certain rights and positions, that is, the characteristics of the employee. Therefore, all prescribed sanctions are related to the labor-legal status of the person against whom disciplinary proceedings are being conducted, and the purpose of the sanction can only be achieved while that person is in an employment relationship, and therefore, by their nature, they are not criminal law. With the termination of that status, the aforementioned sanctions lose their purpose and cannot be executed, so the nature of the act is related to the labor-legal status of the perpetrator, and thus the preventive and repressive purpose of the prescribed sanctions.[13]

Bearing in mind the above, regardless of the fact that a disciplinary and then a criminal proceeding is being conducted due to an event that partly stems from the same facts, upon completion of the disciplinary proceeding, there are no procedural obstacles for conducting another type of proceeding regarding the same life event.

The extent to which the principle of "ne bis in idem" is applicable in procedures for determining violations of official or work duty, i.e. in disciplinary proceedings, cannot be viewed only from the aspect that the same person cannot be punished twice for the same violation of official duty, as well as that disciplinary proceedings cannot be initiated for a violation for which the employee has already been declared responsible or exempted from responsibility, but a wider spectrum of responsibility is imposed here.

Namely, for the sake of legal certainty, this relationship cannot be viewed only from the aspect of disciplinary proceedings, but must also be viewed from the perspective of disciplinary-criminal proceedings and disciplinary-misdemeanor proceedings.

Disciplinary procedure is a special type of penal procedure that determines the existence of disciplinary liability of the employee and, after its completion, imposes an appropriate disciplinary measure, which in itself represents a penal procedure, such as a criminal and misdemeanor procedure in itself.[14]

The issue in question of the application of the principle "ne bis in idem" was raised as disputed through the practice of the European Court of Human Rights.

Although the disciplinary procedure represents a special type of administrative procedure, with a special standard of proof, regulated by special regulations through the norming of responsibility for injuries (offences) related to work and labor relations, the point of contact that occurs with the penal procedure (criminal and misdemeanor) cannot be ignored.

Most of the regulations governing disciplinary liability contain an explicit provision that stipulates that criminal and misdemeanor liability does not exclude disciplinary liability for the same act.

The question in question regarding the application of the principle "ne bis in idem" has become controversial and has attracted the attention of the Croatian professional public due to the position of the European Court of Human Rights in the judgment Maresti v. Croatia, and it refers to the relationship between misdemeanor and criminal proceedings, with broader interpretative implications (Request No. 55759/07, judgment dated 06.25.2009). This judgment referred to the fact that the punishment for the committed offense against public order and peace was by its nature criminal law, and that there was a duality of the procedure.[15]

Also, in the previously mentioned judgment in the Zolotukhin v. Russia case (Request No. 14939/03, judgment of 10.02.2009), in point 82 of the explanation of the presentation of the European Court of Human Rights on the "idem" criterion, it was emphasized in the conclusion that the court takes the position that Article 4 of Protocol no. 7 must be interpreted in such a way as to prohibit prosecution or trial for another crime, if it arises from the same facts or facts that are essentially the same.[16]

These judgments caused serious criticism, because the criminal and misdemeanor proceedings deal with different protected goods and consequences, and the misdemeanor court did not convict the defendant of a criminal offense, as neither did the criminal misdemeanor court.

According to the judgment of the European Court of Human Rights in the case of Milenkovic v. Serbia, it refers to the situation that the applicant participated with another person in an incident, which is why the police initiated misdemeanor proceedings against him for disturbing public order and peace. In November 2007, the applicant was convicted and fined, and in the meantime, in April 2007, criminal proceedings for grievous bodily harm were initiated against the applicant for the same incident. After that, in 2011, he was sentenced to prison for insult and minor bodily injury. The position of the court was that regarding the application of Article 4 of Protocol no. 7 The European Court has developed practical rules for determining whether there has been a violation of the ne bis in idem principle in a specific case.[17]

The principle of "ne bis in idem" in the previous practice of the European Court was applied to various factual descriptions that include not only criminal and misdemeanor prosecutions, as in the cases of Milenkovic v. Serbia and Maresti v. Croatia (Maresti, V., Croatia, no. 55759/07 of 25.06.2009) and Muslija v. Bosnia and Herzegovina (Muslija V., Bosnia and Herzegovina, no. 32042/11 of 14.01.2014), but also criminal prosecution in parallel with the prosecution for tax crimes, such as Kiveri v. Finland (Kiiveri V. Finland, No. 53753/12 dated 10.02.2015), as well as criminal prosecution in parallel with cases of punishment in administrative proceedings, from the example of Riutsalinen v. Finland (Request No.: 24130/11, judgment dated 15.11.2016).[18]

However, the above-mentioned judgment of the European Court of Human Rights in the case of A. and B. v. Norway (Request No.: 24130/11, judgment of 15.11.2016) provides a different approach in the interpretation of the convention principle "ne bis in idem", especially with regard to the relationship between criminal proceedings and administrative (tax) proceedings, which conceptually does not deviate from the Zolotukhin judgment.[19]

However, a large number of states have expressed concern that the condition interpretation of Article 4 of Protocol no. 7 could lead to the impossibility of the fight against

crime, but also to the avoidance of paying tax fines, which would make it impossible for the state to respond to socially unacceptable behavior, as well as to manipulations by the defendants in the case of conducting and deciding in the proceedings against the defendant.

This decision contained several important points. First, the consequences of the ban from Article 4 of Protocol no. 7 cannot prevent the state from organizing its legal system by imposing a fine in a tax proceeding for non-payment of taxes, and in another criminal proceeding, convicting an individual in the event that the non-payment of taxes also includes fraudulent intent. Second, Article 4 of Protocol no. 7 cannot be interpreted in such a way that it absolutely prohibits administrative, misdemeanor and criminal proceedings regarding the same facts. Thirdly, the automatic ban on the continuation of the second procedure at the moment when the decision in the first has become legally binding, could allow the interested person to use the principle of "ne bis in idem" as a means of manipulation, which could lead to impunity for serious criminal acts. Fourth, each of the procedures represents a predictable and reasonable response of the state to a particular aspect of socially unacceptable behavior, and both procedures together should form one connected whole, so that the person against whom the procedures are conducted is not exposed to injustice.

When an employee, by the same action, is subject to both disciplinary and criminal, or misdemeanor proceedings, there is no application of the principle of "ne bis in idem", but the principle of parallel (cumulative responsibility).

Disciplinary responsibility is a special type of labor law responsibility. In relation to misdemeanor and criminal responsibility, disciplinary responsibility has a special object of protection, as well as a special purpose, which is also related to different forms of damage that may arise in the event of the execution of that act or omission.

The practice of the Constitutional Court of the Republic of Croatia and other countries, as legal doctrine and legislation, is consistent in the position that there is no obstacle to conducting disciplinary proceedings for an act for which a person has already been punished criminally or misdemeanor. Therefore, in relation to disciplinary procedures, there is no place for the application of the "ne bis in idem" principle.[20]

The Constitutional Court of the Republic of Serbia (verdict Už. 2216/16 of 28/06/2018) took the position that criminal responsibility does not exclude disciplinary responsibility for breach of official duty if the act that is the subject of criminal proceedings is also a breach of official duty, nor is exemption from criminal responsibility an exemption from responsibility for breach of official duty, if the committed act is prescribed as a breach of official duty.[21]

The Supreme Court of Cassation in the Republic of Serbia (Judgment of the Supreme Court of Cassation, Kzz 245/20 of 13.5.2020) decided in its judgment that when a disciplinary proceeding was conducted against the defendant in connection with the same life event in which a disciplinary sanction was imposed on him, but that sanction is by its legal nature such that it refers to his labor law status as an employee, then the termination of the disciplinary proceeding is not a procedural obstacle to the defendant criminal proceedings are being conducted regarding that event.[22]

Also, the Supreme Court of Cassation in the Republic of Serbia (Judgment of the Supreme Court of Cassation, Kzz 1043/20 of 21.10.2020) decided in its judgment that in disciplinary proceedings, disciplinary responsibility is determined for violations of special rules of conduct that employees must adhere to at work and in connection with work, and for which prescribed disciplinary measures of a labor law nature can be imposed, while criminal law protects basic social values, through the prescription of criminal acts and criminal sanctions as repressive measures that can be imposed on the perpetrator of a criminal act, with the aim of suppressing criminality.[23]

According to the facts presented, it is evident that the principle "ne bis in idem" has no application in the part of determining disciplinary responsibility in relation to criminal and misdemeanor proceedings. Namely, disciplinary responsibility can be seen as a broader concept of responsibility, and therefore it is possible that the violation of the work obligation contains the elements of being a criminal offense or misdemeanor responsibility, so that both disciplinary and criminal or misdemeanor proceedings can be initiated and conducted at the same time, whereby in the disciplinary procedure the existence of signs of a violation of the work obligation is examined, regardless of the fact that it may coincide with the signs of a specific criminal offense or misdemeanor.[24]

6. CONCLUSION

As can be seen, the principle of "ne bis in idem" is an important aspect of the legal protection of individuals in criminal law and in other legal systems. It improves legal certainty and helps prevent abuse of legal mechanisms, thereby contributing to stability and confidence in judicial systems. To understand this principle, it is important to consider the context in which it is applied, as well as the different interpretations in different legal systems. The judgment of A and B v. Norway redefined the relationship between criminal and administrative proceedings in European law. Instead of prohibiting all double proceedings, the Court now allows them to be conducted provided that they are closely related, coherent and that the overall sanctioning remains fair and proportionate. It represents a significant balance between the effectiveness of the state sanctioning system and the protection of the basic rights of the individual, especially in areas such as tax law, financial regulation and market protection. Disciplinary proceedings and the principle of ne bis in idem are two different but sometimes related legal concepts, especially in the context of labor law and criminal law. The relationship between disciplinary (internal procedure within the work organization) and criminal procedure (public legal procedure) is an important aspect of the legal order, especially when it comes to actions against employees in state bodies, public services, as well as in other work environments or organizations and institutions. Although the disciplinary procedure is not in its full form a part of the administrative procedure, it is carried out in accordance with certain principles of the administrative procedure, such as the right to defense, the statement of evidence and the possibility of submitting objections, etc. These procedures are regulated by the Law on Police and accompanying by-laws, which regulate disciplinary responsibility in more detail and part of the disciplinary procedure itself, with the obligation to rely on the appropriate application of the administrative procedure. Disciplinary proceedings, and therefore administrative proceedings, in relation to criminal proceedings and misdemeanor proceedings are legally independent. An authority or organization can initiate disciplinary proceedings regardless of whether criminal or misdemeanor proceedings have been initiated, and vice versa. The judgment of the European Court of Human Rights in the case "A and B v. Norway" represents a turning

point in the development of the interpretation of the relationship between criminal and administrative proceedings in the context of the application of the ne bis in idem principle.

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THE FACTORS OF TRAFFIC ACCIDENTS

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Abstract:
Road accidents are not simple random events, but the result of a combination of interdependent factors: human, technical, road-environment related, and others. The human factor is identified as the main element, determining the situations that lead to accidents and, at the same time, bearing their consequences. However, besides the human factor—whether we speak of drivers, cyclists, motorcyclists, or pedestrians—there are also other factors, referred to as secondary in the production of road accidents, such as: (the means of transport and inadequate road/access ways); favorable factors (weather conditions, level of luminosity, speed, state of health etc.).
Road crime has long been a major global issue, with devastating effects on people's health and lives, as well as on the economy, estimated at 2% of the EU's GDP.
Keywords: *road accident, factors, road infrastructure, driver, road safety.*

1. PRELIMINARIES

The generating causes of road accidents have always been a topic of constant interest due to the possibility of preventing and combating them. Some authors argue that no dominant circumstance present in all situations could be identified; as a rule, several causes leading to the road incident were found, considering that "these accidents are not completely accidental".[1]

Thus, according to Professor Emilian Stancu, accidents occurring on public roads result from the "independent or combined action of three factors: human, technical, and road-related". [2] Other authors consider that the factors involved in the genesis of road trauma consist of: the main factor—the human being; secondary factors (the means of transport and inadequate road/access ways) and favorable factors (weather conditions, level of luminosity, speed, state of health etc.). [3] We believe that there are several factors, but the human being is the most important causal factor in the occurrence of road accidents (whether driver, cyclist, or pedestrian), because they create the situation that

makes the accident inevitable; yet they also bear its negative consequences. [4] Specialists in the field have identified 36 causes of serious road accidents [5], most of them rooted in human behavior-particularly that of drivers-namely: speed inappropriate for road conditions; failure to yield to pedestrians; failure to yield to vehicles; distractions; unlawful overtaking; failure to keep safe distance; driving under the influence of alcohol; failure to ensure when changing direction; other violations committed by drivers; driving against traffic; driving without a license; falling asleep at the wheel; improper reversing; unlawful speed; improper lane change; failure to comply with railway-crossing rules; ignoring traffic lights; driving under the influence of drugs; failure to comply with mandatory or regulatory signs; disabilities or medical conditions; unsecured load; illegal stopping or parking. The human being remains the most important causal factor in road accident occurrence because they create the situation that renders the accident inevitable and they also suffer its consequences. [6] In what follows, we will not address this factor, but the others, called secondary (the means of transport and inadequate roads/access ways) and favorable factors (weather conditions, luminosity, speed, state of health etc.) [7].

II. ROAD ACCIDENTS - A SOCIAL SCOURGE

The living conditions of postmodern society [8] are profoundly influenced by the digital technology revolution and, especially, by artificial intelligence (AI). These have become a way of life not only at the individual level but have penetrated all spheres of activity.

As a result of this process, simultaneously and consequently, we see, on the one hand, massive population concentration in cities [9] and, on the other, an unprecedented intensification of economic (including online) and cultural exchanges. Thus arises the need for constant movement of people and material goods; the exchange of information and ideas is amplified. Under these conditions, the importance of transportation increases considerably, as do the means of transport of all types, which directly contribute to meeting the demands arising from socio-economic development.

An essential role is played by road transport, which, in addition to its undeniable economic utility, also has broader social utility, ensuring—or, more precisely, facilitating—

the immediate individual and collective needs for rapid travel, entertainment, or recreation. This explains why the automobile—which has fascinated humankind ever since its invention—has become today more fascinating and more necessary than ever. Its use brings multiple and significant benefits for the individual as well as for society, securing it a well-deserved central place in the landscape of postmodern life.

Today, more than 1.2 billion automobiles circulate on Earth's roads, of which fewer than 45 million are electric cars. These figures, however, do not say everything, because despite the energy and raw material crisis felt in almost every country, the number of automobiles continues to grow, with specialists estimating that by 2035 more than 2 billion cars will be on the road worldwide. [10]

This constant increase inevitably leads to considerably denser traffic and, at the same time, to a rise in accident risks and the number of road accidents. Thus, the use of automobiles proves not only advantageous for individuals and society but also dangerous. [11] Beyond the great and undeniable advantages and benefits that the automobile brings to humankind, its use-especially when carried out outside legal and technical requirementscan be accompanied by unwanted effects with the gravest consequences. The number of automobile victims, as well as the cost of material damage caused by road accidents, remains alarming.

Road-related criminality has taken on worrying proportions worldwide. According to estimates by the World Health Organization, globally, road accidents will lead to 13 million deaths and 500 million injuries over the next decade.

In 2023, approximately 20,418 people lost their lives in Europe, while in Romania, 1,545 people died, 3,537 were seriously injured, and 2,172 were slightly injured. According to statistics, in Romania, the number of fatalities in serious road accidents in 2023 was 88 fewer than in 2022 (corresponding to a decrease of about 5%) [12], placing the country among the 18 states where the fatality rate fell in 2023. The reduction recorded in Romania is more pronounced than the European average (a decrease of 5.4% compared with only 1.3% in the EU). At the same time, mortality decreased from 86 deaths per 1 million inhabitants in 2022 to 81 deaths per 1 million inhabitants in 2023. Despite this positive evolution, Romania ranks second in the EU, after Bulgaria, in terms

of road accident mortality. The safest European countries are Norway (20 deaths per million inhabitants) and Sweden (22 deaths per million inhabitants) [13].

In a ranking of persons who died in serious road accidents by age group, the highest frequency of mortality is found among individuals aged 66-75 (279 deaths), representing the age group most commonly encountered among pedestrians and cyclists killed. Additionally, as in previous years, the data show that people over 60 represent more than one-third of all road-traffic fatalities (37.2%). Conversely, 1 in 5 drivers-motorized or not-who died in road accidents in 2023 were aged 18–30. Moreover, 58.7% of road users aged 18-35 who died were vehicle drivers. Not to be overlooked is the number of deaths among those aged 0-17 (79 deaths), most of whom were passengers (43 deaths), pedestrians (23 deaths), or cyclists (9 deaths) [14].

In 2023, an average of four accidents per day involved pedestrians, resulting in at least one pedestrian death and the serious injury of approximately four pedestrians. Most accidents involving pedestrians (1,401) resulted in the injury of a single pedestrian and caused 442 pedestrian deaths and 948 serious injuries. In 2023, 78 serious accidents involved multiple pedestrian victims: 64 incidents with two pedestrians injured (19 deaths, 62 seriously injured), 11 accidents involving three pedestrians (9 deaths, 8 serious injuries), one accident causing one serious injury and three minor injuries, and two accidents involving five pedestrians (2 deaths, 2 serious injuries). [15]

Pedestrians represented 28.9% of serious road accident victims, ranking second after vehicle drivers. They are one of the most vulnerable categories due to their lack of protection in the event of a collision. In road accidents, pedestrians suffer the most severe consequences in the impact with other road users, while injuries inflicted on others are rare. [16] Motorcyclists are likewise extremely vulnerable, with alarming numbers of deaths and serious injuries in Romania and across Europe. In Europe, more than 3,500 motorcyclists died in accidents in 2020, and Romania remains consistently among the countries with the most motorcycle victims, with over 100 deaths in the same year and more than 1,300 in the first 11 months of 2024.

Cyclists also represent a highly vulnerable category [17]. In recent years, Romania has recorded the highest number of cyclist deaths in road accidents in the European Union, with 191 victims (10% of all road deaths) and 10 deaths per million inhabitants.

[18] Of all persons seriously injured in road accidents in Romania in 2023, most were vehicle drivers (1,623 persons), representing 46% of total serious injuries.

Statistical data show that, compared to the distribution of fatalities, individuals over 65 have a lower share among the seriously injured, which may be explained by their higher physical vulnerability-when involved in a serious accident, their risk of death is higher compared with other age categories. Among the seriously injured, the age group with the highest share is 18–25 (14.8%), followed by 46–55 (14.4%). [19] Passengers represented one-quarter of all persons who suffered serious injuries in road accidents (883 persons).

Road-related criminality-beyond the impressive number of deaths and injuries-naturally entails economic consequences. Almost without exception, road accidents cause material damage of varying degrees. Most compensations are paid directly by civil liability insurers. Regarding mandatory civil liability insurance (RCA) [20], according to the Financial Supervisory Authority, at the end of 2023 there were 7,053,399 valid RCA policies, of which 5,514,050 were held by individuals and 1,534,349 by legal entities.

The total value of damages (paid compensations plus reserve changes) for RCA insurance in 2023 amounted to 5,538,066,650 lei. [21] According to the National Union of Insurance and Reinsurance Companies (UNSAR), the largest compensation paid in 2023 exceeded 5.6 million lei; the value of the top 10 compensations paid under mandatory RCA insurance in 2023 totaled 34.7 million lei, each covering both bodily injury and material damage. The average RCA claim increased significantly in 2023, by over 8% [22].

At the beginning of the 2020s, the average social costs and total costs for a deceased person, for a seriously injured person, and for accidents resulting in fatalities or serious injuries were as follows:

- average social cost per seriously injured person: 684,827.41 lei (€152,495.64);
- average social cost per deceased person: 4,302,673.62 lei (€958,108.49);
- average social cost per serious accident: 760,158.42 lei (€169,270.16);
- average social cost per fatal accident: 4,883,603.01 lei (€1,087,468.38);
- total cost of seriously injured persons: 5,675,164,707.62 lei (€1,263,731,341.32);

- total cost of deceased persons: 8,231,014,632.30 lei (€1,832,861,564.34)- total cost of serious accidents: 6,604,256,351.83 lei (€1,470,619,121.72);

- total cost of fatal accidents: 8,370,495,558.42 lei (€1,863,920,806.63).

III. THE ROAD FACTOR

The road factor, as a condition in the occurrence of traffic accidents, concerns land travel routes, namely roads, and specifically their condition—whether or not they are paved, the quality of the asphalt layer, the presence of road signs, and the proximity of obstacles to the roadway.

Experts, based on statistical data, have confirmed some correlation between road width and accident frequency. Thus, for a road width of 5 m, the number of accidents per million vehicle-kilometers is 0.95; at 7 m width, the number of accidents decreases to 0.5, and on roads 7–13 m wide, it falls to 0.35 [23].

Infrastructure deficits are reflected in reduced mobility, insufficient connectivity in certain regions, poor interconnection of major economic and urban centers, high transit traffic through towns that lack bypasses, long travel times, and traffic congestion. An increase in traffic volume, coupled with slow infrastructure development, can negatively influence the evolution of road accidents and may serve as a predictive indicator in road safety.

Romanian authorities (Pro Infrastructura Association[24]) estimate that investments of hundreds of millions of euros are needed to build city bypasses, which are necessary to handle heavy traffic, reduce congestion, and lower the risk of accidents. In addition, road signs and markings must be installed and maintained, along with proper lighting.

Similarly, the high proportion of road fatalities in Romania compared to the EU can also be explained by the lack of highways, given that the European Commission has shown that only a small part of deaths occur as a result of accidents on highways, where very few frontal collisions—the most dangerous type—take place. The absence of highways in Romania redirects traffic to roads where lanes are not physically separated, allowing for severe head-on collisions.

Consequently, reducing the impact of the road factor in triggering accidents can be achieved through the development of a road network adapted to current transport needs, considering the large and increasing number of vehicles operating on Romanian roads. As noted earlier, at the beginning of 2025, Romania's public road network, which as of 31 December 2023 totaled 86,388 km, consisted of 17,677 km (20.4%) national roads, 35,046 km (40.6%) county roads, and 33,665 km (39.0%) communal roads. [25] The density of the public road network per 100 km² was 36.2%. The highest density values were recorded in the Bucharest-Ilfov region (50.8 km), North-East (40.7 km), and South-West Oltenia (39.1 km).

The mobility index (million vehicle-kilometers traveled) in 2023 was 179,517. Adding the number of driving license holders-8,856,128 [26]-gives a clearer picture of this phenomenon.

Regarding this factor, many traffic accidents are caused by pedestrian inattention or indiscipline. However, more frequently, pedestrians-through no fault of their own-become victims of such accidents. More than half of serious accidents involving pedestrians occurred in urban areas (826 incidents, 55.6% of the total). In rural areas, 526 accidents occurred (35.6%), and outside localities, 130 (8.8%).

Statistics from 2023 in Romania show that in rural areas, more than half of pedestrian fatalities (50.7%) resulted from accidents on national roads, and about one-third (34.7%) on county roads passing through rural communities. Additionally, 71.8% of seriously injured pedestrians were involved in accidents on national or county roads.

In urban areas, the main cause of serious pedestrian accidents is failure to yield to pedestrians (responsible for 40.5% of pedestrian accidents), followed by illegal road crossing (the primary cause in 34.8% of serious pedestrian accidents). [27] This distribution again highlights the consequences that inadequate infrastructure has on road user safety.

Although there is a decrease in the number of serious urban accidents, the overall number of traffic accidents in cities remains high. This is due to both subjective/behavioral causes and objective factors. Among the latter are the disappearance-or at best narrowing-of sidewalks to make room for parking, ongoing (often seemingly chaotic) road and pedestrian infrastructure repair works (so-called modernization investments in gas,

electricity, TV cables, etc.), which make walking in cities an adventure, whether large or small.

Adding the lack of pedestrian education, driver arrogance (which is directly proportional to the horsepower of the vehicles they drive), silent engines, unlit roads, walking often becomes a dangerous or even tragic adventure.

Finally, among the most frequent causes of accidents related to the road factor are: incomplete or insufficient [28] road signage; deteriorated or under-construction roads [29]; other road-related causes [30]; unmarked obstacles on the roadway [31]; and animals or other objects [32].

IV. THE TECHNICAL FACTOR

Another circumstance that can contribute to the occurrence of a traffic incident is the technical factor, related to whether the vehicle operating on a public road is functioning optimally.

Road accidents can be caused by various vehicle malfunctions affecting the braking system, steering, etc., which may occur suddenly during movement or may have preexisted.

The average age of vehicles presented for technical inspection (ITP) in 2023 (first presentation) was 15.43 years (increasing compared to the previous year, when it was 15.21 years). Of the 86,705 vehicles technically inspected in traffic in 2023, 34.3% were non-compliant from a road safety perspective. 6.82% of the vehicles inspected in traffic and 15.75% of all non-compliant vehicles presented an imminent accident risk. [33] In Romania, there were 7.3 new vehicle registrations per 1,000 inhabitants. Romanian legislation requires vehicle owners to perform periodic technical inspections once every two years for the first 10 years, after which inspections become annual.

In 2014, considering the importance of this cause in road accidents, a set of European legislative measures, the “Vehicle Technical Inspection Package” [34], was adopted, composed of three directives: Directive 2014/45/EU on periodic technical inspections, Directive 2014/47/EU on roadworthiness checks of commercial vehicles in traffic, and Directive 2014/46/EU on vehicle registration documents.

Although vehicle technical failures can occur unexpectedly, they are most frequently the result of failing to perform periodic inspections, during which technical problems can be identified and corrected.

Globally, approximately 165,000 automobiles are produced daily, which contributes to an increase in both the number of cars on the roads and road accidents. The main problem is not the number of cars, but the age and quality of the vehicle fleet. It is considered advisable to limit the importation of vehicles older than 10 years and to apply an additional pollution tax.

In serious road accidents on Romanian roads in 2023, 11,458 vehicles of various categories were involved, of which 6,825 were passenger cars (59.6%).

Technical failures of vehicles caused 12 serious road accidents in Romania in 2023, resulting in the deaths of 4 people and serious injuries to 10 others, yielding a mortality rate of 33.3%.

V. ENVIRONMENTAL FACTORS

As highlighted in the specialized literature [35], the natural environment is one of the factors shaping road safety. Therefore, in the following, given that meteorological factors are not explicitly reflected in the number of serious road accidents, we will attempt to determine under what conditions they can influence the occurrence of traffic accidents.

Contrary to some claims, meteorological conditions are not the primary factor in the etiology of the incidents considered here: 91.7% of serious road accidents in 2023 occurred under normal weather conditions.

Exceptional weather conditions are usually accompanied by repeated warnings from authorities, which encourages more cautious behavior among road users. Conversely, in the absence of exceptional weather conditions, high traffic volumes can coincide with lower levels of caution and attention. Among various adverse weather circumstances, rain is the condition in which most serious road accidents occurred (5.89% of serious accidents happened in rainy conditions).

In 2023, higher mortality was observed in accidents occurring during blizzards, strong winds, and rain. The majority of serious accidents (3,777-83.4% of all events in

2023) occurred on dry roads [36]. It should be noted that 13.7% of incidents occurred on wet roads, and only 2.8% occurred on roads covered with snow, ice, or slush.

Most accidents caused by cyclists occurred on dry roads (91% of such incidents), placing cyclist-related incidents as the leading cause of accidents on dry roads (500 serious events, 45 more than the next cause-speed not adapted to road conditions). This is consistent with the more frequent presence of cyclists in good weather compared to rain or snow, which leads to more cautious behavior.

A large number of accidents were caused by speed not adapted to road conditions on wet or icy/snow-covered roads, compared to other causes in these conditions. In fact, speed not adapted to road conditions is the second leading cause of serious road accidents on dry roads, followed closely by illegal pedestrian crossing.

Finally, less than one-tenth of serious pedestrian accidents occurred in the absence of adequate street lighting (nonexistent, nonfunctional, or turned off). The majority of serious pedestrian accidents (81.3%), most fatalities (72.9%), and the highest number of seriously injured pedestrians (84.5%) occurred under adequate lighting conditions.

V. CONCLUSIONS

Road accidents represent one of the most serious issues faced by contemporary society, with deep social, medical, economic, and psychological consequences. Their occurrence is rarely the result of a single cause; rather, they stem from the complex interaction of multiple factors-human, technical, environmental, and infrastructural.

Among these, the human factor remains the most important, since it creates the situation that makes the accident inevitable and, at the same time, is the one that suffers its consequences. However, the increasing number of vehicles, the modernization of infrastructure, and the complexity of traffic have led to the emergence and amplification of secondary and favourable factors, which may trigger, facilitate, or worsen the effects of accidents.

The road factor plays a decisive role in ensuring safe traffic. A road that is inadequately designed, poorly maintained, or insufficiently signaled significantly increases accident risk. Therefore, modern infrastructure must be built and managed

according to principles that ,,forgive" human error and reduce the severity of its consequences. Similarly, favourable factors such as weather conditions, visibility, speed, the physical condition of the driver, or the technical state of the vehicle can amplify vulnerabilities in traffic. These elements contribute to creating dangerous contexts, especially when drivers do not adapt their behaviour accordingly.

Preventing and combating road accidents requires a holistic approach, involving:

- continuous improvement of road infrastructure;
- strict compliance with legal norms;
- responsible behaviour from all traffic participants;
- modern technology and intelligent traffic management systems;
- effective oversight and intervention by authorities;
- education and awareness campaigns;
- regular technical inspection of vehicles;
- reducing environmental and visibility risks;
- promoting safe mobility and vulnerable road user protection.

Road safety is a shared responsibility. Only through coordinated action among authorities, specialists, drivers, pedestrians, and society as a whole can we significantly reduce the number of accidents and their dramatic consequences.

Road accidents, although often described as ,,random", are in fact largely predictable and, to a considerable extent, preventable. Understanding and addressing their causes is the first essential step toward safer roads and a healthier society.

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ARTIFICIAL INTELLIGENCE AND FUNDAMENTAL RIGHTS IN THE EUROPEAN UNION: CHALLENGES AND PERSPECTIVES

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Abstract:
Technological advancements have transformed contemporary societies, allowing for the proliferation of Artificial Intelligence. Nevertheless, artificial intelligence has raised several concerns regarding the impact of artificial intelligence on fundamental rights. The European Union (EU) has addressed the problems arising from the adoption of Artificial Intelligence in regulation, policy, and legal challenges.
This article examines the multifaceted relationship between Artificial Intelligence (AI) and fundamental rights within the European Union (EU), highlighting the legal, ethical, and governance challenges posed by rapidly advancing AI technologies. It outlines the EU's foundational rights framework - rooted in the Charter of Fundamental Rights, international human rights instruments, and the European Convention on Human Rights - and analyses how AI systems intersect with key rights, including privacy and data protection, equality and non-discrimination, freedom of expression and information, human dignity, autonomy, and procedural safeguards. The paper reviews major regulatory instruments such as the General Data Protection Regulation (GDPR) and the proposed AI Act, emphasizing their risk-based approaches, obligations for high-risk systems, and implications for accountability and human oversight.
Keywords: *Fundamental Rights, Artificial Intelligence Act (AI Act), Data Protection / GDPR, Non-Discrimination / Fairness, Human Oversight / Accountability.*

INTRODUCTION

Artificial Intelligence refers to the computer or computer-controlled robot that performed tasks conventionally thought to have only been carried out by intelligent beings [1]. Machine learning is the science of programming computers to do almost any task without having to instruct them exactly what to do [2]. The general consensus is that artificial intelligence tends to imitate one of the important characteristics of the human mind, that is, the ability to learn.

Fundamental rights represent basic human freedoms and protections that all people are entitled to, under EU and international law. Article 2 of the Treaty on European Union (TEU) [3] vests the Union with a responsibility to enhance such rights, in accordance with the Charter of Fundamental Rights of the European Union (Charter) [4], which is legally binding and applicable to EU institutions and Member States in areas of

EU law. The Charter is an explicit proclamation, at the constitutional level, of rights set forth in the EU legal order and expresses both the breadth and the Union's political commitment to protecting such rights. The diverse legal instruments underpinning the EU's commitment to fundamental rights reflect a polity still in quest of a coherent identity, but nevertheless mark a claim to membership in the club of democratic constitutional states [1].

CONCEPTUAL FRAMEWORK: FUNDAMENTAL RIGHTS AND AI

The EU has identified five rights most directly implicated by AI and machine learning technologies, which it clusters into individual and collective categories [5]. Individual rights - privacy and data protection; equality, non-discrimination, and inclusion; dignity, autonomy, and human oversight; and freedom of expression and information - are respectively concerned with the dynamic processes of data collection, aggregation, and exploitation; the way these processes merge personal data collected across different platforms to facilitate tracking of preferences; the creation of such highly deterministic profiles; and the influence of algorithms on access to and forms of information made available to individuals. Collective rights - procedural safeguards and remedies - link macro-level governance and accountability issues with guarantees of effective remedy at the individual level.

The European Union's (EU) fundamental rights framework is rooted in international obligations, notably the United Nations Universal Declaration of Human Rights [6] and Europe's European Convention on Human Rights [7]. The EU and its member states are committed to a variety of fundamental rights as both public and private obligations. "The wording and meaning of fundamental rights vary according to the local context in each of the EU member states." [8]. Nevertheless, according to the Court of Justice of the EU, fundamental rights are not mere national principles. A preliminary list of EU fundamental rights and accompanying or related concepts that could be further developed includes the following: Dignity (Human dignity, Human autonomy, Harm, Vulnerability); Democracy (Freedom of choice, Participation in society, Living together, Input in decision-making, Equal footing); Material condition (Freedom to communicate and access information, E-mail monitoring, Capture of image, Locking audition); Security (Control over content

conveyed, Destination of a pledge, Definition of a key, Loading remaining part); Safety (Impact of system on safety of individuals, Risk of contamination and explosion, Protection by law against odour).

Similar to other technologies, AI comprises multiple sub-disciplines that collectively comprise numerous definitions. AI it is commonly understood as a class of computer-based systems that lack a fixed definition yet strive to replicate certain elements of human behaviour. In contrast, machine learning refers to a specific type of algorithm that provides output without explicit user direction. Within the space of machine learning, several further distinctions arise. For example, supervised learning employs labelled datasets to enable models to learn relationships between features and labels, while unsupervised learning utilizes unlabelled datasets. Other widely recognized areas within AI include natural language processing, computer vision, and robotics.

LEGAL LANDSCAPE IN THE EUROPEAN UNION

Artificial Intelligence (AI) falls under the domain of Fundamental Rights in the European Union (EU). Key legal instruments are the EU treaties, the Charter of Fundamental Rights of the European Union (CFREU), and the European Convention on Human Rights (ECHR). Several supervisory authorities oversee compliance at the national and EU levels: the European Data Protection Supervisor (EDPS), the European Data Protection Board (EDPB), and national Data Protection Authorities (DPAs). The General Data Protection Regulation (GDPR) [9] and the AI Act [10] both relate to Fundamental Rights, as do many discussions around AI and Algorithm Impact Assessments (AIAs) [11].

The General Data Protection Regulation (GDPR) was adopted in 2016 and was applicable in May 2018. It concerns data protection and privacy, data protection rights and access to data, covering the collection and processing of personal data. It protects individuals from infringing on the confidentiality of communications and maintains the right to not have human decisions taken by automated means. It combines freedom of expression and information with respect for private life. The AI Law, proposed in April 2021, aims to ensure that AI systems placed on the market in the EU are safe and comply with existing legal frameworks on fundamental rights, health and safety. It presents a risk-

based approach, classifying AI-based systems according to a four-level scale: unacceptable risk, high risk, limited risk and minimal risk. AI systems that fall within the high-risk category must be subjected to strict compliance obligations. These systems can expose fundamental rights, such as privacy, non-discrimination, consumer protection, and personal data protection, to significant risks [12].

Over subsequent decades, EU governance will focus on adapting legal frameworks, guidance material, and operational measures to technological change. Given anticipated regulatory priority frameworks, crucial decisions should soon follow on other foundational texts, notably the Council of Europe's high-level Guidelines on Artificial Intelligence and Data Protection and the OECD's AI Policy Observatory. The regulation takes complementary approaches to legal, ethical, and political design and implementation. The EU's non-binding Ethical Guidelines on Trustworthy Artificial Intelligence - the first globally to address the topic - will continue shaping the legal framework. Those guidelines, with policy dimensions, emphasise trustworthy AI as complying with fundamental rights and European values; accountability; non-discrimination; safety; data protection; privacy; sustainability; prevention of harmful outputs; respect for human autonomy; non-manipulation; and algorithmic transparency.

The EU agency for fundamental rights, together with the European Data Protection Board, will closely monitor the Act's formulation and enforcement, highlighting compliance risks and mitigation options. Any non-compliance by EU citizens that negatively affects the enjoyment of fundamental rights - whether through social media algorithms, AI tools for job hunting, or other systems - will remain actionable under the Charter. The EU Data Governance Act, the revised directive on digital content, and the Digital Services Act also retain relevance.

Despite influential developments, partnerships between the EU and United Nations, OSCE, and individual third countries, 5G deployments, and exchanges with civil society and the private sector, AI remains an emerging priority. Important international cooperation initiatives among non-EU states will continue to shape the landscape. Prominent frameworks include the OECD's Recommendation of the Council on Artificial Intelligence, adopted in May 2020, and the G20's Principles on Artificial Intelligence, endorsed in November 2019. The Global Partnership on Artificial Intelligence [13] was

established in June 2020; joint work on the Ethical Use of AI opened in January 2021. Further technical, sectoral, and thematic discussions will help drive consensus and enhance compliance. However, alignment with EU fundamental rights will remains a challenge.

A flexible, risk-based approach takes into account uncertainties related to technology, impact and governance. Given the rapid evolution of artificial intelligence, detailed precautionary rules would quickly become obsolete. Moreover, attention is not restricted to narrowly defined AI systems; attention extends to broader models and systems likely to influence many future services. Administrative pre-emptions, monitoring initiatives, technical evaluations, assurance frameworks, soft-law documents, model catalogues, and certifications offer alternative avenues and continue to expand in importance.

The AI Act comprises four categories of risk: acceptable, limited, high, and minimal. It stipulates that the widespread use of an AI system to manipulate human behaviour is prohibited. Providers of high-risk AI systems must undertake several specific obligations during the entire product lifecycle; the manager of the system must ensure that it is in compliance with the requirements and achieve that the proper administration of the conformity assessment is guaranteed [14].

GOVERNANCE, ACCOUNTABILITY AND RISK MANAGEMENT

A comprehensive governance regime is essential for fostering responsible and accountable AI application while managing associated risks. Responsibility must be appropriately allocated among multiple stakeholders: system providers should assume primary accountability for compliance, users must adhere to requirements, regulators should oversee legal adherence, and public authorities should ensure compliance across AI systems deployed in public services. All actors must remain knowledgeable about relevant obligations.

Transparency and explainability can enhance the trustworthiness of AI systems by helping stakeholders understand the rationale behind actions and decisions. Models should use understandable and, preferably, non-discriminatory algorithms. A disclosure obligation could encompass algorithmic purpose, potential societal impact and relevant

usage practices. Multi-stakeholder efforts are crucial to cultivating the institutional and social capacities needed for constructive engagement and governance in the field of artificial intelligence.

Impact assessments, such as data protection impact assessments (DPIAs), can measure the potential effect of a system on rights and freedoms. AI systems pose additional societal risks that may not infringe fundamental rights but still necessitate further scrutiny. Complementary algorithmic impact assessments could concentrate on social repercussions and ethical implications; regulatory authorities could oversee these assessments, while independent audits could verify implementation of risk management measures. The availability of auditing frameworks remains limited and requires further analysis.

In human-in-the-loop systems, a person intervenes at specific junctures; risk determinants vary by case and require tailored governance strategies. Systems that operate entirely autonomously amplify risks and present distinct challenges yet remain widespread. Governing these systems necessitates harmonizing technical and regulatory actions to ensure compliance with fundamental rights and EU directives.

SOCIETAL AND ECONOMIC IMPLICATIONS

The introduction of AI into labour markets has a profound societal and economic impact with fundamental rights implications. Workers across different skill levels can be affected, and their widespread use invariably leads to societal disruptions in society and the economy broadly speaking. The positioning of AI-related policy questions as a market failure indicates that answers may extend from rights- and remedy-focused approaches toward broad goals of equity and welfare among diverse social groups [8].

The potential for AI to enhance the distribution of opportunity invites public analysis of its eventuality. Unaccountable decision-making hampers advancement Silos inhibit wider ameliorative measures, such as public-service modernization that enhances the distribution of opportunity functionally throughout society as technological measures come to bear on data-rich systems and activity analysis [15]. The potential for AI to enhance the distribution of opportunity invites public analysis of its eventuality.

In terms of labour skill requirements, the introduction of AI is expected to polarize European labour markets further. Highly-skilled job openings such as information technology and manufacturing and production management and professionals will still be in demand along with information and communications technology. In contrast, job openings requiring medium-level skills such as office administration, customer service, and skilled trades will decrease where jobs requiring low skills such as food preparation, hospitality, retail sales, and security. This situation will inevitably widen skill gaps across the four skill levels. The digitization of labour is accelerated through AI across Europe from the lower level toward the upper level. Meanwhile, other Member States and regions are moving from the upper level toward the lower level, leading to a divergence of labour digitization across Member States and regions.

Growing AI adoption can affect the equitable provision of services and benefits among segments of a population within a legal, political, or budgeting framework. When such systems operate without explicitly compensating for existing group biases, outcome bias or disproportionate effects can arise. Particularly in contexts where the service in question is mandated and free of charge at the point of delivery, or when bias or discrimination must be minimized within the constitution, the position of the employing organization regarding wider distribution of such sustainable benefits may evoke public concern. Automated decision-making systems can facilitate the execution of many important tasks or support important decisions in a variety of public services and social care sectors, such as health, social care, housing and counselling. These tasks frequently entail considerable complexities, uncertainties, risks, or two-sided consequences. At the same time, there are also significant potential gains from improving service delivery speed, coverage, adoption, or accessibility of conventional offerings in various public service domains.

INTERNATIONAL PERSPECTIVES AND COOPERATION

Artificial intelligence (AI) globally operates across interconnected technology ecosystems and activities; addressing interdependence among the EU and other areas remains crucial [8]. Global AI standards and regulations promise greater interoperability, but the EU prioritizes safeguarding fundamental rights and freedoms through

comprehensive frameworks. Coordination under the Global Partnership on Artificial Intelligence and the OECD facilitates compliance with rights-holding obligations while fostering alignment with existing standards. The ongoing enactment of the AI Act presents opportunities to harmonize additional legal, ethical, and governance approaches in line with fundamental rights and related frameworks.

Adhering to the United Nations and European Convention on Human Rights, the EU's legal approach centralizes respect for human rights, democracy, and the rule of law, as delineated in the EU Charter. The European Group on Ethics similarly advocates for a rights-centric perspective, mandating equity, scrutiny, justice, and sustainable progress regarding AI development [1].

Cross-border data transfers represent a fundamental challenge for the European Union. Rapidly evolving technological and economic realities exert strong pressure on conventional legal frameworks, in particular, on mechanisms designed to protect data privacy. Data protection law is not static, but is constantly adapting to new developments. It is constantly changing, extending its protection to oral and audio-recorded data, photographs, metadata, medical data and other new categories of data. The provisions set out in the legal provisions protect important precepts. However, between the need to protect individuals' data and the desire to promote interest in artificial intelligence products lies a difficult balance, a compromise between legitimate objectives. Compliance with national standards and transparent guidance influence commercial players' willingness to invest and promote AI.

CHALLENGES AHEAD AND EMERGING TRENDS

Artificial Intelligence (AI) is driving a new wave of technological transformation across all sectors. Although the President of the European Commission, Ursula von der Leyen, described 2023 as "the year of Artificial Intelligence", it actually became evident that AI had emerged as the hottest topic of discussion inside and outside the EU institutions even before the skyrocketing popularity of ChatGPT and its competitors in late 2022. The new European initiative on AI regulation, published on 21 April 2021 and officially proposed on 21 April 2022, had already caught the public attention before that. New considerations also began to emerge regarding the implications of AI for different

areas of EU policy and objectives, including the interlinkages between AI regulation and other policies pursued by the EU, notably fundamental rights protection. Policy reports and proposals concerning the Outline of Legislative Proposal on AI Regulation were produced by senior scholars at important EU institutions (e.g. the European University Institute, the European Parliament and the European Commission), and were actively discussed and adopted within these institutions as well.

Technological progress in AI science and technology, consisting of automation and machine learning techniques, data processes, and autonomous systems, is fast-moving and seriously concern policymakers facing time delays in adoption of ethical frameworks and regulatory measures. There have been long-standing concerns about alternative methods of establishing precautionary principles concerning nuclear energy and climate control. Preparatory work on AI risk management is already urgently required to implement ethical principles and basic rules derived from the Charter of Fundamental Rights and the European Convention on Human Rights.

There are gaps in law enforcement outside of military AI systems and international law enforcement cooperation, which are criticized as gaps. Member States can introduce environmental or public health measures based on scientific evidence, even with maximum harmonisation. The law on artificial intelligence lacks tools to prevent legal uncertainty regarding national transparency requirements beyond “high-risk” systems.

The challenges of protecting the right to a fair trial, amid the rapid development of artificial intelligence technologies affecting the judiciary and enabling the automation of civil proceedings, are also relevant. The legal concerns are analysed from the perspective of Article 6 of the European Convention on Human Rights and the case law of the European Court of Human Rights. The discussion includes AI-based judicial systems and their psychological requirements for practical use. Such issues arising from artificial intelligence in legal decision-making are complex, and although the use of artificial intelligence aims to improve the judicial system, further study of the societal implications is needed.

Legal regulations governing AI should be based on co-regulation involving social, commercial and academic actors. AI governance and the promotion of rights in the field benefit from a co-regulatory system involving civil society, industry, academia and

government. The policy debate addresses the ethical and societal implications of AI and the digital transformation. The European Commission's Group on Ethics in Science and New Technologies has summarised the main ethical concerns, highlighting the diversity of values and priorities. Ethical values vary across cultures and belief systems, with fundamental concerns such as respect for human dignity, freedom, democracy and human rights. Regulation should reflect the voluntary nature of ethical compliance, taking into account the diversity of ethical values. An assessment of the ethical implications of AI depends on cultural and economic contexts.

CONCLUSION

The regulation of Artificial Intelligence (AI) in general and governance of related technologies within the European Union (EU) is still at an early phase. However, the analysis identifies a set of horizontal and transversal provisions at the EU level that address Artificial Intelligence and raises important rights and governance questions. Additional legal frameworks, such as the Swedish AI Strategy [16], the General Act on Data Protection (GDPR), and the Proposed AI Act, delineating AI, Machine Learning (ML), Automation, and Data Ecosystems may also be useful. The GDRP, Due Process Directive, Act on Equal Treatment, and others further highlight the individual concerns addressed within the analysis.

Currently the AI Regulation proposed in April 2021 is undergoing discussions within the European Parliament. The reference title ‘A European Approach for Artificial Intelligence’ establishes a successful regulatory track by pursuing a holistic approach based on the priority rights at stake. The first European AI Strategy aimed at making the EU a world-class hub for AI and ensuring that AI is human-centric and trustworthy [17].

The analysis focused on the reference regulatory scheme developed by the European Commission. Addressing Horizontal Regulations for Artificial Intelligence under a Human-Centric and Trustworthy Approach the paper discusses the Governance, Impact Assessment, and the Protective Framework on the core leash of Human, Data, and Immersive Rights configure a preliminary but structured impact assessment of the proposed horizontal regulatory scheme on content moderation or societal dissemination

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CONCLUSION AND EFFECTS OF THE CIVIL CONTRACT

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Abstract:
The contract in general and the civil contract as a species is one of the most important and common contemporary legal institutions. The specifics of the conclusion and effects of this type of contract are necessary aspects in the analysis and understanding of any interaction of this kind between subjects in society. It is precisely the age of the notions that make it necessary to systematically analyze these elements in relation to the new legal and social realities related to technology and European and international integration.
Keywords: *civil law, civil contract, conclusion of civil contract, effects of civil contract.*

INTRODUCTION

The contract is the instrument through which the individual will becomes a source of law. In a society based on a market economy and freedom of exchange, the contract represents the fundamental mechanism of the circulation of values and the organization of patrimonial relations. Without the contract, civil law and legal commerce would lack dynamism, and social life – legal predictability [1].

The contract, viewed in this unity, must be understood not only as an individual legal act, but also as an institution of balance between freedom to dispose and the constraints imposed by law, equity and good faith. It is, therefore, a form of regulated private autonomy which [2], in essence, takes the form of the convergent manifestation of two legal wills, with the aim of producing legal effects determined by the two wills in the social and economic context of current life.

The central role of the contract in the private legal architecture is also highlighted by the modern, systematic and coherent regulation within the provisions of Book V ("On Obligations"), Title II ("On Contracts"), art. 1166 Civil Code, which defines the contract as the agreement of will between two or more persons with the intention of establishing, modifying or extinguishing a civil legal relationship [3]

CONCLUSION OF THE CONTRACT

For a contract to be valid, it must meet four essential conditions according to art.1179 C.civ.: the capacity of the parties to contract, validly expressed consent, a determined, possible, licit and moral object and a licit and moral cause.

These conditions correspond to the classical principles of the Romanist tradition, modernized in the new Civil Code.

a) Capacity to contract

Legal capacity represents the ability of a person to acquire and exercise civil rights and obligations. According to art. 1179 in conjunction with art. 37 and 38 C.civ., natural persons acquire full capacity upon reaching the age of majority (18 years), and legal persons have it from the moment of acquiring legal personality.

Lack of capacity entails the relative nullity of the contract (usually in favor of the incapacitated person), and special prohibitions (e.g.: the minor cannot dispose of his or her goods free of charge without consent) complement the general regime [4].

b) Consent

Consent is the manifestation of will by which a party expresses its agreement to contract. For validity, it must be free, conscious and serious, that is, free from defects: error, fraud (deception), violence or injury (in certain cases provided for by law).

The defects of consent do not cancel the existence of the contract, but affect its validity, attracting relative nullity. Fraud produces nullity if it is decisive; violence if it is unjust; error if it concerns the substance of the object or the person (in intuitu personae contracts) [5].

c) Object of the contract

The object consists of the performance that each party undertakes to perform. Its conditions are: to exist, to be determined or determinable, possible, licit and in accordance with good morals (art.1225–1226 C.civ.).

Thus, one cannot contract for an impossible future good, for an inalienable good, or for a performance contrary to public order.

d) Licit cause or purpose

Although the Civil Code no longer uses the term "cause" in the traditional sense, it enshrines the concept of illicit or immoral purpose as a ground for nullity (art.1235 C.Civ.).

The legal purpose must be in accordance with the law and good morals. Therefore, the contract with the purpose of tax fraud, corruption or evasion from the application of mandatory norms is absolutely null.

Any convention or contract is formed permanently and ancestrally based on the existence of an offer and a request, The offer is the manifestation of the will of a person by which he proposes to another the conclusion of a contract, with the intention of obliging himself in case of acceptance. It must be firm, precise and complete (to contain the essential elements of the future contract).

The offer produces legal effects only from the moment of communication to the recipient, according to the theory of reception. Its withdrawal is possible only until that moment; after communication, the revocation must be made before the offer is accepted.

The offer may be with or without a term. In the first case, the offeror is bound until the expiry of the term; in the second, until the expiry of a reasonable period, established according to the circumstances.

Acceptance is the manifestation of will by which the recipient consents to the offer, without reservations and without modifications. It must be pure and simple, and the moment of the meeting of the two wills (offer – acceptance) determines the formation of the contract (art.1182 C.civ.).

Acceptance can be express (verbal, written, electronic declaration) or tacit (resulting from unequivocal behavior). In absentee contracts, the rule is that the moment of conclusion coincides with the moment when the acceptance reaches the offeror (theory of reception), and the place of the contract is the place where the offer was received.

In contracts between present persons, formation is instantaneous, in real time. In contracts between absent persons, communication and transmission time can generate validity problems (revocation, delay, loss of communication). In these cases, the law gives precedence to the reception of the message, not to the dispatch, strengthening legal certainty [6].

This aspect is also highlighted in the case of modern means of commerce, since contracts concluded by electronic means (e-mail, online platforms) follow the same general rules, supplemented by Law no. 365/2002 on electronic commerce.

The moment of formation is that of the reception of the electronic message in the recipient's system, according to art.1186 para. (2) Civil Code. digital transformation has generated an expansion of contracts concluded electronically.

The qualified electronic signature confers the same legal effect as the holographic signature.

However, this evolution raises problems regarding: digital evidence, electronic archiving but also the cyber security of legal documents.

EFFECTS OF THE CONTRACT

The effects of the contract are regulated by art.1270–1274 C.civ. and express the binding force of the agreement. A validly concluded contract has the force of law between the parties and must be executed in good faith.

The contract is binding not because the parties wanted it, but because the law requires them to respect the freely expressed legal will. The binding force expresses the principle pacta sunt servanda. No party may unilaterally revoke the contract, except in cases permitted by law (unilateral denunciation, conventional termination, commissory pact, etc.) [7].

Art. 1170 C.civ. provides that the parties must act in good faith not only when concluding the contract, but also when executing and interpreting it. Good faith presupposes loyalty, cooperation and refraining from abuse. It constitutes a criterion for interpreting and limiting subjective rights.

The doctrine [8] speaks of the "ethics of civil obligation", through which the contract becomes more than an individual legal norm: an instrument of equity and economic solidarity.

The effects of the contract occur only between the contracting parties, not towards third parties (art. 1280 C. civ.) with very limited exceptions:

- Stipulation for another (art. 1284): a contract may create rights in favor of a third party beneficiary;
- The de facto promise of another;
- Direct action in chains of successive contracts (e.g.: subcontracting).

These exceptions are justified by considerations of equity and legal efficiency.

d) Inalienability of the contract and assignment

The parties may assign their rights and obligations, in compliance with the conditions of the law: assignment of receivables (art.1566–1595) and assignment of contract (art.1315–1323). In the assignment of contract, the full substitution of one of the parties requires the express consent of the other.

Ineffectiveness includes all situations in which the contract does not produce legal effects: nullity, resolution, termination, unenforceability, lapse, fortuitous impossibility of execution.

a) Nullity

- Absolute nullity: protects public order (e.g.: illicit object, immoral cause). It can be invoked by any interested person and by the court ex officio.
- Relative nullity: protects a particular interest (e.g.: defect of consent). It can only be invoked by the injured party.

The effect of nullity is retroactive (the contract is terminated ab initio).

b) Resolution and termination

Resolution sanctions the culpable non-performance of an obligation in a synallagmatic contract with immediate execution (e.g. sale), and termination applies to contracts with successive execution (e.g. lease).

The resolution can be:

- Judicial – by decision;
- By operation of law – by commissory pact;
- Unilateral – by declaration notified to the other part (art. 1552–1553 C. civ.).

c) Fortuitous impossibility

If the execution becomes impossible through no fault of the debtor, the obligation is extinguished, and the contract terminates by law (art. 1634 C. civ.). Example: fortuitous loss of the individual specific asset.

d) Caducity

A validly concluded contract becomes lapsed when, subsequently, an essential element disappears (e.g.: the death of the donee in an intuitu personae donation).

CONCLUSIONS

The civil contract represents the center of gravity of the law of obligations. It concentrates the fundamental principles of private law: autonomy of will, equality of the parties, binding force, good faith and liability.

The correct classification of a contract – depending on the type, conditions of validity, manner of formation and effects – is essential for the fair application of the law.

Understanding these mechanisms forms the basis of the legal logic necessary for the future practitioner of civil law.

The civil contract remains the center of gravity of the architecture of private law, as it concentrates the principles of autonomy of will, equality of parties, binding force and good faith.

The correct understanding of the mechanisms of conclusion, effects and causes of ineffectiveness of contracts is fundamental both for legal theory and for professional practice.

Technological innovations, globalization and Europeanization of law give a new dynamic to the civil contract, requiring a continuous adaptation of doctrinaires, practitioners and legislators but also an adaptation of legislation to the social, economic and legal realities that have emerged.

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ABSOLUTE NULLITY, THE SANCTION FOR NON-OBSERVANCE OF THE COMPETENCE OF CRIMINAL INVESTIGATION BODIES

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Abstract:
Starting from the definition of nullity, Decision no. 8/2025 (RIL) of the High Court of Cassation and Justice falls in line with the doctrinal approach set by interwar criminal procedural law and constitutes a jurisprudential reversal in the matter.
This decision continues the trajectory set by the Constitutional Court of Romania (CCR) since 2017, beginning with Decision no. 674/2016, and is consistent with the constitutional standard established through Decisions no. 302/2017 and no. 26/2019.
In the practical implementation of this decision, divergent opinions have already emerged. However, judicial practice has consistently identified appropriate solutions that respect the constitutional and legal framework in the field, thereby ensuring the effectiveness of the fundamental principles of legality and loyalty in the administration of evidence, as an expression of the right to a fair trial.
Our scientific approach aims to identify solutions for the implementation of the cited decision from a practitioner's perspective, without neglecting doctrinal considerations that reinforce the arguments presented, particularly those concerning the institution of nullity as a criminal procedural sanction.
Keywords*: nullity, decision, appeal in the interest of the law, the fundamental principle of a fair trial, jurisprudence.*

I. BRIEF LEGISLATIVE HISTORY OF ABSOLUTE NULLITY

To better understand this issue, we will briefly review the evolution of the sanction for non-observance of the competence of the criminal investigation body in the three previous codes.

The Code of Criminal Procedure of 1864 did not expressly regulate the institution of nullity, but in Article 406 it provided that: ,,The same shall be followed in cases of lack of jurisdiction and in cases where a request or several requests of the accused, or a requisition or several requisitions of the public prosecutor, have been omitted or refused to be ruled upon, when that request or requisition was made to claim some faculty or

some right granted by law, even though the penalty of nullity is not pronounced by any legal text for the non-observance of the formality required by the accused or by the public prosecutor".

From this legal text it can be concluded that acts performed in breach of a formality not expressly sanctioned by nullity may also be annulled, provided that the non-observance concerned a right or faculty granted by law and the interested party had signalled this non-observance.

In the opinion of Professor Tanoviceanu, if the system of this law were summarised, the following would result: all procedural acts performed in violation of a formality expressly sanctioned by nullity are affected by nullity; likewise, all acts performed in breach of a fundamental principle—other than the principle of mandatory prosecution—are affected by nullity, even when the law does not provide for nullity.

As regards the activity of the investigation, prosecution and instruction bodies, no procedural sanction is regulated; however, the "Cuza Code" exhaustively regulated absolute nullities, among which we mention: Articles 100 and 101 on criminal warrants; Articles 151, 186, 485 on the publicity of criminal proceedings; Articles 161, 2026, 229 on the reasoning and signing of judgments; Article 248 on judicial incompatibility; Articles 322, 324, 337, 342, 371, 375, 395, all on the procedure before the Courts with jurors; and Article 475(3) concerning contumacy.

In the 1936 Code of Criminal Procedure, under Article 98: "The provisions relating to jurisdiction by subject matter or by the quality of the person, the composition of the court and the presence of the prosecutor, the presence of the defendant in the cases and forms established by law, the initiation of criminal proceedings and the seizing of the court are always prescribed under the sanction of nullity. This nullity cannot be removed in any way; it may be raised at any stage of the proceedings and must be declared even ex officio."

Regarding this procedural-criminal institution, Professor Traian Pop stated at the time that: ,,Nullity is the clearest, most ancient, and most realistic of the various sanctions, and it has its own well-structured logical and legal system," and that ,,procedural nullity is the sanction of procedural (or formal) law for failure to observe procedural rules." Illo

tempore, Professor Manzini stated that nullity sanctions are the legal sanctions for acts performed in non-observance of conditions of manner or time.

According to I. Ionescu-Dolj, nullities are sanctions that affect procedural acts carried out with the omission or violation of the forms prescribed by law.

In the opinion of Professor Dongoroz, procedural nullity is the sanction of formal law arising from the non-observance or improper application of procedural rules, when these defects have caused or are presumed to have caused harm to the parties; and the procedural remedy (to counteract the consequences of procedural defects) is the annulment of the defective acts. Another author stated that the lack of the conditions or elements necessary for the existence or effect of the act constitutes nullity.

With respect to the 1968 Code of Criminal Procedure, we note that the matter of nullities was regulated in Title V, Chapter VI, Article 197. Under paragraph 2 of Article 197: ,,The provisions concerning jurisdiction by subject matter or by the quality of the person, the seizing of the court, its composition, and the publicity of the hearing are provided under the sanction of nullity ...” Likewise, paragraph 3 of the same article provided that: ,,The nullity provided for in paragraph 2 cannot be removed in any way. It may be invoked at any stage of the proceedings and shall be taken into account even ex officio”.

Regarding this regulation, the author of the code, Professor Dongoroz, stated that: ,,Procedural law provides, for omissions and violations of the law, that is, for procedural defects affecting procedural acts, certain procedural sanctions. The procedural sanction of a general nature, in cases of violation of the rules provided by the Romanian Code of Criminal Procedure, is the nullity of the act”.

Professor Mateuţ maintains that, when it is found that there is a direct, indissoluble connection between the annulled act and the subsequent act(s), one may also discuss, from a causal perspective, acts concluded simultaneously or even prior to it, which will naturally be devoid of effect, and not only the subsequent acts-an opinion also embraced by Professor Vintilă Dongoroz.

Procedural sanctions affect existing procedural acts that came into being in breach of legal provisions, through omission or violation of the forms prescribed by law, or sanctions arising from the failure to carry out procedural acts in accordance with the law, and their effect is the inefficiency of those acts.

The sanction of nullity, through its application, has the function of removing from the content of the criminal process those acts or violations of the law that are presumed or proven to be prejudicial to the administration of criminal justice. Absolute nullity cannot be removed in any way and is examined in doctrine alongside the inexistence of the act. Regarding this aspect, the Italian jurist Eugenio Florian captured this assertion very well, considering that the expression “nullity” has been adopted in common usage in a twofold manner, signifying on the one hand the reason that renders the act imperfect, and on the other hand the expression of the consequences derived from that imperfection, namely its legal invalidation.

With regard to the legal issue settled by the supreme court, in a comparative analysis of the last two regulations, we observe that the lawmakers of the 1936 Code of Criminal Procedure and of the 1968 Code of Criminal Procedure had in view both the material jurisdiction and the personal jurisdiction of the court, as well as that of the criminal investigation body. Thus, from the perspective of the material and personal jurisdiction of the criminal investigation body, the non-observance of procedural provisions in this field always attracted the sanction of absolute nullity, which could be raised, including ex officio, at any stage of the proceedings.

As for the Code of Criminal Procedure that entered into force on 1 February 2014, we note that absolute nullities are regulated in Article 281, the provisions of Article 281(1)(b) CPP stating that: ,,The following always result in the application of nullity: (...) (b) the breach of provisions relating to the material jurisdiction and personal jurisdiction of the courts, when the trial was carried out by a court inferior to the legally competent one”; and those of Article 281(3) stating that: “The breach of the legal provisions provided for in paragraph (1)(a)–(d) may be invoked at any stage of the proceedings”.

We note that also in the conception of the new regulation, absolute nullity is established ex officio or upon request, the breach of the legal provisions in Article 281(1)(b) CPP being able to be invoked at any stage of the proceedings.

From the overall provisions of Article 281 CPP, we observe that the new criminal procedural legislator introduced a new philosophy, reforming the matter of nullities, bringing changes to the content of the provisions regulating their regime; one of these changes concerns the removal from the category of absolute nullities of the non-

observance of provisions relating to the material and personal jurisdiction of the criminal investigation body. Thus, in the conception of the new Code of Criminal Procedure, the breach of procedural provisions relating to the material and personal jurisdiction of the criminal investigation body attracts the sanction of relative nullity, and not of absolute nullity.

However, this philosophy was "shaken" by the Constitutional Court through Decisions no. 302/2017 and 802/2017, by which the constitutional review court repositioned the entire doctrine of nullities. Consequently, albeit belatedly, the legislator intervened by Law no. 201/2023, introducing among the cases of absolute nullity the breach of legal provisions regarding the material and personal jurisdiction of the criminal investigation bodies, which led to the completion of Article 281 CPP with letter b¹.

II. PRACTICAL ASPECTS

With regard to the issue under discussion, the Court of Appeal of Craiova [1] recently held, in the case before it on appeal, that the interpretation given by Decision no. 8/2025 of the High Court of Cassation and Justice is binding from the moment of its publication in the Official Gazette, as clearly results from the provisions of Article 474(4) of the Code of Criminal Procedure.

The appellate court found that, since the legality of a criminal investigation act is to be assessed in relation to the legal provisions in force and the interpretation applicable at the time the act was performed, the aforementioned decision does not affect the legality of the evidence gathered earlier by the judicial police authorities. The court noted that, given the temporal limitations set out in Article 281(4)(a) of the Code of Criminal Procedure, the defendant was not entitled, at this stage of the proceedings, to invoke the case of absolute nullity provided by Article 281(1)(b¹) of the same Code, this possibility existing only until the conclusion of the preliminary chamber procedure where the violation occurred during the criminal investigation.

The court further held that, although this case of absolute nullity was not included in the procedural criminal regulation in force at the time when the preliminary chamber procedure was completed - having been introduced by Law no. 201/2023 [2] — nothing prevented the defendant from invoking, during the preliminary chamber proceedings,

Decision no. 302/2017 [3] of the Constitutional Court. By that decision, the breach of the legal provisions concerning the ratione materiae and ratione personae competence of the criminal investigation bodies had, in practice, been recognized as a case of absolute nullity, which led to the insertion of letter b¹) into Article 281 of the Code of Criminal Procedure.

Only if the decision of the Constitutional Court had intervened during the trial phase, after the completion of the preliminary chamber stage, would the case of absolute nullity have had to be examined at any stage of the proceedings, up to the final resolution of the case — a situation that does not arise in the present case.

In the same manner, the Court of Appeal of Bucharest [4] recently ruled that since the legality of a criminal investigation act must be assessed in relation to the legal provisions in force and the interpretation applicable at the time the act was performed, Decision no. 8/2025 does not affect the legality of the evidence obtained earlier by the judicial police bodies.

Other courts have considered, by reference to Decision 64/2023 of the High Court of Cassation and Justice, that the mere provision of the audio-video surveillance infrastructure by the General Anticorruption Directorate (DGA) for the purpose of carrying out the technical surveillance provided for in Article 138(1)(c) of the Code of Criminal Procedure, in circumstances where the surveillance is carried out solely by the police bodies in accordance with the provisions of Article 142(2) of the same code.

Given the diversity of hypotheses encountered in practice after the publication of Decision no. 8/2025 of the High Court of Cassation and Justice, some courts have held that the invocation of an alleged nullity of the acts of criminal investigation, based on the material or personal competence of the criminal investigation body, relates to the provisions of Article 281(1)(b¹) of the Code of Criminal Procedure and not to any vitiation of the preliminary chamber procedure itself. Moreover, pursuant to Article 281(4)(a) of the Code of Criminal Procedure, such nullities may be invoked only until the conclusion of the preliminary chamber procedure.

The court further held that accepting the contrary would amount to an impermissible extension of the application of Article 386¹ of the Code of Criminal Procedure, transforming this special provision-intended to correct essential procedural

defects in the preliminary chamber-into an instrument for reopening matters already settled in the preliminary chamber stage.

III. THE EVOLUTION OF THE JURISPRUDENCE OF THE CONSTITUTIONAL COURT OF ROMANIA ON THE ISSUE OF NULLITIES AND OF THE COMPETENCE OF THE CRIMINAL INVESTIGATION BODIES

The constitutional review court, through Decision no. 113/2005, found that “nullity represents an extreme procedural sanction, which intervenes only when other remedies are not possible. Since not every breach of a procedural norm causes harm that can be remedied solely by annulment of the act, the legislator established the rule according to which the nullity of an act performed in breach of the legal provisions governing the conduct of the criminal process intervenes only when harm has been caused that cannot be remedied in any other way”.

At the same time, the Court held that absolute nullity is characterised by the fact that it cannot be removed in any way, may be invoked at any stage of the criminal proceedings—except for the cases provided in Article 281(1)(e) and (f) of the Code of Criminal Procedure, which may be invoked under the conditions provided in Article 281(4) of the same code—and may be taken into consideration ex officio. It always results in the annulment of procedural acts performed in breach of the provisions laid down by law (Decision no. 840/2015).

The issue under consideration was first subjected to constitutional review in Decision no. 674/2016 [5], where the Court held that the General Anticorruption Directorate is a structure specialized in the prevention and combating of corruption among the personnel of the Ministry of Internal Affairs and Administrative Reform, and therefore competent to conduct criminal investigation acts only with respect to a specific category of acts committed exclusively by persons employed within that ministry. The Court further stated that, pursuant to Article 280(1) of the Code of Criminal Procedure, the violation of legal provisions governing the conduct of criminal proceedings entails the nullity of the act, under the conditions expressly provided by law.

The first major turning point in the area of nullities arising from the lack of competence of investigative bodies was Decision no. 302/2017, whereby the

Constitutional Court declared unconstitutional the provisions that excluded from the sphere of absolute nullities the breach of competence rules applicable to criminal investigation bodies. The Court's central argument was that the legality of competence is not a mere formality, but a constitutional requirement for the validity of criminal proceedings, derived from Article 1(5) on the supremacy of the law and Article 21 on the right to a fair trial of the Romanian Constitution. The Court held that an accused person cannot be required to prove prejudice resulting from an act performed by an incompetent authority, since prejudice is presumed from the very fact of the breach of competence.

Undoubtedly, Decision no. 302/2017 repositioned the entire doctrine on nullities. Whereas, under the logic of the 2014 Code of Criminal Procedure, absolute nullity had been reserved for a limited set of situations, from 2017 onward, the violation of the competence of the criminal investigation body once again became a ground for absolute nullity, with far-reaching consequences for the validity of procedural acts. This change was later codified through the amendment of Article 281(1) of the Code of Criminal Procedure by Law no. 201/2023 [6].

In the same year, the Constitutional Court rendered Decision no. 554/2017 [7], which strengthened the active role of the courts, emphasizing that judges are required to declare nullity ex officio when procedural acts are seriously flawed. In practice, this obliged courts to verify ex officio the observance of competence and to exclude evidence obtained in breach thereof.

The culmination of this evolution occurred in 2019, when the Constitutional Court, through Decision no. 26/2019 [8], examined the effects of the cooperation protocols concluded between the Public Prosecutor's Office and the Romanian Intelligence Service. The Court held that evidence obtained by bodies not provided for by law was not merely unlawful, but had to be excluded from the case file. Beyond formal exclusion - in the sense of being disregarded during deliberation — the Court went further, holding that such evidence must be physically removed from the file, to prevent contamination of the judge's deliberations and to ensure transparency in evidentiary assessment. This ruling enshrined, in Romanian law, the fruit of the poisonous tree doctrine, extending the sanction to derivative evidence as well.

Taken as a whole, this evolution reflects a major paradigm shift: from a restrictive approach that prioritized investigative efficiency [9], the Constitutional Court has moved toward a substantive conception, in which respect for the competence of judicial bodies has been elevated to the level of a constitutional guarantee.

This development created the framework within which the High Court of Cassation and Justice, by Decision RIL no. 8/2025, affirmed that delegation cannot create competence where the law does not grant it - that is, *extra legem*.

With regard to the institution of delegation, it has been defined as a procedural mechanism used when a criminal investigation body or a court of law is unable to carry out a procedural act itself [10], with the specification that the activity subject to delegation must be performed in accordance with the law [11].

Other authors define delegation as a procedural activity through which a criminal investigation body or a court of law entrusts the right to perform directly a procedural act to a hierarchically inferior body, territorially competent, or to another judicial body that does not fulfil the legal requirements for functional competence [12].

Mihail Udroiu observes in his course that the mechanism of delegation cannot be interpreted extensively, as this would mean transforming an exception into a rule and violating the principle of legality [13].

Thus, delegation is a purely executive mechanism: the delegated body acts in the name and under the authority of the prosecutor but does not thereby acquire its own competence, and any misuse of delegation entails procedural sanctions [14].

Regardless of the doctrinal perspective adopted, the limited nature of delegation emerges clearly. The prosecutor’s delegation cannot concern acts that, by law, are reserved exclusively to the prosecutor, such as the initiation of criminal proceedings or the referral of the case to court.

It may therefore be concluded that Decision RIL no. 8/2025 represents a continuation of the trend set by the Constitutional Court since 2017, beginning with Decision no. 674/2016, which established that the officers of the General Anticorruption Directorate may perform acts of criminal investigation only within the strictly delimited scope of Article 1(2) of Government Emergency Ordinance no. 120/2005 - that is, only with regard to a specific category of acts committed exclusively by personnel of the

Ministry of Internal Affairs - and only on the basis of a delegation issued by a competent prosecutor. Consequently, any act performed outside this scope is affected by absolute nullity.

This solution aligns with the constitutional standard established by the Constitutional Court in Decisions no. 302/2017 and no. 26/2019. By grounding its jurisprudential reversal on these rulings, the High Court of Cassation and Justice has naturally integrated these orientations and incorporated them within the mechanism of the appeal in the interest of the law, without creating a new norm but rather conferring, through interpretation [15], a univocal meaning to the existing one - fully consistent with the law [16].

IV. THE EFFECTS OF THE DECISION

In order to identify the correct approach to implementing Decision no. 8/2025, a few clarifications are required.

First, the judgments of the High Court of Cassation and Justice rendered in appeals in the interest of the law or in preliminary rulings on questions of law cannot be regarded as normative acts having the force of law within the meaning of Article 173, final sentence, of the Criminal Code. This is because they do not regulate social defence relations, do not establish conduct rules or norms of incrimination, and do not concern criminal liability or its grounds and limits. Rather, such decisions merely provide an interpretation of provisions already contained in normative acts lawfully adopted according to legislative drafting procedures.

The binding effect of rulings on questions of law - as provided by Articles 474(4) and 477(3) of the Code of Criminal Procedure - does not confer upon these interpretative judgments the character of legal norms. Instead, this binding effect represents a transposition of Article 126(3) of the Constitution of Romania, which establishes the High Court’s position within the judicial hierarchy and its role in ensuring the uniform interpretation and application of the law by all other courts. If such rulings were truly endowed with the force of law, their binding effect would occur automatically, as is the case with organic laws, emergency ordinances, and other normative acts with legislative power - binding not only on the courts, but also on the legislature.

From this conceptual clarification, one line of reasoning follows that the analyzed decision should not apply to pending cases. This view rests on the constitutional principle that the decisions of the Constitutional Court are of immediate and general application, becoming erga omnes from the date of publication in the Official Gazette of Romania, Part I. Accordingly, they apply not only to legal relationships arising thereafter but also to ongoing proceedings that have not yet been finally adjudicated.

Thus, insofar as during the procedural phase of the preliminary chamber the cases of absolute nullity relating to the criminal investigation were expressly provided by law or had already been identified in binding decisions of the Constitutional Court, their invocation follows the rule laid down in Article 281(4) of the Code of Criminal Procedure. This approach has the merit of safeguarding the fulfilment of the purpose of the criminal process.

In doctrinal writings, this interpretation has been supported, emphasizing that absolute nullities related to the criminal investigation must be invoked in accordance with Article 281(4)(a), first sentence, of the Code of Criminal Procedure - that is, during the preliminary chamber stage [17].

An exception to this rule should be recognized in situations where Constitutional Court decisions are delivered during the trial phase, after the preliminary chamber procedure has concluded - in such transitional cases, and in the absence of a specific legislative framework, absolute nullities must be examined at any stage of the process until final judgment.

Thus, insofar as the absolute nullities concerning the criminal investigation were expressly provided by law or already identified in binding Constitutional Court decisions during the preliminary chamber stage, their invocation must follow the rule in Article 281(4) of the Code of Criminal Procedure.

A second, more utilitarian perspective holds that the recent decision of the High Court of Cassation and Justice does apply to pending cases, depending on the procedural stage. Certain authors maintain that in matters of nullity, any act performed by an incompetent body is radically flawed and cannot remain within the legal order [18].

We also believe that this opinion is closer to current realities, as we have attempted to outline them.

We align ourselves with this latter view, for the reasons set out below. Although the decision of the High Court, under Article 477(3) of the Code of Criminal Procedure, is binding only on courts and does not produce *erga omnes* effects, this does not mean that absolute nullity should not be examined in ongoing preliminary chamber or trial proceedings. Courts are indeed bound to verify whether the acts performed by DGA officers fall within the strict scope of Article 1(2) of Government Emergency Ordinance no. 120/2005.

From the succession of decisions and legislative acts analyzed earlier, it becomes evident that the sanction of nullity for breaches of competence - both ratione materiae and ratione personae - was firmly established by the Constitutional Court in Decision no. 674/2017. The Court stated that the DGA's competence cannot be extended to investigating acts committed by persons outside the Ministry of Internal Affairs; it may conduct criminal investigation acts only regarding certain offences committed exclusively by MAI personnel (§31).

This interpretation was subsequently reinforced by Decisions no. 302/2017 and no. 88/2019 of the same court, which laid the groundwork for Law no. 201/2023. Under that law, Article 281 of the Code of Criminal Procedure provides that violations of the provisions listed in paragraph (1)(a)–(d) may be invoked at any stage of the proceedings, while violations of paragraph (1)(b^1), (e), and (f) may be invoked either until the conclusion of the preliminary chamber procedure (if the violation occurred during the criminal investigation) or at any stage of the process (if it occurred during the preliminary chamber or trial).

However, Decision no. 21/2020 (HP) of the High Court, which dismissed as inadmissible a referral on this issue, interpreted the law contrary to the Constitutional Court's findings in Decision no. 674/2016. In effect, the High Court disregarded the binding interpretation of the Constitutional Court - an inadmissible outcome. While Decision no. 21/2020 was formally binding on courts, this explains why some panels adhered to it, even against the later law and the Constitutional Court's rulings.

Nevertheless, not all courts adhered to the restrictive view. Some, giving full effect to the Constitutional Court's decisions, held that where the offences under investigation were not corruption offences committed by police officers, the prosecutor's delegation to

DGA officers — whose competence is strictly specialized within the MAI — was unlawful. Consequently, the acts performed were subject to absolute nullity, and the evidence gathered by those officers had to be excluded [19].

We believe that, based on constitutional and statutory imperatives, nothing prevents courts in pending cases from verifying whether acts performed by DGA officers fall within the strict scope of Article 1(2) of OUG no. 120/2005, as interpreted by Decision no. 8/2025 of the High Court. Otherwise, Decision no. 21/2020 (HP) would continue to produce effects despite the High Court's own jurisprudential reversal as affirmed by an RIL panel.

As recalled by the Constitutional Court in Decision no. 802/2017, "accepting the possibility that evidence obtained unlawfully during the criminal investigation and not effectively reviewed in the preliminary chamber procedure may form the basis of a conviction would circumvent the Convention standard previously established; such a legislative solution is not proportionate to the objective stated in the Explanatory Memorandum to the Draft Code of Criminal Procedure — namely, to eliminate excessive duration in trial proceedings and ensure prompt adjudication on the merits." Likewise, the Strasbourg Court held, in its judgment of 11 February 2014 in Cēsnieks v. Latvia, that "the use in criminal proceedings of evidence obtained in breach of one of the fundamental rights guaranteed by the Convention always raises issues concerning the fairness of the proceedings, even if the admission of such evidence was not decisive in securing a conviction. ,,In the same decision (§29, §45), the Constitutional Court further emphasized that the loyalty and legality of evidence gathering may be verified even during the trial, thus applying the general rule that absolute nullity may be invoked throughout the criminal process. The categorical legal prohibition of obtaining evidence through unfair or unlawful means justifies the trial judge's competence to examine such aspects at any stage.

By following this approach, courts will remedy the inequities caused by certain judicial bodies that gave precedence to Decision no. 21/2020 over Constitutional Court rulings - an outcome that cannot be imputed to the defendant, and would not restrict free access to justice, as enshrined in Article 21 of the Constitution.

If the first opinion were accepted, the notion or concept of absolute nullity would be emptied of content, and in this way procedural rules would become mere

recommendations, without coercive force to ensure their application or to remedy the consequences of their non-observance or non-application. In other words, the remedial character of nullity would be circumvented.

It should be noted that an argument in favor of this opinion is provided by the recent jurisprudential orientation regarding the effects of Decision no. 64/2023 – the Panel for the Resolution of Legal Issues in Criminal Matters. We recall that, through this decision, our supreme court ruled as binding for the courts that: ,,In the procedure provided for in Article 148(3) of the Code of Criminal Procedure, as well as in Article 150(5) of the Code of Criminal Procedure, referring the matter to the judge for rights and freedoms for the issuance of the technical surveillance warrant is mandatory if the prosecutor considers it necessary for the investigator to be able to use technical recording devices, even if a technical surveillance warrant of the same nature has been previously issued; these legal provisions establish a special procedure, derogating from the provisions of Article 139 of the Code of Criminal Procedure".

Thus, the preliminary chamber judges, referring to Decision no. 64/2023, definitively found the partial absolute nullity of the ordinances issued by the prosecutor with regard to the provisions by which the undercover collaborator and the investigator with real identity were authorized to use technical devices to obtain photographs or audio and audio-video recordings. We specify that these procedural acts were drawn up in 2017 and 2018, therefore long before the supreme court issued its ruling.

On this subject, the High Court of Cassation and Justice, in the context of an appeal in the interest of the law (even though the referral was dismissed), noted that a finding of absolute nullity affecting a procedural act produces an irradiating effect that extends to acts directly connected to the nullified act [20].

It should be noted that the Constitutional Court has repeatedly ruled on the effects of nullity. Thus, we recall Decision No. 854/2020 [21], by which the Court dismissed, as unfounded, the exception of unconstitutionality raised in relation to Article 367 paragraph (9), Article 425¹ paragraph (4), and Article 475 of the Criminal Procedure Code, holding that nullity produces an extensive effect, since "it extends to subsequent acts performed in accordance with legal provisions, but which are directly connected to the annulled procedural act".

V. CONCLUSIONS

Immediately after the publication of this decision [22], by which the High Court - the panel competent to rule on appeals in the interest of the law - established that the judicial police officers under the General Anticorruption Directorate have jurisdiction to carry out, by delegation and under the conditions provided by law, criminal investigation acts ordered by the competent prosecutor exclusively in cases concerning the offences provided for in Article 1(2) of Government Emergency Ordinance no. 120/2005 [23], a veritable effervescence arose in judicial practice, comparable to that generated by the publication of Decision no. 358/2022 of the Constitutional Court of Romania [24], with consequences difficult to foresee.

The decision on which this study is based constitutes a jurisprudential reversal in the matter, if one refers to Decision no. 21 [25] - rendered by the panel responsible for resolving questions of law in criminal matters - which, when faced with an identical issue, had dismissed it as inadmissible. In its reasoning, that panel stated that the judicial police officers under the General Anticorruption Directorate could carry out criminal investigation acts by delegation from the competent prosecutor in respect of any person, and not solely in relation to personnel of the Ministry of Internal Affairs.

This decision continues the trajectory set by the Constitutional Court of Romania (CCR) since 2017, beginning with Decision no. 674/2016, and is consistent with the constitutional standard established through Decisions no. 302/2017 and no. 26/2019.
The jurisprudential reversal founded upon the Constitutional Court's rulings will most likely generate divergent judicial solutions, given the coexistence of two "schools of thought," and will again necessitate the Constitutional Court's intervention - akin to Decision no. 265/2014 concerning the unconstitutionality of Article 5 of the Criminal Code [26].

Given the diversity of practical situations arising from the application of this decision, judges must exercise prudence in applying the entire legal and jurisprudential framework, ensuring the effectiveness of the fundamental principles of legality and loyalty in the administration of evidence, as expressions of the right to a fair trial.

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THE CRIME OF ROBBERY IN THE PROVISIONS OF THE CURRENT CRIMINAL CODE

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Abstract:
For our rule of law, the defense of social relations regarding patrimony has been a permanent and priority concern, due to the fact that thefts, embezzlements, and thefts of any nature affect the interests of all citizens, are hostile acts against society, and can compromise living relationships, stability, and social order. In all legal systems, the human person with his inalienable attributes stands out clearly as a special object of legal and criminal protection, as an expression of the very reason for being of any legal regulation. A serious crime with a pronounced antisocial character and a high degree of danger, robbery consists of those socially dangerous acts that directly affect the relationships that ensure the existence of private or public patrimony. The crime of robbery is a complex one, because robbery targets two direct basic legal objects: the right to property and the health of the person.
Keywords: *rule of law, patrimony, crime, theft, violence, threat*

Theft may be committed by the use of violence or threat or other means likely to lead to the same result, or may be followed by the use of such means for the purpose of preserving the stolen property, removing traces of the crime or for the perpetrator to ensure his escape. Although both the theft and the violence or threat were used to commit the theft or followed it, there is a close connection between the theft and the violence or threat, which led the legislator to make these materially distinct activities a criminal unit.

This criminal unit in the form of a complex crime is provided for in art. 233 of the Criminal Code under the name of robbery.

In the complex content of robbery, theft constitutes the main activity, and the use of violence or threat, or other means indicated by law, constitutes a secondary activity, from which the main activity is particularized, acquiring a distinct and increased social dangerousness in relation to that of theft. [1]

What the perpetrator mainly aims at is the commission of theft, violence or threat constituting only a means to achieve this goal. Therefore, although it also affects social

relations relating to life, bodily integrity or freedom of the person, robbery was nevertheless included by the legislator in the category of crimes and offenses against property and not in that against the person.

According to art. 233 paragraph 1 of the Criminal Code, robbery, the typical variant, consists of theft committed by using violence or threats or by rendering the victim unconscious or unable to defend himself, as well as theft followed by the use of such means to preserve the stolen property or to remove traces of the crime, or for the perpetrator to ensure his escape.

Robbery in its **simple variant** retains its entire constitutive content from the old regulation. The legislator kept the simple form of the crime, preferring to modify the qualified variant.

The **qualified variant** of robbery was simplified, eliminating some discrepancies, such as the incrimination as a qualified variant of both the act of robbery committed in a public place and of robbery committed in a dwelling; of these two, the qualified robbery in a public place was eliminated.

Also, the qualified robbery committed by two or more persons together was eliminated; during a calamity, the reason for the amendment being that these two circumstances are provided, with a similar content, as legal aggravating circumstances according to art. 77.

Also, new aggravating hypotheses were introduced, incidents in the situation where the act is committed “on a means of transport” or by simulating “official capacities”, given that judicial practice has reported relatively frequent cases in which criminals resort to such procedures.

The variant regarding the means of transport was reformulated – aggravated robbery (art. 234) can take place:

- in a means of transport;
- on a means of transport.

The variant regarding the commission of robbery by an armed person was reformulated, in the new regulation being necessary, for the existence of the qualified variant, for the robbery to be committed by the actual use of the respective weapon.

Robbery can be committed by simulating official qualities – in other words by presenting oneself in a certain capacity, for example, as a police officer, which causes the victim to have a certain attitude that facilitates the perpetrator to commit the crime.

Robbery committed in a home has been replaced by that committed by violating the domicile or by violating the professional premises, granting equal protection, according to the provisions of art. 224 and 225 of the N.C.p., to the domicile of the natural person and the professional premises of the natural or legal person.

The criminalization of the crime of robbery that resulted in injuries is maintained, but in the variant of bodily harm that was assessed by the legislator as an aggravated variant of the crime.

Robbery having as material object the goods (of public utility) referred to in art. 229 paragraph 3 regarding aggravated theft constitutes an aggravating variant of the crime.

The preterintentional consequence consisting in the death of the victim in the case of robbery and piracy was provided for in a distinct and common text (art. 236, and the attempted robbery offense, in any of its variants, is punished according to art. 237).

The **special legal object** is complex, being constituted by a main legal object, namely the social relations relating to the patrimony and whose development is conditioned by maintaining the physical position of the property against acts of theft (as in the case of the theft offense) and by an adjacent legal object, namely the social relations relating to the defense of persons. [2]

It does not matter whether the goods against which the criminal act is directed are in the possession of a natural or legal person. It also does not matter whether they are in public or private property, the property rights over the goods comprising the prerogatives of property: disposition, possession and use.

As for the adjacent (secondary) legal object, it will be determined by the type of adjacent action: violence, threat, and the social value protected and harmed by this action (freedom, bodily integrity, health, honor, life of the victim).

In the case of the crime of robbery, the legislator considers the social values of maximum importance, such as the life, bodily integrity and health of the person, as secondary (adjacent), compared to the social values relating to the patrimony that form the main object of the act. This situation (reversal of the hierarchy of protected social

values) is explained by the fact that the perpetrator primarily seeks to appropriate movable property, violence or threat being only means to achieve the purpose proposed and pursued by the offender.

Some authors have objected to this legislative solution which reserves a secondary place for social values related to the human person and which, in any situation, should be considered more important than those relating to patrimony. [3]

The means crime is by its nature more dangerous than the purpose crime and, precisely for this reason, robbery is currently considered, from a criminological point of view, a crime of violence, because, although the offender seeks to deprive the victim of an asset, he commits violence with intention, accepting at least the more serious consequences, which are found in the characteristic consequence of the simple modality of robbery. [4]

The thesis presented above is debatable. All modern legislations criminalize as complex crimes the violent theft of goods within the framework of crimes against property (even the most recent Criminal Code, the French one, criminalizes, as an aggravating factor to theft, the violent theft of goods). The adjacent nature of social relations concerning the person does not mean an underestimation of them, but reflects an objective reality, namely that sometimes the perpetrator, in order to steal, uses violence as a way to take possession of the goods.

In establishing the limits of punishment, the legislator, however, had in mind that robbery should be sanctioned in such a way as to express the real gravity of the acts of violence. Even in the example given from the French Criminal Code, robbery followed by murder is punished in the same way as intentional murder, although in robbery the death of the victim is a non-intentional consequence. This means that in robbery, the killing of the victim is more severely punished than if it had not been committed as a means to commit the theft. [5]

The material object of the crime. Robbery being a complex crime, its material object can be viewed both in relation to the main action, of theft, and in relation to the adjacent action of violence, threats or other coercion.

a) in relation to the main action, the material object of the robbery crime is the same as in the theft crime, that is, a movable asset, a thing having patrimonial value, susceptible to being stolen.

b) the material object of the adjacent action can be, depending on the nature of this action, either a thing or the body of a person (violence can consist of: tearing clothes, tearing glasses; the threat can consist of pouring gasoline on the goods in a truck to set them on fire; in coercing the victim by tying them up or drugging them).

The active subject of the crime of robbery can be any person who commits the criminal act, regardless of its form (attempted robbery, completed robbery) or who participates, regardless of the capacity in which he does so, in its commission (author, co-author, instigator or accomplice), the law not requiring any special capacity to be fulfilled.

In principle, the person who commits robbery has no right to the property he steals from the sphere of possession of another person.

However, the crime of robbery may exist even when the perpetrator has, in whole or in part, a right of ownership over the stolen property. As a result, the active subject of the robbery could be the owner himself who commits the action of taking, by using the means provided for in art.233 paragraph 1 of the Criminal Code, over a personal movable property that at that moment is in the legitimate possession of another person.

Criminal participation in the robbery provided for in art.233 paragraph 1 of the Criminal Code is possible, but only in the form of instigation and prior material or moral complicity. This is because the crime is more serious, according to par. 21 letter a). when it is committed by two or more people together.

There is also co-authorship when some of the participants directly contributed only to the commission of acts of violence or threat, and others only to the theft of goods, because both the use of violence or threat, and the theft of goods being included in the content of robbery, by committing any of these activities, the objective side of the crime is partially accomplished. The fact that the three defendants participate differently in the commission of the objective side of the robbery - two committing only the violence, and the other committing both acts of violence and acts of appropriation of goods, is irrelevant, since they carried out in a consistent manner the material activities through which the

crime was committed, based on a plan conceived jointly; in such conditions, all three defendants are co-authors of the crime of robbery. [6] [7]

There is complicity in the situation where the accomplice provides certain data regarding the time and place of the robbery and promises the perpetrator that he will conceal the assets resulting from the commission of the crime as long as the accomplice no longer carries out any auxiliary activity concurrently with the execution of the crime.

The aggravating circumstance provided for in art.75 paragraph 1 C.Pen (the commission of the crime by a major offender, if it was committed together with a minor) operates regardless of the nature and extent of each person's participation in the commission of the crime.

Instigation to commit robbery exists when, for example, the defendant has determined a person to deprive the injured party of a sum of money by giving that person a tear gas spray to defeat any possible opposition from the injured party.

The **passive subject** of the crime can be any person against whom the robbery was committed, that is, the person whose goods were stolen by committing the robbery or the person or persons against whom only the adjacent action (violence, threat) was committed.

For example, when the subject of violence is the one who, without being the possessor or holder of the goods, intervenes to stop the perpetrator from taking them or tries to detain him. In such cases, there will be two passive subjects of this crime: the one whose goods were stolen and the one who was the victim of the acts of violence or threat.

If in these situations the victim of the acts of violence or threat can only be a natural person, the victim of the act of theft could also be a private or public legal person. [8]

Robbery is a complex crime, its content being made up of two actions that constitute acts provided for separately by the criminal law. The two absorbed actions have, in relation to the absorbing action (of robbery) a different legal value: theft - main action and violence - adjacent action.

Robbery usually has a single passive subject in the natural person whose movable property in his possession or custody was stolen under the conditions of art. 228 or 209, and on whom means of coercion were exercised.

Robbery can have several passive subjects, either in relation to the theft action or in relation to the action of exercising violence. Regarding the plurality of passive subjects, we distinguish the following hypotheses: [9] [10]

a) there is a passive subject of the main action, who is the natural or legal person who owns or possesses the movable property that constitutes the material object of the theft, and a passive subject who is the person to whom the stolen property belongs, or another person against whom the violence is exercised.

b) there are several passive subjects of the theft act and a single passive subject of the violence exercised as a means of committing the theft. The theft is committed to the detriment of different owners of the things, the theft being committed uninterruptedly and on the same occasion. It is considered that the plurality of persons injured by the theft does not influence the unitary nature of the theft act, or a concurrence of offenses is retained, since several patrimonies were damaged by the commission of the act.

c) there is a single passive subject of the theft action and a plurality of passive subjects of the secondary action. Some courts have held that there is only one robbery offense because a single patrimony is damaged, even if the violence was exercised against several people.

In the specialized literature, some authors have argued that in the case of robbery, the unity or plurality of crimes is established by the number of main actions, the adjacent actions being irrelevant. Therefore, regardless of the number of people on whom the violence is exercised, if there is only one main theft action, the robbery thus committed will constitute a single offense, and if several independent theft actions took place, a plurality of concurrent robbery offenses will emerge.

Whenever we identify several passive subjects of the secondary action in the case of the robbery offense committed within certain contexts, we impose the solution of the plurality of robbery, given the plurality of passive subjects of the violence or other forms of coercion.

As an expression of the complex nature of the crime, the material element of this crime is formed by two combined actions, namely: the theft action, being the main one, and the coercion action, being an adjacent activity.

The main action therefore consists of the theft action. In robbery, as in theft, the movable property is taken, removed from the patrimonial possession of the victim without his consent. A particularity that appears in the case of robbery is that, due to the use of violence and threats by the perpetrator, the taking can also take the form of the forced but apparently consented remittal of the property carried out by its possessor or holder himself.

Violence, threats, or rendering one unconscious or unable to defend oneself, constitute the secondary activity of the material element of the crime of robbery, only if they served as a means of committing the theft or as a means of keeping the stolen property or to ensure the escape of the perpetrator. It is precisely this connection that exists in real life that made the legislator unite the activities incriminated distinctly in the Criminal Code, in the content of one and the same complex crime of robbery. Therefore, the existence of robbery cannot be held, for example, if the threat occurred long after the perpetrator appropriated the property. It is noteworthy that, in the content of the incrimination of the act of robbery, the legislator exhaustively lists the ways in which robbery is carried out. When referring to "threat", the law understands the commission of the act incriminated in art. 206 C.pen., and by "violence" it means any form of physical or moral pressure on the person, even if that violence would not fall under art. 193 or 194 C.pen. [11] [12] Undoubtedly, the action of robbery will be carried out when the violence used was committed under the conditions set forth in art. 193 – 194 and 206 of the Criminal Code.

The crime of robbery is prosecuted and tried according to the rules of ordinary criminal procedure. The criminal action is initiated ex officio. Even when the complex content of the robbery includes a theft that is prosecuted upon the prior complaint of the injured person, the criminal prosecution is carried out ex officio, because robbery is a complex, unique crime with a high degree of danger.

CONCLUSIONS

Robbery is presented as a complex crime in which theft constitutes the main activity, and violence, threats or other means of coercion represent adjacent activities used to carry out the theft or to keep the stolen property or ensure escape. The legislator

treats these actions as a unitary whole due to the close connection between them, while maintaining a severe sanctioning regime that reflects the seriousness of the violence involved. Although it mainly protects property, the crime also has a secondary legal object – the integrity and freedom of the person – which justifies the inclusion of aggravated forms when the act is committed with weapons, by violating a home, in means of transport or by simulating official qualities. The analysis emphasizes both the possibility of plurality of participants and passive subjects, as well as the way in which the unitary or plural character of the crime is established depending on the main action of theft. At the same time, the conditions of the material element, the particularities of the violence used and the principles regarding criminal participation are highlighted. Overall, the text shows that robbery is regulated as a crime with a broad content, intended to cover various methods of theft by coercion, in accordance with practical realities and the need for firm protection of both property and the person.

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THE ACCEPTANCE OF ELECTORAL BRIBERY. BRIEF CONSIDERATIONS REGARDING THE OPPORTUNITY OF RECRIMINALIZATION

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Abstract
Starting from the multiple negative effects that electoral corruption has on the democratic electoral process and observing the existing legislative gap in Romanian law, in which only active electoral corruption is criminalized, the present article aims to identify arguments for the recriminalization of passive electoral corruption. This paper provides an overview of the historical evolution of the criminalization of the acceptance of electoral bribery in Romanian law and also includes a brief examination of the legislation of other European Union Member States in which the legislator has opted to criminalize this act. In conclusion, a proposal is made for the recriminalization of the acceptance of electoral bribery, which would result in strengthening the integrity of the electoral system.
Keywords: *elections, corruption of voters, acceptance of electoral bribery, offering of electoral bribery, offence, Criminal Code*

I. INTRODUCTION

The electoral process represents an essential component of the democratic system, the principal mechanism through which citizens express their political will. A properly conducted and unaltered electoral process guarantees the proper functioning of democracy, and its outcome reflects the true will of the electorate.

With a history as old as that of elections themselves, electoral corruption constitutes one of the most serious distortions of electoral competition. Whether active or passive, electoral corruption distorts the electoral will, ultimately vitiating the voting outcome and affecting the electoral process itself. This practice undermines public confidence, on the one hand, in the electoral process and in democratic mechanisms, and, on the other hand, in fundamental institutions, generating an effect of systemic delegitimization [1].

In this context, a firm response from the state to such practices is required, so as to ensure the proper conduct of elections, one component of this response being a coherent criminalization of acts directed against the proper functioning of the electoral process.

Domestic legislation provides, in Article 386 of the Criminal Code, the offence of corruption of voters, an offence that represents a specific form of the classic offence of bribery, provided in Article 290 of the Criminal Code, the difference being that the act of bribery is directed toward the voter, not toward a public official. However, with the adoption of the current Criminal Code, the legislator chose to decriminalize the act of accepting electoral bribery, probably for reasons related, as mentioned, to the degree of social danger posed by the act. We consider that this decision of the legislator was not a correct one, as it leaves unregulated a practice that may become widespread in the absence of legislative provisions.

II. THE EVOLUTION OF REGULATION IN ROMANIA

In contrast to the current situation, in the past, the offence of acceptance of electoral bribery was provided for in domestic legislation in various forms and in numerous normative acts.

Thus, the first provision of the offence appeared in the Electoral Law of 1864 [2], with the following legal content: “Anyone who is proven to have bought or *sold a vote* at any price shall be punished by the prohibition of the right to vote and to be elected, as well as by the prohibition of holding a public office for a period of at least 5 years and at most 14 years. The seller and the buyer of the vote shall also be punished by the payment of double the value of the goods received or promised.

A short time after its adoption, the Electoral Law of 1864 was repealed by the Electoral Law of 1866 [3], the new normative act regulating the field no longer providing any article concerning the act of corruption of voters, whether active or passive.

The offence of acceptance of electoral bribery reappears in Romanian legislation with the entry into force of the Electoral Law of 1884, promulgated by King Carol I through Decree no. 1788 of 8 June 1884 [4]. Thus, the offence was provided in Article 127, with the following legal content: “Anyone who is proven to have bought votes or abstentions

from voting, as well as those who have sold their vote, shall be punished with imprisonment from 3 months to 1 year and with a fine from 500 to 5,000 lei, and with unlimited interdiction." In addition to the penalty, the perpetrator could also lose the right to be elected and to vote for a period of up to 5 years.

Subsequently, the criminalization of the act was maintained in the Electoral Law of 9 May 1939 [5], the offence being provided in Article 55, with content identical to that of Article 127 of the Electoral Law of 1884, including the applicable penalties, the only difference in regulation being the absence of the sanction of disqualification from being elected, the new electoral law retaining only the disqualification from voting.

With the establishment of the communist regime in Romania, electoral legislation also became a tool for manipulating and controlling the population, electoral processes turning, in the absence of genuine multiparty competition, into mere formalities aimed at consolidating the regime and its leader [6]. Under these conditions, in the absence of fair electoral competition, the criminalization of the act of acceptance of electoral bribery in the electoral legislation [7] of the time no longer had any rationale.

Immediately after the 1989 Revolution, the adoption of a new legislative framework to regulate the electoral system became necessary.

Thus, the first normative act adopted was Decree-Law no. 92/1990 on the election of the Parliament and the President of Romania [8], which, in Article 89, provided: "The promise, offering, or giving of money or other benefits for the purpose of determining the voter to vote or not to vote for a certain list of candidates or independent candidate, as well as *the receipt thereof by voters for the same purpose*, or the exercise of the right to vote in violation of the provisions of Article 5, shall be punished by imprisonment from 6 months to 5 years."

After the stabilization of the new democratic structures, the legislator opted for the adoption of several normative acts, each regulating a specific type of election. Thus, Law no. 70/1991 on local elections [9], Law no. 68/1992 on the election of the Chamber of Deputies and the Senate [10], and Law no. 69/1992 on the election of the President of Romania [11] were adopted, all three normative acts criminalizing the receipt of money or other benefits by voters for the purpose of voting or not voting for a certain candidate or list of candidates, an act punishable by imprisonment from 6 months to 5 years.

Subsequently, maintaining the harmful practice for the unity of the national electoral system, namely, that of having a different normative act for each type of election [12], the legislator continued to adopt normative acts regulating each individual election, acts which provided for offences pertaining to the electoral regime.

Thus, with regard to parliamentary elections, Law no. 373/2004 on the election of the Chamber of Deputies and the Senate [13] was adopted, which in Article 102 provided: "The promise, offering, or giving of money, goods, or other benefits for the purpose of determining the voter to vote or not to vote for a certain list of candidates or a certain candidate, as well as *the receipt thereof by the voter for the same purpose*, constitute offences and shall be punished by imprisonment from 6 months to 5 years." The normative act was repealed and replaced by Law no. 35/2008 on the election of the Chamber of Deputies and the Senate [14], which provided for the offence of acceptance of electoral bribery in Article 55: "The promise, offering, or giving of money, goods, or other benefits for the purpose of determining the voter to vote or not to vote for a certain electoral competitor or a certain candidate, as well as *the receipt thereof by the voter for the same purpose*, constitute offences and shall be punished by imprisonment from 6 months to 5 years" [para. (1)]. According to paragraph (2), the attempt was punishable, and paragraph (3) provided that goods of symbolic value bearing the insignia of the respective party did not fall within the category of goods referred to in paragraph (1). By Emergency Ordinance no. 67/2012, paragraph (3) was amended and two new paragraphs were introduced, establishing which goods fall within the category of goods referred to in paragraph (1). Thus, according to paragraph (3), the category of goods referred to in paragraph (1) also includes foodstuffs, alcoholic or non-alcoholic beverages, tobacco products, or non-food goods. Paragraph (4) provides that the following do not fall within the category of goods referred to in paragraph (1): electoral propaganda materials and objects, such as posters, leaflets, postcards, calendars, notebooks, illustrated cards, pens, lighters, matches, badges, name tags, DVDs, pennants, flags, mugs, bags, T-shirts, caps, scarves, shawls, vests, beanies, gloves, raincoats, jackets, bearing the electoral insignia of political formations or candidates participating in the elections. Paragraph (5) further exempts from the provisions of paragraph (1) other electoral propaganda objects, bearing the electoral insignia of political formations or candidates participating in the

elections, whose value does not exceed 10 lei excluding VAT for each item, provided that such goods may not be foodstuffs, alcoholic or non-alcoholic beverages, or tobacco products.

In 2004, the Law on the Election of the President of Romania, Law no. 370/2004 [15], was also adopted, which, with regard to liability, in an atypical manner, referred to the normative act regulating parliamentary elections: “The contravention sanctions and penalties provided by law for violations of the legal provisions concerning the election of the Chamber of Deputies and the Senate shall also apply with regard to violations of the corresponding legal provisions concerning the election of the President of Romania” (Article 27). In 2009, the normative act underwent substantial amendments through Emergency Ordinance no. 95/2009, abandoning the reference to the provisions of Law no. 67/2004 and introducing a new chapter regulating contraventional and criminal liability. However, this chapter did not include any provision concerning criminal liability for the acceptance of electoral bribery, so that from that moment onward the passive corruption of voters on the occasion of presidential elections was no longer criminalized.

Law no. 67/2004 on the election of local public administration authorities [16] criminalized, in Article 105 (Article 109 after the republication of the normative act in 2007), the offence of acceptance of electoral bribery: “The promise, offering, or giving of money, goods, or other benefits during the electoral campaign, as well as for the purpose of determining the voter to vote or not to vote for a certain list of candidates or a certain candidate for the office of mayor, councillor, or president of the county council, as well as *the receipt thereof by voters*, constitute offences and shall be punished by imprisonment from 6 months to 5 years.” The attempt was punishable. It is noteworthy that the text did not criminalize the acceptance of the promise or the offer, but only the actual receipt of the money, goods, or benefits. Moreover, for the offence to exist, the act of receipt had to occur during the electoral campaign.

With regard to elections to the European Parliament, Law no. 33/2007 on the organization and conduct of elections to the European Parliament [17], in its initial form, did not criminalize the offence of acceptance of electoral bribery (in fact, the normative act did not provide for any criminal offences at the time of its adoption). Subsequently, considering the imperative of ensuring a fair and transparent electoral process [18],

Emergency Ordinance no. 11/2009 introduced Article 22^3, which criminalized the acceptance of electoral bribery, with the following legal content: “The promise, offering, or giving of money, goods, or other benefits for the purpose of determining the voter to vote or not to vote for a certain list of candidates or an independent candidate, as well as *the receipt thereof by the voter for the same purpose*, constitute offences and shall be punished by imprisonment from 6 months to 5 years.” The attempt was punishable, and goods of symbolic value bearing the insignia of a party did not fall within the category of goods whose receipt was prohibited. It is noteworthy that the text required, as a condition, that the receipt of money, goods, or benefits be made for the purpose of voting or not voting for a list of candidates or for a particular candidate. With the republication of the normative act on 31 August 2012, the act was provided in Article 58, retaining the same legal content.

Finally, in Law no. 3/2000 on the organization and conduct of the referendum [19], one notes the absence of an offence sanctioning the acceptance of electoral bribery.

As can be observed, the regulation of the offence in the legislation prior to the current Criminal Code lacked consistency, the act of acceptance of electoral bribery committed on the occasion of local, parliamentary, or European Parliament elections being punishable, while the same act committed on the occasion of presidential elections or during a referendum was not criminalized. At the same time, significant differences may be noted between the legal provisions incriminating the act. Thus, in the case of local elections, the act had to be committed during the electoral campaign, whereas in the case of elections to the European Parliament and in the case of elections to the Parliament of Romania, no such condition existed. There are also substantial differences regarding the manner in which the goods that may constitute the object of electoral bribery and those excepted from this category were determined, ranging from the absence of such provisions in some normative acts to an excessive level of detail in others.

With the entry into force of the new Criminal Code, the legislator opted to incorporate all electoral offences into the Code, thereby eliminating the previously existing parallel system, with all its shortcomings. However, in a surprising manner, within Title IX of the Special Part of the Criminal Code, dedicated to electoral offences, the offence of acceptance of electoral bribery is no longer included, the legislator choosing to

decriminalize this act. Thus, at present, Article 386 paragraph (1) of the Criminal Code provides for the offence of corruption of voters with the following legal content: “The offering or giving of money, goods, or other benefits for the purpose of determining the voter to vote or not to vote for a certain list of candidates or a certain candidate shall be punished by imprisonment from 6 months to 3 years and the prohibition of certain rights.” According to paragraph (2), “goods of symbolic value, bearing the insignia of a political formation, do not fall within the category of goods provided for in paragraph (1).” Pursuant to Article 392 of the Criminal Code, the provisions of Article 386 apply accordingly to acts committed on the occasion of a referendum. As can be observed, the legal text of Article 386 of the Criminal Code covers only the hypothesis of active electoral corruption, not that of passive electoral corruption.

III. ASPECTS OF COMPARATIVE LAW

At the international level, the choice of national legislators has been divided: some have considered that the act of acceptance of electoral bribery must be criminally sanctioned, while others have chosen not to incriminate this act.

In the legal systems that criminalize the acceptance of electoral bribery, according to the criterion of the regulatory framework, two systems have been identified: one in which electoral offences are provided for in the criminal code, a feature that ensures the stability of the incriminating provision, protecting it from the frequent amendments of electoral legislation, and another in which electoral offences are included in the electoral code, so that they may be revised whenever the general framework of elections is modified.[20]

Thus, in Germany, the offence of acceptance of electoral bribery is provided in the Criminal Code [21], in Article 108b paragraph (2), with the following legal content: “*Anyone who demands, allows himself to be promised, or receives gifts or other benefits in exchange for not participating in an election or for voting in a particular manner shall be punished* with imprisonment of up to 5 years or with a fine.” Article 108c provides that, in addition to a custodial sentence of at least six months, the court may order the loss of the right to be elected in public elections and the right to vote in public matters.

In Austria, the Criminal Code [22] criminalizes the act of acceptance of electoral bribery in Article 265 paragraph (2): "The same penalty (imprisonment of up to one year or a fine of up to 720 daily units - n.n.) *shall be imposed on a person entitled to vote who demands, receives, or accepts the promise of money in order to vote in a certain way or not to vote, or not to vote in a certain way*."

The Polish Criminal Code sanctions the offence of acceptance of electoral bribery in Article 250a paragraph (1): "*A person who, having the right to vote, receives a pecuniary benefit or a personal advantage, or demands such benefits in order to vote in a certain way, shall be subject to the penalty of deprivation of liberty from 3 months to 5 years*." According to paragraph (3), in cases of lesser gravity, the person who committed the offence shall be subject to a fine, restriction of liberty, or deprivation of liberty of up to 2 years, and according to paragraph (4), where the perpetrator informs the prosecuting authority of the offence and of the circumstances of its commission before the authority learns of it, the court may apply an extraordinary mitigation of the penalty or may even waive its imposition. [23]

In Denmark, according to Article 117 item 5 of the Criminal Code [24], *a person who receives, demands, or accepts the promise of material gains in order to vote in a certain way or to abstain from voting shall be punished with a fine or imprisonment of up to 2 years*.

The French Electoral Code [25] provides, in Article L106, the offence of acceptance of electoral bribery, alongside that of offering electoral bribery: "Any person who, by gifts or donations in money or in kind, by promises of donations, favours, public or private employment, or other special advantages, made for the purpose of influencing the vote of one or more voters, has obtained or has attempted to obtain their vote, either directly or through a third party, or any person who, by the same means, has induced or attempted to induce one or more voters to abstain from voting, shall be punished with 2 years' imprisonment and a fine of 15,000 euros. *Those who have accepted or solicited the same donations, gifts, or promises shall be punished with the same sanctions*."

In Belgium, the offence of acceptance of electoral bribery is provided for in the Electoral Code [26]. Thus, Article 181 incriminates both the giving and the acceptance of electoral bribery: "Anyone who gives, offers, or promises, directly or indirectly, even in the

form of a wager, money, goods, or any other advantage or guarantee in exchange for a vote, for abstention from voting, or for a voting proxy referred to in Article 147bis, or who offers the advantages described depending on the outcome of the elections, shall be punished with imprisonment from 8 days to one month and with a fine between 50 and 500 euros, or with only one of these penalties. *Anyone who accepts the offers or promises shall be subject to the same penalties*." At the same time, Article 182 provides that: "*Anyone who* makes or *accepts the offer or promise of public or private employment shall be subject to the same penalties provided in the preceding article*."

IV. CONCLUSIONS AND *THE LEGE FERENDA* PROPOSAL

As can be observed from the material presented in the second section of this paper, from a historical perspective, the offence of acceptance of electoral bribery has evolved and has continuously accompanied the democratic electoral processes in our country. The presence of the offence in domestic legislation reflected the legislator's concern for protecting the freedom of the vote and ensuring the correct outcome of the electoral process. The only extended period during which the act was not criminalized was the communist period; however, this absence was justified by the characteristics of the political system of the time, without political pluralism, without genuine elections or alternative options, with a purely formal vote, so that regulating an offence of electoral corruption, whether active or passive, was pointless. The situation is entirely different today, when there must be a guarantee that the electoral process takes place under democratic and fair conditions that provide legitimacy to the outcome of the vote. Under these circumstances, we allow ourselves to assert that the choice of the Romanian legislator to no longer criminalize the act of acceptance of electoral bribery, alongside that of offering electoral bribery, is an erroneous one.

In the doctrine [27], the view has been expressed that the decision to decriminalize the act of the person who receives electoral bribery is a correct one, given that the persons targeted by such bribery attempts are individuals in a precarious material situation, a circumstance that renders the degree of culpability of the act relatively low. Certainly, it is generally accepted that the recipient of electoral bribery is, in most cases, a materially disadvantaged citizen, with a precarious social situation and a lower level of

education and information[28], however, this aspect, considered in isolation, does not justify the decriminalization of the act of acceptance of electoral bribery, as long as the consequences of the offence fall upon the state, as the holder of social values, which ensures the proper conduct of the electoral process. [29]

The giving and acceptance of bribes are two facets of a complex act that necessarily requires the involvement of two persons, the bribe-giver and the bribe-taker.[30] The act of accepting or receiving the bribe offered by the bribe-giver serves to complete and perfect the latter's illicit conduct and consummates the picture of elections with a tainted outcome. Bribery cannot exist without a bribe-taker, whose contribution to producing the harmful result affecting the protected social relations is substantial. Under these circumstances, we consider that the recriminalization of the act of acceptance of electoral bribery is necessary, so that the bribe-taker may also be held liable alongside the bribe-giver. By criminalizing the act of acceptance of electoral bribery, a complex process of increasing the accountability of the citizen and of society as a whole will be achieved with respect to the extremely harmful phenomenon of electoral corruption.[31]

In our view, in cases of electoral bribery, the act of the bribe-taker is just as serious as that of the bribe-giver, and, in the event of a possible recriminalization, the penalty ranges provided for both acts - offering and accepting electoral bribery - should be similar, all the more so since, with the inclusion of the offence of corruption of voters in the Criminal Code, the penalty limits for offering electoral bribery were reduced. There is also the view [32], which we do not dispute, according to which the gravity should be focused on the person upon whom the creation of the corrupt state depends, without whose contribution the phenomenon would not exist. Thus, contrary to the situation of classic bribery, where this person is the public official who receives the bribe, in the case of electoral corruption the person upon whom the corrupting phenomenon fundamentally depends is the bribe-giver, who, moreover, has an interest in obtaining a certain result in the elections or the referendum. Accordingly, in the author's view, in cases of electoral corruption, the sanctioning regime applicable to the corrupted voter (the bribe-taker) should be considerably more lenient than that applicable to the bribe-giver. As stated above, we do not consider this view to be incorrect either, the determination of the sanctioning regime remaining within the discretion of the legislator.

In conclusion, sharing the view of other authors [33] that the decriminalization of the act of acceptance of electoral bribery was an unfortunate decision, we consider that its recriminalization is necessary, the legal provision to have the following content: "*The soliciting, accepting, or receiving of money, goods, or other benefits for the purpose of voting or not voting for a certain list of candidates or a certain candidate shall be punished by imprisonment from 6 months to 3 years and by the prohibition of the exercise of certain rights*."[34]

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COLLABORATION BETWEEN THE FORENSIC INVESTIGATOR AND THE FORENSIC PATHOLOGIST IN THE ELUCIDATION OF VIOLENT DEATHS

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Abstract:
The investigation of violent deaths represents one of the most complex areas of forensic science, requiring close collaboration between the forensic investigator and the forensic pathologist. Each discipline contributes complementary expertise, the criminalist focuses on the reconstruction of the crime scene, the collection and interpretation of traces, and the identification of the mechanism of action, while the forensic pathologist provides medical insight into the cause and manner of death. This interdisciplinary cooperation allows for the accurate correlation between external findings, such as bloodstain patterns, weapon traces, or position of the body and internal autopsy results, including wound trajectories, tissue damage, and physiological mechanisms of death. The study highlights the methodological importance of synchronizing investigative and medico-legal activities from the earliest stages of the inquiry, emphasizing how joint analysis of biological, physical, and chemical traces can reveal the sequence of events leading to death. By integrating field investigation with laboratory examination, the collaboration between the forensic investigator and the forensic pathologist ensures a complete and scientifically supported interpretation of violent deaths, reducing the risk of judicial error and strengthening the evidentiary value of conclusions.
Keywords: *forensic science, interdisciplinary collaboration, forensic pathology, violent death.*

INTRODUCTION

The investigation of violent deaths occupies a central place in the field of forensic science, representing the point where criminalistics and forensic medicine converge in pursuit of the same objective, the reconstruction of the circumstances that led to the loss of life. Each case of violent death carries with it a complex combination of biological, physical, and circumstantial evidence that must be examined not in isolation, but through interdisciplinary collaboration between the forensic investigator and the forensic pathologist. The success of such investigations depends on the accuracy with which traces are identified, documented, and interpreted, as well as on the degree of coordination between the medical and forensic components of the inquiry.

The forensic investigator (criminalist) plays a fundamental role at the scene of the event, where the first and most crucial observations are made. The proper securing of the crime scene, the documentation of the body's position, and the identification of traces such as blood patterns, weapons, or objects in contact with the victim form the empirical foundation upon which subsequent analyses are built. Every detail, from the type and direction of blood spatter to the distribution of physical evidence, can provide insight into the mechanism of aggression and the actions of both the victim and the perpetrator. However, the full interpretation of these traces cannot be achieved without the medical expertise provided by the forensic pathologist.

The forensic pathologist contributes the medical-legal dimension, analyzing the injuries found on the body to determine the cause, mechanism, and manner of death. Through autopsy, the pathologist examines both external and internal lesions, correlating them with the evidence recovered from the scene. The morphology of wounds, the trajectory of projectiles, the presence of defensive injuries, and the physiological responses observed in the body all contribute to establishing whether the death resulted from homicide, suicide, or accident. This medical analysis gains full probative value only when it is integrated with the findings from the forensic investigation, forming a coherent narrative of the event.

The need for close cooperation between the two disciplines arises from the complementary nature of their perspectives. While the criminalist operates primarily in the field, focusing on the spatial and physical dynamics of the act, the pathologist provides temporal and biological interpretation, offering insight into the sequence of injuries, the survival interval, and the physiological processes that preceded death. When combined, these perspectives allow for a multidimensional reconstruction of the incident that goes beyond the limitations of any single discipline.

Modern forensic methodology emphasizes that the body of the victim should not be viewed merely as an object of medical examination, but as a dynamic element of the crime scene, a biological witness that preserves traces capable of revealing both the cause and the context of death. Thus, the collaboration between the forensic investigator and the forensic pathologist becomes not just desirable but essential. It ensures that the

investigation of violent deaths adheres to the highest standards of scientific accuracy, transforming the fragmented evidence into a coherent and legally defensible conclusion.

In this context, the present study explores the key aspects of interdisciplinary cooperation in the investigation of violent deaths. It highlights the methodological framework required for efficient collaboration, the types of evidence that demand joint analysis, and the stages at which coordination between the two experts becomes critical. By emphasizing the unity between criminalistics and forensic pathology, the study aims to underline that only through integrated scientific effort can the truth about violent deaths be fully and accurately revealed.

THEORETICAL AND METHODOLOGICAL FOUNDATIONS OF INTERDISCIPLINARY COLLABORATION

The investigation of violent deaths is based on the principle that truth can only be achieved through the integration of diverse scientific perspectives. The forensic investigator and the forensic pathologist, though guided by distinct disciplines, work toward the same objective, to determine how, when, and why death occurred. Their collaboration begins at the scene and continues throughout the medico-legal process, from evidence collection to expert interpretation and judicial reporting. Understanding the theoretical and methodological foundations of this collaboration is essential for ensuring that each stage of the investigation contributes to a coherent and scientifically supported conclusion.

From a theoretical standpoint, the relationship between criminalistics and forensic medicine rests on the complementary nature of their approaches. Criminalistics focuses on identifying, securing, and interpreting physical traces that can reconstruct the external sequence of events, position of the body, distribution of objects, weapon trajectories, and trace patterns [1]. Forensic medicine, in contrast, deals with the internal reality of the body, meaning the mechanisms of injury, physiological responses and biological effects of violence. When these two perspectives intersect, the investigation gains a complete dimension, spatial, temporal, and causal, allowing for a comprehensive reconstruction of the act of violence.

The methodology of collaboration begins at the crime scene. The presence of both specialists, criminalist and forensic pathologist, during the preliminary examination of the body ensures that critical evidence is neither overlooked nor misinterpreted. The forensic pathologist assists in determining whether the position of the body corresponds with the visible injuries and with the presumed mechanism of death. At the same time, the criminalist evaluates the physical environment, blood patterns, footprints, weapon placement, and other contextual elements, seeking correlations between these traces and the medical observations. This stage requires meticulous communication between the two professionals, as decisions made during the initial examination can significantly influence subsequent findings.

The next stage of collaboration occurs during the autopsy. The forensic pathologist conducts a detailed internal and external examination, documenting all injuries, their distribution, and their depth. The criminalist contributes by providing contextual information from the scene, such as the type of weapon found, the direction of fire or blows, and the environmental conditions. This exchange of information allows the pathologist to interpret injuries in light of the physical realities of the crime scene. For example, the direction of a gunshot wound can be correlated with the estimated trajectory reconstructed by the criminalist; similarly, defensive wounds on the victim's hands may confirm evidence of a struggle inferred from disturbed objects or disordered surroundings.

An essential methodological principle of such collaboration is correlation of evidence. Biological traces (blood, tissue, hair, or genetic material) found on weapons or clothing are analyzed by the criminalist and interpreted by the pathologist in terms of injury patterns. Chemical and toxicological tests can reveal the presence of alcohol, drugs, or poisons that may have influenced the behavior of the victim or perpetrator, while physical examination clarifies whether these substances contributed directly to the cause of death. By integrating biological, chemical, and physical data, the two experts can build a consistent evidentiary framework that connects the victim's physiological state with the external mechanism of violence.

Theoretical models of interdisciplinary collaboration also emphasize the role of chronology. The forensic pathologist determines the time of death through physiological indicators such as rigor mortis, livor mortis, and body temperature, while the criminalist

situates this moment within the timeline of events reconstructed from witness statements, electronic data, or environmental traces. The convergence of these temporal analyses strengthens the reliability of the overall investigation, reducing uncertainty in judicial interpretation.

At an institutional level, effective collaboration requires standardized procedures and shared documentation protocols. Case conferences, joint field examinations, and unified reporting formats ensure consistency between medical and criminalistic conclusions. The inclusion of both experts in the drafting of the forensic report allows for a multidisciplinary synthesis that reflects the true complexity of violent deaths. Training programs that promote interdisciplinary education further enhance this cooperation, providing each specialist with a fundamental understanding of the other's methods and terminology.

Ultimately, the theoretical and methodological coherence between the forensic investigator and the forensic pathologist is what transforms fragmented information into judicial truth. Their collaboration bridges the gap between the external reconstruction of the event and the internal mechanisms of the body, creating a unified and scientifically grounded account of how death occurred. This partnership not only improves investigative accuracy but also reinforces the credibility of forensic science within the justice system, ensuring that conclusions are both empirically sound and legally defensible.

PRACTICAL ASPECTS OF COLLABORATION IN THE INVESTIGATION OF VIOLENT DEATHS

The practical collaboration between the forensic investigator and the forensic pathologist represents one of the most important elements in the accurate elucidation of violent deaths. It is a dynamic and multidisciplinary process that begins at the moment the body is discovered and continues through every subsequent phase, crime scene examination, autopsy, laboratory analysis, interpretation of results, report drafting, and expert testimony in court. This collaboration is not a simple procedural formality, but the cornerstone of modern forensic investigation, ensuring that every piece of evidence,

every observation, and every scientific conclusion contributes to the reconstruction of truth.

The process begins at the crime scene, the place where the first and often most significant information is gathered. The forensic investigator (criminalist) is responsible for securing the area, preventing contamination, and ensuring that all traces, biological, physical, and chemical, are documented in their original condition [2]. The integrity of the crime scene is critical, as any modification, even unintentional, can alter the interpretation of evidence. The investigator photographs the scene from multiple angles, sketches the environment, and measures the position of the body, surrounding objects, and visible traces such as bloodstains, footprints, fibers, or weapon marks. Every observation must be methodically recorded, forming the empirical basis for later forensic interpretation.

The forensic pathologist, when present at the scene, plays an equally vital role. Their medical expertise allows them to immediately assess whether the external presentation of the body is consistent with the presumed mechanism of death. They can recognize patterns of injury, estimate the possible cause of death, and evaluate whether the body's position corresponds to the injuries observed. For example, a firearm discovered in a victim's hand may suggest suicide; however, the pathologist can identify discrepancies in the trajectory of the wound, the presence of gunpowder residue, or the distribution of lividity, revealing inconsistencies that may indicate homicide. This immediate feedback from the pathologist helps the criminalist refine their hypotheses and focus on relevant traces.

The examination of the body at the scene must be meticulous, non-invasive, and guided by scientific reasoning. The criminalist inspects the environment for signs of struggle, disturbed objects, or secondary traces that could reveal interactions between the victim and the perpetrator. The pathologist evaluates visible lesions, rigor mortis, and livor mortis, estimating the time of death based on the physiological indicators and environmental conditions. Correlating these observations can reveal whether the body has been moved post-mortem, whether the scene has been staged, or whether environmental factors have altered the original appearance. The integration of field and medical expertise at this stage often determines the success of the entire investigation,

as the evidence gathered from the crime scene forms the foundation upon which all subsequent analyses depend.

Once the body is transported to the forensic laboratory or morgue, the autopsy becomes the central phase of collaboration. Here, the forensic pathologist performs a complete external and internal examination of the body. Each wound is measured, described, photographed, and interpreted according to its morphology, depth, direction, and association with internal damage. The forensic investigator contributes crucial contextual information, details about the crime scene, the type of weapon found, the distribution of bloodstains, and the environmental conditions.

These elements guide the pathologist in correlating internal findings with the physical evidence. For example, the direction of a gunshot wound can be compared with ballistic trajectories reconstructed by the criminalist; bruises and abrasions can be matched to objects found at the scene; and the pattern of injuries can suggest whether they were inflicted in self-defense, while the victim was immobilized, or after death.

Collaboration also extends to the interpretation of laboratory analyses, which provide scientific confirmation of field and autopsy findings. Toxicological examinations can detect the presence of alcohol, drugs, or poisons in the victim's system, helping determine whether intoxication influenced their behavior or the cause of death. DNA analysis can identify biological contact between the victim and perpetrator, confirming hypotheses regarding struggle, sexual assault, or object handling. Chemical tests can identify residues of explosives, accelerants, or gunpowder, linking the body to specific criminal activities or weapon use. The pathologist interprets the medical and physiological significance of these results, while the criminalist integrates them into the broader reconstruction of the event.

One of the most sophisticated aspects of collaboration involves the reconstruction of the sequence of actions leading to death. The forensic pathologist, through examination of the order and nature of wounds, can infer whether the injuries were inflicted successively, simultaneously, or during defensive movements. The criminalist, based on the physical configuration of the scene and the spatial analysis of traces, can reconstruct the movements of both the victim and the aggressor. Together, these professionals determine the dynamics of the event, where the struggle began, the relative

positions of those involved, the direction of force applied, and the final position of the body. This reconstruction transforms static evidence into a chronological narrative of actions, providing investigators and judicial authorities with an objective and scientifically valid account of how the fatal event unfolded.

Throughout the investigation, clear communication and comprehensive documentation are indispensable. Every observation, assumption, or interpretation must be written down, photographed, and, where possible, digitally recorded. Joint review meetings between forensic investigators and pathologists allow for cross-verification of findings and ensure consistency before the final report is drafted. The final forensic report represents the synthesis of the entire collaborative process, it must integrate both the forensic reconstruction of the scene and the medical-legal interpretation of injuries into a unified and coherent account of events. The language must be precise, objective, and accessible to judicial authorities, avoiding ambiguity or speculation.

Collaboration between the forensic investigator and the forensic pathologist extends beyond the investigation itself and into the courtroom, where their combined testimony is often decisive. In judicial proceedings, both experts may be called upon to present their findings, explaining the scientific rationale behind their conclusions and demonstrating the interconnection between medical and physical evidence. Their consistency in presenting facts and interpretations enhances the credibility of the investigation and provides the court with the confidence to base its verdict on sound scientific reasoning [3].

Effective collaboration also depends on institutional and human factors, mutual respect, professional ethics, and continuous communication. Both specialists must understand each other's methods, limitations, and terminologies, recognizing that neither discipline can function effectively in isolation [4]. Their partnership must be based on trust and shared commitment to truth, not on hierarchical or procedural formalities. Training programs, interdisciplinary workshops, and simulated investigations can strengthen this cooperation by providing each expert with insight into the other's field.

In practical terms, the success of an investigation into a violent death depends on how seamlessly the forensic and medical sciences work together. Each discovery, whether made in the field, in the laboratory, or during the autopsy, gains full significance

only when interpreted in light of the other. The body of the victim, as the central element of such cases, becomes not just an object of examination, but a bridge between disciplines, a biological document that preserves, in its structure and position, the traces of human violence [5]. The collaboration between the forensic investigator and the forensic pathologist ensures that these traces are correctly interpreted, transforming silent physical and biological evidence into a narrative of truth [6].

Ultimately, the integration of forensic and medical expertise in violent death investigations guarantees not only scientific rigor but also judicial fairness. It ensures that every case is examined from all perspectives, technical, medical, and ethical, so that conclusions reflect both the complexity of reality and the responsibility of science toward justice. This collaborative model represents the highest standard of forensic practice, reaffirming that truth in the investigation of violent deaths can only be achieved through unity of disciplines, precision of method, and integrity of purpose.

CONCLUSIONS

The elucidation of violent deaths stands among the most intricate and scientifically demanding areas of forensic investigation, requiring a systematic, rigorous, and profoundly interdisciplinary approach. In such cases, the truth about the cause, mechanism, and circumstances of death cannot be obtained through the isolated work of a single specialist. Instead, it depends on the dynamic collaboration between the forensic investigator, who reconstructs the sequence of events based on physical evidence, and the forensic pathologist, who interprets the biological and physiological consequences of violence upon the human body [7]. This interaction between criminalistics and forensic medicine transforms a fragmented scene into a coherent reconstruction of reality, providing the judicial system with conclusions that are both scientifically grounded and legally defensible.

The crime scene represents the initial and most critical phase of this collaboration. It is here that the forensic investigator documents the visible manifestations of violence, the position of the body, the distribution of bloodstains, the location of weapons, and the physical condition of the environment. Every trace, no matter how insignificant it may

appear, holds the potential to reveal information about the sequence of actions, the type of weapon used, and the relative positions of the victim and the perpetrator.

The forensic pathologist's presence during this stage adds irreplaceable medical insight. By correlating the observed traces with anatomical and physiological knowledge, the pathologist can immediately assess whether the posture of the body corresponds to the presumed mechanism of death or whether the scene may have been altered post-mortem. Thus, the early exchange of expertise prevents misinterpretation and ensures that the body and surrounding traces are examined in their authentic context.

During the autopsy, collaboration continues in an even more analytical form. The forensic pathologist conducts a meticulous examination of both the external and internal structures of the body, identifying wounds, trajectories, hemorrhages, and tissue damage. The criminalist complements this medical process by supplying contextual data obtained from the field investigation, such as weapon type, direction and distance of fire, impact surfaces, and potential secondary traces. The convergence of these findings allows for precise conclusions, whether the wounds are defensive or offensive, whether they were inflicted before or after death, and how the sequence of injuries aligns with the reconstructed scenario. This correlation ensures that the medical conclusions are not abstract but grounded in the physical realities of the crime scene.

Equally significant is the correlation of multidisciplinary laboratory results. Toxicological analyses, for example, reveal the presence of alcohol, drugs, or poisons that could explain altered behavior or physiological incapacitation. Biological examinations (DNA profiling, tissue analysis, or microtraces) confirm contact between the victim and the perpetrator or associate a weapon with a particular individual. Physical and chemical analyses of residues, gunshot particles, fibers, or soil, complement these findings by providing spatial and mechanical context. Only through continuous dialogue between the criminalist and the pathologist can these diverse categories of evidence be synthesized into a single, logical interpretation of events.

Chronological interpretation represents another crucial product of collaboration. The forensic pathologist establishes the time of death through biological indicators, rigor mortis, livor mortis, body temperature, and gastric content, while the forensic investigator correlates this information with environmental traces, witness statements, and

technological data such as phone records or surveillance footage. The alignment of medical and investigative chronologies significantly enhances the reliability of conclusions, narrowing the margin of uncertainty and supporting accurate judicial evaluation.

Beyond the scientific and methodological dimensions, the cooperation between the forensic investigator and the forensic pathologist also carries deep ethical importance. Each violent death investigation embodies not only a technical problem but also a moral duty, to restore truth and to serve justice. The precision and impartiality of their work uphold the principles of due process and ensure respect for the deceased, whose body becomes a silent yet powerful source of evidence. Transparency, professionalism, and mutual respect between disciplines thus form the ethical foundation of this collaboration.

Finally, the institutional framework must support this cooperation through standardized protocols, joint case reviews, and continuous professional training. Multidisciplinary teams, shared databases, and integrated reporting systems facilitate effective communication between experts and prevent fragmentation of information. Education in both forensic medicine and criminalistics should emphasize mutual understanding of terminology, methods, and limitations, fostering a generation of professionals capable of interdisciplinary reasoning.

In conclusion, the collaboration between the forensic investigator and the forensic pathologist is not merely a procedural necessity, it is the cornerstone of scientific truth in the investigation of violent deaths. It bridges the gap between the tangible world of physical evidence and the biological reality of human life and death. Through coordinated expertise, meticulous analysis, and ethical responsibility, this partnership ensures that justice is served not by conjecture or assumption, but by objective and verifiable scientific proof. The unity of criminalistics and forensic medicine thus represents the essence of modern forensic investigation, where every trace, every wound, and every observation contributes to the ultimate goal, discovering the truth and upholding the integrity of human justice

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INVESTIGATION OF SUSPICIOUS DEATHS IN THE CONTEXT OF SYNTHETIC DRUG CONSUMPTION

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Abstract:
The increasing use of synthetic drugs represents one of the most significant challenges faced by modern forensic investigation. Unlike traditional narcotics, new psychoactive substances (NPS) are characterized by rapid chemical evolution, diverse toxicological profiles and limited availability of analytical standards, which often complicate the process of detection and interpretation in post-mortem examinations. This study explores the forensic and medico-legal aspects of investigating suspicious deaths associated with synthetic drug use, emphasizing the need for close cooperation between the forensic investigator, toxicologist and pathologist. The article emphasizes the importance of multidisciplinary collaboration in establishing both the cause and mechanism of death, as well as the social and criminal implications of synthetic drug consumption. It also discusses the growing need for national and international databases dedicated to emerging psychoactive substances, which would facilitate the identification of unknown compounds and support comparative toxicological research.
Keywords: *forensic science, synthetic drugs, new psychoactive substances (NPS), suspicious death.*

INTRODUCTION

The phenomenon of synthetic drug consumption has become one of the most pressing issues confronting forensic science and criminal justice systems in the twenty-first century. The proliferation of so-called *new psychoactive substances* (NPS), designed to mimic the effects of traditional drugs such as cocaine, amphetamines, or cannabis, has created an evolving challenge for law enforcement, forensic toxicology and public health alike. These substances, often sold under misleading labels such as “legal highs,” “bath salts,” or “herbal blends”, are characterized by rapid chemical innovation, unpredictable effects and limited detectability through standard analytical procedures. As a result, the investigation of deaths linked to synthetic drug consumption requires a far more complex and adaptive approach than in cases involving classical narcotics.

In forensic investigation, deaths related to synthetic drugs often fall under the category of *suspicious deaths*, as their external manifestations rarely offer clear evidence of overdose or poisoning. Victims may be found in non-violent circumstances, without

visible trauma or signs of struggle, yet the toxicological cause may remain concealed within the body's biochemical reactions. In such cases, the combined expertise of the forensic investigator, the pathologist and the toxicologist becomes indispensable. Each contributes to reconstructing the circumstances of death: the criminalist secures and documents the environment, the pathologist examines the physiological evidence and the toxicologist identifies the substances responsible for the fatal outcome.

Unlike traditional drugs, synthetic compounds frequently differ in their chemical structure from the controlled substances listed under international conventions. Small molecular modifications allow manufacturers to evade legal restrictions while maintaining psychoactive potential. This chemical variability creates immense difficulties for forensic laboratories, which must continuously update their reference databases and detection methods [1]. Moreover, the high potency of these substances, sometimes active in microgram quantities, means that even minimal exposure can cause severe physiological reactions, including cardiac arrest, respiratory failure and cerebral edema.

At the crime scene, the signs of synthetic drug involvement may be subtle or ambiguous. Investigators often find minimal physical evidence, small packets of powder, vaping devices, capsules, or unmarked tablets. The absence of injection marks or visible lesions can obscure the suspicion of drug use. Therefore, the criminalist must carefully document all potential indicators, including paraphernalia, packaging, or residues, while maintaining strict procedures for the chain of sample collection, preservation and handling required for later chemical analysis. Collaboration with the pathologist is crucial at this stage, as the position of the body, color of the skin and state of the pupils can provide preliminary hints of toxicological influence.

During autopsy, the forensic pathologist typically encounters non-specific findings. The organs may show congestion, pulmonary edema, or myocardial hypertrophy, none of which alone confirm intoxication. Internal examination may reveal cerebral swelling, petechial hemorrhages, or fatty liver changes, but these are merely indirect markers [1]. Only through detailed toxicological analysis can the presence of synthetic compounds be confirmed and their concentrations correlated with lethal outcomes. In this context, forensic toxicology has become a cornerstone of modern death investigation, with analytical methods such as gas chromatography–mass spectrometry (GC-MS), liquid

chromatography–tandem mass spectrometry (LC-MS/MS) and high-resolution time-of-flight spectrometry playing a decisive role.

The challenges extend beyond technical limitations. Many synthetic drugs are metabolized rapidly, disappearing from the bloodstream within hours or even minutes, leaving behind only trace metabolites. This transient detectability demands not only rapid sample collection but also specialized preservation techniques.

Furthermore, because reference standards for many emerging substances are unavailable or insufficiently validated, laboratories must often rely on advanced data interpretation and pattern recognition rather than direct compound identification. These limitations highlight the necessity of continuous collaboration between forensic institutions, national monitoring centers and international agencies such as the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) or the United Nations Office on Drugs and Crime (UNODC).

From a forensic perspective, deaths associated with synthetic drugs are not merely toxicological phenomena but also social and legal events. They reflect broader trends in illicit markets, patterns of online distribution and the increasing overlap between digital anonymity and chemical innovation. For investigators, this means that each case represents not only an isolated event but also a potential indicator of emerging public health threats. Establishing the source, distribution chain and user network can provide critical intelligence for preventing future fatalities.

Therefore, the investigation of suspicious deaths linked to synthetic drug consumption demands an integrated, multidisciplinary approach, one that unites the precision of chemical analysis with the observational accuracy of forensic pathology and the methodological discipline of criminalistics. The success of such investigations depends on continuous adaptation to new substances, inter-institutional cooperation and the ethical and scientific integrity of experts who interpret complex toxicological data within the judicial framework.

FORENSIC AND TOXICOLOGICAL ASPECTS OF SYNTHETIC DRUG-RELATED DEATHS

The investigation of deaths associated with synthetic drug use requires an in-depth understanding of both the pharmacological properties of these substances and the forensic mechanisms by which they manifest their effects. Unlike classical drugs of abuse such as heroin, cocaine, or cannabis, whose toxicodynamics and physiological responses are well-documented, synthetic drugs are characterized by extreme chemical variability, rapid onset and unpredictable potency. Each generation of new psychoactive substances (NPS) introduces modified compounds designed to bypass legal restrictions, often resulting in mixtures whose effects on the human body remain poorly understood. This chemical and biological uncertainty is what makes forensic interpretation particularly complex in cases of synthetic drug-related deaths.

From a forensic perspective, synthetic drugs can be classified into several major categories based on their dominant psychoactive effects: synthetic cannabinoids, synthetic cathinones, phenethylamines, tryptamines and various designer opioids. Synthetic cannabinoids, often sprayed on herbal material and sold as “Spice” or “K2,” act on the same brain receptors as THC but with significantly higher potency, sometimes several hundred times stronger. Their use has been associated with acute psychosis, seizures, respiratory failure and sudden cardiac arrest. Synthetic cathinones, known colloquially as “bath salts,” are stimulant compounds related to amphetamines.

They induce euphoria, paranoia and aggression, but also lead to hyperthermia, metabolic acidosis and cardiovascular collapse. Phenethylamines and tryptamines, hallucinogenic substances similar to LSD or mescaline, can produce sensory distortion and severe autonomic instability. Designer opioids, particularly fentanyl analogues, pose the greatest immediate risk due to their microgram-level lethality and high potential for respiratory depression.

Each of these substance classes leaves specific, although often subtle, forensic and toxicological indicators. At the scene, investigators may observe minimal or non-specific signs, *id est* [2] disarrayed environments, presence of smoking devices, foil packets, or vaping cartridges. In many cases, synthetic drug users are found in ordinary circumstances, without clear external trauma or visible evidence of overdose [3]. Because

of this, the collaboration between the forensic investigator and the forensic pathologist is crucial. The investigator secures all possible paraphernalia and traces, powders, capsules, pipes, syringes, or residues, ensuring proper labeling and preservation for laboratory analysis. Meanwhile, the pathologist examines the body for non-specific but suggestive findings such as cyanosis, froth at the mouth, pulmonary congestion, or dilated pupils, which can point toward toxic intoxication.

Autopsy findings in synthetic drug deaths are frequently non-diagnostic. In most cases, the pathologist identifies generalized visceral congestion, cerebral and pulmonary edema, petechial hemorrhages and occasionally fatty degeneration of the liver. The heart may exhibit arrhythmogenic lesions or structural abnormalities such as left ventricular hypertrophy or interstitial fibrosis, especially in cases of chronic use. Histological examination may reveal neuronal swelling and astrocyte activation in the brain, indicating hypoxic injury. Yet these findings alone cannot establish a definitive cause of death; they must be interpreted in conjunction with toxicological data.

Toxicological analysis plays a decisive role in confirming the involvement of synthetic substances. However, this process is fraught with challenges. Many NPS are not included in routine toxicology panels and require advanced analytical methods such as gas chromatography–mass spectrometry (GC-MS), liquid chromatography–tandem mass spectrometry (LC-MS/MS) and high-resolution time-of-flight mass spectrometry (HRMS). These techniques allow for the detection of both parent compounds and their metabolites, even when present in minute concentrations. Sample selection is equally critical: blood, urine, vitreous humor, hair and tissue specimens (especially liver and brain) can yield valuable toxicological evidence. Because many synthetic drugs metabolize rapidly, the timing of sample collection and storage conditions significantly influence detection success [4].

Another complicating factor is the emergence of hybrid or multi-component mixtures. Street preparations often contain multiple psychoactive ingredients combined in unpredictable ratios. The toxicological interpretation becomes even more difficult when interactions between compounds lead to synergistic or antagonistic effects. For example, combining synthetic cannabinoids with alcohol or benzodiazepines can potentiate respiratory depression, while mixing cathinones with MDMA or amphetamines can

exacerbate hyperthermia and cardiac stress. These complex interactions require not only analytical precision but also a deep understanding of pharmacological mechanisms.

In addition to identifying the substance, toxicologists must establish the toxicokinetic parameters, absorption, distribution, metabolism and excretion, to determine whether detected concentrations are consistent with a fatal event. Reference data for many new compounds are lacking, which forces experts to rely on comparative analysis with chemically related substances or data from previous case reports. International toxicology networks, such as the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) or the National Institute on Drug Abuse (NIDA), play a crucial role in updating forensic laboratories with information on emerging drugs, metabolites and threshold values.

From a medico-legal standpoint, the forensic pathologist must integrate the toxicological findings with morphological observations and investigative data. Determining the cause of death, whether it was due to direct toxicity, a combination of substances, or secondary complications such as cardiac arrhythmia or aspiration, requires careful correlation between medical and investigative evidence. In many cases, the mechanism of death is multifactorial, involving both central nervous system depression and systemic organ dysfunction.

The forensic investigator's contribution extends beyond evidence collection. They provide essential contextual information about the circumstances surrounding the death, *id est* [5] the victim's behavior prior to collapse, witness statements, environmental conditions and digital evidence such as text messages or social media activity related to drug use. This contextual data allows the pathologist and toxicologist to interpret laboratory results more accurately and to differentiate between accidental overdose, suicidal intent and potential criminal involvement (for example, distribution of adulterated substances).

Finally, the interpretation of synthetic drug-related deaths demands transparency and caution in expert reporting. Given the rapid evolution of these substances and the uncertainty surrounding their toxic thresholds, experts must avoid overinterpretation and clearly state the limitations of their findings. The forensic report should specify the analytical methods used, the substances detected, their concentrations and the likely

pharmacological effects in correlation with the observed pathological findings. Only through such detailed, multidisciplinary synthesis can forensic experts provide conclusions that withstand scientific and judicial scrutiny.

The forensic and toxicological investigation of deaths related to synthetic drug use is a complex process that requires advanced technical expertise, continuous adaptation and interdisciplinary cooperation. Each case demands not only analytical precision but also interpretative depth, bridging the gap between chemistry, medicine and law. Through the combined efforts of criminalists, pathologists and toxicologists, forensic science continues to evolve to meet the challenges posed by synthetic substances, ensuring that even the most elusive poisons leave behind traces that can speak for the silent victims they claim.

METHODOLOGY AND INTERDISCIPLINARY COLLABORATION IN THE INVESTIGATION OF SYNTHETIC DRUG-RELATED DEATHS

The investigation of deaths associated with synthetic drug use requires an approach that transcends traditional disciplinary boundaries. Such cases are inherently complex, as they often involve substances that are chemically unstable, rapidly metabolized and legally undefined at the time of death. Therefore, a coordinated methodological framework, uniting the expertise of the forensic investigator, forensic pathologist and toxicologist, is essential to ensure both scientific accuracy and judicial validity. Each specialist contributes a unique but interdependent perspective and only through their integration can the circumstances of death be reconstructed with precision.

The investigative process begins at the crime scene, where the forensic investigator assumes a leading role in the initial documentation and preservation of evidence. The first task is to secure the area, establish control zones to prevent contamination and maintain a detailed log of all personnel entering the scene [6]. Synthetic drug-related deaths often occur in domestic environments, vehicles, or public spaces and their presentation can vary from apparently natural deaths to sudden collapses following recreational use. The investigator must therefore approach each scene without presupposition, recognizing that the absence of visible trauma does not exclude intoxication.

The crime scene examination involves a systematic visual and instrumental assessment of the environment. The investigator photographs the scene comprehensively, wide shots to capture spatial relationships and close-ups for critical details such as paraphernalia, containers, or residue traces [7]. Items commonly associated with synthetic drugs include smoking devices, vape cartridges, powders, pills, capsules, foil packets and improvised laboratory materials. The discovery of digital evidence such as mobile phones, laptops, or printed materials can also reveal communications, purchase records, or instructions for drug synthesis [8]. These must be secured under appropriate cyber forensic protocols.

The forensic pathologist's participation at the scene is indispensable. Their medical expertise allows for the immediate evaluation of external indicators such as body position, lividity, rigor mortis, skin coloration and the presence of froth or vomit. In certain cases, the pattern of livor mortis or the distribution of post-mortem changes can suggest whether the death was instantaneous or delayed, information vital for subsequent toxicological interpretation [9]. Coordination between the investigator and the pathologist at this stage ensures that both the body and surrounding traces are examined as a coherent system rather than as isolated components.

Following the on-site examination, the body is transported to the forensic institute under controlled conditions. During autopsy, the forensic pathologist performs a meticulous external and internal examination, documenting all visible lesions, organ changes and physiological indicators that might suggest intoxication. The lungs, brain, liver and heart receive particular attention, as they frequently exhibit characteristic congestion, edema and cellular degeneration associated with drug toxicity [10]. Simultaneously, the pathologist collects biological samples-blood, urine, vitreous humor, bile, liver tissue and hair, for subsequent toxicological testing. The correct labeling, storage and preservation of these samples are critical because many synthetic substances degrade rapidly at room temperature or under exposure to light and air.

The toxicologist's contribution begins with the analytical evaluation of the collected materials. Given the chemical diversity of synthetic drugs, screening and confirmation require advanced technologies. The process typically includes preliminary screening using immunoassay kits or enzyme-linked techniques to detect the presence of known

drug classes, followed by targeted analysis through gas chromatography, mass spectrometry (GC-MS) or liquid chromatography, tandem mass spectrometry (LC-MS/MS) to identify specific compounds. When necessary, non-targeted analysis using high-resolution mass spectrometry (HRMS) or time-of-flight spectrometry (TOF-MS) is employed to detect unknown or novel substances based on fragmentation patterns and molecular weights [11].

Throughout this analytical process, close communication between the toxicologist and the pathologist is essential. For instance, the detection of synthetic cannabinoids in the liver and blood must be correlated with the absence of trauma or asphyxial signs to establish a toxic mechanism of death. Similarly, if stimulant-type compounds such as synthetic cathinones are identified, the presence of hyperthermia, cardiac lesions, or rhabdomyolysis in autopsy findings supports a pathophysiological link [12]. This reciprocal interpretation ensures that laboratory data are contextualized within biological and environmental evidence.

The forensic investigator continues to play an active role even after the laboratory analyses are completed. They collect supplementary contextual information such as statements from witnesses, surveillance footage, social media activity and transaction data that can reveal the timeline of substance use, potential suppliers, or co-users [13]. Such information not only strengthens the forensic narrative but also helps authorities identify criminal networks responsible for the distribution of lethal synthetic drugs.

The integration of all these findings culminates in a comprehensive forensic report, jointly produced or reviewed by the involved experts. This report must detail the environmental findings and trace evidence collected at the scene, the autopsy observations and histopathological results, the toxicological results specifying analytical methods and detection limits and the expert interpretation linking the medical and investigative conclusions. The report should be written in clear, objective and scientifically verifiable language, avoiding speculative statements [14]. Its conclusions must establish, with as much certainty as the evidence allows, whether the death resulted from acute intoxication, combined substance effects, or secondary complications such as cardiac arrest or aspiration.

Interdisciplinary collaboration also extends to institutional cooperation [15]. Many countries have established networks linking forensic institutes, toxicology laboratories and law enforcement agencies to share data on emerging substances and analytical results. Participation in these networks, such as the European Early Warning System coordinated by the EMCDDA, allows forensic professionals to identify new compounds promptly and adapt their methodologies accordingly. The continuous exchange of information reduces analytical gaps and improves the overall reliability of toxicological findings

Educational and procedural standardization is another pillar of successful collaboration [16]. Joint training sessions, simulation-based exercises and interdepartmental workshops foster mutual understanding between investigators, pathologists and toxicologists [17]. Standard operating procedures should clearly define responsibilities at each stage of the investigation, from scene processing to reporting, ensuring consistency and accountability.

Finally, ethical and legal considerations underpin the entire investigative process [18]. Handling of biological samples, privacy of toxicological data and impartial interpretation of results must adhere to the principles of scientific integrity and respect for human dignity. Transparency in communication and documentation guarantees that expert conclusions withstand both judicial scrutiny and public trust [19].

The methodology for investigating synthetic drug-related deaths exemplifies the need for seamless interdisciplinary cooperation. It unites field investigation, medical examination and chemical analysis into a single, coherent process that transforms scattered traces into scientifically grounded truth [20]. The collaboration between the forensic investigator, pathologist and toxicologist ensures not only the identification of the cause and mechanism of death but also contributes to a broader understanding of the evolving phenomenon of synthetic drug abuse, reinforcing the intersection of science, justice and public health.

CONCLUSIONS

The investigation of deaths associated with synthetic drug use represents one of the most complex and dynamic areas of contemporary forensic science. These cases

challenge traditional methodologies due to the chemical diversity, rapid metabolism and legal ambiguity of new psychoactive substances. Determining the cause and mechanism of death in such situations requires not only technical precision but also genuine interdisciplinary collaboration between the forensic investigator, the forensic pathologist and the toxicologist [21]. Each contributes essential expertise that, when combined, transforms uncertain or incomplete data into coherent and scientifically substantiated conclusions.

Synthetic drug-related deaths are particularly difficult to interpret because they often lack specific external or internal signs [22]. The forensic investigator must therefore rely on subtle environmental indicators, residues, paraphernalia, or behavioral evidence, to suggest the possibility of intoxication. The forensic pathologist must interpret non-specific anatomical findings, such as pulmonary or cerebral edema and correlate them with toxicological results. Meanwhile, the toxicologist must overcome analytical challenges posed by rapidly evolving substances that may not yet have established detection standards. This interdependence illustrates the necessity for communication and cooperation between all experts involved.

Beyond technical considerations, the interdisciplinary nature of such investigations underscores the broader role of forensic science as a bridge between medicine, chemistry and law. Each death attributed to synthetic drug use is not an isolated event but a symptom of a wider social and criminal phenomenon. Therefore, the forensic process extends beyond determining the immediate cause of death, it contributes to identifying distribution networks, patterns of abuse and the emergence of new psychoactive compounds that may endanger public health

In this context, collaboration is not merely procedural but strategic. The integration of medical, toxicological and investigative data ensures that every hypothesis is tested from multiple perspectives. A crime scene clue becomes meaningful only when correlated with biochemical evidence and a toxicological result gains legal value only when interpreted in light of the body’s pathological findings. The synthesis of these viewpoints allows for a multidimensional reconstruction of events, one that combines scientific accuracy with legal clarity.

Equally important is the need for continuous education and adaptation. The rapid evolution of synthetic drugs demands that forensic professionals remain up to date with new analytical techniques and emerging substances [23]. Inter-institutional networks, such as the European Early Warning System, must be strengthened to facilitate information exchange and establish standardized reporting protocols. Such cooperation not only enhances efficiency but also fosters uniformity in the interpretation of forensic results across jurisdictions.

Ethical responsibility forms the foundation of this collaboration. The handling of biological samples, the disclosure of toxicological findings and the preparation of forensic reports must all respect both scientific objectivity and human dignity. Experts have a dual obligation, to serve justice through truth and to protect the privacy and integrity of the individuals they investigate [24].

Ultimately, the investigation of deaths caused by synthetic drugs exemplifies the modern forensic paradigm, a science that is both empirical and interdisciplinary, analytical and humane. The integration of field investigation, autopsy examination and toxicological analysis transforms fragmented traces into a scientifically coherent narrative capable of withstanding judicial scrutiny [25]. Through the collective effort of investigators, pathologists and toxicologists, each silent victim of synthetic drug intoxication regains a voice in the search for truth. This process not only fulfills the requirements of criminal justice but also contributes to the prevention of future tragedies, strengthening the essential bond between science, society and the law.

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DOMESTIC VIOLENCE - A GROUND FOR MARRIAGE DISSOLUTION

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Abstract:
Domestic violence is a phenomenon that is gaining momentum in the contemporary period, which determines its increasingly broad regulation, which extends to several branches of law, in relation to the impact that occurs on human rights in general.
The article aims to analyze domestic violence in relation to the reasons that lead to the dissolution of marriage, taking into account that both divorce and the reduction of domestic violence represent basic institutions in family law, through the prism of the complex elements that compose them and the implications that occur both in the relationships between spouses and, in some cases, in relation to their minor children.
At the same time, this scientific research aims to debate the importance of reducing violence in cases of domestic violence in family relationships and to present situations from the practice of courts in which domestic violence has constituted a valid reason for divorce, which was pronounced due to the exclusive fault of the aggressor spouse.
At the end of the scientific approach, it will be concluded that domestic violence can be a valid reason for divorce, violence not only being physical, but can also be verbal, psychological, social or economic, and in situations where the forms of violence are multiple, the effects on the victim are greater.
Keywords: *divorce, domestic violence, good cause, dissolution of marriage*

INTRODUCTION

Domestic violence is a reality of society in recent years, which is becoming increasingly widespread not only nationally, but also European and internationally, which has led to an intensification of legislative concern for the more detailed regulation of this legal institution, by creating strict legislative provisions that limit the phenomenon, taking into account its legal, psychological or economic implications.

The diversification of forms of violence in recent years has determined the need to create a broad framework for the protection of victims, by sanctioning all forms of domestic violence that may occur and which are regulated at the legislative level in art. 4 of law no. 217/2003 on the prevention and combating of domestic violence, these being considered not only violations of human rights, but also forms of discrimination that can affect vulnerable groups in society [1].

National legislation on domestic violence takes over the principles set out in the Istanbul Convention, the most comprehensive legal document adopted at international level to prevent and combat violence against women and gender-based violence, which provides obligations for the signatory member states of the Council of Europe to ensure effective legislative policies, capable of ensuring adequate protection for victims, with complex mechanisms and policies being established, aimed at reducing cases of domestic violence, which is stated in the preamble of the Convention to affect women to a greater extent than men.

Domestic violence involves, according to the provisions of the framework law no. 217/2003, the exercise of a form of violence in the forms described by the law that occurs in the family environment, and the persons involved in the aggression have the status of family members, among these, the most common acts of violence occurring between spouses, which can produce multiple legal consequences, respectively, on the criminal level, the crime of domestic violence can be retained, provided for by art. 199 of the Criminal Code, which has as a specific element the special relationship that must exist between the victim and the aggressor [2], and on the civil level, a protection order can be issued, through which the aggressor can be prohibited from approaching the victim, from his home, from his workplace, from contacting her or even the eviction of the aggressor from the parties' home can be ordered, even if he is the sole owner.

In the long term, the most appropriate measure to reduce cases of domestic violence is to remove the victim from the perpetrator, which can be achieved by dissolving the marriage, the victim having the possibility to file a claim with the court based on the provisions of art. 373, letter b) of the Civil Code, namely on the existence of solid reasons that determine that the relationship between the spouses is seriously damaged and make it impossible to continue the marriage. Thus, the partner who is a victim of domestic violence can request the court to dissolve the marriage due to the exclusive fault of the aggressor spouse, being obliged to prove that due to the defendant's acts of aggression, the family relationship has broken down and that it is no longer possible to continue the family relationship due to the aggressor's behavior, which is incompatible with the relationship of respect that he owes to his wife.

We note that the environment from which the victim of domestic violence comes and the repetition of various forms of abuse over long periods of time can cause the victim to feel resigned and accept violence as normal in family life, especially in the case of emotional, psychological, social or economic forms, an aspect that can create long-term effects, including on the children of the parties, who, witnessing scenes of violence in the family environment, can apply it to the families they form when they become adults, which leads to the perpetuation of violence.

GOOD REASONS FOR DIVORCE

One of the cases in which the legislator has provided that a marriage can be dissolved by court is determined by the existence of solid reasons that determine that the parties' relations are seriously damaged and that the marriage can no longer continue, it being noted that in this situation the divorce procedure can only be carried out through the court, given that it inevitably involves the administration of evidence.

Thus, although current legal regulations have established the possibility for divorce to be carried out administratively, in the situation where the spouses do not have children or do not have minor children, or by notarial means, when, regardless of whether the spouses have minor children or not, they agree on the dissolution of the marriage, but also on the ancillary aspects that concern parental authority over the minors, their residence, as well as the names of the spouses after the divorce, however, these two methods imply the impossibility of administering evidence to determine the reason that led to the breakdown of relations between the spouses.

Therefore, in the case of administrative or notarial divorce, the spouses agree on all aspects that must be regulated for the dissolution of the marriage, and in the event that one of the spouses does not want the marriage relationship to fall apart, or seeks to establish fault, respectively to discuss and prove the reasons that led to the divorce, it is mandatory that the divorce be carried out through the courts.

We note that the legislator did not mention grounds for divorce that would fall under the situation of holding exclusive fault in the dissolution of the marriage, but the doctrine has retained as the main reasons in this regard the infidelity of one of the partners, serious violence exercised in the marital relationship or the abandonment of the marital home by

one of the spouses [3], being mandatory for holding exclusive fault in the dissolution of the marriage that the circumstances presented by the spouses be substantial, which seriously affect the marital relationship, not just simple misunderstandings.

We would like to point out that the basis for committing domestic violence is most often the excessive consumption of alcohol by the aggressor, which causes him to behave impulsively, to accentuate his nervousness or to encourage him to behave; other reasons that can be the cause of domestic violence are jealousy, suspicions that hover over the partner's fidelity, which can cause violent and uncontrolled reactions on the part of the aggressor, which culminate in violence against the victim, as well as the precarious living conditions that are found mainly in rural areas.

It is important to point out that divorce based on the fault of one of the spouses can be requested by the plaintiff, through the divorce petition that he submits to the court, or it can be requested by the defendant by way of a counterclaim; in this situation, although the plaintiff requests the dissolution of the marriage based on a reason other than that of exclusive fault, the defendant, despite the fact that he wants the separation to occur, does not agree with the legal basis indicated by the plaintiff and considers that only the plaintiff is to blame for the dissolution of the marriage, so he himself intends to invest the court with a request in the file filed by his partner.

In the case of divorce based on the exclusive fault of one of the spouses, the main role falls to the judge charged with resolving the case to determine which evidence proposed by the parties is the factual situation that establishes the reasons that led to the dissolution of the marriage, any means of evidence being admissible [4] for finding the truth, the most commonly used evidence being documents, interrogation of the parties, evidence with witnesses, who may also be relatives, with the exception of descendants, taking into account that in family relationships the private aspects of the parties' relationship are known much more thoroughly by those close to them, especially in situations where forms of violence are exercised against one of the spouses, the latter being reluctant to reveal these aspects to people who are not close to them and in whom they do not fully trust.

However, with regard to the evidence of witnesses, the court must verify the objectivity of the information provided by them, especially when they are close relatives,

given that in the judicial procedure, the judge is obliged to establish an objective factual situation in order to determine the true reasons that led to the dissolution of the marriage, in order to conclude whether the relationship broke up only because of one of the spouses or both partners had a common fault, a situation in which the divorce application due to the exclusive fault of one of the spouses cannot be admitted. This aspect may be relevant to the victim's possibility to claim and request compensation, as well as compensatory benefits, claims with which the court can be invested only as accessories to the divorce based on exclusive fault, not as distinct claims.

Also in the case of psychological violence, we admit that psychological expertise could be administered to determine whether the victim was subjected to forms of abuse during the marriage relationship, what these were, as well as to identify the profile of each spouse, establishing the inter-family relationship during the marriage being essential for drafting the conclusions of the expertise report.

Violence produced in the family environment is much more difficult to prove due to the fact that the aggressions are produced in an intimate space, where the victim is often alone, cannot defend herself and ends up unable to prove her claims regarding the acts of aggression to which she is subjected before the court, her vulnerability in that environment being a way of imposing control by the aggressor.

The easiest form of domestic violence to prove is physical, in which the marks on the victim's body are proof of the existence of violence against her, which can be proven with a forensic medical certificate issued at the victim's request, as well as with photographs or video recordings, and can be difficult to combat by the aggressor husband; however, there are situations in which the victim does not perceive from the first acts of aggression that she is being subjected to physical violence, and may come to believe that a slap applied by the partner, who later shows signs of regret, does not constitute a form of violence, which prevents her from taking firm measures from the beginning and persists in this situation, hoping that it was an isolated episode in the couple's relationship and that over time, the relationship between the spouses will be harmonious.

As for the other forms of violence regulated by the provisions of art. 4 of Law no. 217/2003, they can sometimes be difficult to prove, as their existence may be in doubt,

which may lead to the impossibility of being held by the judge, as long as they are not proven, given that the provisions of art. 249 of the Civil Procedure Code establish the obligation of the person making a statement in a civil trial to prove it, so that the parties must prove the statements made [5]; thus, in the judicial divorce procedure, the spouse who requests the finding of the other partner's exclusive fault based on domestic violence must prove before the court the acts of aggression, the fact that they have seriously damaged the relationship and that he can no longer continue the marriage due to the abuses of the defendant spouse, the court hearing the case not being able to pronounce the court decision solely on the basis of the victim's claims, as long as he does not prove them.

Given that domestic violence is not found, as a rule, in a single form, but the forms of violence often intertwine, almost inevitably, alongside physical, verbal, social or economic violence, there is also psychological violence that creates a state of constant fear for the victim by imposing control by the partner, causing her to experience states of tension that make it impossible for her to gather evidence to present before the court and to be able to prove the abuse she was subjected to during the marriage and which led to the breakdown of the family relationship.

The most difficult moment from the victim's perspective is the realization that she is being abused, especially considering that there are cases in Romania in which domestic violence is not considered a real danger to the victim, but rather there is a higher degree of tolerance of forms of violence, derived from the idea that men are superior to women and that, in order to preserve the family relationship, she must submit to the will of her partner, taking into account the fact that, most of the time, both she and the children are totally economically dependent on the man, and his removal from the family would create a real financial problem, of ensuring minimal subsistence resources and housing.

However, the change in mentality regarding the acceptance of domestic violence has made significant progress in recent years, being constantly supported by legislative provisions aimed at protecting victims of domestic violence, the most recent of which also covers the situation of divorce, in the sense that Law no. 199/2025 adopted by the Official Gazette of Romania no. 1106/28.05.2025 exempted victims of domestic violence from paying the judicial stamp duty for the divorce application.

Although the amount of the judicial stamp duty for divorce actions requesting the finding of the exclusive fault of the aggressor spouse for the dissolution of the marriage is not high, currently at 200 lei, the adoption of this measure may nevertheless constitute an important means of encouraging the initiation of these legal proceedings, especially for victims from rural areas or other disadvantaged categories. We note that the law does not detail the clear manner of applying this provision, in the sense that it does not mention whether any person claiming to be a victim of domestic violence can benefit from the exemption from paying the judicial stamp duty when filing the divorce application, whether it is necessary for there to be a previous protection order issued against the aggressor or in which situations the legal norm specifically applies.

RELEVANT CASE LAW ON DOMESTIC VIOLENCE AS A VALID REASON FOR THE DISSOLUTION OF MARRIAGE

In recent judicial practice, domestic violence can constitute a valid reason for the dissolution of a marriage, based on the exclusive fault of the aggressor spouse, with the courts arguing, based on the evidence administered in the file, that the marriage relationship broke down due to his behavior, which made it impossible for the spouses to continue their family relations and cohabitation.

Thus, it was held by Civil Sentence No. 4298/2025 of the Ploiești Court that the parties' marriage was dissolved due to the defendant's exclusive fault, holding that the defendant admitted exclusive fault in the dissolution of the marriage, proof being provided that the parties had separated in fact, in the sense that they were no longer living together during the resolution of the divorce action. At the same time, the plaintiff provided documentary evidence in the file that the defendant consumed alcoholic beverages, due to this behavior he was subject to disciplinary investigation, and his employment contract was suspended, this behavior being compounded by the violent attitude manifested towards his wife, two protection orders being issued against him, the first for a duration of 6 months, and the second for a maximum duration of 12 months, due to the acts of physical, verbal and psychological violence committed by the husband towards his partner, he being investigated including from a criminal perspective for violating the protection orders.

The court argued the solution pronounced by the fact that the spouses have a legal duty to live together, and the behavior of the aggressor husband determined the impossibility of continuing the cohabitation of the parties, as long as it was proven that he consistently displayed violent behavior due to alcohol consumption, which determined the impossibility of continuing the marriage, an aspect acknowledged by the defendant and proven by the plaintiff through the proposed evidence.

Thus, analyzing the civil sentence presented, which remained final due to non-appeal, we find that its content contains previously presented theoretical aspects regarding the fact that a cause of domestic violence can be alcohol consumption, domestic violence being proven by the plaintiff with documentary evidence, namely the sentences pronounced in the protection order files, on which there was res judicata authority, but also those regarding the defendant's conduct at work, also determined by alcohol consumption, being relevant in the case also the procedural position of the defendant recognizing all the aspects related and proven by his wife.

Another relevant case is the one in Civil Sentence no. 6535/14.07.2025 of the Buzău Court, final by non-appeal, by which the court held the defendant solely at fault in the dissolution of the marriage, the plaintiff providing evidence regarding the defendant's acts of physical and verbal violence, excessive alcohol consumption, temporary abandonment of the marital home, the existence of an extramarital relationship and the climate of permanent fear and conflict. At the same time, she submitted to the case file evidence from which it emerged that she was forced to request the intervention of the police, as a result of the defendant's violent and threatening behavior, but she expressly waived the request to issue a protection order, although there were manifestations of verbal violence and repeated threats.

These aspects outlined an exclusive fault of the defendant husband in the dissolution of the marriage, also related to the fact that he seriously violated the conjugal obligations provided for in art. 309 para. 1 and 2 of the Civil Code, namely the obligation of mutual respect, moral support and cohabitation, generating a climate of hostility in the family and determining the de facto separation of the spouses.

We consider that this court decision is relevant in highlighting the fact that in order to prove domestic violence, it is not essential to have previous protection orders proving

acts of aggression against the applicant, her attitude of waiving the issuance of a protection order being similar to that adopted by the majority of victims of domestic violence, who give up on going through this procedure, hoping that their partner will correct his attitude and family life will resume its natural course. It is also important to point out that physical and verbal domestic violence can also be doubled by psychological violence, proven in this case by the climate of fear and permanent conflict in the family environment, which left their mark on the marital relationship and seriously and irreparably affected the marriage of the parties.

We consider that the Civil Sentence no. 7167/10.07.2025 pronounced by the Bucharest 5th District Court, by which the marriage was dissolved due to the exclusive fault of the defendant husband, from the factual situation retained by the court, it emerged that the defendant, due to alcohol consumption, became physically and verbally aggressive, subjecting his wife to humiliating situations, which culminated in the fact that she was expelled from her own home, is also relevant in the sense of the above. It was also noted that a provisional protection order was issued against the aggressor husband by the police, then a protection order by the court for a period of 11 months, as a result of the physical and verbal violence exercised against his wife. Following his behavior, the defendant was pre-trially arrested for a period of 30 days for committing domestic violence offenses and violating the provisional protection order, and was subsequently convicted for committing two concurrent offenses of violating the measures ordered by the provisional protection order, to a prison sentence of 8 months, motivated by the fact that the defendant, although there was a provisional protection order against him that required him to keep a distance of 200m from the plaintiff, went to the home, where he caused a scandal, addressed numerous insults to her, the neighbors being forced to call for the support of the police.

The court's ruling was based on the fact that the relationship between the spouses had deteriorated significantly due to the defendant's behavior, causing a state of tension and domestic violence against the plaintiff, consisting of repeated physical and verbal aggression, including by the defendant hitting her in the head with a bottle, and subsequently throwing her out of her own home, an aspect of extreme gravity, which, in the court's opinion, denotes a lack of any respect for the plaintiff's person and a flagrant

disregard for the fundamental obligations incumbent on each spouse under marriage, namely the obligation of mutual respect and moral support.

The court considered that the defendant's actions, taken as a whole, constituted a serious and repeated violation of the obligations arising from marriage, in particular those relating to mutual respect, moral and material support and the duty to contribute to the well-being and balance of family life, the defendant's excessive alcohol consumption and the physical and verbal aggression exercised against the plaintiff demonstrating the defendant's sole fault in the breakdown of the marital relationship. From the evidence administered in the case, the court did not identify any fault on the part of the plaintiff in the dissolution of the marriage, as long as she fulfilled her duties as a wife, proving understanding, moral and material support, ensuring the family's resources even when the defendant lost his jobs due to problems with alcohol consumption.

The solution pronounced by the court is relevant not only from the perspective of the retention of violence, as a valid reason for the dissolution of the marriage, but also to outline the fact that abuses against the partner are not only taken into account in the judicial divorce procedure, but also in the situation of issuing a protection order, but also from a criminal perspective, the defendant in the case being subject to the preventive measure of preventive arrest following the violation of the protection order issued in favor of the plaintiff, and subsequently convicted for acts of violence committed against his wife.

By Civil Sentence no. 1434/02.04.2024 of the Giurgiu Court, the court admitted the plaintiff's request and held the defendant guilty in the dissolution of the marriage, considering that from the evidence administered in the case, it was held that the defendant husband became aggressive towards the plaintiff, which over time also determined the erosion of family relations, his behavior deriving from the jealousy he manifested towards his partner, holding that the plaintiff did not prove that she was at fault in the dissolution of the marriage, considering that she fulfilled her conjugal duties in a mature and responsible manner. We consider that the solution pronounced in this case is relevant from the perspective of the fact that the root of domestic violence can also be the jealousy manifested by the aggressor husband, even if the evidence did not reveal any conduct of the victim contrary to the moral norms on which a marriage relationship is based.

Another relevant case identified in the practice of the courts is the one pronounced in Civil Sentence No. 2796/13.03.2024 by the Ploiești Court, which partially admitted the counterclaim filed by the victim wife, ordered the dissolution of the marriage due to the fault of the plaintiff husband, and, as a protective measure for the benefit of the victim, ordered the establishment in her favor of the right to compensatory benefit in the form of life usufruct over a share owned by the aggressor husband in an apartment.

In its reasoning, the court noted that the witnesses heard reported that the husband had been physically and verbally aggressive towards his wife on several occasions during their marriage to his wife, an aspect that was corroborated by a forensic medical certificate submitted by her. As regards the right to compensatory benefit in the form of life usufruct over the part belonging to the plaintiff-defendant of the property belonging to the plaintiff, the court noted that art. 392 paragraph 1 of the Civil Code does not limit the possibility of establishing usufruct only over assets owned exclusively by the debtor, so that it can also be established over a part of an asset owned by the debtor in co-ownership with other persons, the property in question being the common home of the spouses, being the property in which the defendant-plaintiff has constantly resided and which she occupies, she did not have another property to live in, the court holding that there was a significant patrimonial imbalance in relation to the living conditions during the marriage, which could be caused to the defendant-plaintiff for divorce, in the sense of jeopardizing her housing situation, in the sense that she could be forced to move from the home where she had lived for more than 20 years.

We consider that the solution pronounced by the court is relevant from the perspective of the fact that holding the aggressor husband at fault in the dissolution of the marriage may determine not only an exclusive fault in the breakdown of family relations, but may also determine additional protection for the victim of domestic violence, by granting her a compensatory benefit, in this case by establishing the possibility that she may benefit from a life usufruct right over the share that belonged to the husband, in relation to the fact that she did not own another property where she could live, outside of the home that was shared during the marriage. In addition, the case presented is also relevant from the perspective of the fact that the proof of the acts of violence was provided by the victim by administering evidence with witnesses.

In conclusion, from the practical cases presented in the recent jurisprudence of the courts, it follows that domestic violence can constitute a valid reason for divorce, which determines the retention of exclusive blame for the breakdown of family relations to the detriment of the aggressor spouse, but it is indispensable for the victim to provide evidence before the courts regarding the aspects supported by the divorce petition.

CONCLUSIONS

Domestic violence is a phenomenon that is increasingly widespread in society and to reduce it, legislative measures are constantly being adopted to protect victims from contacting the judicial authorities, to stop acts of aggression and to facilitate judicial procedures in order to facilitate access to them.

Even though in civil law, the protection order measure is a frequently used measure in recent times to try to remove the aggressor from the victim for a certain period of time, however, as long as, in the case of spouses, they remain married, after the effects of the protection order, which can be issued for a maximum period of 1 year, they can resume living together, which implies that there is a possibility that the acts of aggression will continue as long as the aggressor's behavior has not changed.

In the event that the victim of domestic violence wishes to dissolve her marriage with the aggressor, and the main reason is the domestic violence exercised during the marriage, she has the possibility of initiating a legal proceeding by which to request the divorce due to the exclusive fault of the aggressor, in which case she will have to provide proof of the acts of aggression committed against her.

We believe that through the scientific research carried out in the article we have succeeded in proving that domestic violence can constitute a valid reason for divorce, this aspect arising both from the theoretical aspects presented and from the jurisprudence presented through which we have shown that in the practice of the courts of law the forms of aggression produced in the marital relationship can determine its dissolution based on the exclusive fault of the aggressor.

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INCOME ELASTICITY OF DEMAND FOR LUXURY GOODS DURING RECESSIONS: AN EXTENDED THEORETICAL, BEHAVIORAL AND EMPIRICAL ANALYSIS

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Abstract
This paper provides an extended theoretical, behavioral, and empirical examination of the income elasticity of demand for luxury goods during periods of economic recession. Luxury consumption represents a multidimensional phenomenon shaped by economic resources, psychological motivations, and the symbolic and identity forming functions of high end products. As such, luxury demand is highly sensitive not only to fluctuations in disposable income but also to shifts in consumer sentiment, perceived uncertainty, and status based aspirations. Building on these foundations, the study investigates how macroeconomic downturns alter the responsiveness of consumers to income changes across heterogeneous luxury segments.
Using an original panel dataset covering the period 2006 - 2024, the analysis estimates income elasticity for four key luxury categories - fashion, cosmetics, jewelry and watches, and luxury automobiles and evaluates the extent to which major macroeconomic shocks, particularly the 2008-2009 global financial crisis and the 2020 COVID-19 recession, reshape elasticity dynamics. The findings demonstrate that luxury consumption is generally income elastic (elasticity > 1), confirming classical theoretical expectations. However, recession induced financial uncertainty, heightened risk aversion, and shifts in psychological priorities significantly weaken demand responsiveness, producing sharp but uneven declines across segments. Fashion and jewelry, which embody strong symbolic and status oriented characteristics, show the highest elasticities and the most pronounced cyclical fluctuations. By contrast, cosmetics remain the least elastic due to the stabilizing "affordable luxury" effect, while luxury automobiles exhibit moderate and credit sensitive responsiveness.
Beyond documenting these dynamics, the study contributes to the broader literature by integrating classical elasticity theory with behavioral consumption models, highlighting the role of status signaling, emotional coping mechanisms, and consumer expectations in shaping luxury market cycles. Methodologically, the analysis enhances the understanding of structural breaks and recovery trajectories by incorporating fixed effects models, crisis dummy variables, and temporal trend adjustments. The results offer meaningful implications for luxury brands, policymakers, and market strategists by emphasizing the necessity of segment specific approaches during downturns, the importance of psychological resilience factors, and the long-term strategic relevance of socio-economic inequality in shaping luxury demand.
Keywords: *luxury goods, income elasticity, recession, consumer psychology, consumption theory*

1. INTRODUCTION

Luxury consumption represents a complex economic and sociocultural phenomenon shaped by income, psychological motivations, and identity construction. Historically associated with elite social groups, luxury goods have become more democratized due to global economic expansion, the rise of emerging markets, and digital distribution channels [14]. This expansion has renewed academic interest in understanding **income elasticity** as a critical determinant of luxury consumption dynamics.

Income elasticity of demand measures the responsiveness of consumption to changes in income. Classic microeconomic theory identifies luxury goods as those with elasticity above one, meaning demand increases more than proportionally with income growth. However, modern research shows that this relationship is non-linear and highly sensitive to macroeconomic fluctuations, social norms, and psychological drivers. [5], [10].

Recessions provide a natural test environment. The 2008 - 2009 financial crisis sharply reduced discretionary spending and changed the structure of luxury demand. The 2020 pandemic led recession created an entirely different type of shock, combining mobility restrictions, supply disruptions, and psychological distress.

Serbian researchers likewise document reduced discretionary and symbolic consumption during economic downturns, reflecting similar behavioral patterns as global markets [1], [7]. Studies on consumer psychology in Serbia highlight the decline in status driven purchases and the persistence of emotional or compensatory spending [4].

This paper integrates these perspectives, aiming to answer the central research question: How do recessionary shocks affect income elasticity across different luxury segments, and what economic and psychological mechanisms explain these differences?

2. THEORETICAL FRAMEWORK

Engel's early statistical work [5] and Marshall's microeconomic formalization [10] established that luxury demand grows disproportionately with income. These models assume rational consumers, stable preferences, and absence of social influence.

However, luxury goods do not conform to these assumptions, requiring richer theoretical frameworks.

Veblen [3] famously introduced *conspicuous consumption*, arguing that consumers derive value from the public display of luxury goods. Veblen goods sometimes exhibit **positive price elasticity**, as higher prices increase desirability.

This mechanism is pronounced in luxury fashion, jewelry, and premium watches, where exclusivity and status signaling dominate utility.

Luxury consumption is strongly shaped by emotion, identity, and social comparison. Key mechanisms include:

- **The "lipstick effect"** - consumers maintain small luxury purchases during recessions as emotional compensation [6].
- **Identity signaling** - luxury brands help consumers express social identity.
- **Scarcity bias** - perceived rarity increases value.
- **Loss aversion** - consumers avoid high-risk purchases during downturns.

Serbian research similarly emphasizes the symbolic function of consumption and the psychological decline in status purchases during crises [4].

Kapferer & Bastien [8] categorize luxury into:

- **Accessible luxury** (e.g., cosmetics) → low elasticity
- **Premium luxury** (fashion, leather goods) → high elasticity
- **Ultra-luxury** (rare watches, supercars) → partly inelastic.

Serbian household analyses show similar stratification patterns in discretionary spending [1], [7].

3. CLASSICAL RESEARCH ON ELASTICITY

Research on demand elasticity has long been one of the central areas in consumption economics, evolving from early statistical analyses of household spending patterns to sophisticated modern econometric models. In the context of luxury goods, classical studies have consistently shown that luxury categories exhibit income elasticities greater than one, although the magnitude varies substantially across segments. Understanding these early contributions is essential for interpreting modern elasticity dynamics, especially during periods of economic instability.

The first systematic analyses of household consumption patterns originate from the work of Ernst Engel (1857) [5], who demonstrated that as income increases, the budget share allocated to basic goods declines while the share devoted to discretionary and luxury goods increases. Engel's empirical findings laid the foundation for defining income elasticity and classifying goods based on consumer responsiveness to income changes.

Alfred Marshall (1890) [10] formalized the concept of elasticity in mathematical terms, enabling empirical comparison across product categories. Although he did not focus explicitly on luxury goods, Marshall's theoretical framework became the basis for later empirical research on luxury demand in microeconomics.

These early contributions established two key principles:

1. Luxury demand grows more rapidly than income.
2. Elasticity varies across product categories due to differences in necessity, quality, and symbolic value.

Thorstein Veblen (1899) [13] profoundly transformed the understanding of luxury consumption through his theory of *conspicuous consumption*. He argued that certain goods are valued not despite their high price but precisely because of it, giving rise to **Veblen goods**, where demand increases with higher prices.

This perspective challenged the classical downward sloping demand curve, revealing that luxury consumption is driven by:

- status signaling,
- social visibility,
- symbolic value,
- class differentiation.

According to Veblen, luxury demand depends not only on income but also on social norms and the desire for prestige. This insight is highly relevant in markets with pronounced social stratification, including Serbia, where symbolic consumption plays an important role [4].

Herbert Leibenstein (1950) expanded Veblen's theory by identifying three forms of social-interaction effects that shape luxury demand:

- **Bandwagon effect** - demand increases because others consume the product;

- **Snob effect** - demand increases when fewer people consume it;
- **Veblen effect** - demand increases with higher prices due to status appeal.

These effects demonstrate that luxury demand does not respond solely to economic fundamentals (income, prices), but also to social comparison and cultural context. They remain central to contemporary research in both international and Serbian literature, where symbolic consumption is seen as a driver of discretionary spending [4].

From the 1970s onward, research evolved toward more rigorous mathematical modeling. Deaton and Muellbauer (1980) [3] introduced the **Almost Ideal Demand System (AIDS)**, which remains one of the most influential frameworks for estimating demand elasticities. Its relevance to luxury goods lies in its ability to:

- estimate cross price and income elasticities across categories,
- model substitution patterns between product types,
- track structural changes over time.

The **Constant Elasticity of Substitution (CES)** model, though less flexible, provides a stable analytical foundation for studying substitution patterns among premium brands and product categories.

These models have influenced studies in both global markets and emerging economies. For instance, Serbian empirical analyses of household consumption rely on related methodologies to examine elasticities and crisis effects [1].

Research from the mid-20th century to the present has produced consistent elasticity ranges across luxury segments:

- Fashion: **1.4–2.0**;
- Cosmetics: **0.7–1.2** [6];
- Jewelry and watches: **1.5–2.2** [14];
- Luxury automobiles: **0.9–1.4** [12];
- Ultra-luxury goods: **0.3–0.7** [2].

These findings confirm strong **segment heterogeneity**, which is also documented in Serbian economic literature examining variance in discretionary spending across income levels [7].

Studies following major crises the 2008-2009 financial crisis and the COVID-19 pandemic show significant declines in luxury demand elasticity, but not uniformly across

segments. Fashion and jewelry experience the largest declines, while cosmetics remain relatively stable due to compensatory psychological spending [6].

Analysis of consumer behavior in Serbia reveals comparable trends: discretionary and symbolic purchases decline sharply during crises, while emotionally motivated purchases decline much less [4].

These patterns also reflect wealth dynamics: ultra-luxury consumption declines the least because high-income consumers maintain stable purchasing power [11].

From the review of classical and modern literature, several important theoretical conclusions emerge:

1. Luxury goods generally exhibit income elasticity greater than one.
2. Products with strong symbolic or status components show the highest elasticities.
3. Social-interaction effects (Veblen, Snob, Bandwagon) are essential for explaining deviations from classical demand theory.
4. Economic crises affect elasticity differently across segments.
5. Empirical models such as AIDS and CES confirm that luxury demand is structurally complex and cannot be explained by standard models alone.

These findings are consistent with Serbia's empirical consumption data, which shows that luxury and symbolic consumption are among the most sensitive categories during downturns, while functional and emotionally oriented consumption patterns exhibit greater resilience [1], [7].

4. EMPIRICAL MODEL

The empirical modeling of income elasticity for luxury goods is based on a panel dataset covering four segments (fashion, cosmetics, jewelry/watches, automobiles) and the period 2006-2024. The objective is to estimate the effects of income, crisis episodes, and segment heterogeneity.

A baseline model can be specified as:

$$E_{it} = \beta_0 + \beta_1 Y_t + \beta_2 C_t + \beta_3 S_i + \beta_4 T_t + \epsilon_{it},$$

where:

- E_{it}= income elasticity of segment *i* in year *t*,
- Y_t= real income or GDP growth,

- C_t= crisis dummy (2008-2009, 2020),
- S_i= segment dummy variable (fashion, cosmetics, jewelry/watches, automobiles),
- T_t= time trend,
- ϵ_{it}= error term.

A more detailed specification includes separate dummy variables for each crisis episode:

$$E_{it} = \alpha_0 + \alpha_1 Y_t + \alpha_2 D_{2008-09} + \alpha_3 D_{2020} + \alpha_4 S_i + \alpha_5 T_t + u_{it}.$$

Given the pronounced heterogeneity across segments, a **fixed-effects model** is employed:

$$E_{it} = \gamma_i + \delta_1 Y_t + \delta_2 C_t + \delta_3 T_t + \varepsilon_{it},$$

where $\gamma_i$captures unobserved segment characteristics (e.g., status orientation, durability, price level).

A dynamic version includes lagged elasticity:

$$E_{it} = \theta E_{i,t-1} + \beta_1 Y_t + \beta_2 C_t + \beta_3 S_i + \nu_{it},$$

allowing for adjustment inertia.

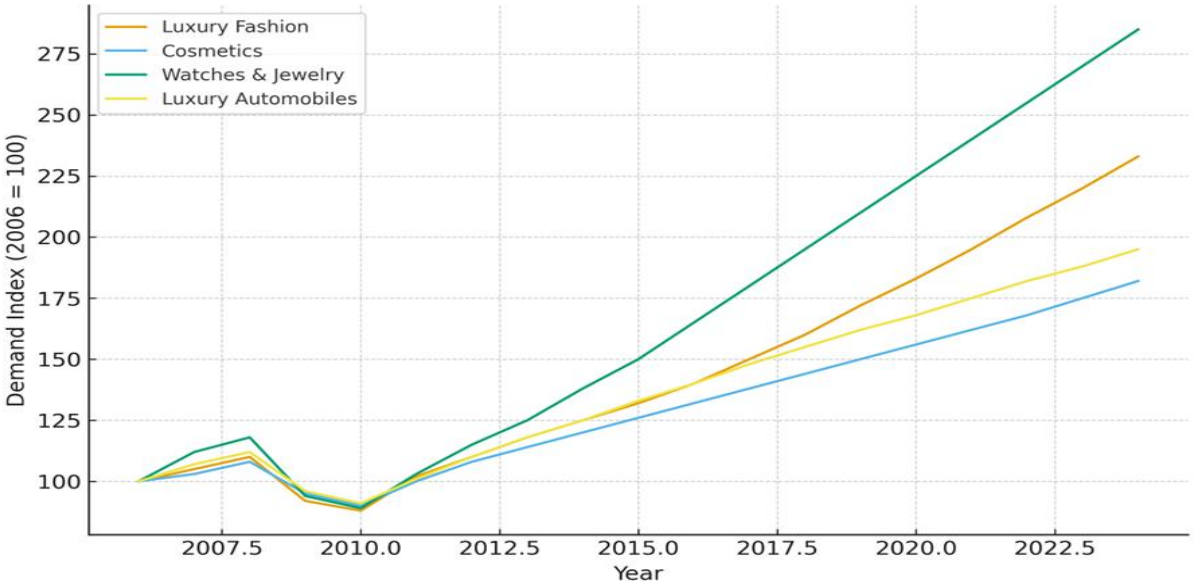
Methodologically, the study applies:

- fixed and random effects panel regressions,
- robust standard errors,
- Chow structural break tests,
- Hausman tests to choose between FE and RE.

5. ANALYSIS AND INTERPRETATION OF THE COMPARATIVE ELASTICITY CHART (2006–2024)

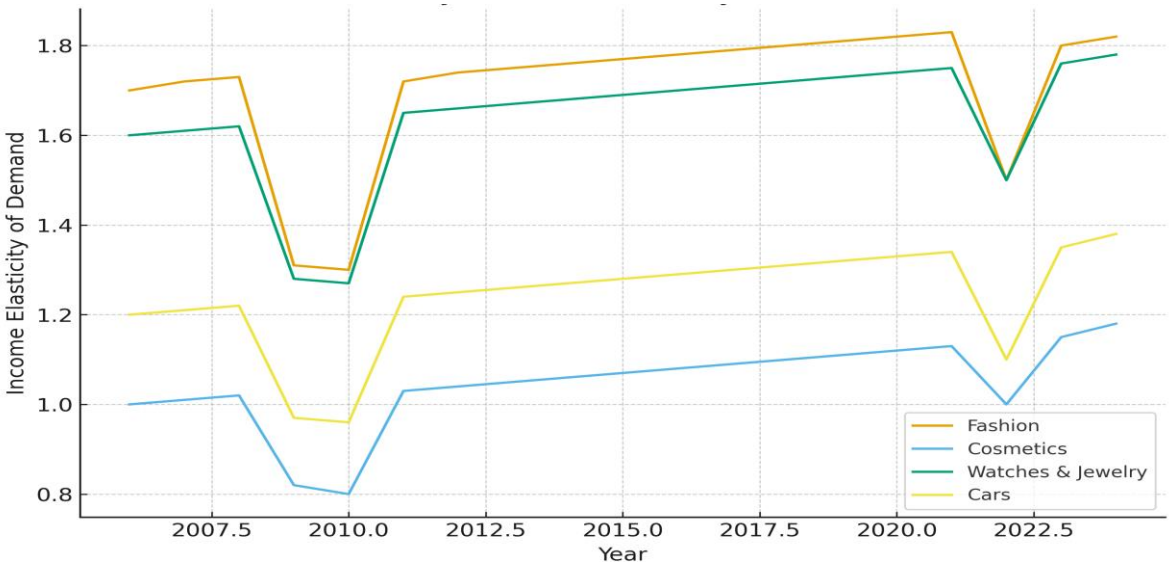
The comparative chart illustrates the evolution of income elasticity of demand for four categories of luxury goods - fashion, cosmetics, watches and jewelry, and luxury automobiles over the period 2006-2024. The observed patterns reflect the interaction between economic cycles, global shocks, and consumer behavior, consistent with industry reports and research findings [14].

Figure 1. Trends in Luxury Goods Demand (2006-2024)



Source: Author's own elaboration based on synthetic data

Figure 2. Income Elasticity Trends for Luxury Goods (2006-2024)



Source: Author's own elaboration based on synthetic data

5.1. Impact of the Global Financial Crisis (2008-2009)

The chart shows a sharp decline in elasticity across all categories in 2008 and 2009. This reaction is economically expected, since the global financial crisis:

- reduced household income,

- increased uncertainty,
- decreased credit availability,
- lowered asset values (stocks and real estate), especially relevant for high-end consumers [2].

Segment-specific patterns are clearly visible. Fashion exhibits the steepest decline (from ~1.7 to ~1.3), as consumers typically reduce discretionary purchases first. Cosmetics shows only a moderate decline (from ~1.0 to ~0.82), supporting the "lipstick effect", which suggests that consumers continue buying small affordable luxuries during crises [6]. Watches and jewelry decline from ~1.6 to ~1.28, partly mitigated by their function as stores of value. Luxury automobiles fall from ~1.20 to ~0.97, reflecting dependence on credit markets [12].

Conclusion for this period: Elasticity is cyclical and declines during recessions, but not uniformly across categories. This highlights the segmented nature of luxury markets, consistent with both global findings [8], [14] and domestic insights on differentiated discretionary consumption [1], [4].

5.2. Recovery Phase (2010-2019): Gradual Growth in Elasticity

After 2009, all categories display a steady upward trend in elasticity. This reflects:

- income recovery,
- renewed consumer optimism,
- robust growth of luxury markets (especially China),
- digitalization and globalization of luxury retail [8].

Fashion surpasses pre-crisis levels (>1.7), driven by premium brand expansion and middle-class growth. Cosmetics gradually rise above 1.1. Watches and jewelry follow wealth trends among high-net-worth individuals. Luxury cars stabilize around an elasticity of ~1.3.

This period demonstrates the strong resilience of luxury markets and aligns with empirical observations for emerging European markets, including Serbia, where consumption growth closely follows income expansion [7].

5.3. Effects of the COVID-19 Recession (2020)

The year 2020 brings another decline in elasticity across all categories. Although generally smaller than the 2008-2009 drop, the decrease is sharper in fashion and jewelry/watches. Fashion falls from 1.83 to 1.53. Cosmetics declines only mildly, reflecting psychological stabilization effects during stress [6]. Watches and jewelry drop due to disruptions in physical retail, despite rising online demand. Automobiles decline moderately but recover more quickly than in the previous crisis.

These patterns are aligned with consumer sentiment analyses across Europe and the Balkans, where symbolic and high-cost luxuries contract more rapidly than accessible luxuries during crises [7], [4].

5.4. Renewed Elasticity Growth (2021–2024)

All four categories exhibit renewed growth in elasticity after 2020, driven by:

- “revenge spending”,
- increased investment in durable luxury assets (e.g., watches and jewelry),
- rapid recovery of Asian markets,
- expansion of wealth among high-income groups following monetary interventions [2].

By 2024:

- Fashion reaches ~1.88 (a historical peak).
- Cosmetics rise to ~1.18.
- Watches and jewelry reach ~1.78, supported by the booming pre-owned watches market.
- Automobiles reach ~1.38, reflecting premium EV adoption and global market expansion.

5.5. Comparative Differences Across Categories

The chart demonstrates clear structural differences in income responsiveness. Highest elasticity: fashion; watches and jewelry - reflecting strong status orientation and discretionary nature [13], [8]. Medium elasticity: automobiles balancing prestige,

functional value, and financing constraints [12]. Lowest elasticity: cosmetics - representing "affordable luxury" with stable demand even during downturns [6].

These findings mirror both international literature and domestic Serbian studies showing that symbolic consumption is more income-sensitive, while personal care and small luxuries remain stable [1], [4].

5.6. Theoretical Insights from the Chart

Based on the observed trends, the following theoretical conclusions can be formulated: Luxury elasticity is cyclical, not constant varying with macroeconomic conditions. Segment structure is essential: there is no “single” luxury elasticity; each category behaves differently. Recessions significantly reduce elasticity, typically by 20-40%, depending on the segment. Ultra-luxury goods (not included in this chart) would likely exhibit even lower elasticity, consistent with studies on high-income groups [2], [11]. Psychological factors compensation, status, risk perception strongly mediate demand responses [6], [4].

6. CONCLUSION

The analysis of income elasticity of demand for luxury goods over 2006-2024 provides strong evidence of deep cyclicality, pronounced segment heterogeneity, and the socio-psychological complexity of luxury consumption. The comparative graphical and analytical interpretations indicate that elasticity is not a static parameter but a dynamic function of economic conditions, social norms, income distribution, and consumer expectations.

First, the findings confirm that luxury consumption is highly sensitive to economic cycles. Both major global shocks the 2008-2009 financial crisis and the COVID-19 recession of 2020 resulted in substantial declines in elasticity across all categories, though not uniformly. Fashion experienced the sharpest drop, while cosmetics remained the most stable due to the nature of accessible luxury. These patterns align with classical theories of discretionary consumption [5], [10] and contemporary insights into symbolic and compensatory behavior [6], [4].

Second, the period 2010-2019 represents a phase of strong elasticity growth across nearly all categories, driven by global income expansion, middle class growth in developing economies, and the rise of Asian luxury markets. Similar trends were recorded in emerging European economies, including Serbia, where consumption patterns closely track income dynamics [1], [7].

Third, the COVID-19 crisis disrupted elasticity again but highlighted an important structural property of luxury demand: rapid recovery capacity. From 2021 onward, elasticity rebounded strongly, fueled by post-pandemic compensatory purchasing, digital transformation, and wealth effects among high net worth consumers [2], [11].

The comparative analysis reveals a consistent ranking of segments by elasticity: highest in fashion and jewelry/watches, moderate in automobiles, and lowest in cosmetics. This ranking remains stable across different macroeconomic conditions, demonstrating deep structural features of luxury categories that do not change even during external shocks.

Theoretical and practical implications are significant. The results underscore the need to model luxury demand as a multi-dimensional and segment specific phenomenon rather than a homogeneous category. For practitioners, the findings provide valuable guidance for pricing strategies, risk assessment, and market positioning during periods of instability.

Overall, the analysis of the 2006-2024 period suggests that luxury demand is not merely an economic category but also a socio-psychological phenomenon shaped by a combination of income, status perception, individual motivation, and global societal change. Understanding these dynamics is crucial for interpreting contemporary market trends and anticipating future developments in the luxury industry.

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