



ISSN1857-4440

Relații Internaționale Plus

Revistă științifico-practică

Nr. 3

Chișinău, 2014

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ASPECTE ALE INTEGRĂRII EUROPENE: DISCURSUL POLITIC UNIVERSAL

DISCURSUL POLITIC AL INTEGRĂRII EUROPENE

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„Europa este mai degrabă conștiință decât geografie.
Conștiința apartenenței la Europa este o problemă de comunicare”
(Remigius Sobanski)

Rezumat

În articolul *Discursul politic al integrării europene*, autorul abordează un set de probleme soluționarea cărora ar permite Republicii Moldova să parcurgă cu succes procesul integrării în structurile europene. Obiectivele studiului, concluziile finale au o semnificație practică indiscutabilă. Conceptul de bază, interpretat sub diverse aspecte este europenizarea, proces care trebuie asimilat din necesitatea realizării obiectivelor centrale ale politicii interne și externe a Republicii Moldova. Definind europenizarea și descifrând conținutul celor patru aspecte ale ei, autorul justifică teza lui A. Marga: nu există europenizare fără raționalizare. Amintind că Uniunea Europeană se confruntă la moment cu mai multe dificultăți, evidențiate și puse în discuție de către eurosceptici, autorul analizează potențialul discursului politic în depășirea lor, rolul comunicării politice în soluționarea problemelor sociale, economice, politice. Analiza demersurilor politice ale conducătorilor Republicii Moldova, adresate instituțiilor europene supranaționale și naționale, i-a permis să conchidă: înainte de a elabora și expedia un demers, de a prezenta un discurs în fața autorităților europene, moldovenii, indiferent de statutul lor social: conducător de țară, de guvern, de parlament, lider al partidului politic, al ONG, al Diasporei, cetățean, trebuie să asimileze

experiența acumulată a altor state; să realizeze o analiză situațională a propriei experiențe politice; să asimileze conținutul europenizării.

Cuvinte-cheie: discurs politic, integrare europeană, europenizare, raționalizare, comunicare politică, accord.

POLITICAL DISCOURSE OF EUROPEAN INTEGRATION

“Europe is rather conscience than geography.
Feeling of belonging to Europe is a communication problem.”
(Remigius Sobanski)

Abstract

In the article “Political discourse of European integration”, the author deals with a set of problems, and solving them would allow the Republic of Moldova to successfully undergo the process of integration into European structures. The objectives of the study, final conclusions have unquestionable practical significance. The basic concept, interpreted by various aspects, is Europeanization, a process which should be treated from the need for implementation of central targets of domestic and foreign policy of the country. Defining Europeanization and deciphering the contents of its four aspects, the author justifies A. Marga's thesis: there is no Europeanization without rationalization. Recalling that the European Union currently face more difficulties highlighted and discussed by Euro-sceptics, the author analyzes their political discourse potential in overcoming them, political communication role in addressing social, economic, political problems. The analysis of Moldovan leaders' political appeals addressed to supranational and national European institutions, allowed to conclude that: before preparing and sending a request, presenting a speech to the European authorities, Moldovans, regardless of their social status: leader of the country, of the government, of parliament, political party leader, of NGOs, of Diaspora, a citizen must assimilate the experience of other states; conduct a situational analysis of his own political experience; assimilate the contents of Europeanization.

Keywords: political discourse, European integration, Europeanization, rationality, political communication, agreement.



Introduction. The relevance and significance of this study shows the priority objectives of the Republic of Moldova, the achievement of which will stimulate our state's progress in the European integration process. The priority objectives of state policy, in turn, reflect the complexity of national interest. Being perceived and interpreted differently, formulated national interest requires an appreciation every time. National interest in international relations invokes the image of the nation or national state [1, p.8]. The image of the nation is produced by diplomats, politicians, civil society leaders, journalists, artists, scientists, athletes, students and immigrants. Under the pragmatic aspect, the present study aims to stimulate civic, political socialization of these groups of Moldovans.

The significance of the study for the development of political theory can be assessed through the exchange paradigm. Currently for Moldovan citizens not only the problems of life and cultural interrogations pass imperceptibly from national paradigm, which took a long route in European culture, into European paradigm [2, p.5]. On the other hand, united Europe is currently experiencing some difficulties, which have a structural-functional, institutional origin, but rather refer to the democratic deficit characteristic of decision-powered failure / inefficiency of communication. About this Bled Manifesto speaks, published in 2002. The Manifesto states: Europe has problems and is tempted to blame the inappropriate actions of communication and information [3, p.4]. This assessment of the real issues and challenges United Europe is facing is not universally accepted. In the study: Schengen exam. In the search of a European public sphere, the author Alina Bârgăoanu states: disguise of problems, perhaps even errors in the design and construction of the EU, under the slogan "information and communication failure" is a sign of poverty perception, transfer of responsibility [4, p.43].

Based on these theoretical guidelines and capitalization of experience, we suggest:

- to examine EU founders and politicians' in Moldova political discourses;
- to interpret concepts that reflect integration process of national states in EU structures;
- to justify the thesis expounded by A. Marga: there is no Europeanization without rationalization;
- to argue the need to change the approach and assessment of unilateral regional integration process of Moldova by the leaders of political parties, civil society, migrants and other categories of citizens;

- to define the role of political discourse in the process of Europeanization, held in the periods like: pre-accession to the European Union (situation characteristic of Moldova) and post-accession, i.e. in terms of a full member state of the European Union (analysis performed on the experience of Spain).

Applied methods. The theoretical approach of integrating socio-cultural paradigm, communication of European peoples will be achieved on the basis of dialectics, interpreted by Hegel. In his studies, Hegel noted that most developed forms of social, political, economic organization allow us to understand simpler forms. On the other hand, in situations of shift paradigm any investigation cannot achieve its goals without applying the principles of dialectics, especially the following principles: interdisciplinary, multidisciplinary, complementary principles. *But multidisciplinary research is obsolete and dissolved in isolated, assembled only nominally approaches, unless it is supported by a conceptual framework, which in its turn allows the formulation of questions. However, the questions start with researching and quality depends on the quality of research questions* [2, p.13]. We applied full cognitive potential of comparative study, drawing on the experience of Spain and the Republic of Moldova.

Research results. The idea of integrating the European peoples through communication was promoted by representatives of the European Enlightenment. For example, Herder in his ideas on philosophy of human history, justifies the argument that each language incorporating Volksgeist and peoples have specific contributions to common civilization of humanity. Fichte exposes the same opinion in - Letters to the German nation. Fichte states that cultural history was split into different nations' culture. In argued conclusion, the representatives of Enlightenment send a consistent message: nations' cultural flourishing generates humanity flourishing culture. It highlighted the ratio of national and universal with respect to culture and civilization. It discussed the issue of cultural dialogue, only through this national cultures flourishing they contribute to the flourishing of universal culture.

In the spirit of the German Enlightenment Dimitrie Cantemir interprets cultural dialogue sense. Encyclopaedic scholar commented on chronicler's Grigore Ureche statement: from RIM we draw and especially its misinterpretation. Fixing his message by saying that Moldovans have a noble, Latin origin, the chronicler, his followers have found that it provides us with a place of honour among the peoples of Europe. Time is disputed by Dimitrie Cantemir, who emphasizes: Not the origin of a nation ensures its place among other nations, but the contribution it makes to the development of world culture [5, p.232-236]. We update these statements for the reason that today in



Moldova parliamentary party leaders are saying that we are Europeans and talks on Moldova's integration into the European Union are meaningless. By analyzing processes belonging to Europe, Europeanization, institutional integration and intercultural communication, we will demonstrate that from such assessments / approaches serious danger comes.

An important question philosophers discuss is to elucidate and define the specificity of Europe. Hegel specified Europe by the consciousness of individual freedom, appeared in European geographical area. European approach originality lies in the assertion of individual freedom: freedom is objectified in the will and action. It is backed by Protestant traditions, the achievements of the French Revolution.

In Nietzsche's view Europe's specificity comes from Greek, Christian culture, from Thracian, Phoenician, Hellenism elements, Roman philo-elinism, their Christian empire, Christianity that carries ancient elements, elements from which philosophy comes: as is believed in science, it is about Europe [6, p.9]. Nietzsche paid specific attention to defining Europe's cultural traditions, interpreted traditions that configure it. Content analysis of Nietzsche's findings allow us to conclude that the German philosopher assigns to Europe only those peoples who have a common history that lies behind Greece, Romania, Judaism and Christianity [6, p.11].

In his work "The genius of war and German war", published in 1914, Max Scheller updated the idea of European integration, when terminating a process of research / interpretation of cultural dialogue and cultural belonging to Europe. Andrei Marga in work "Philosophy of European unification", interprets "belonging to Europe" formula. Romanian philosopher noted that the phenomenon of integration / proximity to Europe must be approached carefully, because at the moment superficial assessments are scattered, bearing the imprint of naivety. Andrei Marga claims that it is necessary to contest naive allegations of those "who postulate a Europe from the Atlantic to the Urals" [2, p.27].

Another trend in the interpretation of belonging to Europe is supported by those who stated: having our place in the geographical area of Europe we are Europeans. And in Moldova this assessment is widespread, even among some people who govern the country and that should be documented before speaking. Otherwise we have a situation where politicians wrongly consider political reality, the main objectives of internal and external policy of the state. About such interpretations and people, Andrei Marga writes: "This wants Europeanization without rationalization".

Claiming line debates of philosophers, representatives of the Enlightenment, scientists, now, we distinguish: historical peoples' belonging to the European continent and cultural, economic, political background. In many studies there are listed events / processes by which the peoples of Europe were close, or were removed, but which created favourable conditions for the principle of unity in diversity, located later at the base of functioning structures of unified Europe. Existential unity of all people, regardless of the geographical area in which they live, their bank account, social status etc. is supported by the requirements / needs, conditions of financing. Human mode peculiarity of being is shaped by socialization, communication with peers. Man is a being that creates goods and values, but the indispensable condition of creation is freedom. All that ensures the process of existence, conservation and reproduction of the human species is: phenomena, processes, actions, ideals, dreams, knowledge, projects etc. defined and interpreted in culture forms and found in the forms of civilization. Their assimilation approaches us as individuals, as social groups, as organized communities, and allows us to coexist in a common space. The specifics of each culture, civilization were formed in the same dimensions of historical belonging to Europe. Some people had a more successful experience, were developed in terms of stability, peace and freedom of decision, while others survived more complicated conditions, harsh adaptation and socialization, being under foreign occupation or political guardianship, or war. With great regret we find that over several centuries an argument remains valid: in conditions of political instability or war life is devalued. In order to justify this assertion we may use examples from Moldova, Georgia, Ukraine, Romania or other contemporary states. Thus, we can see that humanity has advanced knowledge in the organization of work and its diversification, but in terms of preventing or resolving conflicts through peaceful, political, diplomatic means it remained incompetent. And from this perspective defining cultural affiliation of the people to Europe is significant for solving problems that contemporary states are facing.

An important aspect of pro-European political discourse is the institutional membership in Europe, acquired through a complex process of political socialization through which citizens of European states would own history of united Europe, content of agreements on the basis of which supranational structures function, interpretation and reasoning of joint actions. Through this process the process of Europeanization occurs as a result of which people (nationals of Member States or candidate states) assimilate



the concept of Europe. Institutional membership in Europe is a qualifier and a result of the integration process, the EU Member States' cooperation in various fields of social life: economic, political, and cultural.

The idea of unification, as we described above, is discussed, since the Enlightenment, but conscious approach to economic, political integration, occurs in the interwar period. In 1926, the Vienna Congress meets to establish the Pan-European Union, attended by 2,000 delegates from different countries. Minister of external relations of France Aristide Briand was elected as Honorary President of the Pan-European Union. On September 7, 1929, Aristide Briand launches EU project, political and diplomatic act of great importance for the history of post-war international relations [7, p.9]. Briand project ideas were developed in the French Government memorandum on the organization of a system of European Federal Union, which was formally submitted to the member states of the League of Nations on May 17, 1930.

During the Second World War, representatives of several governments of European countries, being in emigration, continued to discuss and promote the idea of united, unified, and federated Europe. For example, Paul Henri Spaac, Belgian Foreign Minister proposed project Federation, established in Belgium, Luxembourg, France, who want more cooperation in the political, economic, military domains, the result of which would increase each and common share in world politics. Carlo Sforza, former Foreign Minister of Italy, opted for a Central European Federation with capacity expansion from Poland to Serbia and for Latin confederation, in the composition of which one would find: Italy, France and other Mediterranean countries. The governments of Poland and Czechoslovakia are trying to cooperate, whose representatives signed the Agreement on the establishment of political and economic association between the two states on 23 January 1942. The message states that signatories are open to cooperation with other European countries. On 15 January 1942 the Government of Greece and Yugoslavia concluded an agreement about creating a confederation, declaring its intention to create common institutions empowered to develop and implement programs of foreign policy and defence.

In 1943, discussions on the integration of European states continued to analyze the project proposed by Charles de Gaulle, whose postulates were rejected by representatives of German émigré in London and the UK. Federation is the core European countries: France, Belgium, Netherlands, Luxemburg. At the same time attempts of unification are made by integrating regional federations. On the proposal of General Sikorski representa-

tives of Poland, Czechoslovakia, Norway, Belgium, Holland, Luxembourg, Greece, Yugoslavia and the committee "Free France" met to discuss common problems and the possibility of finding cooperative solutions. The political discourse of all participants was focused on the need to integrate, motivated by economic crisis (militarized economies by states in the Second World War could not meet basic vital needs of citizens) and uncertainty, instability. The idea of integration was supported unanimously, controversy arose explaining forms of integration: federation, confederation, union.

The Vth Pan European Congress was organized by Coudenhove-Kalegi, in New York, attended by Winston Churchill, who spoke to the people of Europe with a message focused on the need to integrate. Winston Churchill said that the structure of world order will appear alongside the United Nations Council of Europe. Another important speech for the integration of European states kept George Marshall, Secretary of State, at Harvard University on June 5, 1947. The message for the European peoples is: the US is ready to grant conditioned financial aid to overcome economic crisis, deepened during the war. The condition of funding provided for the establishment of supranational institutions empowered to manage / monitor the distribution of aid and joint actions of European states, directing them toward reconstruction, recovery of their economies. On 12 July 1947 in Paris the leaders of several countries met in a conference on European economic cooperation, where necessary amounts to reform and reconstruct national economies were assessed. The financial support of the US, which was more than 13 billion dollars, received 16 European countries: Austria, Belgium, Denmark, France, Greece, Ireland, Iceland, Italy, Luxembourg, Norway, Netherlands, Portugal Sweden and Turkey, signatory to the Convention which established the European Economic Cooperation Organisation (OECE), also known as the Organisation for Economic Co-operation and Development (OECD). Later the German Federal Republic (1955) and Spain (1959) were admitted in OECE.

The first form of collective action by European states, financially supported by the US, saw noticeable results. Europeans are convinced that integration requires cooperation and dialogue, and together they lead to an efficient management of natural resources, financial and human resources. The normative basis, legal cooperation, supranational institutions' work remained under discussion. The Hague Congress, attended by 713 delegates, granted special attention to the normative base of cooperation. In the course of debates the formation of two groups is observed: supporters of federalization and unification. The debates were held in economic, political and



cultural Commissions. Economic Commission led by Paul Van Zeeland, ruled on the structure of a united Europe, proposing the establishment of Economic and Social Council, endowed with consultative status. Cultural Commission headed by Spanish Professor Madariaga proposed establishing a European Centre of Culture. An indisputable result of the Hague Congress belongs to the European message, which promoted the following ideas:

- in the EU the free movement of people, ideas, values is supported ;
- the need to adopt the Declaration of Human Rights, which guarantees freedom of thought, opinion and assembly;
- creation of the European Court of Human Rights (ECHR), guaranteed by the Declaration of Human Rights;
- European Assembly convened, which would find representatives of all European states;
- promoting the idea of building a united Europe as the only guarantor of peace, stability and prosperity.

So those political discourses underlying foundation of the United Europe supranational structures reflect the needs of social practice, existential conditions of all inhabitants of this continent. Concerned about the instability and uncertainty, which was updated during the First World War, the leaders of European countries embarked on a cognitive process, in the result of which speeches, projects, reports, programs, organized conferences and congresses developed, where they discussed the opportunities for integration and integration purposes. In all political discourses one may find motivation of economic, political, military integration. Among the most serious problems Europeans were facing in the first half of the twentieth century were: economic crisis and the need for reconstruction of all branches of national economy, connected to people's vital needs; national security; ensuring the right of citizens to decide on the form of political organization, political regime etc. A serious obstacle to progress in the process of economic, political integration is formed by the activity of supranational institutions, their powers. The situation, in which in integration process nation states convey some sovereignty to the European supra-state institutions, bothers some leaders of national states. That is why a lot was discussed about the federalization or union of European states. But the viability of the European Union, supported by the success of the first supranational institution - the European Organisation for Economic Cooperation, and then by those that followed and now operate, shows that European peoples benefit from such structures and will further endeavour to be accepted by them.

Political dialogue between the Republic of Moldova and the European Union initiated during 1991-1994, while the Moldovan authorities managed to sign several agreements with European structures: Partnership and Cooperation Agreement; Interim Agreement on trade between the EU and the Republic of Moldova. They turned Moldova the European Union's partner, which had a positive impact on the recognition of the Republic of Moldova on the international arena. Experts in political analysis and Community law, those mentioned agreements must be viewed as a commitment by the parties on behalf of affirmation of democratic values. Partnership and Cooperation Agreement printed a political cooperation between Moldova and the European Union. By the Partnership and Cooperation Agreement the parties have committed to support dialogue aimed at strengthening and bringing the two sides together, contributing to greater convergence of positions on global issues of mutual interest, encouraging their cooperation on issues related to compliance to principles of democracy and strengthening stability and security in Europe [7, p.78].

We will update Moldovan leaders' messages, where Moldovan people expressed a desire to join the family of United Europe. On 13 December 1996 the President Lucinschi, addressed a letter to European Commission President, Mr Santer, in which he exposed of Moldova's intention to become an associate member of the European Union by 2000. In October 1997, Petru Lucinschi sent the second letter with the same message to Mr Santer, requesting negotiations on an association agreement. In two months, President Lucinschi sent such letters to all Heads of Member States of the European Union. But our country's leadership has not received any positive response. To the question: Why? There is only one answer: our country's leader's naivety that was indicated in 2000 as well. However, the dialogue between Moldova and the European Union reappears at the moment of launching the European Neighbourhood Policy.

Arriving today, in 2014, at the signing of the Association Agreement with the European Union, we can certainly mention: we have rushed. We begged this Agreement from Europeans, but we have not done our homework, we have not advanced in the process of Europeanization, we have not assimilated the concept of Europe. We have a dispersed society, a fragile political stability, a political class divided by regional integration vectors: one facing west - the European Union and another - the Customs Union; leaders are incompetent, irresponsible; a region separated from Moldova, its political, social, cultural institutions; a national economy that cannot get out of transition and crisis. Our



luggage of problems is too big to be transferred to the peoples of Europe, European institutions. To enjoy the results of the collaboration, cooperation, activities managed by supranational institutions Europeans have worked, studied, assimilated the experience of the developed states and personal experience, and have tried different forms of cooperation. But we ask for financial help, assistance in the political, legal, financial, economic, banking spheres. If in the philosophy of European unification, the author talks about naivety, then based on the findings the author may affirm with reference to the behaviour of politicians in Chisinau that it is about infantilism. It is easy to criticize, as Mihai Eminescu said in his famous work "My Critics", but it is necessary to design a way, a model through which a deplorable situation would be changed to a better, more favourable situation for our people, socio-cultural and political institutions of the state, for every citizen. It is to this end we will return to decipher Europeanization and the concept of Europe.

Knowledge is power, says Francis Bacon, provided with the condition that they are true, but for Moldovans an imperative is required - they should be assimilated. Europeanization implies a change in the political system of the Member States as a result of EU integration. In the opinion of many scholars: M.G. Cowles, J. Caporaso and T. Risse, Europeanization is the emergence and development at European level of distinct structures of governance, by which one can presuppose political, legal and social institutions, associated with political settlement, institutions that formalize interactions between actors [8, p.1-3]. In T. Risse's interpretation Europeanization is a response to pressure of EU regulations, assuming to adapt formal institutions - political, administrative, social ones that arise from EU representations and rules [9]. The impact of Europeanization is defined as model, in which the process of European integration has changed and amended national states, national institutions and political cultures of these countries [8, p.11].

A comprehensive analysis of Europeanization definitions presented in several papers published in 1981-2000, is exposed in Social Sciences Citation Index by Kevin Featherstone. In research results of content Kevin Featherstone highlights four aspects of Europeanization: historical, cultural, institutional, and political. By historical aspect, the scientist underlines, not the regulations and the EU rules of law, but European civilization is the centre of interest. Europeanization involves the transfer of influence, the rules of law of advanced countries to other countries. In terms of cultural Europeanization it is a process of transnational cultural diffusion. Europeanization indicates the transnational

circulation of values, practices and symbols of Member States. Institutional aspect of Europeanization reflects the influence of European structures on the actors: Member States or states in the process of accession to the European Union, their institutions, which since EU accession adapt their laws, regulations. Knowing the content of the signed agreements, laws, their appropriate interpretation, bringing their contents to their operating conditions of national institutions - is a part of Europeanization, because in our opinion, influence necessarily has the reaction of the opposite party. Appropriate response occurs when political actors act know the document, and the actual situation in the country, in respective field. In practice the work of political institutions in Moldova can deduce that the difficulties in communication, governance, especially in the coalition, are largely caused by misunderstanding of approaches, speeches, laws, rules of law etc. The political aspect of Europeanization includes models to adapt policies and decision-making process.

So, Europeanization designates the reorganization process of social life of the people who have come, consciously, to the EU accession process. Europeanization content cannot be equated with political culture, which is a prerequisite for the practical realization of all the features of the model of participatory democracy. Currently, the political class in Moldova, after the signing of the Association Agreement with the European Union, after validation November 30, 2014 parliamentary elections, must take responsibility for organizing and managing the process of Europeanization, of political socialization of Moldovan citizens.

Often the concept of Europeanization is replaced with that of Europeanist, which designates historical, cultural, institutional belonging to Europe. There is a particular interest to Europeanization and Europeanist in EU accession process and in the period following the accession to the European structures. As Enrique Banus stated, professor at the International University of Catalonia, Barcelona, Spain, the Director of the Institute of European Studies, International University of Catalonia, Professor Jean Monnet: ... in general the Spanish attitude towards European integration is overall positive. At the time of integration, membership of the European Communities was a collective dream. Indeed, when in Spain after Franco's death, democracy begins to be established, the accession to the European Communities is simply a part of this normalization. It is amazing that the formal request is made before drafting the new democratic Constitution. And the decision of the first democratic government enjoys the support of



virtually all political and social forces: no debate is produced around it [10, p.75]. The Interpretation of this finding in a comparative study with the reality of Moldovan society, leads to the idea: in Spain at the start of negotiations with the European structures, the situation was more favourable. Enrique Banus stresses a majority favourable attitude to European integration, including issues that could have negative implications for Spain. While in Moldova at the moment of signing of the Association Agreement and after there are political forces that are against European integration and the political class is at this topic, the Moldovan society is divided into two parts: the supporters and opponents of European integration.

Over the years, with pushing apart the citizens in political projects, under the impression that Brussels is far away and is a very complex world, with all these perceptions much scepticism appears, emphasizes Enrique Banus, without foundation, based simply on impressions, on alleged third-hand information [10, p.77]. Spanish attitude towards European structures changed, disappeared interest in the benefits of integration, of European structures' activity. In such circumstances there can be no discussion about the knowledge of two phenomena: Europeanization and Europeanist. Spain's experience tells us about the need for ongoing European study program, through which officials would update the discussion stages of European integration, challenges and achievements of each stage.

Conclusion. In the outcome of the investigation we found that the idea of integration was discussed by philosophers, intellectuals long before becoming a topic of political debate. Moving from integration philosophy to integration policy development is dictated by the needs of an economy destroyed in the war. The integration of supranational structures must be organized. The axis of all political, economic, social debates, of an approach on the European integration is national sovereignty and functionality of supranational structures. The European Union has experienced several waves of integration. Economic, political, social integration are characterized by several levels. Accumulated experiences should be assimilated by the citizens of united Europe, and especially by the people who choose to go through this difficult process. Without a conscious choice to pass European course, conducted in a participatory democracy, without political culture with far assumed objectives, we will not know the essence of Europeanization, we will not realize the full membership to European Union.

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Data prezentării: 24 decembrie 2014



IDENTITATEA POLITICĂ, CETĂȚENIA ÎN MODELUL EDUCAȚIONAL NOU: NOTE CRITICE

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Rezumat

Scopul urmărit de autor constă în găsirea răspunsului la unele chestiuni legate de formarea/educarea conștiinței naționale și civice, în cadru analizei politicii a identității și cetățeniei, care dobândesc o semnificație tot mai mare în Europa Occidentală și de Est. Cetățenia este abordată în calitate de structură dinamică, care trebuie privită ca procesul prin care sunt realizate drepturile și obligațiunile specifice. Rezultă că sarcina principală a analizei evoluției diferitor concept ale cetățeniei în lumina experienței istorice, a continuității și schimbării, adică a transformării modelului învățământului politic, apărut în limitele culturii politice a secolului al XIX-lea care continuă să influențeze asupra dezvoltării discursului politic în lumea contemporană. Scopul final al articolului este argumentarea ideii, conform căreia noua concepție a cetățeniei și a învățământului politic ar putea în condițiile aprofundării crizei să devină un inel de legătură între societatea civilă și noul conținut al politicului, care își caută locul în interesele corporative.

Cuvinte-cheie: învățământ politic, drepturi civile, identitatea națională, cultura politică, ideologia politică.

POLITICAL IDENTITY, CITIZENSHIP, AND THE NEW EDUCATIONAL TRENDS: SOME CRITICAL NOTES

Abstract

The article seeks to elucidate some controversial problems of the formation of both civic and national self-consciousness within the framework of the analysis of the politics of identity and citizenship which has assumed increasing importance in Western and Eastern European countries. Citizenship is considered as a dynamic construct that should be viewed as a process through which specific rights and obligations are exercised. The central task, therefore, is to analyze the evolution of various conceptions of citizenship in the light of historical experience, continuity and change as like as the process of transformation of the model of political education emerging within the framework of the liberal political culture of the 19th century and continuing to exert a great impact on the development of political discourse in the modern world. The final aim of the article is to prove the idea that a new conception of citizenship and political education could, in conditions of a deepening crisis, become the most important link binding civil society and the new content of the political making its way through corporative interests.

Keywords: political education, civil rights, national identity, political culture, political ideologies.

Introduction. In the last decade of our century the post-communist countries entered again a period of deep transformations the consequences of which seem hardly to be predicted in nearest future. Progressive crisis of the economy and the real possibility of the loss of the natural and human resources cannot be compensated by official declarations claiming to historical optimism. The character of such assurances is on the whole reduced to problem of price which these countries ought to pay to expiate the sins of the communist past and join the world civilized community. The experience of the post-war history of these states demonstrated that economic development and political stability are two independent goals and progress toward one has no necessary connection with progress toward the other. In some instances programs of economic development may promote political stability; in other instances they may seriously undermine such stability.

In this article I shall try to elucidate some controversial problems of the formation of both civic and national self-consciousness within the frame-



work of the analysis of the politics of identity and citizenship which has assumed increasing importance in Western and Eastern European countries. It is widely recognized now that effective citizenship rests on a rigorous and viable system of civic and political education which informs the individual of his civil rights and obligations. Therefore, the problem of national and civic identities as well as the criteria for their definition have become crucial in the discussion of the concept of citizenship.

Citizenship can be defined as a set of civil, political and social rights forming the foundation for civilized life in a political community. Citizenship is a multi-dimensional phenomenon that has produced differing views of the concept. In this respect the notion and the idea itself of citizenship very often overlap with the notions of nationality and Nation-State. For example, T.H. Marshall's notion of citizenship was dependent upon a firm link existing between the nation and the state: the state provides and guarantees rights, whilst the nation is the focus of identity [2, p. 41]. Certainly, in the West citizenship can be characterized by an interiorized process of identification in the nation due to the deep-rooted democratic values, reflecting the 'inner orientations' of both individuals and groups. Even in the majority of post-communist states, which remained authoritarian at the early stage of their formation, 'the chief *motives* for state exploitation consisted of both short-term survival and long-term commitments to democracy' [6, p. 2, 6; cf.: 8, p. 141-153].

Today, the modern conception of citizenship is also being discussed because of the decline in reference to the nation. 'Globalization has further dissipated political community. States become weaker and less able to deliver collective goods, increasing consumerist and privatized political action. National political cultures are similarly weakened by global market pressures to greater mobility and the enhanced ability to defect from collaborative arrangements' [3, p. 118].

The new notions of citizenship or identity based, for example, on the new Europe are distinctly different from the more traditional concept of nation-state citizenship: it is more diverse, less ethnocentric, more inclusive etc. The outcomes of the discussions depend, as a rule, on the level of subjectivity of perception of real political processes by scholars. In order to overcome various lopsided and subjective approaches, one should reconsider the controversial aspects of the modern theory of citizenship, especially in the period when rapprochement of positions between some Eastern and the Western European countries are becoming more and more clear cut.

Nevertheless, the analysis of the evolution of the idea of citizenship on the

basis of West/East opposition would be too abstract, especially when American democratic citizenship is accepted as an ideal model. There are far more similarities between the Western and Eastern experience than one could imagine. Until the end of the nineteenth century, only a small minority of the European population could be classified as citizens. The great majority identified themselves rather as subjects. The real democratic revolution which drastically transformed human and political relations took place during the first half of the twentieth century. It should be noted that the Russian October revolution also made a big contribution to the development of the conception of citizenship in the same way as the French Revolution had contributed to its origins. I share M. Janowitz's position when he writes: 'Citizenship is not a formal and abstract conception. To the contrary, it is an idea loaded with concrete, specific meaning which reflect the changing content of political conflict'. In this sense 'the elements of citizenship are found in all nation-states, even in the most repressive, totalitarian ones. There is a crucial threshold, however, between democratic and nondemocratic citizenship' [7, p. X, 2].

The formation of the character and principles of citizenship is the immediate task of every modern political system. That is why the concept of political education often possesses a number of other equivalents (and expressions) – 'civic education', 'citizenship education' etc.

It is surprising that political education had never been considered a priority till the 1980s in spite of a most evident fact that its various conceptions had been developed in different systems of political philosophy, starting from the time of classical antiquity. Therefore, it is quite important to cite a definition suggested by Morris Janowitz, which appears to be most appropriate to the topic of this article: 'By civic education we mean (a) exposing students to central and enduring political traditions of the nation, (b) teaching essential knowledge about the organization and operation of contemporary governmental institutions, and (c) fashioning essential identifications and moral sentiments required for performance as effective citizens. Effective civic education would result in increased understanding and meaningful national identifications. It would strengthen civic consciousness' [7, p. 12].

So, in its narrow form, civic education focuses mainly on the attitudes of the student to the central agencies of government. In this connection, it is also important to note that the very concept of political education is often discussed in the context of citizen (or civic) rights and obligations. If by rights one means the legal, political and socio-economic prerogatives that



the person enjoys because of the collective action of the political system and by obligations - the contributions and sacrifices a citizen makes to keep the political system effective [7, p. 2], it also becomes evident that up to the present day the right-oriented conception of citizenship has been predominant both in western and totalitarian democracies.

Thus, the right to be educated or informed has always been rated higher than the duty to be literate and educated. I use the term 'informed' in Jeffersonian sense, which includes thoughtfulness, ethical soundness, and good judgment as well as factual information. Naturally, we should not confuse the compulsory laws which make parents send their children to school with the obligation to give them education. When liberally minded thinkers and scholars such as Robert Dahl and Isaiah Berlin declare accordingly "We do not grant children the right to decide whether or not they shall go to school" or "We compel children to be educated", they do not mean the obligation as a sphere of autonomous decisions but a mere collective demand which is dependent on the necessity for every society to survive [5, p. 16; 4, p. 31].

This contradiction in the conception of the rights and their benefits sometimes had a positive effect on the elaboration of the theory of liberal education. The main principles of this theory were brilliantly formulated by William Morris, a pioneer of British socialism, in his essay *How we live and how we might live*: 'Now the next thing I claim is education. And you must not say that every English child is educated now; that sort of education will not answer my claim, though I cheerfully admit it is something: something, and yet after all only class education. What I claim is liberal education; opportunity, that is, to have my share of whatever knowledge there is in the world according to my capacity or bent of mind, historical or scientific, and also to have my share of skill of hand which is about in the world, either in the industrial handicrafts or in the fine arts...; I claim to be taught, if I can be taught, more than one craft to exercise for the benefit of the community' [9, p. 440].

Nevertheless, in the modern world all models of political education are widespread. Any state aspires, independently of its distinctive features and general perception of politics, to control this process by means of taking centralized decisions, i.e. to carry out a definite educational policy. In a democracy with developed civil consciousness, the existence of independent public opinion is a sufficient guarantee for orientation towards the model of political education within the framework of which the mechanism of civil society's control over the state is supported and intensified. G. Sartory

calls the system based on pluralism of interests with such attributes as autonomy and freedom 'education', opposing it to 'indoctrination', i.e. inculcation of a single model of political conduct. M. Oakshott divides political education into 'universal' and 'ideological' based on learning a strictly defined set of 'ideological texts' [11, p. 126, n. 36; 10, p. 116].

In the modern conception of political education the liberal position is manifested also in the opposition of the notion of 'civic consciousness' to the traditional comprehension of nationalism and patriotism. As M. Janowitz affirms: 'Civic education limited to inculcation of traditional patriotism or conventional nationalist ideology is obviously inadequate for an advanced industrial society and a highly interdependent world. I find the words national and patriotic limiting, and offer the term civic consciousness. It refers to positive and meaningful attachments a person develops to the nation-state. Civic consciousness is compatible with and required for both national and international responsibilities and obligations. It involves elements of reason and self-criticism as well as personal commitment. In particular, civic consciousness is the process by which national attachments and obligations are molded into the search for supranational citizenship' [7, p. X-XI].

However this opposition cannot be regarded as the universal and even comprehensive one. For example, in the very interesting book *The myth of the military nation: militarism, gender, and education in Turkey* the Turkish political scientist Ayşe Gül Altınay demonstrated a quite different approach to the problem of relation of civic consciousness and education: 'In August 1999, Turkey's Minister of Culture İstemihan Talay called a press conference. His purpose was to introduce a new book titled *Türk Ordusu* (The Turkish Military). "Turks have been known as a military-nation throughout history", the minister proclaimed. "The Turkish military is synonymous with Turkish national identity. Our military has won great victories, glory and honor for our nation" (*Hürriyet*, 11 August 1999). The use of the term "military-nation" by a state official in 1999 was hardly out of the ordinary, and, indeed, Talay was not the first Minister of Culture to invoke the idea of the military as a key and sacred institution in Turkish society and the idea that every (male) Turk is born a soldier [1, p. 1].

The author continues: 'What brings together "the military" and "culture" in Turkey's social and political life? Why would the Ministry of Culture, and not the Ministry of Defense or the General Staff, see it as its task to publish a 500-page book on the Turkish military? Suat Ilhan, the director



of *The Atatürk High Council for Culture, Language and History*, offers one answer: “Characteristics related to the military are bound to make a great contribution to the shaping of the culture of a society so unified with its military as ours. The fact that the military has all the cultural characteristics of the society, that it manifests these characteristics, and that it serves as a center of education for most of these cultural values is an inevitable, in fact, necessary, consequence”... İlhan ominously warns: “if we think of military culture, with its historical achievements as well as its contemporary impact, as separate from the cultural whole, then our national culture will lose its unity and identity”. This book offers a different view. I show that “military culture” and “military-nation” are products of history, artifacts of a century of practices and discourses. My goal is to chart the intricate links between the ideas about the nation, the military, the state, and culture, and make intelligible the specific forms of militarism prevalent in Turkey at the turn of the twenty-first century. I hope to begin to look at “the mask” that “the state” and “the military” have been in the Turkish context’ [1, p. 1-2] .

In the epilogue of the book the author proposes the following interpretation of the phenomenon itself ‘military education’: ‘Turkey’s recent history has been characterized as a “revolution from above”... with the military at center stage. This view rests on the assumption that states in the West have been formed through revolutions from *below*. Modernization, in many such accounts, is treated as an authentic feature of First World development, whereas the Third World has had to “imitate” the Western structures and culture of modernity... The Turkish nation has been invented as a “military-nation”. Compulsory conscription and compulsory militarized education have helped this invention and its reinforcement. Yet it is not a seamless discourse. In fact, its current interpretations rest on contradictory assumptions that have to do with the tension between the understanding of nationalism as a force “from below” and modernization as one “from above”. On the one hand, Turks are commended for having been a military-nation throughout history, with the national War of Independence being one of the most recent and best manifestations of this characteristic. On the other hand, it is suggested that it was the “Turkish military” that fought the war and established the state. The first assumption is based on a notion of “revolution from below” and on a narrative of national awakening, while the second one downplays “national” participation and singles out an institution (“the military”) represented by its decision-makers (i.e., the officer cadre)

for having carried out the revolution from above, both during and after the War of Independence. How do these two seemingly contradictory views coexist? The call made to high school students in the 1960s National Security Knowledge textbook to realize and recognize their responsibility to their military-nation embodies this contradiction: You, the heroic young SOLDIERS of our sacred homeland, which the Turkish Armed Forces have defended and will continue to defend with success, make-up a real ARMY OF EDUCATION. The responsibility of the future has been placed on your shoulders, minds, and wrists. (*National Security Knowledge II* 1965, 3, original emphasis)' [1, p. 161-162].

Conclusion. In such transitional situation the inconsistency of governmental policy with expectations of intellectuals is quite explicable and regular because of the conflict type of political culture. The unity of power and the overwhelming majority of citizens is secured not with real results of democratization but with the help of 'symbolic integration' which has to support a joint realization of democratic participation and help to overcome the contradictions by enforcing a mechanism of reconciling the conflicts in process of symbolic identification of citizens with basic democratic consensus.

In the changing conditions determined by the advent of new forms of political culture, intensified development of the democratic tradition of political and civic education become inevitable. The issue of new aspects of political education and its objectives has been an ongoing debate in politics since the early 1990s. It remains to be seen whether a purely theoretical model of political education alone, i.e. without active citizens' involvement and support, can have the potential not only to transform a political culture, but also influence the whole system of both school and university education?

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Data prezentării: 27 decembrie 2014

DIRECȚIILE PRINCIPALE ALE POLITICII DE STAT A REPUBLICII MOLDOVA ÎN DOMENIUL INTELECTUAL ȘI ȘTIINȚIFICO-TEHNOLOGIC

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Rezumat

În condițiile actuale caracterizate de intensificarea competiției globale, dezvoltarea tehnologică reprezintă un factor important al sporirii competitivității economiei. Asigurarea caracterului inovațional al dezvoltării tehnologice este un obiectiv, realizarea căruia ar permite crearea unei baze modernizate a economiilor naționale și asimilarea producției competitive. Experiența statelor dezvoltate arată că un factor important al dezvoltării durabile, în mileniul trei, îl reprezintă aplicarea eficientă, orientată, planificată a realizărilor științifice în producerea valorilor și bunurilor materiale, implicarea lor activă în procesul de producere.

Cuvinte - cheie: competiție globală, dezvoltare tehnologică, dezvoltare durabilă, dezvoltare științifică, proces de producere.



THE MAIN AREAS OF THE REPUBLIC OF MOLDOVA PUBLIC POLICY INSCIENTIFICO-TECHNOLOGICAL AND INTELLECTUAL SPHERES

Abstract

In modern conditions characterized by increased global competition in terms of globalization expansion, technological development has become the decisive factor in improving competitiveness of the economy. Providing innovative nature of technological development is of particular importance, since only in this way there is possibility of accelerating the creation of new modern modernized production base and the development of competitive products. The experience of developed countries shows that one of the factors of sustainable development of humankind in the third millennium is effective and purposeful use of scientific developments in production, their active involvement in the production process.

Keywords: *global competition, technological development, developed countries, scientific development, production process.*

Introduction. The Republic of Moldova realizes that to survive in the competition with producers of other countries it is necessary to increase sharply investment and innovative activity which have to take the central place in a state policy of the country. For this purpose in July, 2004 the parliament of the Republic adopted the Law – Code about science and innovations (N.259-XV of 15.07.2004) [1], which regulates legal relations connected with development and implementation of a state policy in the field of science and innovations, activity in the field of scientific researches, innovations and modern technologies, scientific and technological information, protection of intellectual property. The supreme body of the administrative power in the field of science and innovations is the Academy of Sciences of the Republic of Moldova. The government delegated to the Academy of Sciences the power in the field of scientific researches and development, and the coordinating role in advancement of innovations and technologies.

Support of scientific researches and development, and stimulation of steady innovative climate are a strategic priority of social and economic development of the Republic of Moldova. The state carries out stimulation,

material, technical and financial support of activity in the field of science and innovations, creates favourable conditions for absorption of innovations.

Applied methods: systemic analysis, content analysis, micro-macro analysis. The Republic of Moldova policy analysis in the areas of technical, scientific and intellectual spheres gives the result only by carrying out systemic approach, because the consistency of the approved documents, mentioned policy effectiveness depend on many factors. We performed content analysis in assessing Code of Science and Innovation, adopted on 15.07.2004. Content analysis allowed us to elucidate the main categories of the code and that of the state policy in this field. The fact that over 10 years a new Code of Science and Innovation has been developed, the content of which is currently under discussion, confirms the timeliness and significance of the study.

Research results: The state policy in the field of science and innovation is based on the following principles:

- a) recognition of science and innovation as the basis of socio-economic development of the Republic of Moldova;
- b) orienting activity in the field of science and innovation towards the socio-economic, cultural and educational needs of society;
- c) the transformation of intellectual property objects into competitive ones on the domestic and foreign markets: products, services, processes;
- d) carrying out favourable financial, tax and customs policy in the field of science and innovations;
- e) ensuring the interaction of science, education, industrial and financial spheres;
- f) correspondence of the activities in the field of science and innovation to international norms and principles [1].

The main goal of the state policy in the field of science and innovation is a sustainable socio-economic development of the Republic of Moldova, based on the promotion and widest possible use of scientific, technical and technological capacity, based on the values of an open democratic society, to create and implement competitive and environmentally friendly products, services, processes [1].

The Government of the Republic of Moldova on November 21, 2012 approved the National Strategy on intellectual property until 2020. The strategy offers a comprehensive, multidisciplinary and balanced approach to intellectual property issues. It is based on a high degree of inter-agency, multi-disciplinary and cross-sectorial cooperation at all levels and is designed to strengthen the national system of intellectual property.



The national strategy on intellectual property until 2020 determines the prospects of the national system of intellectual property, objectives, specific measures and actions to implement them. It is an extension of the National Strategy for the Development of the system of protection and use of intellectual property until 2010, approved by Government Decision a 1143 from September 18, 2003.

Integrated and multifunctional nature of intellectual property, its presence in all spheres of economic, scientific, cultural and social life of the country determines, on the one hand, the need for a systematic approach, both from a legal and institutional point of view, on the other hand, its correct use that creates the preconditions to get positive synergistic results in various areas and encourages creative and innovative activity, economic growth of the country.

The main objectives of the National Strategy in the field of intellectual property are:

- stimulating creation, protection and use of intellectual property as a key instrument in shaping the conditions for the country's transition to an innovative model of economic growth;
- continuous improvement of the regulatory framework in the field of intellectual property, including through its harmonization with the EU legislation and implementation of international agreements in this area, to which the Republic of Moldova is a party;
- development and modernization of the National intellectual property system, improving its transparency and consistency;
- strengthening the institutional capacity of agencies with authority and responsibility in matters of protection and enforcement of intellectual property rights, the development of an effective infrastructure to prevent and combat the phenomenon of counterfeiting and piracy;
- promotion and development of high culture in the field of intellectual property, information and awareness among the general public of intellectual property, as well as increased interest in the protection and respect of intellectual property rights;
- development of international, regional and bilateral cooperation in the field of intellectual property and the integration of the Republic of Moldova in international and European intellectual space.

To coordinate, promote and implement mechanisms for activities in the field of innovation and technology development in 2004, the Assembly

of the Academy of Science of Moldova on the basis of the Code on Science and Innovation created the Agency for Innovation and Technology Transfer in the form of a public research institution, which is the basis for the organization at the Academy of Science of Moldova developed by a high-tech industrial infrastructure for innovation and technology transfer [2].

The Agency is designed for performing state experiment on the creation of a research and production cycle with a highly scientific, technological and industrial infrastructure to meet the needs of the market in high-tech products in the republic. The Agency is currently playing the role of the centre, which brings together scientists, government and business officials for their co-operation in matters of technological development, as well as the fulfilment of the Republic of Moldova obligations to the international community.

To accelerate the convergence of standards for the Republic of Moldova to the standards of the European Union the Agency assumed responsibility of rapid implementation of innovations and new technologies in the industrial sector, focusing in this regard on the European system and thus contributing to the modernization and socio-economic growth of the country, as well as improving living conditions of the population.

During the first 5 years (2004 - 2009) of Agency existence there have been implemented over 110 projects for the introduction of modern technologies in various fields of national economy. In 2005, activities in the field of innovation and technology transfer in Moldova were financed with more than 1 million lei. In this case, all the money was from the budget. In 2006 extra budgetary co-financing was attracted for the first time, and the total amount of expenditure on innovation and technology transfer was already about 7 million lei. In 2013 more than 16 million lei was sent for this purpose, of which 9.3 million. - from extra budgetary funds. Even more impressive is the growth dynamics of the production of innovative products for this period - from 0.6 million lei in 2005 to 39.1 million lei in 2013 [3].

A key task in the development and implementation of innovation policy of the country is to increase the efficiency of scientific research, its use in the manufacture of high-tech products, the attraction, on this basis, of additional financial resources, which should make the transition to a new technological order. The most important element of creating innovative infrastructure in Moldova are the scientific and technical centres, science and technology parks, business and innovation incubators (implemented in Moldova since the beginning of 2007).

There are currently three scientific and technological parks and one inno-



vative incubator in the Republic of Moldova that enhance the effectiveness of the implementation of research results into production, provide consumers with competitive industrial products, works and services based on innovation:

- Scientific and Technological Park «Academica» - universal specialization, 26 residents;
- Scientific and Technological Park «InAgro» focuses on intensive and organic farming, 17 residents;
- Scientific and Technological Park «Micronanoteh» specializes in microelectronics and nanotechnologies, a competition for the selection of the resident is announced;
- Innovation Incubator «Inovatorul» - Universal specialization, 7 residents.

Moldovan experts in the field of innovation distinguish the following industries, which could become a priority for innovative entrepreneurship: information technology, food production, agriculture, tourism, telecommunications, wine making, production of construction materials, nanotechnology and new materials, design and beauty industry, biotechnology, medicine.

All the priorities of innovative development of Moldova's economy are based on three essential areas:

- capacity building for effective substitution of imports of goods and services;
- the development of potential for production technologies, products and services to penetrate into foreign markets;
- the development of economic (roads, water and sewage systems, electricity and other infrastructure) and social infrastructure (public system of entrepreneurship support) [4].

The most promising sector in Moldova is IT. There are dozens of foreign outsourcing companies that are integrated into the international system theme development and distribution of software products. A total number of 20 thousand men operates in the field of information technology. However, they produce 10% of GDP, another 9% yield telecommunications. That is some progress in comparison with traditional business there. The products of Moldovan private IT-companies, made in accordance with international requirements for major international organizations means, are used in the work of public authorities in various countries, including the US and UK.

Ministry of Economy of the Republic of Moldova has outlined a number of priorities of the state policy in the field of innovation, among which are the creation of clusters with the participation of small and medium-sized enterprises.

Stimulation of technological renovation of production and products through advanced scientific research, attracting investment in innovation sphere will contribute to large-scale development of innovative processes, restructuring of the scientific potential of the country, which should be the key to sustainable economic recovery.

To further enhance innovation it is required, on the one hand, public administration and coordination of all its subjects' activities, on the other hand - the integration of all stakeholders in the implementation of innovation, attract investment, create conditions conducive to innovation and implementation of science and technology in the country's economy .

The Republic of Moldova is committed and should be integrated into regional and international scientific and technological innovation and space, to become a worthy partner of the international scientific and technological leaders in the field of innovation and trade in high-tech products.

But for the further deepening of integration processes, accelerating scientific and technological progress, creating a knowledge-based economy, and a sharp increase in the competitiveness of the economy, drastic measures in the form of the state of scientific and technical strategy are needed: the formation of an innovative economy, restructuring of the economy, support of small (mainly innovation) business, comprehensive strengthening of scientific and technological capacity, improving training, etc. Moreover, of course, a specific choice of priorities and "points of growth" should be planned in this strategy.

As international experience shows, the basis of the innovation economy are small and medium-sized enterprises, as the most flexible and responsive, able to quickly and cost-effectively develop competitive high-tech products. In Moldova there are about 44 thousand companies, of which almost 98% are small and medium. They employ over 316 thousand men. Thanks to the cooperation of scientists with business only in 2013, along with additional financing of scientific activity in excess of 300 million lei, 88 million lei of private money was attracted [5].

It is already proved that the future of any country in many respects is defined today by its innovative ability - the most important factor of competitiveness. And if a country has such ability, it means it has strategic advantage. Therefore, there is a task in Moldova: to create modern mechanisms of communication of science and business, to provide professional selection of locomotive points of development. On the other hand, the innovative culture in the country is poorly developed and, as a rule, Moldovan



enterprises know a little, to what level of quality and novelty of the production it is necessary to aspire to take the leading positions on domestic and, especially, on the international market. It creates adverse climate for increase of competitiveness of the enterprises, survival of the Moldovan economy in conditions of all becoming aggravated competition on the world market in the course of economic globalization.

Scientific and technological parks and innovative incubator experience, functioning in Moldova, shows that innovative structures are capable to provide high-quality economic growth due to involvement of experts, investments, businessmen for receiving innovative, competitive products and services.

An important role in transition of Moldova to an innovative way of development is played by expansion of the international scientific and technical cooperation.

For a long time researchers of Moldova participate in various international research projects. For example, in the 90s of the last century, the CRDF/MRDA fund was created and some million dollars on joint researches of the American and Moldavian researchers were attracted, including on creation of modern experimental base in Moldova. Then followed Projects INTAS/Moldova (the joint European-Moldavian project followed when financing from the EU), bilateral cooperation between Moldova and the European countries (Germany, Italy, France, Romania), the USA, both Moldova and the CIS countries (Russia, Ukraine, Belarus). In bilateral projects, financing was carried out in such a way that money of the different states did not cross borders. It gives the chance to scientists for creative growth and opens new ways of financing of scientific researches and their material stimulation. Moldova was the first of the CIS countries at the end of 2011 who became an associated member of FP-7 of the 7th framework programme of the European Union which unites all members of the European Union (and also the associated members). Within this Program Moldovan scientists on an equal basis with researchers of other European countries can participate in various competitions and projects and receive financing according to the European measures. By the beginning of 2014, 53 projects for the sum of more than 3 million euros have been already carried out. All this positively affected the results of the international scientific cooperation. So, if in the late 90s the share of the international cooperation in the Moldovan works of the international level was 41%, now (2014) – it is 70%. In the first quarter of 2014 in Moldova the European program “Horizon 2020” (Horison 2020), calculated for 7 years

(2014 - 2020), is being launched. It unites three former independent financing sources: Framework programme of scientific researches and technological development of the EU, Framework programme of competitiveness and innovations and European institute and technologies. The budget of the program for 2014 - 2020 is 80 billion euros. Practically, it is the program of scientific cooperation of all Europe in which Moldova is accepted. Moldova became the first of the countries of "Eastern Partnership" and the 14th on the continent that entered on a full basis the European scientific space.

Thus, the Republic of Moldova possesses a certain scientific and technical potential, system of the higher education and preparation of scientific potential. However, despite it, productivity of this potential is obviously insufficient for creation of conditions of development of Moldova economy in an innovative way. Today innovation business in economy of the Republic of Moldova is developed poorly, economic entities conducting fully innovative business activity are not enough. It is explained by the lack of major factors on which development of innovative business depends: demand from consumers for innovations; existence of the developed scientific and technical potential of national economy, – the lack of venture firms and investors financing risk innovation activity.

Innovative clusters in their classical understanding in the country are practically not present. Conditionally it is possible to refer to them three "scientific and technological parks" and one "innovative incubator" which are urged to enhance the increase of introduction efficiency of scientific researches results in production, to bringing to the consumer of a competitive industrial output, works and services based on innovations.

Residents of technological parks and innovation incubators are mainly micro-enterprises employing up to nine people. To name them all innovation one can only be done with a stretch. Registering in these parks and incubators, enterprises seek to provide themselves with the access to internal and external sources of financing, tax credits and other forms of state support.

Insufficient funding and a lack of concrete action to increase commercialization of R & D sphere hamper improving the effectiveness of this work. Competitive market provides demand and selection of relevant areas of its scientific activity. In principle, as, first of all, the experience of developed countries in the field of R & D shows, the role of state funding is being reduced and relationship between scientific creativity and business is increasingly growing. Moreover, developing broad areas of scientific entrepreneurship, they can serve as an engine of innovation processes.



The government of the Republic of Moldova approved Strategy of innovative development of the country for 2012 - 2020. In the gross domestic product (GDP) of Moldova, the share of innovative production will reach 25% by 2020. The increase in a share of innovative production in relation to GDP will become possible thanks to increase to 6 - 7% of a share of IT technologies, to growth of mechanical engineering industry – 5 – 6%, light industry and services. Innovative activity is shown as a result of certain scientific reserve created in the country, or at the expense of a transfer of technologies from abroad. The former is the result of participation of the state, first of all, in training and financing of scientific researches, and the latter – business initiative and only within corresponding mechanisms of the state support.

The strategy provides creating favourable conditions for innovations, training of specialists, development of the scientific environment and innovative companies. The government recognizes that economy efficiency depends in the defining degree on the results of structural transformations based on process of continuous replacements of production technologies and management systems by new others with higher rates. The strategy assumes reorganization of public institutions, modernization of infrastructure of scientific institutions, shift of accents towards innovative business. The document provides the fulfilment of eight strategic policies of innovative development: introduction of innovations in public sector, formation of the innovative environment, increase of science efficiency, development of effective system of technologies commercialization, stimulation of innovative activity of business, creation of regional innovative systems, development of innovative infrastructure and international integration for development of innovations. Powers on maintaining innovative policy are delegated from Academy of Science to the Government.

Leading Moldova scientists, basing on the fact that developed countries pass to the economy based on knowledge and innovations, set a task, that science and qualitative education in modern Moldovan society will also become a platform for social and economic growth. In this case “it is about development of a scientific platform, including scientific support of any projects carried out in the country, <...> development of technologies and laying ways of innovative economy, <...> advancement of national values, <...> about scientific “bridge of integration into a global network of a modern civilization” [6].

The strategy of the state innovative policy is formulated on the basis of long-term concepts of socio-economic and socio-political development of the country. The main strategic objective of a state policy in the field of science and innovations is sustainable socio-economic and human development of the Republic of Moldova

based on stimulation and the widest use of scientific, scientific and technical and technological potential. To develop and perform the given strategic objective it is necessary to develop innovatively– technological strategy for the development of the country. The choice of strategy of innovative policy considers:

- the establishment of the main goals of innovation development in accordance with socio - economic objectives of the country;
- identification of the state regulation main directions of innovation activity;

- adoption of development methods and use of scientific capacity;

Tactic involves determining of the current objectives and specific measures to ensure achievement of these goals with the greatest efficiency. Tactical means for innovative development in Moldova are:

- institutional completion of the national innovation system;
- creation of a modern legal framework enshrining the most favourable conditions for innovation;
- purposeful, systematic updating of material-technical base of science;
- an increase in the funding of science, including the involvement of the private R & D funding, up to European standards;
- extensive use of venture capital and hedge funds;
- the development of scientific and technical products market and its infrastructure;
- placing on the market and export expansion of intellectual property;
- comprehensive strengthening of links between science (including fundamental) and production. For the formation of a close link between the scientific sphere and production, to stimulate innovation introduction, the creation of the state system of incentives for employers is needed for the use of the latest achievements of domestic science and technology in the production, primarily tax credits, special credits, targeted funding of especially important and promising projects.

An important role in the innovative development of the country should be played by the Academy of Science of Moldova. This requires reform of the scientific process with clear criteria for evaluation and promotion of scientists' researches, involvement of laboratories and institutes in partnership with businesses in the formation of scientific and technological platforms in the promotion of innovative structures such as start-up and spin-off, to increase cooperation with research institutions of Europe, to actively connect to the pan-European program "Horizon - 2020" and to integrate



into the European Research Area, attract scientific strength to win society's trust to the implementation of various government programs.

One effective method of facilitating scientific and technological and innovation development is the development of small innovative enterprises, which is advantageously carried out by means of the following interrelated steps:

a) intensive development of small business innovation: the formation of a network of technology parks, innovation centres, business incubators, research centres, venture funds;

b) further improvement of innovative legislation and development of innovation infrastructure;

c) the development and strengthening of international relations, foreign investment in the innovation area of the country.

Effective interventions for the development of innovative entrepreneurship and the formation of a positive image of an innovative entrepreneur can be the following:

- strengthening the role of self-regulatory and non-governmental organizations in identifying areas of support of innovative entrepreneurship and social responsibility of business;

- promotion of innovative ideas among the population and the rise of social responsibility of business through the mechanism of social responsibility and moral incentives;

- improving the efficiency of infrastructure of innovative entrepreneurship through training of its experts in the framework of a regional system of business - education;

- expansion of financial and property support of subjects of innovative business by harnessing resources of the banking and financial sector and big business for mutual benefit.

Conclusion. The main purpose of the formation and implementation of priority areas and the list of critical technologies is to clarify the guidelines of scientific and technical complex and the national innovation system in the interests of national security of Moldova and trends in the world of scientific, technological and innovation development, medium-term objectives of socio-economic development with the need to formation and development of the research strategy, design and implementation of major government programs and projects.

Strategic factor is the international cooperation in the field of research, attracting investment in scientific and technological sphere of the country, establishment of joint innovative enterprises. It is necessary to ensure a comprehensive approach to the formation of the innovation system and investment environment

as a whole, to create conditions for the full development cycle of innovation, including by ensuring macroeconomic stability, competition and protection of property rights, legal protection of intellectual property, elimination of administrative barriers. It is important to monitor the market of scientific ideas.

The manufacturing sector in Moldova is necessary to be oriented towards the creation of joint ventures for the production of high-tech and complex high-tech products, the development of knowledge-intensive services sector. It is necessary to develop and enforce specific mechanisms for implementation and support of innovative technologies, primarily in the framework of projects in areas such as energy efficiency and environmental protection, environmental management, information and telecommunication systems, computer technology and software, food and agriculture, ensuring efficient, reliable and environmentally friendly energy supply.

Annual capacity tech of Moldova GDP and the approach of its structure to that of the EU will increase the innovative activity and susceptibility of the Moldovan economy, will strengthen science, enhance its ability to work in a competitive knowledge-based economy.

The Republic of Moldova can and should strive to become a developed industrial country, as the possibilities of rapid entry into the circle of post-industrial powers it has at this stage are completely absent.

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Data prezentării: 27 decembrie 2014



UTILIZAREA MODELULUI DE COMUNICARE ÎN ȘAPTE STRATURI LA ANALIZA PROBLEMELOR DE POLITICĂ SOCIETALĂ COMPLEXĂ

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Abstract

Utilizarea problemelor de politică socială complexă este o activitate în care sunt implicați mai mulți actori, fiecare cu un punct de vedere diferit asupra problemei și fiecare cu interese diferite. Procesul de manipulare a problemei este coordonat de un facilitator. Conform metodologiei alese, facilitatorul selectează (sub)metodele și instrumentele în încercarea de a optimiza procesul. Metodologia Compram este una dintre metodele generale care oferă linii directoare pentru manipularea colectivă a problemelor de politică socială complexă. Metoda cadru folosește un model de comunicare în șapte-straturi pentru manipularea problemei. În modelul de comunicare șapte-straturi problema este exprimată în diferite "limbaje", în așa fel încât fiecare "limbaj" le completează pe celelalte. Modelul de comunicare cu șapte straturi poate fi folosit sub diverse aspecte în procesul de manipulare a problemei. În scopul de a umple modelul, se folosesc mai multe (sub) metode și instrumente, cum ar fi: de căutare a literaturii, discuții, interviuri. Acest lucru poate fi susținut de groupware, cum ar fi sistemele Grupa V și Cope, precum și de un instrument software de simulare ca Ithink sau Stella (VanDijkum 1991a, b; DeTombe & VanDijkum, 1992, 2014).

În această lucrare, este descris un test empiric de utilizare a modelului de comunicare în șapte straturi conform metodologiei Compram. După ce sunt explicate unele dintre ideile teoretice ale metodologiei Compram, este descrisă utilizarea modelului de comunicare în șapte-straturi într-un caz din viața reală,

în speță - găsirea criteriilor de evaluare a proiectului. În acest sens, legătura dintre groupware, Grupa Sisteme V și software-ul conceptual Cope vor fi testate.

Cuvinte-cheie: model de comunicare în șapte-straturi, politica societală complexă, metodologia Compram, groupware, software.

USING THE SEVEN-LAYER COMMUNICATION MODEL OF THE ANALYSIS OF COMPLEX SOCIETAL POLICY PROBLEMS

Abstract

Handling complex societal policy problems is an activity in which many actors are involved, each with a different view on the problem and each with different interests. The problem handling process is coordinated by a facilitator. According to the chosen methodology the facilitator selects (sub)methods and tools in trying to optimize the process. The methodology Compram is one of the overall methods that offers guidelines for collectively handling complex societal policy problems. The framework method uses a seven-layer communication model for handling the problem. In the seven-layer communication model the problem is expressed in different 'languages', in such a way that each 'language' supplements the others. The seven-layer communication model can be used at several moments in the problem handling process. In order to fill the model several (sub)methods and tools are used, such as literature search, discussions, interviews. This can be supported by groupware such as Group systems V and Cope, and by a simulation software tool like Ithink or Stella (VanDijkum 1991a,b; DeTombe & VanDijkum, 1992, 2014).

In this paper an empirical test of the use of the seven-layer communication model of the Compram methodology will be described. After explaining some of the theoretical ideas of the Compram methodology, the use of the seven-layer communication model in a real life case, in casu finding criteria for project evaluation, will be described. In doing this the connection between groupware Group Systems V and conceptual software Cope will be tested.

Keywords: seven-layer communication model, complex societal policy, Compram methodology, groupware, software.



1 Complex societal policy problems. Complex societal policy problems are often difficult rather diffuse problems in which many actors with often great interests are involved. Examples of complex societal policy problems are connecting the Dutch railway system to the international high speed rail system, making international agreements on the use of the internet, the overproduction of manure, disposing chemical waste, and focusing at logistic chains for transportation, or for developing and selling products. Problems that concern the government, large organizations, or both.

2. Problem handling of complex societal policy problems according to the Compram methodology. According to the Compram¹ methodology (DeTombe, 1994; 2014a, 2015), analyzing complex societal policy problem is a collective process in which people with different backgrounds, with different knowledge and interest's are involved. The Compram methodology prescribes a six step problem handling process. The first step is that the problem will be analyzed by content experts who define the problem by describing the network of the actors and making a model of the related phenomena. The second step is to invite the actors to do the same thing, however now also describing their interest and indicating their handling space². In the third step of the problem handling process a mixed group of experts and actors are invited to analyze the problem together in order to find interventions. In the fourth step the societal reactions to the suggested interventions are anticipated³. The fifth step is implementing the interventions. The sixth step is evaluating the implemented interventions.

Although the methodology prescribes the steps that must be taken, it recognizes that the problem handling process is a mixed process of rational and irrational elements in which next to knowledge power and emotions play an important role, and in which, depending on the interests that are at stake, bad and sneaky behavior is involved such as manipulation, intimidation, jealousy, lies, threats, fear and having hidden agenda's.

¹ Compram stands for Complex Problem Handling Methodology.

² See for explanation of the concept handling space DeTombe, 1994, 2015.

³ See what happened after the announcement of the high speed train rail in the Netherlands and in the case of the transportation of nuclear waste in 1997 in Gorleben (Germany). In the case of the high speed train the Dutch government came into difficult, exhausting and time and money consuming discussions, which could have been partly prevented if the problem owner had anticipate on the societal reaction on beforehand. In the case of Gorleben there was a huge protest of the anti-nuclear action groups against the transportation of the nuclear waste, which also could be avoided when anticipated on time.

The Compram methodology is based on the idea that complex societal problems are so complex that it can only be analyzed by a group of people. This should first be done by experts which come for different backgrounds and who are in contradiction to the different actors involved in the problem, neutral towards the outcome of the problem. These experts analyze which phenomena are involved, what the cause of the problem is, and which actors are involved. Then the actors are invited to analyze the problem. The actors have their own view on the problem and are often only limited willing to support certain interventions. Then the experts and actors together try to find some interventions to the problem.

The methodology is based on the idea that in handling these problem three basic component should be carefully handled that is the knowledge, emotion and power component. The methodology is based on ideas coming from cognitive psychology (Newell & Simon, 1972; Rittel & Webber 1973; Frijda, 1974; Botkin, Elmandjra & Malitza, 1979; DeTombe, 1991a,b,c; 1992; 1993; 1994; 1995, 1996, 2015), theory of complex problems (medical and law) (Duyne, 1983; Crombag, 1984; Snoek, 1989), System Dynamic Theory (Forrester, 1969, 1987, 1990; Meadows, Meadows, Randers & Behrens, 1972; Meadows, Meadows, Randers, 1991; Fleissner, Böhme, Brautzsch, Höhne, Siassi & Stark, 1993), computer science (Bots, 1989; DeSanctis & Gallupe, 1989; DeSanctis & Poole, 1991), sociology (Stroebe, Diehl & Abakoumkin, 1992, Stroebe & Diehl, 1994), learning theory (Rumelhart, 1984) and management science (Janis, 1982; Rosenthal, 1984; Van Strien, 1986; 't Hart, De Jong & Korsten, 1991)⁴. The Compram methodology is in detail described by DeTombe (1994, 2015).

The problem handling process is guided by a facilitator. The facilitator guides the groups and assists them in analyzing, formulating, changing and evaluating the problem together (DeTombe, 1998a,b; Yusuf & DeTombe, 2014). The individual groups members do this by analyzing themselves the problem based on their knowledge or interest, and discussing the results with the other group members, meanwhile interpreting the knowledge of the other group members into their own ideas about the problem. The group members are supported by a content support group⁵. In this process all kinds

⁴ The Compram methodology is described in detail in DeTombe, 1994,2015. In these books is described on which theoretical ideas the method is developed and what the underlying ideas of the method are.

⁵ A content support group is a group of people coming from the same field of same actor in which the person, that analyze the problem as a representative of the field or actor, can have support. See for more details DeTombe, 1994, 2015.



of social science methods and (system engineering) tools are used, such as literature search, normal meetings, interviews (from in-depth interviews to surveys and Delphi research), data analysis, brainstorming, voting, idea generating and model construction. Some of the methods are used with, some of the methods are used without the support of a facilitator. This communication and modeling process is supported by a seven-layer communication model. In the seven-layer communication model the problem or a part of the problem will be expressed in different languages. These different languages compliment each other. The seven layers of the model will be filled sequential and iterative. This means that the first layer will be filled first, then the second, then the third etc. When the fifth layer is filled the attention goes back to layer one and the layers one to five will be reconsidered based on the renewed insights of the problem. Then the sixth and seventh layer are filled and again the other layers will be reconsidered based on the grown insights in relations between the phenomena of the problem, the causes of the problem and the actors.

3. The seven-layer communication model. The seven-layer communication model consists of seven layers in which the problem or a part of the problem can be expressed.

In layer I (a part of) the problem is described in a natural language.

The concepts and the phenomena of layer I are operationalized and defined in layer II in order to prevent verbalism.

In layer III the status of the knowledge is described. There is described whether the relation between the concepts and/or the phenomena and actors are based on theory, hypotheses, assumption, experience or intuition.

In layer IV the amount of knowledge needed is indicated by a graphical representation of the known knowledge in knowledge islands. The way the knowledge islands are filled indicates the (in)completeness of the knowledge, including the white spots. When all data needed for analyzing (this part of) the problem would be available the whole ellipse would be filled.

In layer V a conceptual model of the problem is made. A conceptual model is a graphical representation of the relation between the concepts and/or the phenomena. In this model one can indicate a positive (+) or negative

(-) relation between the phenomena. A positive relation means that when one phenomenon increases the other phenomenon increases too. A negative relation means a contradiction in growth between two phenomena.

In layer VI a graphic representation of the causal relations is made.

In layer VII a simulation model is made based on the causal model. This model can be constructed by the software Ithink.

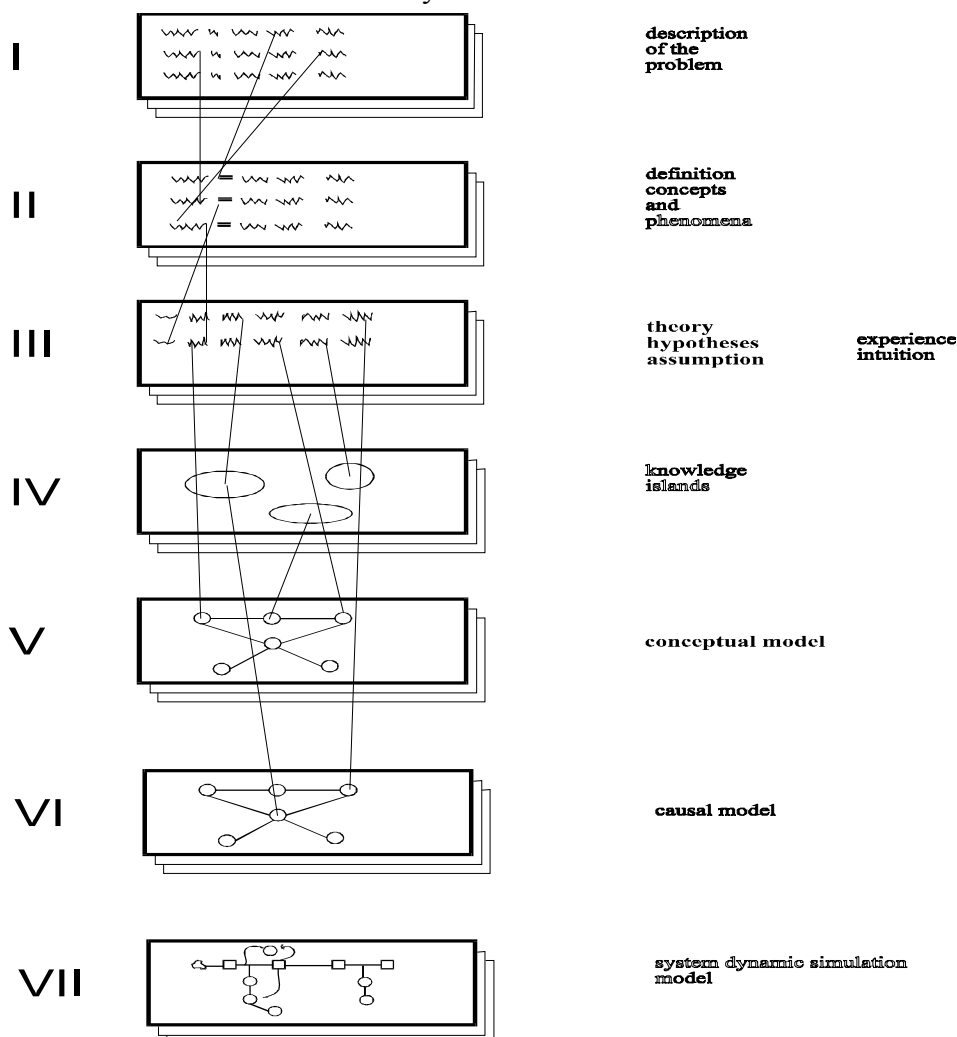


Figure 1. The seven-layer communication model

4 The phases in the problem handling process. Above we described that the Compram methodology distinguishes six steps in the problem handling process. In the first step the problem is analyzed by content experts, in the second step the problem is analyzed by the different actors, etc. Within each step several phases in the problem handling process can be distinguished. The Compram methodology recognizes the following phases:



the first sub-cycle of the problem handling process: defining the problem
phase 1.1 becoming aware of the problem and forming a (vague) mental idea
phase 1.2 extending the mental idea by hearing, thinking, reading, talking
and asking questions
phase 1.3 gathering data and forming hypotheses
phase 1.4 forming the conceptual model

the second sub-cycle: changing the problem

phase 2.1 constructing the empirical model, and desired goal
phase 2.2 defining the handling space
phase 2.3 developing hypotheses and suggesting interventions
phase 2.4 constructing and evaluating scenarios
phase 2.5 implementing interventions
phase 2.6 evaluating interventions

Figure 2. The phases of the problem handling process

In the first step the content experts analyze phase 1.2 to phase 2.3. In step two each actor analyses with his or her own group the same phases. In step three the experts and actors merge their ideas about defining the problem and making the empirical model. This is phase 1.4 and 2.1. Then together they define the handling space, give ideas for intervention, construct and evaluate scenario's. This is phase 2.2, 2.3 and 2.4 of the problem handling process. In this step power plays an important role. Then in step four the societal reactions are anticipated. This belong to phase 2.4 of the problem handling process. In the fifth step of the handling process the interventions are implemented. This is phase 2.5. And in the sixth step the interventions are evaluated.

5. Hypotheses. The seven-layer communication model can be used in several phases in the problem handling process. DeTombe (1994, 2015) has shown that the seven-layer communication model can be used to define the problem and to construct the empirical model. In phase 1.2 till phase 1.4 each group defines the problem. The problem is defined when all the layers of the seven-layer communication model are satisfied⁶ filled in. The empirical model can be constructed based on the description of the defined problem, starting from the seven-layer communication model constructed in phase 1.4. In the empirical model the data in more detailed than in the first subcycle of the problem handling process.

⁶ In this case satisfied means satisfied according to the group that constructed the model.

There are several moments in the problem handling process where the seven-layer communication model can be used. In order to prove this statement the use of the seven-layer model is tested in supporting the phase 2.4 of the problem handling process in a real life case. The case is a electricity company finding new markets abroad. The seven-layer communication model is evaluated for its use of finding criteria for the evaluation of project proposals of foreign investments of the company. In the phases of the problem handling process this belongs to phase 2.4: constructing and evaluating scenario's. In an empirical test case (n=1) a part of the theoretical ideas of the Compram methodology, in casu the use of the seven-layer communication model at a moment of phase 2.4 in the problem handling process, is tested⁷.

The hypotheses of this pilot research is:

expressing a (part of the) problem in a seven-layer communication model will deepen the insights in the problem.

The testing is combined with testing the connection between the software Groupsystems V⁸ and Cope⁹.

The research questions are:

- 1 is it possible to use the seven-layer communication model in phase 2.4
- 2 does the use of the seven-layer communication model increase the insights in the problem
- 3 can the seven-layer communication model be easily understood¹⁰
- 4 can the output of the software of Groupsystems V be connected with the conceptual modeling software Cope
- 5 can a rather inexperienced person fill the seven-layer communication model¹¹ and use Cope as a modeling tool based on the outcome of Groupsystems.

6. The case study. In the last decade of the 20th century many political

⁷ A complete report on this case is described by Sombekke, 1997.

⁸ Groupsystems V is groupware for supporting electronic group discussions, voting and brainstorming. The groupware is developed by the University of Arizona (USA).

⁹ Cope is the software for conceptual modeling developed at the University of Strathclyde (Ackerman & Eden, 1988).

¹⁰ This means easily understood without spending too much time by an inexperienced person who has knowledge on academic level. Without spending too much time means with only some hours of studying. In this case it was performed by a student (see Sombekke, 1997).

¹¹ Due to time constraints the test was limited to layer one to five.



and economical developments take place towards a unified Europe¹². One of the goals of this activity is to unify Europe politically and economically. Implementing a new monetary unit (EMU) for all the European countries gathered in this unified Europe seems to be one of the major goals. The conditions to enter this European monetary unit is a healthy balance on the state income account. This means that these nationalities must not have too many debts in relation to the national income¹³. In order to reach this goal much of governmental support for the poor, the elderly and students in The Netherlands is reduced. Another consequence of this unity is that national companies such as telephone-, electricity-, and railroad companies lack or will lack in the near future (some of) the national protection and support. They are free to find opportunities outside the borders of their country, however foreign companies are now also allowed to enter the home market. This creates commotion on the home market. Old and new companies are trying to find a niche and to get a part of the market share. One of the new companies that try its luck on the foreign market is company X¹⁴. Company X want to explore the possibilities of building and exploring electricity firms abroad.

Therefore the company attracts young and eager employees coming from different fields, some fresh from university, some with already some years of experience. Some of these employees have content knowledge of building a plant, some have knowledge of law and some have economic knowledge. Some of them are hired as freelance employees, some as temporary emptier, and some work based on a permanent appointment. There are about twenty people between twenty-five and forty, guided by an experienced middle aged director. Employees are sent abroad to find locations to build a factory and to explore the commercial benefits. There are also requests from abroad for building firms. Most of the projects range between 3-10 million US dollars, which means relatively small projects in this branch. In this first year of its existence Company X is overloaded with projects. This leaves them with the puzzle to select projects that are commercially successful.

Company X did not explore this problem according to the Compram methodology. If it would have done so, the company would first define the

¹² The countries that are discussing the unification in 1997 are Belgium, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, The Netherlands and the United Kingdom.

¹³ This means that the public debt should not be larger than 60% of the GNP, or should significantly move towards that goal; the inflation should not be higher than 1.5% above the mean of the three members that have the lowest inflation rate, and the financial deficit should not be larger than 3% of the GNP.

¹⁴ For reasons of privacy the company's name is not mentioned.

problem, which could lead to a statement like ‘how can we become a commercial successful company in this branch’ and analyze the actors ‘which other actors are there’, ‘what are the closest competitors’, ‘are there enough opportunities for us’, and then define what the company want, what is (are) the desired goal(s) ‘having a commercial successful company’, defining the handling space ‘do we only explore the possibilities abroad or also in our home market’, ‘do we stick to electricity, our core business, or explore we new areas’, and see which interventions the company wants to perform ‘looking for commercial niches abroad’, ‘building new factories abroad’, and finding strategies ‘may be cooperate with the already existing companies’, or ‘cooperate within a network (from combined branches or the same branch) companies on the market’ and after that they would be able to define the criteria for evaluating the projects, and this exploration of the problem should be done by a group of people guided by a facilitator using the seven-layer communication model.

However, reality seldom follows the theoretical prescriptions. The company only discussed superficial the definition of the problem, and the handling space and jumped to finding evaluation criteria for the projects. The company asked a university trainee to create a list of go and no-go’s and other criteria in order to evaluate the offered projects.

The trainee started the project and contacted after six months the Delft University for support. She wanted support for using the Group Decision Room (GDR) and Groupsystems for evaluating with her colleagues the list of criteria she created. See for the complete report of this study Sombekke, 1997.

The tentative list of criteria was created by the trainee based on literature and in discussion with the employees of the company. These discussions were completed by several in-depth interviews and a survey. Based on the list of criteria the company should be able to evaluate new projects on their commercial success.

In the session in the Group Decision Room, guided by the facilitator the employees of Company X evaluated the list of what was assumed to be important criteria. The list of criteria was divided in six mayor topics: finance, law, technology, politics, demography, and culture. Each topic had 6 to 18 sub criteria, of which some were operationalized, however not all at the same level.

The questions that were discussed in the session were:

- a) are criteria missing? And if so, why is this criterion important? (discussion)
- b) what criteria are most important, what are the rather important, what criteria are not so important (voting).



The last question is raised in order to select the most important criteria.

7. Testing the seven-layer communication model for evaluating projects proposals. After performing the Group Decision Support session with the employees of the company the trainee started to analyze the data. The outcome of the voting selection of Groupsystems (question b) was the starting point of the analysis. The trainee started the data analysis by testing out the connection between Groupsystems V and the Cope software (research question 4). In order to be able to get a fast connection between the two software programs, a small program was created¹⁵, that connected the output of Groupsystems V to an input for Cope. The output of the group session, many statements, served as an input for the conceptual model. In a conceptual model the relation between several statements can be shown in a graphical form. The software Cope is developed by Eden and often used by him and his colleagues to show the relation between the statements (Ackerman & Eden, 1988). Based on the model of the relation between the criteria the trainee had in mind, she created a conceptual model of the criteria¹⁶.

Then the trainee started testing the hypotheses *‘expressing a (part of the) problem in a seven-layer communication model will deepen the insights in the problem’*. Answering this positive means that after using the seven-layer communication model the insights towards the conceptual model and the problem would be increased.

In order to test the hypotheses operationalized in the research questions the trainee studied the seven-layer communication model of the Compram methodology (DeTombe, 1994, 2014b, 2015) for use of analyzing the data. Due to time constraints this small pilot research was limited to the first five layers of the seven-layer communication model¹⁷. This means that the causal model was not completed and the simulation model was not made (layer six and seven).

The trainee studied the theoretical ideas on which the seven-layer communication model is based¹⁸. She started filling the seven-layer communication model by describing the criteria in words (layer I). The description in

¹⁵ This small program is created by Van der Vos (1996) technical assistant of the GDR TuDelft on instigation of DeTombe. The output as a text file of Groupsystems is automatically read a input text file for the software in which the text can be graphically modeled. This prevents the modeling from typing in the statements.

¹⁶ According the method Compram this should have been done by the group of people who attended the groupsession in the Group Decision Room. However these people did not have the time to do this, so the trainee filled the conceptual model herself and then asked the employees for command.

¹⁷ Including the simulation model would take at least five more days, including getting acquainted with the software.

¹⁸ This took about three hours

text in layer I was followed by filling the second layer, in which the concepts were operationalized. Some of the criteria were already operationalized, that part could be done right away, however it was not easy to operationalize all criteria. The third layer, the layer for indicating the status of the knowledge, was initially skipped, because the trainee was very uncertain about the status of the knowledge. She proceeded by filling the layer of the knowledge islands, layer four. She could only do this after some more explanation by the facilitator. Based on the grown insight that filling these layers gave her, she re-adjusted the conceptual model.

The results were discussed with the facilitator. At that moment it was realized, that the relations in the conceptual model were not all causal relations, there were conditional relations as well, so it was important to make a distinction between these two kinds of relations. In order to visualize this the causal relations were indicated either positive or negative, with respectively + or - and the conditional relations were indicated with a 1.

Now it was time to go back to the first layer and mark the criteria in the text to see whether, by comparing the text with the conceptual model in the fifth layer, some criteria should be added to the text. Giving each criteria a number made it more easier to do. Based on the changes in the text the second layer was adjusted. The difficult task of filling the third layer concerned the question about the status of the knowledge. After some help of the facilitator the trainee could fill this layer. Then layer four and layer five were reconsidered and adjusted again. The seven-layer communication model forces the model builder to express very detailed the composition of the knowledge, the definition of the concepts and the status of the knowledge. This enlarges the insight of the problem discussed.

After the conceptual model was adjusted it was attached to the wall at the office of the company. The trainee invites colleagues one by one to comment on the model. The list of criteria is not finished yet, the process is still going on. The next step would be filling layer six and seven, and making a list of go and no-go criteria. The list of criteria will be connected to weights so that each project can get a mark. This mark indicates the possible rate of success.

However at that moment the trainee was at the end of her apprenticeship, and there was the danger that the project will not be developed further. Things might just go the same way as before, using some of the criteria, and much intuition, and depending on one's personal privileges and interest select a project.



In the preparation for the session¹⁹, it became clear that there was more to it than just discussing the evaluation criteria she wanted support for. The trainee realized that until now the selection of the projects was based on vague criteria and often personal preferences. She noticed there was a real danger, that the selection would be based on personal preferences instead of realistic criteria. Emotions, hidden agenda's, keeping and wanting a permanent job, being the directors favorite etc., were realistic threats. Selecting projects without acknowledging this, would be risky. Another difficulty was that a list of criteria would decrease the power of the director. Whatever criteria would result there was a chance that they would not be used afterwards. On the other hand there is the danger that the criteria list will be considered as an absolute selection list that prevail all personal feelings and intuition. No matter how serious the list is created it still has its white and blind spots and uncertainties in it.

Comment. Selecting projects for new markets is and remains a complex problem in which some of the uncertainty can be diminished however only to a certain level. Probably not all criteria can be found. Some projects will have different criteria, some data can not be found, or at least not in the time span available, and during the process things may change. So even giving a project a mark which indicates the possible rate of success, many unexpected things may happen because of the failure of the model, because of unforeseen changing of the circumstances, because of white and blind spots in the model, which can create a different outcome than expected.

This dilemma was avoided by stating that the criteria list is not the only guideline for accepting a project. Experience and intuition can still be used. However, based on a criteria list, it would become more clear, what the commercial chances of the project are. The heuristic is in order to reduce the financial risks avoiding too many risky projects on the same time.

8. Result. In six days the five layers were filled²⁰. The trainee was supervised three times thirty minutes. The supervision focused on operationalizing the criteria, creating the knowledge islands, specific the empty knowledge islands, and describing the status of the knowledge. The difficulty in describing the knowledge was that one should realize that the status of knowledge about something cannot be objectively described, because this would imply that one person has an overview of all the knowl-

¹⁹ The preparation for the session consists of three in-depth interviews and discussions of two hours each with the trainee and one of the content experts of the company, guided by the facilitator.

²⁰ The total amount of time was forty hours.

edge there is on this subject. Therefore it is better to describe the status of the knowledge subjectively. This means describe what a person or the group knows about the status of the knowledge.

9. Answering the research questions. The goal of this pilot research is testing the seven-layer communication model used in phase 2.4 in selecting criteria for evaluating the risks of new projects. Due to the complexity and the multi-disciplinary the Compram methodology advises to do this with a group. In this real life case parts of this process was done by different groups of people, and parts by one person alone. Making a tentative criteria list and filling the seven-layer communication model is done by the trainee alone, using literature search, and doing interviews. The exchange of knowledge between the colleagues of the company is supported by the trainee by meetings and discussion supported by groupware. Support came from the facilitator²¹ by preparing the groupware session. Filling the seven-layer communication model is done by the trainee, advised by her colleagues and by the facilitator.

In order to answer the research questions the trainee was interviewed by the author and the models made at different moments, before and after the use of the seven-layer communication model, were evaluated. A report of this experiment is described in Sombekke 1997.

The research question 1: is it be possible to use the seven-layer communication model in phase 2.4 for project evaluation?, was positively confirmed. The example has shown that the seven-layer communication model can be used in phase 2.4

The research question 2: does the use of the seven-layer communication model increase the insights in the problem ? , was also positively confirmed by comparing the conceptual models before and after the use of the seven-layer communication model.

The research question 3: can the seven-layer communication model be easily understood, was positively confirmed, by the small amount of time and explanation the trainee needed to work with the model.

It has shown that the output of the software of Groupsystems V can easily be connected with the conceptual modeling software Cope. This confirms research question 4. The use of the software Cope was only a part of deepening the insight into the problem. The seven-layer communication model as such deepened the insights to a great extend according to the trainee, as it persuades a person to describe the problem in words, to

²¹ The author of this article



operationalize the criteria, and the status of the knowledge. This confirms that a rather inexperienced person can use the software and use the seven-layer communication model. Both are easy to handle, see Sombekke, 1997.

This lead to that the research hypotheses '*expressing a (part of the) problem in a seven-layer communication model will deepen the insights in the problem*' should be positively confirmed.

According to the Compram methodology the whole process, from the beginning to end, should be analyzed by a group of people guided by a facilitator. In this test case some things were done in groups some were done by one person only. What does this small pilot study indicates for further use of the seven-layer communication model for analyzing complex societal problems?

Although one should be very careful in generalizing $n=1$ results, this pilot study gives a positive indication towards using the seven-layer communication model even by a single person for deepening the insights in a problem in a rather easy and efficient way. It looks that the seven-layer communication model is a good supporting tool for analyzing different parts of a complex problem (see also Sombekke, 1997).

Appendix. The connection between Groupsystems V and Cope. The result of a brainstorm session can be analyzed in many ways. Using the output of the brainstorm session as an input for the conceptual model is one of them.

The groupware tool Groupsystems V generates a list of key issues and additional remarks. The key issues can be related in a conceptual model. This model can be constructed with the software Cope, developed by the University of Strathclyde (United Kingdom). The software has many advantages for making conceptual models. In order to make it easier to connect the two software tools a macro in Ms-word-6 is developed which connect the output of the Groupsystems V for windows with the Cope software. In this way the connection can be made easy and fast.

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Data prezentării: 26 decembrie 2014



DE LA FILOSOFIA POLITICĂ LA FILOSOFIA LIMBAJULUI. (INSPIRAȚIA DISCURSULUI FILOSOFIC ÎN STRATEGIILE CONTEMPORANE ALE SUPRAVIEȚUIRII UMANITĂȚII)

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Rezumat

În acest articol autorul supune analizei potențialul cognitiv al filosofiei politice, care poate deservi comunicarea politică, mai ales în domeniul supraviețuirii lumii contemporane. Autorul promovează ideea comunicării și înțelegerii, pe care o poate valorifica doar filosofia politică. Actualizând tezele lui Aristotel despre importanța politicii, autorul conchide că politica integrează toate domeniile activității umane, orientându-le către realizarea intereselor statale.

Cuvinte-cheie: *filosofia politică, problemele globale ale omenirii, strategia supraviețuirii omenirii, filosofia limbajului, filosofia practică.*

FROM POLITICAL PHILOSOPHY TO PHILOSOPHY OF LANGUAGE (INSPIRATION OF PHYLOSOPHICAL DISCOURSE IN MANKIND'S SURVIVAL STRATEGY)

Abstract

The article analyzes the possibilities of active involvement of political philosophy in the discussing and solving of global problems of the world and making up of mankind's survival strategy. It is suggested that political philosophy can take its rightful place in these processes, if it draws closer together with philosophy of language and practical philosophy.

Keywords: *political philosophy, global problems of humanity, mankind's survival strategy, philosophy of language, practical philosophy.*

Introduction. The role of political philosophy in addressing global challenges of our time is sometimes compared with the role of a clown (Kierkegaard's well-known parable), sent to announce the fire in the theatre [6, c. 55]. Indeed, in the world of big politics and big money, appeals or philosophers' warnings often cause some rather special kind of sympathetic irony, but not the willing to listen and act. In this regard, they often talk about "crisis" of political philosophy [See., Eg: 7] or even that it "died" [12, p. 9] and "in general no longer exists, except as a matter of burial ..." [15, p. 23]. However, the fact of its final institutionalization in the twentieth century, theorists' activity as Leo Strauss, Isaiah Berlin, Hannah Arendt, John Rawls, the presence of periodicals, known all over the world, show that in fact there was not crisis but repression of political philosophy at the coast of public discourse and practical political life associated with its appeal to the supreme and external to the policy ideas, primarily moral, which are not very much liked by modern politics. "Thus, - writes J. Ranci re, - at the same time with the restoration of political philosophy, plenipotentiaries are increasingly excluded from it" [8, c. 12-13].

Meanwhile, as pointed out by John Dunn, in his interview to "Russian Journal" for May 7, 2009: "The history of mankind - is not just cause and due process, it is part of the causal process of the universe development ... or today, people will be able to provide themselves with safe existence, or they will simply cease to exist. I mean the environment and many other



global problems. ... If people do not get their act together, they are doomed to extinction ... So ... political philosophy not only can, but must have the future, as its future is the future of all mankind “[3].

In this article we will try to briefly outline some of the features of the active inclusion of political philosophy in the discourse around global issues of our time.

The results of the study. The main theses of this study are as follows:

1. Political philosophy can take its rightful place in the discussion and solving global problems, if it appeals to the rich heritage of the philosophy of language and writing. Returning to the following quote by John Dunn, you can see that the authoritative British philosopher actually defines the task of political philosophy as the provision of joint actions in the context of the survival of humanity on the basis of mutual understanding. Political philosophy, in essence, is understood as the philosophy of language, focused on political practices. Such an approach, as the experience of the study of Western philosophical thought of the postwar period shows, is not the only one. Namely language, lately, more and more becomes the leading theme of political philosophy, which developed after the “linguistic turn” [See .: 16], as can indicate, for example, English-language historical and political tradition, and namely the works of philosophers who have united around Peter Laslett’s project «Philosophy, Politics and Society» [12], an appeal to the language policy by Thomas Weldon in his «The Vocabulary of Politics» [17], the activity of the “Cambridge school”, primarily Quentin Skinner [14], John Pocock [13] and already mentioned, John Dunn [9], the French tradition of studying politics in terms of language that appeared in the works of F. Lyotard [11], J. Ranci re [8], V. Descombes [4, 5], and others.

2. In this context, the political philosophy must turn to its own traditional philosophy of language, the problem of understanding and mutual understanding. In a situation when political philosophy, together with other intellectual and public discourses is designed to form a verbal basis for concrete and practical action on human self-preservation and continuation of its sound development, namely the international and intercultural understanding becomes the main task. But namely this (understanding), as one of the central problems of the philosophy of language becomes, in particular, the problem of political philosophy, considered as a philosophy of language, and the search for the boundaries of understanding refers to the issue of correlation of political action by the international community. Now Vladimir Vernadsky’s last lifetime publication is often quoted - the article “A few

words about the noosphere” (it was published in 1944 in the journal “Advances in modern biology”), in which the famous scientist provides the requirements for humanity entry into the phase of “human civilization”, where intelligent, modest and thoughtful attitude to the world in which we live, as well as the unity of all people in the world and mutual consent will dominate. Vernadsky not only emphasizes the decisive role of rationality in man (“His (human) power is not associated with his matter, but with his brain, his mind and his mind being directed by his work” [1]), and also stresses that this new civilization will only appear “if he (the man. - A.K.) understands this and will not use his mind and work on self-destruction” [1]. According to V. Vernadsky, a man, who emerged as a subsystem within the biosphere as a whole organism, enters into a phase of noosphere, which is accompanied by increased power of man, active human encroachment into the biosphere and, as a result, opportunities arise to destroy biosphere, hence, to destroy itself. According to this, the emergence of noosphere should be thoughtful and rational and implemented by unification of humanity that respects democracy and freedom of thought. “The historical process we are witnessing is fundamentally changing, - says Vladimir Vernadsky. - For the first time in human history, the interests of the masses - one and everybody - and free thinking of the individual determine the life of mankind, and they are a measure of people’s notions of justice. Mankind, taken as a whole, becomes a powerful geological force. And in front of him, in front of his thought and work, there is the question of biosphere restructuring in the interests of freely thinking humanity as a whole. This new state of biosphere, which we are approaching, without noticing, is “noosphere” [1].

If even one accepts without objection scientist’s rationalist pathos, some points in his reflections are still problematic. First of all, humanity as a “whole” clearly provides for joint action, without which it is impossible to preserve and develop it. But “free-thinking humanity”, if Vernadsky meant the real freedom of thought in the modern sense, and not, for example, freedom from prejudice, in any case, within certain limits, will be “freely acting mankind,” and discussion about the limits or the rules of this action are inevitable. From this point of view, the question of discourses incompatibility in contemporary, for example, French philosophy is not just a problem, but in some way manifestation, such as in the concept of F. Lyotard’s incompatible phrasal modes, where discourses conflict, the discourse violence over another is inevitable. Philosopher sees in this, in fact, a mix of fields of language philosophy and political philosophy: “... linking



one phrase with another is problematic and this problem is a policy problem” [11, p. 13].

However, such a demonstration, if the language is regarded as a condition of general action, in fact, means the impossibility of heterogeneous discourses rooted in different cultures, to come to a common denominator, including in the settlement of global problems. The world's problems, of course, are integral and interrelated, but have two sides: the social and natural one. And if for some solutions of global problems that are identified as “social” (problems of cultural anomie, ethnic conflicts, etc.) the recognition of diversity and cultural identity, of course, is necessary, to deal with, for example, environmental problems that belong to the group “natural” problems, require joint decisions and actions of all mankind, and, decisions should be uniform. In F. Lyotard's language, the program of solving environmental problems - there is another main narrative, legitimizing whole series, including political practices. Jacques Rancière, who, like F. Lyotard, approaches to politics through the philosophy of language, considers somewhat different kind of understanding of the situation, which he refers to the term “disagreement» («*mésentente*»), unlike Lyotard's “divisive» («*différend*»). “Under disagreement we will understand a certain type of speech situation: when one of the interlocutors at once understands and does not understand what the other says. Disagreement is not a conflict between those who say “white”, and those who say “black.” It is a conflict between those who say “white”, but understand this is not the same, or do not understand what the other means by the same whiteness” [8, c. 15] - wrote the philosopher. Thus, the emphasis is not on the conflict rules of discourse and action, but on the difference in understanding the basic tokens and their method of communication with things. “Disagreement does not affect the question of phrases diversity modes and presence or absence of rules for assessing diverse types of discourse - says Jacques Rancière, arguing with F. Lyotard. - It affects not only the argument but the argued, the presence or absence of a common object between X and Y” [8, c. 17]. Adhering to this position in the field of global problems and strategies of survival of humanity, one could word the question of cultural and individual differences in understanding and defining the basic concepts that describe a person's life and his main existentialities (freedom, equality, justice, natural law). Let us note that the named representatives of the French philosophy enter in polemic conversations with modern German researchers of policy and language, in particular K.-O. Apel and U. Habermas, although the first and second repelled in their reflections the concept of “language games” of late L. Wittgenstein; try to address the issues of

mutual understanding in the context of Anglo-American “linguistic turn”, and sometimes their positions are similar. For example, J. Ranci re’s emphasis of attention on the political articulation, ensuring the existence of policy on the whole, is linked to U. Habermas’s concept of “publicity” (  ffentlichkeit) [See .: 10] and refers to the statement of the need for continued support of the discourse of contemporary global problems that arose after the first reports of Rome Club.

3. From the foregoing considerations it is clear that one of the conditions for the incorporation of political philosophy in the process of discussion, negotiation and implementation of strategies for the survival of humanity in the modern world is to focus political philosophy on political practice. In other words, political philosophy will only be able to take its rightful place in the public discourse around global issues of our time, when it becomes not only the philosophy of language, but also practical philosophy. French philosopher V. Descombes, successfully combines philosophy of language with political philosophy and philosophy of action, understands “political judgment, as such, that” leads practical implications for the subject of formulating this judgment “[5]. Despite the complexity to make judgments in clear distinctions, in relation to our subject matter, it can be argued that the wording of philosophical statements indirectly dependent on the successful promotion of humanity to address global challenges of our time, which can, on the one hand, be ascertained, analyzed and described, and on the other - be considered in terms of practical steps to address them. Although descriptive statements already contain, in a latent form, course of action, the second type of statements impels more to action. But we must not forget that the relationship between statements and actions is not causal but modal. Man as a free being, even with instructions for action, always stops in front of a choice - either to carry out the proposed program in practice or not. However, is political philosophy able to be qualified for the solution of practical problems, for example, in the field of environmental protection, combating international conflicts, nuclear disarmament and the like, which in their aspects as if extend beyond practices and are the prerogative of environmentalists or globalists. V. Descombes believes that political statements are architectonic art [5], similar to that which Aristotle describes in the first book “Nicomachean Ethics” (1094a 25). Recognizing each occupational autonomy and their own purposes, policy binds them together. Without seeking, for example, to establish rules for the doctor, pointing to him how to treat the patient, policy establishes how many doctors should be in the state and how much they need to be paid. Similarly,



with respect to the global issues of our time, the development of specific environmental technologies, solutions of demographic and other problem are the prerogative of specialists in these areas, in relation to which policy performs “architectonic” (communication and distribution) functions. Each activity in this direction establishes its own system of rules, and only politics is a somewhat general disposition. The role of political philosophy in this process, in our view, is to define the goals of political activity and the semantics of general concepts and ideas that define these rules. For example, political philosophy can define self-preservation or tearing, as one of the goals of the state and humanity, to develop this concept and the idea of survival, policy can build architectonics and distribution of functions in this area, and specific human activities are practical recipes for their implementation. Partially Edmund Burke was right when he said that theorist and philosopher’s goal is to indicate the true purpose of the state, and the case-practice policy’s goal is to find appropriate means to achieve these goals [Op. for 2, p. 54].

Conclusion. Theses expressed above do not settle the issue of political philosophy representation in the discourse strategies of survival of mankind, but rather push on further reflection. However, we think that proposed approach here will be of interest both from a theoretical and a practical side for political philosophers to find their place in the solution of global problems of our time.

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Data prezentării: 20 decembrie 2014



CLUSTERUL ÎN REALIZAREA PRINCIPILOR POLITICII EUROPENE REGIONALE CONTEMPORANE

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Abstract

În acest articol, sunt determinate prioritățile politicii regionale europene moderne: decentralizarea autorității și responsabilității, aprofundarea cooperării inter-regionale și transfrontaliere, parteneriatul public-privat, orientarea politicii regionale în formarea competitivității regiunilor. A fost analizat rolul clusterelor în realizarea politicii regionale europene moderne, care are ca scop mobilizarea potențialului de dezvoltare internă. Importanța punerii în aplicare a politicii de grup pentru țările din “Noua Europă” a fost demonstrat prin exemplul Poloniei. Au fost descrise problemele majore ale politicii regionale din Ucraina. Au fost propuse perspectivele pentru formarea clusterelor ucraineano-poloneze ca un instrument pentru îmbunătățirea cooperării transfrontaliere în interesul mediului de afaceri local.

Civinte-cheie: *prioritățile politice, rolul clusterelor, politica regională europeană modernă, cooperarea inter-regională și transfrontalieră.*

CLUSTER APPROACH TO IMPLEMENTING PRINCIPLES OF MODERN EUROPEAN REGIONAL POLICY

Abstract

In the article the priorities of modern European regional policy have been determined, among others there are the following priorities: decentralization of authority and responsibility, the deepening of inter-regional and cross-border cooperation, public-private partnerships, orientation of regional policy on forming regions' competitiveness. The role of clusters in the achievement of the modern European regional policy that is aimed at mobilizing internal development potential has been analyzed. The importance of the implementation of cluster policy for "New Europe" countries has been shown by the example of Poland. The major problems of regional policy in Ukraine have been described. The prospects for the formation of the Ukrainian-Polish clusters as a tool for enhancing of cross-border cooperation in the interests of the local business environment have been proposed.

Keywords: *political priorities, the role of clusters, modern European regional policy, inter-regional and cross-border cooperation.*

Raised issues. The main objective of regional policy in Europe in the 80s was to create conditions for the transfer of capital from the developed and prosperous countries in the backward and depressed areas. However, over the past two decades, the need to attract foreign investment for the development of the region is complemented by the recognition of the need to stimulate domestic potential of the regions, in particular to support local small and medium enterprises and to promote the introduction of new technologies and innovative approaches to production. One of the effective mechanisms of activation of the regions' internal potential are clusters that enable the consolidation of efforts of business, science, social organizations and the government in enhancing the competitiveness of enterprises and the region in which the cluster operates. The effectiveness of this approach proved many years of experience of functioning cluster formations in many countries around the world. In this regard, the article examines the impact of the economy on the clustering implementation of modern European regional policy priorities.

The hypothesis of the study. The objectives of modern European re-



gional policy aimed at endogenous development of the region, are most effectively implemented in a cluster model of economy.

Relevance. In the context of crisis in the global economy the interest in clusters as mobile self-sufficient economic units that can respond quickly and effectively to changes in the environment has increased in recent years. In the current context of increasing globalization processes one of the main objectives of the regional policy of the state should be to ensure the best use of regional resources and making full use of the specifics of each region. To ensure the sustainable economic development of the country and its regions a program of economic restructuring is needed, which must be adapted to the conditions of global competition and, therefore, must include support for cluster initiatives at the municipal, regional and national levels. An important task is to disseminate modern economic outlook among all participants of market reforms in our society. This leads to the relevance of research on the role of clusters in the process of implementation of regional development policy.

The obtained research results. In the context of world globalization processes separate territories - regions, cities, local bodies- become strategic players in the global market, which as a result of possessing a strong resource base and effective management system of local economies represent their countries at the international level and actually conduct their own policies. These trends are clearly observed in the European Union, where the region's role in ensuring national competitiveness is reflected in the slogan "Europe of Regions". Regional policy of the EU is based on the following principles:

1) Decentralization of authority and responsibility. A characteristic feature of the process of formation and implementation of European regional policy is consistent decentralization of decision-making and empowerment (and responsibility) process of regional and local authorities (state and an appropriate level of local government). In 1996, the Assembly of European Regions adopted the Declaration on regionalism in Europe, according to which a region is endowed with broad powers. In particular, in the sphere of international relations regions have the opportunity to act on the international level. Regions have the right individually or jointly with other regions to establish offices in other states or in the relevant international organizations.

2) Increased inter-regional and cross-border cooperation. Using this tool of partnership is encouraged by the EU to bring to regional development opportunities and resources related, as a rule, to successful regions of neighboring countries. Active partnership policy is implemented by the EU on the Mediterranean and Eastern European destinations. The economic

component of cross-border cooperation is a fundamental component of this interaction, without the active development of which it is impossible to form an organic complex of international relations at the regional level, to influence significantly on the growth of the prestige of Ukraine in the contact zone with the European Union. As shown by domestic experience, within the framework of Euro-regions, in particular “Lower Danube”, “Black Sea” Euro-region primarily political, cultural, educational and other areas of cooperation are implemented, while economic activity in the framework of the Euro-region has not acquired the necessary development. One of the main reasons for this is that Euro-regions are created by the initiative of local authorities and not by Euro-region companies.

3) Public-private partnership. The concept of public-private partnership provides for the implementation of projects performed jointly by the authorities (regional / local and / or central) and business or non-governmental organizations to promote the development of certain regions or areas. In structural EU programs for 2007-2013 a decisive role in the financing of development projects for territories is set aside in the private sector.

4) The emphasis of regional policy assistance to the regions is put on forming their competitiveness. The objects of regional policy are not only “problem” areas, and regions as such - because, firstly, it is the region of the level at which the country’s competitiveness is formed, and secondly, the problem of maintaining and strengthening competitiveness applies to all regions without exception [1, S. 12-14].

Ukraine is in the process of rethinking the role of regions in ensuring national competitiveness. Obstacles to the formation of regions in Ukraine as independent participants of competitive relations are as follows:

- Ukrainian legislation ambiguity in this area;
- regions’ limits in conducting an independent policy;
- high risk of disintegration of the state, which caused inhibition of the administrative-territorial reform;
- rooted stereotypes of centrally planned economy.

In this regard, Ukraine is interested in the experience of reforming regional policy of “New Europe” countries, in particular Poland. As experience of reform of regional policy in Poland and other European countries shows, one of the most effective tools for integrating national regions in the world competitive process is the cluster model for region development. Since 1999, the OECD within the framework of LEED (Local Economic and Employment Development) in five countries of the Visegrad Group



(Poland, Hungary, Slovakia, Slovenia, Czech Republic), is implementing a project on the development of the cluster model.

In addition, within the established “Declaration on strengthening economic cooperation in Europe” and “Action Plan” for the countries of Central and Eastern Europe in 1997, cooperation was offered in the development of new production systems, based on clusters, that are geographically voluntary association of enterprises, that work closely with academic institutions and local authorities to improve competitiveness of their own products and the region’s economic growth. Today in Poland there are more than 2.5 million enterprises, 99.8% of which are small and medium-sized enterprises, which are the backbone of the Polish economy and they employ more than 7 million people (2/3 of all jobs) [2, C . 316-324].

The experience of cluster formation in European countries, as well as prospects for further implementation of cluster policy are summarized in the European manifesto for the development of clusters adopted in April 2012 [3]. Online information platform about clusters and cluster policy in Europe is the European Cluster Observatory, established in 2007 [4]. This platform offers analysis on clusters and competitiveness, relevant literature and training courses.

The advantages of cluster development for enterprises cluster members can be grouped as follows: increased productivity, innovation, activation of entrepreneurship, the development of effective communication, dissemination of information. In their turn, each of these group advantages of cluster development for participating cluster enterprises determines appropriate benefits for the region’s placement in the cluster. Thus, the increase in productivity in enterprises makes more efficient the use of resources in the region, the growth of gross regional product, increasing employment in the region.

Innovation and dissemination of information in cluster enterprises cause accelerated innovation development, the implementation of its innovative and scientific potential and, importantly, enhancement of the practical relevance of research and education. Research and development of scientific and educational institutions included in the cluster receive practical implementation in cluster enterprises. This is made possible thanks to co-financing of research within the cluster. The transition of cluster enterprises to an innovative basis will increase the share of high-tech products in the export of the region and the country as a whole, which is especially important for Ukraine, taking into consideration the raw materials and semi-finished domestic exports, which in their turn will help the region to expand into new global markets.

Activation of entrepreneurial initiative makes the creation of new jobs in the

region, the growth of foreign investment, increase of the tax base, the development of infrastructure. Traditional industrial policy is also changing, which provides subsidies for non-competitive sectors, attracting non-productive investments.

The development of effective communication within the cluster is made possible by the fact that there are informal contacts and trust is established between the people who live and work in one place and share a common goal of the cluster.

One of the major advantages of cluster development for the region is to establish a balance between market efficiency and social harmony, which lead to the improvement of quality of life in the region. For example, innovation in cluster enterprises determines the environmental safety of their activities for the environment. Innovative basis of cluster development requires increased attention to the development of social capital. This confirms the conformity of cluster development of the region to the goals and objectives of sustainable, social, ecological and economically balanced development of the region.

In Ukrainian regions clustering processes began with the formation of the first cluster in 1997, which became a sewing cluster in Khmelnytsky region "Podillia Perche." Western Ukraine regions have become pioneers in the introduction of the cluster approach to improve the competitiveness of the region, due to their geographical proximity to the EU. Later in the Western macro-economic region clusters emerged in industries that determine their specialization: agriculture, light industry, food industry, construction materials, tourism. In the Transcarpathian region automotive cluster "Industrial Park Solomon" has been successfully formed, where next to a number of production cars will be available enterprise-producers of accessories. This cluster has a value of cross-border as it is bordered by Poland, Hungary, Slovakia and Romania. Also in the Transcarpathian region cross-border logistics cluster is formed.

At the same time, Ukraine has a number of obstacles for regions' clustering:

- absence of a single programming document in clustering;
- legislative looseness of the concept of "cluster";
- insufficient information support of clustering processes;
- lack of a common information base of cluster initiatives;
- lack of interest of small and medium-sized enterprises to join in large production systems;
- little experience of clusters' functioning in Ukraine;
- underdeveloped institutions for clustering: regional development agencies, investment promotion bureau;
- underdeveloped innovation infrastructure: industrial parks, technology parks, inter-technological consortia;



- absence of consolidating institution for cluster development;
- haphazard research clusters;
- unsupported declarative rules of law to create clusters of specific mechanisms and their implementation.

Based on the mentioned above the directions of cooperation between Ukraine and Poland in the area of clustering of the regional economy are as follows:

1) In Ukraine, for the moment, there are created 9 Euro-regions, 2 of which with the participation of Poland (Figure 2): “Carpathian” Euro-region (1993, 161, 279 thousand sq km; 16 million people); “Bug” Euro-region (1995, 80, 916 thousand sq. km, 5 million people).

To enhance cross-border cooperation between Poland and Ukraine in the economic sphere it is appropriate under the existing Euro-regions to form cross-border clusters as a form of organization of business entities. This will provide opportunities for mutual access to markets of both countries, the formation of joint information database of cluster initiatives, the possibility of joint research and development activities and technology.

Taken into consideration powerful scientific-educational and intellectual potential of the areas belonging to the Ukrainian-Polish Euro-regions, the formation of the Ukrainian-Polish “Silicon Valley” is perspective: hi-tech clusters, clusters of computer technology, education and information clusters.

2) Another promising area of cooperation between Ukraine and Poland in the area of clustering is the study and implementation of the Polish



Figure 2. Ukrainian-Polish Euro-regions

experience in reforming the maritime complex based on the cluster model. In the coastal regions of Ukraine on the formation of port clusters is worked on, as well as a number of other maritime clusters: shipbuilding, ship repair, transport and logistics, fishing, tourism and recreation.

Thus, Ukraine and Poland have a large untapped potential of cross-border cooperation on the basis of cluster model. One of the priority actions for its implementation should be the development of joint programs of clustering Ukrainian-Polish Euro-regions, as well as the formation of joint information database of cluster initiatives that will enhance cooperation between the Ukrainian and Polish enterprises.

Conclusion. Economic development of the region on the basis of cluster approach provides the mobility of internal potential of the region, which is a key priority of modern European regional policy. As international experience shows, clusters are effective catalysts for improving competitiveness of regions. Implementation of the model output of the region to the world market through clusters allows concentrating a competitive advantage in the region and enhancing them by cluster development advantages, making clusters powerful tool for improving region's economic influence on the world market.

Disparities of Ukraine regional economy require modernization of regional policy, and in this regard Ukraine is interested in the experience of reforming the regional policy of "New Europe" countries, in particular in Poland. Ukraine, having two joint Euro-regions with Poland, does not use cross-border cooperation in the interests of the local business environment - the main driving force for mobilizing domestic development potential of the region. Formation of the Ukrainian-Polish clusters is seen as a promising solution of this problem.

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Data prezentării: 22 decembrie 2014



INTEGRAREA EUROPEANĂ ȘI MIGRAȚIA

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Rezumat

Ideea principală promovată de autor este că în procesul integrării europene este importantă conservarea tradițiilor naționale și promovarea intereselor naționale. Autorul menționează că migrația este un factor influent în formarea și perceperea interesului național și, în acest context, poate influența procesul de integrare. Experiența statelor europene, mai ales a Germaniei, oferă noi oportunități pentru statele candidate la integrare. Înțelegând că evenimentele tragice ale istoriei Europei moderne nu pot și nu trebuie repetate, francezii și nemții au decis să depășească și să înlăture din viața lor ideologiile dușmănoase ale statelor uninaționale, să refuze parțial la suveranitatea națională și să creeze instituții supranaționale. Prin aceasta Franța a sacrificat o parte din propria suveranitate în favoarea uniunii cu Germania.

Cuvinte-cheie: *integrare europeană, migrație, interes național, norme de drept, refugiat.*

EUROPEAN INTEGRATION AND MIGRATION

Abstract

The main idea promoted by the author is that in the process of European integration it is important for national traditions to be preserved and national interests to be promoted. The author noted that migration is an influential factor in shaping the perception of the national interest and in this context can influence the integration process. The experience of European countries, especially Germany, offers new op-

portunities for the candidate to integration. Since tragic events of modern European history cannot and should not be repeated, the French and the Germans decided to overcome and remove from their lives hostile ideologies of uninational states, to partially refuse national sovereignty and create supranational institutions. Through this, France has sacrificed some of its sovereignty in favour of union with Germany.

Keywords: *European integration, migration, national interest, rule of law, refugee.*

Introduction. The analysis of migration is actual, significant for both European unified structures and for each Member State. The purpose of this study is to use the experiences of Member States of the European Union in monitoring the process of migration, including labour migration.

Considering the process of European integration in general, one should always take into account national traditions and interests. Migration is one of the factors, which may shape and affect national interest and may therefore have some consequences for the integration.

We often talk about integration, oblivious to the fact that this process must always be in balance with the national and supranational interests.

European convergence and thus the integration of different peoples is a long historical process, and the result of the negotiations, which always involve compromise on all sides. Experience and position in Europe and especially in Germany after World War II opened a rare opportunity to fulfil what until that time seemed almost impossible.

Being aware that the events of the past must not be repeated, the French and the Germans decided to overcome hostile ideologies of one-nation state, to reject national sovereignty and to create supranational institutions. Such an institution was the European Coal and Steel Community (ECSC). Already at that time, it was necessary to persuade France as an ally, that it would have to give up part of its sovereignty in favour of an alliance with Germany and push its own national interests into the background.

Applied methods: systemic analysis, comparative study, factor analysis, allowed the author to interpret the key findings of the integration policy, revised in 2007. Comparing rates of migration during different years, the author notes that in the last decade not only quantitative changes, but also qualitative ones occur in this process. The comparative study allows the author to define global and regional (European) migration trends.

Investigation results

1. National interests. Entry into the Union is always a partial loss of



sovereignty. European interests are paramount when compared with the national interests.

Criticism of the image of the EU has led, since 2010, to fulfil the needs of institutional reform in the EU. At first, the reform seemed a very important task, since the European Union was built on the principles of national compromises.

European nation-states have created supranational institutions - the European Commission and the European Parliament - but there is another institution between them - the European Council, which prevents the dissolution of nations, protecting national interests.

The growing contradiction between integration and national interests within the institutions of the European Union is the basis for discussion and debate in Europe over the past three years.

One of the points of discussion is the use of the laws relating to immigration policy, which requires national and supranational regulation.

As it was already mentioned, integration implies the rejection of absolute sovereignty of the country, resulting in the fact that national interests are lower than European ones.

Compliance with national interests in connection with foreign policy is quite controversial. In Germany, the concept of “national interest” was discredited because, first of all, it was associated with the concept of “nationalism” and the implementation of national interests by force (example: the First and Second World Wars).

But the identification of national interest requires a clear definition of own interests. The structure of European integration, based on a foundation of compromise and rejection of national interests, in recent years reveals its flaws.

Strengthening European countries, generation change, stabilization of national identity - all these factors pushed aside the memories of 1945 in Germany. And namely the younger generation shows by self-sufficient behaviour, how they highly valued national interests by presenting them to the policy of the European Union.

These changes in the minds of the younger generation reflect the formation of a new identity in European politics.

But the arbitrariness and violation of rules, and also in tax policy, undermine European integration idea. Euro crisis weakens solidarity within the community currency. These factors have more influence on the policy of the European Union than a generation change and the related new view on history and national identity.

2. *Migration.* A further factor influencing the European integration is the process of migration.

European (Economic) Community did not immediately realize that the problem of immigration and asylum process for refugees must be addressed and adjusted together.

Migration and refugee problem were always more an internal problem of the EU countries. Despite this, the participating countries considered prudent to cooperate on migration issues.

The result of this cooperation between the states was a common policy with the joint standards and regulations in some areas. There were three lines of defining:

1. Control over immigration process at the national level: states are no longer able to control the migration process on their own.

2. The right to freedom of movement and living everywhere: with the development of mobility boundaries were eliminated so that the citizens of third countries (i.e. non-EU countries) were able to move freely within the EU without the control of individual countries.

3. Demographic development: according to Eurostat data in 2050 the age of one third of the population of the European Union will be more than 65, so there will be a lack of labour force.

At the moment, a number of powers in the policy for refugees is governed by general EU legislation.

Thus, there are certain areas of the European migration policy: labour migration, refugee policy, irregular migration, visa policy, integration policy and internal migration.

The legal basis for all activities in the area of migration is the Geneva Convention on Refugees.

One of the countries of the European Union, which for many years was defined as a country of migration, is Germany.

Both in Germany and Europe, several stages of migration can be identified: 1880 (about 1.2 million of “foreign migrant workers”), the First World War and the years from 1933 to 1945 (foreign forced labour), the ending of war in 1945, construction of the wall in 1961

With the Immigration Act 2005, the legislation on foreigners was thoroughly reformed and the issue of integration began to be referred to the public sphere of activity. Further, the concept of migration of refugees and beneficiaries of asylum (political) was defined and specified (migration of



persons using (political) asylum; persons with refugee status under the Geneva Convention; politically persecuted persons, de facto refugees, refugees from the hot spots, where a civil war is waged; contingent refugees from crisis regions; foreigners without citizenship; illegal migrants).

In Germany, due to inconsistent implementation of integration policy for many years, the problem and question about foreign population living in Germany arose.

The National Integration Plan 2007 fixed new goals of integration policy: to promote language learning, to gain education and profession, the right to vote in local elections.

In an international comparison “quota for citizenship” in Germany is very low. Traditional migration countries as the US and Canada, as well as Sweden, England or Holland show a significantly higher quota for citizenship.

In addition, citizens of other EU countries rarely apply for citizenship of another state, as a result of the rights of freedom of movement residence within EU countries it is not necessary to obtain, for example, German citizenship.

Each year, about 3.1 million people immigrate to the European Union and, at least 2.0 million emigrants leave one of the EU countries.

England had the highest number of immigrants per year, and then it is followed by Spain, Italy and Germany. These four countries account for about 60% of all immigrants entering the territory of the European Union.

The highest number of immigrants in recent years accounted for Spain, followed by the UK and Germany. In most EU countries the number of immigrants exceeds the number of immigrants in Ireland, Greece, the Czech Republic, Slovenia and three Baltic states - the number of emigrants is more than of immigrants.

Of all immigrants in the EU in recent years, 20% are citizens of their own country, 30% - citizens of other EU countries and half - the citizens of third countries. Considering the absolute numbers, it can be noted that the majority of persons who are not nationals residing in the EU go to Germany, Spain, Italy, the UK and France. These five countries account for about 77% of all immigrants of non-citizens, while the ratio of the population in these five countries, the total population of the European Union is 63%.

In most of the participating countries, we are speaking about immigrants - third-country nationals (mostly from Turkey, Albania and Ukraine).

The second largest group are foreigners from Africa and Asia.

Conclusion. Permanent migration, as well as natural migration, which

is determined by various factors, such as economic or social characteristics, leads to changes in the social and cultural life in the country.

Culture of a particular country is influenced by cultures of other countries. Thus, national interests are subject to change. These national interests play an important role in the European Union. However, entry into the union of states implies the rejection of absolute sovereignty of the country and willingness to compromise.

As the example of the European Union shows, changes of national interests (primarily change in the national consciousness and generation change) can influence decision in a closed alliance, as well as its structural changes.

National interests are the key to supranational solutions specific to national interests, which are influenced by various factors (economy, migration, etc.).

For this reason, a harmonious balance between national interests and the interests of the Union is to be achieved.

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Data prezentării: 15 decembrie 2014



PARTICULARITĂȚILE VOCABULARULUI ENGLEZ ÎN DISCURSUL SOCIAL-POLITIC

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Rezumat

Prezentul articol este un studiu comparativ privind corectitudinea politică sub aspectele interculturale și lingvistice. Corectitudinea politică este un fenomen apărut în SUA la sfârșitul anilor '70 ai sec. XX. Acesta însuflă tot mai mult interes în rândul linviștilor, filosofilor și al experților culturali. Astfel, corectitudinea politică este considerată a fi o realitate ideologică specială, o tendință lingvistică, toleranță lingvistică etc. Trebuie să acceptăm inexactitatea termenului "corectitudine politică" din cauza primului element component al acestei combinații de cuvinte, însă, totodată, e necesară precizarea stabilității termenului și utilizarea acestuia în diverse limbi.

Abordarea interdisciplinară a corectitudinii politice permite analiza multiaspectuală a acesteia. Corectitudinea politică, fără îndoială, posedă un conținut specific datorită unor intenții ideologice și intelectuale de a depăși contradicțiile și conflictele internaționale și internetnice. Concomitent, acest fenomen susține evoluția limbii, care este caracterizată de alegerea unui nivel special al mijloacelor lingvistice. Corectitudinea politică este un element specific culturii și discursului american pe plan național.

Actualitatea subiectului acestui articol este determinată de următoarele obiective: 1) necesitatea studierii multiaspectuale a corectitudinii politice sub aspectele lingvistice și interculturale, 2) inevitabilitatea de a stabili statutul acestui fenomen în cultură și lingvistică, 3) utilitatea și rezonabilitatea de comparare a cazurilor de corectitudine politică în limba sursă și limba țintă. Obiectivul acestui studiu este conținutul, funcțiile și mijloacele lingvistice ale corectitudinii politice.

Materialele utilizate în procesul de cercetare sunt: articolele principale din mass media americană, discursurile activiștilor societății civile și sociale, lucrările

literare americane ale sec. XX, clipurile video din Internet de la conferințele din SUA cu privire la subiectele societății civile și, nu în ultimul rând, problemele internaționale și interetnice. Scopul acestui articol este de a descrie corectitudinea politică din punct de vedere cultural, lingvistic și comportamental. Atingerea scopului propus a fost posibilă după parcurgerea unor etape: analiza conținutului, funcțiilor și a mijloacelor lingvistice ale corectitudinii politice; studierea legăturii dintre conceptele ‘toleranță’ și ‘corectitudine politică’.

Cuvinte-cheie: *corectitudinea politică, aspecte interculturale și lingvistice, realitate ideologică, realitate ideologică culturală, tendință lingvistică, toleranță lingvistică, lexic politic corect/incorect.*

PECULIARITIES OF ENGLISH LEXIS IN THE SOCIAL AND POLITICAL DISCOURSE

Abstract

Political correctness is the phenomenon that appeared in the USA at the end of 1970-s of the 20th century. This phenomenon arouses more and more interest of linguists, philosophers and culture experts. Various scientific approaches are applied to the study of political correctness. Political correctness is considered to be special ideological realia, a language tendency and a language tolerance. We have to put up with the imperfectness of the term “political correctness” because of the first component in this term word-combination, but we should state the term’s stability and its use in many languages of the world.

A special actuality of the given article’s topic is defined by both the lack of multi-aspect study of political correctness in the linguistic and intercultural aspects and the necessity of establishing its status in culture science and linguistics.

Keywords: *political correctness, intercultural and language aspects, special ideological realia, a language tendency, a language tolerance, politically correct/incorrect lexis*

Introduction. The object of research is the contents, functions and language means of the political correctness category. The given article is dedicated to the comparative research of political correctness in the intercultural and language aspects. The interrelation of the language and culture has been analyzed in linguistics for quite a long time. Even an outstanding German linguist and philosopher of the XIXth century, Wilhelm



von Humboldt, characterized a language as “*united spiritual energy of the people*”, “*the means of thoughts and feelings of the people*” [8, p. 349]. In the XXth century arose the great demand of the study of a language in the context of the extra linguistic factors. It caused the appearance of new trends in linguistics, such as American anthropological linguistics, the Prague functional school and the emergence of such fields as sociolinguistics, ethno linguistics, and culture-oriented linguistics.

One of the actual problems in modern linguistics is the research of the interrelation between a language and culture. Professor S.G. Ter-Minasova , in our opinion, is absolutely right when she points out the fact that a language is the culture mirror because it reflects the people’s social mentality, national character, the way of living, traditions, morale, values, and world picture [14]. In the 1970-s of the XXth century appeared such a cultural and language phenomenon as political correctness. The term “*political correctness*”, PC for short, came into use at first in the USA and later on in other Western Europe countries. There are some points of view on its appearance. So, according to one of them, the term “*political correctness*” was first used by Karen DeCrow, the president of the American National Organization for Women [12, p. 7].

According to professor Iu. L. Tumanova, the term “*political correctness*” became widely used in early the 1970-s as a result of a wide critical campaign organized by the American mass media on the account of the popular bestseller “The Closing of the American Mind” by Allan Bloom [15, p.14]. In Ter-Minasova’s opinion, the work “The Political Sociology of the English Language” by A. Mazrui, published in 1975, gave the impulse for the appearance of political correctness. A. Mazrui called upon the Africans for the critical and sensitive use of the English language, for the elimination of racism from the language, deracialization of English [14, p. 79].

Professor W. Safire considers that the forerunner of the appearance of the word-combination “*political correctness*” was the expression “*correct thinking*” that was first used by the Chairman of the China Communist Party Mao Tse-tung, and it meant “*a strict observance of the party direction*” [3, p. 590]. As W. Safire, fairly, noted the adjective “*correct*” in this word-combination had the meaning “*reflecting group interests*”. The authors in foreign mass media, mainly, the American ones, emphasize the social and ideological prerequisites for political correctness.

Methods and materials used for research. Interdisciplinary approach to political correctness allows the multi-aspect analysis of this phenom-

enon. Political correctness, undoubtedly, has the specific contents thanks to the ideological and mental intentions to overcome international, interethnic contradictions and conflicts; and at the same time, political correctness finds its language realization that is characterized by the choice of special different level language means.

The material of research is the body of the US mass media articles, speeches of social and civil society activists, the US literary works of the XXth century and the Internet video clips on the US conferences on the civil society topics, the international and interethnic problems. The aim of the research is to describe political correctness as a cultural, behavioral and language category. The goal achievement was possible after the following stages: the analysis of the contents, functions and language means of political correctness; the study of relationship of the concepts “*tolerance*” and “*political correctness*” and, finally, the description of the Modern English changes that have taken place under the influence of political correctness.

Results of research and discussions. Nowadays the phenomenon “*political correctness*” is often described as a cultural, behavioral, and *language category*. In linguistics the term “*a language category*” is treated as “*any group of language elements that are singled out on the basis of some common feature*”. A language category should have a *plane of expression* (a form of a word or a word combination) and the *plane of contents* (a formal element, or a *semantical meaning*). The term “*category*” is also used in the culturology where categories of culture can be defined, for example, as *stereotypes*, *symbols*, *etalons*, *mythologema* (the main idea of the myth) and others of the national and universal culture that have been assimilated by the language-speakers.

While researching the problems of intercultural communication the scientists use the term “*a communicative category*” that designates “*the most common communicative concepts that bring in order the man’s knowledge on both communication, in general, and the norms of its realization, in particular*”. A communicative category contains a cumulative set of judgments, opinions, a set of etiquette norms, mental stereotypes, and formats for language communication. Also, a communicative category contains the informative aspect (the conceptual knowledge on communication, as a whole) and the prescriptive aspect (the prescriptions on the realization of the communicative process).

The communicative categories that are characteristic, for example, to the Russian communicative consciousness are politeness/rudeness, socia-



bility, sociable responsibility, emotionality, communicative evaluation and others. The Russian linguist and culture expert I.A. Sternin considers political correctness as a locutionary category (“*a locution*” is the manner or style of speech and expression) or a precinctive one, that is, restricted to a defined geographical area, for example, the English-speaking countries.

The research has given us the evidence to agree, to some extent, with I.A. Sternin’s point of view on the concept of “*political correctness*”. It, indeed, can be considered as a set of norms or formats of language communication that contain both the information content and prescriptive aspects (regulatory and prohibitive prescriptions). Nevertheless, if political correctness is considered at the whole range of its meanings, we can draw the conclusion that political correctness is beyond the framework of communication, and it embraces a wide spectrum of cultural, ideological and social problems.

Other than religion and culture, syncretism is also seen in politics, wherein the political parties are forced to come to a mutual understanding and accept each other’s terms and conditions - even when they profess contradicting principles. When different beliefs are brought together they are bound to trigger a change, but nobody can guarantee that this change will always be a smooth one.

The specific character of the category “*political correctness*” is also in its interdisciplinary status. Its general meaning is defined by the existing cultural and behavioral norms in the modern society, and it can be revealed by the stereotype of “*a stranger*”, that is, a person of another nationality, color, appearance, and social status. The opposite stereotype is “*an insider, a member of the same social community*”. Another language style and lexis are used in the process of communication with an insider.

The thorough study of the phenomenon of political correctness is also impossible without addressing to such a concept as *tolerance* that has also been in the center of attention of philosophers, culture experts, sociologists and linguists [11]. The term “tolerance” (from Latin “*tolerantia*” - “patience, indulgence”) has acquired a specific content in various fields of science. As far as its meaning in the political aspect is concerned, the term “tolerance” is interpreted as the authorities’ readiness for allowing to express dissent in the society, to organize opposition within the framework of the Constitution, to accept political pluralism as a manifestation of opinion variety in the state. From the point of ethics the term “*tolerance*” means the norm of the civilized compromise between the competing cultures and the readiness for accepting other points of view.

In its turn, philosophy treats the term “*tolerance*” as the world-view category that means the universal rule for an active relationship towards another person. The analysis of the two concepts, that is, *tolerance* and *political correctness*, inevitably, arouses the question on the relationship of these two phenomena. Most culture experts and linguists consider that the spectrum of meaning of political correctness is narrower than the one of tolerance.

Moreover, political correctness implies the observance of the norms of a neutral language and the formation of tolerant behavior with respect to some groups of people (national and sexual minorities, invalids, low-income people and others). Besides, if the term “*tolerance*” means a personal mental category, the term “*political correctness*”, mostly, designates the observance of formal etiquette compliance in the given society.

Both terms, nevertheless, are of great importance for intercultural communication because the negligence of the phenomena that are implied by the both is crucial for communication across cultures. Yet, on the one hand, the phenomenon of political correctness is not limited by the framework of communication because it embraces a wide spectrum of cultural, ideological and social problems. On the other hand, as a language category *political correctness* has the corresponding categorical features, such as, a) the *integral* feature, that is, the absence of the ideas of racial, national, gender, age, health, and property status discrimination; b) the *differential* feature, that is, the possibility of a language unit to eliminate the demonstration of the above mentioned kinds of discrimination.

Hence, we can single out a number of oppositions that have or have not a feature, for example, *African-American/Negro*, *Asian/Oriental*, *Native American/Indian*, *senior/old*, *physically challenged/handicapped*, *low-income/poor* and others. The members of the given oppositions, having the same denotative meaning, have acquired different connotative meanings on the basis of which we can consider them as politically correct/ politically incorrect.

Furthermore, the means of expression of political correctness that have been coined during the last decades can be gathered in the thematic groups. A certain basis for attempts to make changes in the modern language, primarily, Modern English, is the hypothesis of a linguistic relativity that was worked out by the American linguists, Edward Sapir [4] and Benjamin Lee Whorf [7], between the 1930s and the 1940s. According to this hypothesis, a language is the most important means of thinking and perception of reality, and finally, the ethnical and cultural group member’s thinking depends only on the language [9, p.46].



The advocates of this point of view on political correctness consider that in case of the change of language expressions the people can radically modify their thinking. In M. Krongaus's opinion [10], the trend of political correctness uses linguistics for the search of those features of everyday language and speech behavior that were formed under the influence of the traditional culture and are used today for expressing various interpretations connected with inequality and injustice.

The priority task of political correctness is elimination of stereotypes that have rooted in the human consciousness (first of all, the stereotypes in reference to the people of another nationality or race, gender, physical or mental state and so on) and have fixed in the language as words that can be interpreted as insulting the dignity of people. As a result of the above said, lately in linguistics, the whole trend called the *gender linguistics* has been formed.

During some centuries, in English, the words denoting the masculine gender have taken the most important place, while the words denoting the feminine gender have become, according to some linguists, of the secondary importance. So, Dale Spender in her book "Man made language" [6] noticed that such a practice was absent till the beginning of the XVIth century. In 1533 Thomas Wilson proposed the rule of putting the word denoting a person of masculine gender in the first place in such word-combinations as "a husband and a wife", "*a brother and a sister*" [6, p.147]. The language tradition of placing a woman in the subject position has been traced so far in the language use.

According to the results of the semantical analysis of 517 words, it has been established that the words denoting a man exceeded the words denoting a woman three times [5]. Nevertheless, the number of words with the negative connotations, for example, *fishwife*, *call girl*, *old maid*, appeared to be more in number than the words of the masculine gender such as *fall guy*, *hangman*, and *madman*. Their number exceeded the nouns of the feminine gender more than 20 percent.

The negative evaluation is also traced in some idiomatic expressions such as "*he runs (thinks, fights) like a girl (woman)*". When these expressions are used concerning a boy or a man, it is equal to an insult. On the other hand, a person of the feminine gender in the idiomatic expressions such as "*she runs (talks, thinks) like a man*" is characterized positively. The similar interpretations are applied to the expressions "*a woman's answer*" (a negative evaluation) and "*a man's answer*" (a positive evaluation) [13, p.123].

The morpheme "*man*", according to some linguists, creates the great-

est difficulty for political correctness. This morpheme is used in a large number of composite words such as, *barman*, *policeman*, *fireman* and many others. In the opinion of some linguists, they are considered, precisely, the “wrong” words that are more often corrected.

As D. Bolinger wrote in 1977, the US Department of Labor had revised about three thousand from thirty thousand names of professions [1]. For example, the words with “*man*” at the beginning of a composite word were edited in the following way: instead of “*mankind*” was proposed “*humanity*, *peoplekind*”, “*manpower*” was replaced by “*human resources*, *workforce*, *personnel*”, “*manhole*” was omitted for the sake of “*personhole*, *utility hole*, *sewer hole*”, “*man-made*” was replaced by “*artificial*, *synthetic*” [1].

As regards the component “*man*” at the end of a word, the following changes were made: “*businessman*”/”*businessperson*, *executive*”, “*cameraman*”/”*cameraperson*”, “*chairman*”/”*chairperson*, *chair*, *convener*, *mediator*, *coordinator*”, “*doorman*”/”*access controller*, *doorperson*”, “*fireman*”/”*fire fighter*”, “*foreman*”/”*supervisor*”, “*congressman*”/”*congressperson*”, “*mailman*” / ”*mail carrier*”, “*milkman*”/”*milkperson*” , “*policeman*”/”*police officer*”, “*spokesman*”/” *spokesperson*”.

In the manual by John Kirkby issued in 1746 we find the following: “The Masculine Person answers to the general Name, which comprehends both Male and Female, as Any Person, who knows what he says” (the citation is from Jennifer Coates) [2, p.23]. In the 1850-s the Special Act of the English Parliament prescribed how to use the pronoun “*he*” for denoting both the genders in the similar cases.

During the long period of time some linguists have attempted to eliminate this “sexist” rule. Thus, Rebecca Freeman and Bonnie McElhinny gave the example of some variants of the change, such as, 1) to omit the pronoun of the masculine gender, for instance, “*The average student is worried about his grades* > *The average student is worried about grades*”; 2) to change the number (the singular for the sake of the plural), for instance, “*Each student can select his own topic* > *Students can select their own topics*”; 3) to replace the pronoun “*he*” or “*his*” by “*one*, *one’s*”, for instance, “*Everyone should do his best* > *One should do one’s best*”; 4) to use “*he*” or “*she*”, “*his*” or “*her*” (in the oral discourse or in writing) or *s/he* (in writing), for instance, “*Each student will do better if he has a voice in the decision* > *Each student will do better if he or she (s/he) has a voice in the decision*”; 5) to use “*their*” if the subject is expressed by an indefinite pronoun, for instance, “*When everyone*



contributes his own ideas, the discussion will be a success > When everyone contributes their own ideas, the discussion will be a success."

In the field of word-formation the feminists feel vigilance referring to the suffix "-ess" that is used in a great number of words denoting women, for example: *"mistress, poetess, actress"*. In their opinion, the suffix "-ess" has the shade of meaning *"of minor importance"* and *"subject"*. The suffix "-ess" came into English from French after the Norman Conquest of England. Before this event, in Old English the masculine gender was marked by the suffix "-er" or "-ere", while the feminine gender had the suffix "-ster (-estere)". The words *"webster, seamster"* were referred to the feminine gender.

After the Norman Conquest the following French words with the suffix "-ess" were borrowed, such as *"countess, duchess, princess"*. Later on, they began adding this suffix to the Anglo-Saxon words, for instance, *"shepherdess, goddess"* and others. On the other hand, the suffix "-ster" began denoting the persons of the masculine gender, but the suffix "-ess" appeared in the names of the feminine gender. In order to avoid the unnecessary distinctions in gender the suffix "-ess" is suggested by feminists either being omitted, for instance, *"actress > actor, authoress > author, heiress > heir, poetess > poet"* or being replaced by the whole word, for example, *"stewardess > flight attendant, headmistress > head teacher"*.

Finally, the changes of sexist character took place in the forms of addressing. The most important for the achievement of women's equality was the introduction of the form of addressing *"Ms"* [miz] that is used in front of the last name without indicating the woman's marriage status. The first use of address *"Ms"* dates back to early the 1950-s. It is included in The American Heritage School Dictionary in 1972, but by 1976 it entered the most dictionaries that are published in the USA including Merriam-Webster, Random House, Doubleday and others.

Some radical feminists suggest eliminating the traditional forms of address, such as *"Mr"*, *"Miss"*, and even *"Mrs"* from the language use and replacing them by the neutral form of address *"Person"*, *"Pn"* for short, for example, *"Pn. Smith"*, in order to exclude the indication of the gender once and for all. It is now in practice in the USA, especially during public disputes and debates in various universities. In order to avoid disturbance among audience it is recommended to follow this feminist demand.

The ethnonym *"nigger"* that had a neutral connotation in the period of the 1920-s and the 1930-s and was used alongside with *"negro"* and *"black"*

in everyday practice has a pejorative connotation nowadays. It has been replaced by a politically correct word "*African-American*" referring only to the US black population but not to the black residents in Africa. The ethnonym "*African-American*" is welcome by many leaders of civil society. Alongside it, there are other variants of this politically correct ethnonym, for example, "*a member of the African Diaspora*" and "*a person of black race*".

The dean of the African-American Research Department in the New-York University has created the politically correct words, such as "*sun people*" for the Africans from Asian and Latin American countries and "*ice people*" for the Europeans and the Americans of the European descent. These politically correct words should be tested among the representatives of races and continents in order to become unanimously accepted and be deprived any insulting clue.

Conclusion. Having analyzed the changes in the English language use against sexism we state that most changes have taken place in lexis. In the syntax we have come across only few innovations. To sum up, we can conclude that the category of political correctness is realized in the English language on the three levels, that is, of word-formation, lexis and syntax. At the syntactical level the category of political correctness reveals itself in the replacement of the pronoun "*he*" ("*his*") in the word-combinations when the gender of noun is not indicated, for instance, *Everyone must do his work well* > *Everyone must do his/her work well*. *Everyone must do their work well* and others.

One of priority tasks of political correctness is the society's liberation from the remnants of the racism and nationalism past. It is considered that "*a politically correct*" person is deprived of the racial and ethnical prejudices and bias, and this person is to struggle against the national intolerance and xenophobia. The ethnical prejudices are dominating negative stereotypes of the ethnical minority in the society, as a whole, and its separate representatives, in particular. In English as in any other language in the world there are steady ethno stereotypes that have the negative features and traits. These stereotypes have their very long period of existence; they have been steadily rooted in the human consciousness, and they have been revealed in the language use.

The advocates of political correctness from various spheres of science trace the relationship between the forms of consciousness, thinking, beliefs, and the political correctness in the language forms of communication. The most painful issue is the acceptable nomination of the black population in the USA. Though a long time struggle for their human rights have brought its concrete results, the changes in the English language that reflect



a new equal right status of this racial group have revealed themselves only quite recently.

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Data prezentării: 18 decembrie 2014

MECANISMELE DE INTERACȚIUNE DINTRE SECURITATEA NAȚIONALĂ ȘI INTERNAȚIONALĂ

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Rezumat

În acest studiu, se face o incursiune în identificarea interdependenței și interacțiunii dintre securitatea națională și securitatea mondială. Sunt stabilite definițiile și conceptele securității ca fenomen și proces atât la nivel național, cât și internațional. Gestiunea unei probleme de securitate are la bază definirea comun acceptată a noțiunilor de bază – pace, conflict, intervenție și evident securitate. Au fost determinați actorii-cheie ai procesului de asigurare a securității din perspectiva intereselor, oportunităților și posibilităților acestora. Sunt abordați nu doar participanții clasici ai securității internaționale ca statul și organizațiile interguvernamentale, dar și structurile neguvernamentale, grupurile teroriste precum și persoanele fizice.

Influența securității naționale asupra celei internaționale și viceversa este direct proporțională capacității/puterii statului național. Statele puternice sunt formatoare de sistem și generează reguli de securitate, iar statele mici se supun sistemului. Astfel, marile puteri creează alianțe și structuri regionale de securitate, care vor reglementa și controla dimensiunea de securitate a politicii internaționale în regiune. Puterile mici își supun politica internă la tendințele regionale. Interdependența dintre state motivează entitățile naționale să identifice instrumente de colaborare, unicul mijloc de asigurare a stabilității și dezvoltării statale. Interacțiunea dintre securitatea internă a statului și securitatea mondială se execută prin intermediul organizațiilor internaționale de securitate la nivel regional și universal.

Cuvinte-cheie: securitate, geopolitică, confruntare, interes național, interdependență, sisteme de securitate, integrare .



MECHANISMS OF INTERACTION BETWEEN NATIONAL AND INTERNATIONAL SECURITY

Abstract

The study makes a foray into the identification of interdependence and interaction between national security and global security. Security definitions and concepts are established as a phenomenon and process at both national and international level. Management of security issues is based in common with basic definition - peace, conflict, action and of course security. Key players were determined to ensure safety of the process in terms of interests, opportunities and their possibilities. Not only classic participants of international security such as the state and intergovernmental organization are approached, but non-governmental structures, terrorist groups and individuals as well.

The influence of national security concerning the international security and vice versa is directly proportional to the capacity / power of the national state. Powerful states forms systems and generates security rules, but small states must submit them. So, great powers creates alliances and regional security structures which will regulate and control the dimension of the region's security of international policy. Small powers present their internal policy at regional trends. Interdependence between states motivates national entities to identify collaboration tools, the only means of ensuring stability and development to the state. Interaction between internal security and global security is performed through international organizations of regional and world security.

Keywords: *security, geopolitical, confrontation, national interest, interdependence, security system, integration.*

Introduction. The security as a phenomenon and a process is a priority for the domestic and foreign policy of each state. There is a constant interdependence and interaction between the inner security of the state and the world security that provide the strength and development of the involved government representatives. The concepts and the theories tied to security are applicable both to the national and international level. The peace as a key element of the security should be defined as being a condition more than the lack of war, a lack that doesn't guarantee the emergence or disappearance of the conflict. Kant states that signing a peace treaty among the big european powers in the XVI-XVII centuries was just an adjustment of the stage for the next war [4, 185]. This procedure has changed its form but not its content. Hence the absence of an open conflict during the cold

war can't be considered as a proper peace. As acting the phenomenon, the war by proxy' or calling it otherwise – the war performed by aliens. The concept of positive peace concerns the reasons that could lead to war, the interpreted peace not just as truce but as a modification of relations and cognition between the states. The former's don't cease to fight, they identify other ways or other participants to weaken or destroy their enemy.

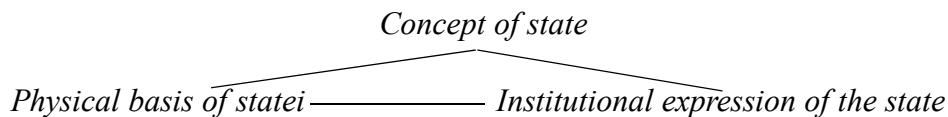
The wars had emerged much before any other form of state, so more states are the result of some armed struggles, that's why the governments as social systems accepted the wars with the whole range of rules and principles. According to the state the war is a mean in accomplishing the objectives of the domestic and foreign policy. There are circumstances when the governments and their elites are attracted in intrusive wars. The foreign policy of a state could exploit both the war and a threat with a prospective war or the hint of its forthcoming. That's a risky method but effective at the same time when weak states try to avoid open situations of conflagration. The power of a state can be assessed by its capacity to involve in a war being sure about its victory. As a result feeble countries strive to bypass the material conflict by all means, but the powerful states make use of the apprehension of these countries. Hobbes deemed that the building-up of a state is the result of the society's courage that lived within a geographic space in a specific historic period. People have chosen between the cooperation and death that's why the state looks like necessary constraint. The society needs laws that shall govern life, that shall define and assign the allowed from the prohibited. The climax of the history is the developing of governmental structures that derived and still do from the 'social contract'.

Applied materials and methods. The relation between the leaders' interest and that of the state evolved during history. Thus the lord was that who formed and promoted the interest of state which represented the direct reflection of his own interests, opinions and status. The state was a tool of achieving the lord's purpose who had the absolute power. Later on, the leaders started to take into account the general interest of the society and the state wasn't yet a mechanism of achieving their own aims. Today, when the majority of states are run by democratic systems, the leaders are obliged to comply with the general interests of the society to get their support in case of a would be electioneering. So they draft and implement policies on behalf of the state or of the entire society.

According to Weber's definition, the state consists of the politico-



institutional elements as a whole[3, 70]. Consequently the security and stability of a state represents the capacity and ability of a specific group of people to deal with a critical situation within a short period of time by using minimum resources and getting maximum results. Another definition states that the state would be an organisation composed of myriad agencies led and coordinated by the executive power. This one has the authority and ability to draft, approve and implement regulations. Not to undermine the importance its capacity to sanction those that disobey these laws. Taking the above mentioned into consideration we acknowledge the importance of professionalism and the governmental elites' preparation. Somebody's mistake or of group of people has a direct impact on the whole community. The state as a notion might be considered an idea that a group of people might have, a socio-political plan and less a physical entity. This idea must be widespread and entrenched among people by the state. The security of the state can be ensured when its legitimacy and properness is accepted by the majority of the population from this territory. As a result the layout of the state elements can be drawn up as follows [3, 75]:



There are three groups of involved participants in ensuring the world security: the states, transnational subgroups and organizations and the hierarchical institutions [11, 101]. Another involved subject are the public opinion surveys and spontaneous manifestations, these acts occurred by the convergence of a huge number of people's actions without an organized authority. That's a community that lacks its leader but the crowd represents embodies him acquiring specific features as aggression and extremism. The peace, ecological and feminist movements are the upheavals that come to support the mission. They are composed of many people that share the same ideals and dreams regardless of their origin. The enhanced interest for the security problem lies in maintaining the conflict between the foreign policy members. At the beginning there were tribes, polises then quasi states and empires but the endless conflict between them was the common peculiarity. Hence, the researchers, thinkers and journalists keep their vivid interest on the security maintenance process.

The existence of the states that have conflicting interests and actions breed

the strives emersion and preservation. This comes as a mechanism of ousting the conflicts or removing the state a social form of existence. However, the new institutions appearance doesn't suppose the disappearance of the conflict at all. The new institutions shall hve their own concern that will inevitably lead to the conflict or collation burst. The majority of states have a political and military potential to ensure their security, so we get the equation of the concept of risk, Risk=Threat-Ability. The nations keep an eye on their capacity to maintain the authority on the territory of the state. The war as an activity has to be well reasoned and prepared. The vague certainty is not enough for the state of stability, so there are fewer possibilities of developing and sociao-economical welfare. The country as a whole and the nation particularly want to feel this reliability that both propriety and life will be safe on their territory and abroad. That's a way of thinking based on the concept ,the rational egoists' –we, or our country and the intergovernmental institution have priority [8, 54].

War is a a natural estate for the states, but it doesn't mean that the war constantly appears, each state decides on its own if to use or not force. The war can burst any moment. Security is a special form of policy, the activity of security is a political activity. When the involved parts use force or threat, these acts achieve a political dimension as being created by human acts. Ulrich Beck Niklas Luhman has brought in the scientific use the notion of ,risk society' that has been defined as systemic way of dealing with the hazard and insecurity produced and created by the process of the society modernization. This society is caracterised by a crucial lack or impossibility of foreign resposabilities in the hazard acts. [5, 83].

Achieved results and discussions. The concept of security is directly tied to the notion of national concren, the ensurance of the security suppose to keep the state borders, territorial integrity and the defence of a might be attack on behalf of the another state or another similar institution [10, 321]. The existance of the sovereign states provokes new conflicts because of the judicia system voidness that would be able to controll and manage the relations between nations. The juridico-institutional anarchy in the international political system offers to sovereign actors the possibility to appreciate and rationalize their domestic and foreign political acts. The existance of the monarchy cause an unbalance in the international system creating the necessity of instilling new regulations and managing strategies in foreign relations. The presence of the public international law inflicts some rules of the states activity, but as mechanisms of sanctioning and ceasing agression still don't exist, offers the possibility to doubly interpret the same contractual provisions. The possibility of en-



conflicts between states is a direct consequence of the foreign subjects' collision of interests in the framework of the supreme force lack. This fact incentivises the states to develop and support their own resources in security insurance [12, 163]. War is a legitimate and necessary mechanism to solve the foreign touches when all the other legal and diplomatic ways worked out. According to Cicero: 'what can be done against force without force?'

The National Security Policy is a framework through which a country provides security for states and citizens. Security Policy refers to the process of establishing the major objectives of a state, while the strategies refer to the method of accomplishment of those objectives. The distinction between the security policy and the defense policy is that in the first case we identify the mechanisms of the multidimensional security assurance. Secondly, the measures of battle with an external enemy, when using military resources [5, 43]. The development of a security or a defense policy includes the following steps: - monitoring tendencies, identifying the determinant factors, a scenario development, processing alternatives - developing a vision, - defining missions, designing competencies and their area of activity to the institutions - strategic planning setting - developing a strategy, a set of actions to accomplish the visions, at the same time making use of the offered resources.

Clausewitz considered that the victory issued from the war will have no effect as long as it does not respond to the state's political needs. There is no unique accepted definition of national security, each of theoreticians gives a special content value to the security problems and methods and mechanisms for solving them. This depends on the temporal and spatial component. Security can be defined as the existence of public confidence that they will not be attacked, and in case of war the state has enough capacity to defend them and can get out of this conflict as winners [5, 38]. We deduce that there are two dimensions of national security. The first is the objective one: the existence and manifestation of physical threat. And the second is the subjective one, which is about the attitude and the perception of the majority of citizens. Depending on the perception of threats there are four estates - insecurity, obsession, false security, security.

Starting from the fact that any government that has enough resources and socio-economic and military capabilities may resort to use of force in relation to its neighbors or nearby states, the latter are in charge of to be prepared to bear and hit back otherwise be ready to suffer the territorial, social, economic or political consequences. War is an inevitably type of con-

duct directed towards achieving common goals. It can be defined as organized violence undertaken by a political unity against another one [2, 174]. Not any violence can be qualified as war but only aggressive acts committed in the name of a political unit really can. Clausewitz defined war as an attack whose intention is to force the opponent to fulfill our will. War has two dimensions, the first one is military hostilities. And the second one are all rules and legal principles governing its course and finishing. Since the second half of the twentieth century, most countries have been trying to avoid the notion of war because it has a negative connotation and perception. There are a number of words and words combination that come from the semantic field of the concept of war but have a positivist perception and charge. In this sense we mention - military intervention, peace enforcement operations, preventive attacks. Likewise the International Society pulled the war out as a type of relations between the involved subjects of international law.

Thus by signing the Kellogg-Briand Pact, war is labeled as an illegal method of achieving the internal and external policies of the state. The provisions of the pact leave room only for defensive wars and preventive attacks. These stipulations give to the supreme powers the possibility to interpret the occurred situation which may include most of wars started and led by them under one of the two stipulations [2, 178]. It seems paradoxical, but namely the war and military threat allow to have some kind of order in the world politics. In the absence of a world government and a minimum efficiency of public international law, the fear of the states, especially of the great powers do not allow the emergence of a new world conflagration, when a partial or total destruction of the Earth might become possible. States have a complex, unusable weapons, their existence guarantees non-interference in their internal life, while the probability of putting them into action is quite low. The costs for war increased, but the range of the foreign policy aims which war could efficiently promote seems to have been decreased.

Clausewitz called the war - politics by other means. War is the extreme form of relationship between states [8, 43]. The individual, group and state are in a constant dilemma of using or not force with subjects. They will resort to use of force when all peaceful means will prove inefficiency. Aron said that the relationship between nations have to be analyzed in the shadow of war; provided the absence of a global authority to ensure and enforce peace, the state can only rely on its own capacities. Neorealists introduce the concept of mature anarchy. To ensure the international security is required the



establishment of a balance of power. The ability and state capacity to prevent the conflict combat it with hard and soft methods re-setting up the national interest in the context of regionalization and globalization processes, the impact of the external environment. Spinoza explains the tendency of the states to use force through human imperfection. We can draw a parallel between the feature and the behavior between man and state, so if the man is aggressive, then states are prone to use force against other states. Mankind is selfish as well, what is materialized on the governmental level in the national interest that has high priority in decision making concerning the internal and foreign policy. The clash of several national interests of sovereign states gives rise to international conflicts. Rousseau comes with another vision which denies those previously reported, and states that the source of the conflict is not human mentality but the nature of the social activity.

There is a very fragile line between arming in order to provide national security and arming as a challenging element for the neighborhood countries and countries in the region. In the new conditions in market production of weapons is a highly profitable business, and manufacturers need the help of politicians in creating the myth of insecurity and risk to dominate a society's conscience, thus the citizens won't protest against the increasing of the military budget under the conditions of peace, limiting civil rights and private space. In the absence of a viable danger, an illusion of danger is built by opinion makers as politicians, civil servants and journalists. This illusion draws up two main types of internal danger as socio-political groups working to defame and destruct the statehood and territorial integrity, leaders of secessionist groups, secret agents of foreign citizenship or converted for the sake of ideals or material rewards from other states. And in other cases, an external enemy is created mostly talking about failed states, the one who can not ensure their safety and statehood. Their instability generates insecurity throughout the geographical location. This category includes antagonistic regimes and authoritarian leaders and tyrants.

Spinoza explained violence in international relations as a consequence of human imperfection. Feelings which also includes perceptions, stereotypes and historical memory of the leader and people, often take place of the rational thinking and that's why people, states or inter- states members which should cooperate in accordance with their interests, they engage themselves in conflicts that sometimes arise in armed conflicts. Peace between states as the internal stability is the key element in the development and the strengthening of the

state actors. A solution of the tendencies toward violence and armed conflict can not be regulated by limiting the will for power of the states.

The national companies owe their peace and stability to a state that invested its supreme power within the national border . Meanwhile the state through mechanisms of power instills and requires the regulation of peace and order. Otherwise war is inevitable. Peace within a nation is based on two elements: lack of a social group to breach the peace in the socium, because of lack of interest which is fortified by the feeling of unity and loyalty to the society as a whole more than they cherish loyalty to a part of it. Consciousness that the society gives them the opportunity to realize their purposes or inability to break it because resor enforcement activities that are designed to prevent, stop and combat the acts of violence. Violence might be structural, that is often all the actions and more often the total of undertaken actions established by the state institutions that which lead to the increase of poverty , hunger and other social vices. In the international treaties, the activity against its own people is qualified as genocide, but the leaders and its followers are subjected to conventional punishment.

Kaplan considers that a State's attitude in critical conditions is optimal with the premise of the existence of rational, well-informed political leaders[13, 85]. Thus, we speak of the creation of a class of people purposely prepared for the exercise of such functions. In the particulars of regionalization and correlation, functionaries inevitably will conclude that cohesion between states is necessary. States form and submit to security systems bound by general rules that act in order to enhance your capabilities, – but negotiate rather than fight, – fight rather than miss the opportunity to enhance your capabilities, – quit fighting rather than eliminating an essential national actor, – act in order to oppose all cohesions and singular agreements that aim towards predomination, – act in the direction of coercive actors which subscribe to the principles of supranational organization, – allow essential national actors the infringement, re-entering the system as reasonable partners.

The generalization of the following rules, – act as economical as possible for the enhancement of your capabilities, – act according to the rules to protect yourself from others, – act in order to preserve the number of essential units for the system. The state is the principal political organization of the population, which in some circumstances has been used as a mean to solve issues inside a social group in an area, and in other circumstances as an enforced mechanism. The state is the depositary of the mo-



nopoly upon legitimate violence. It holds possession of enough means to mediate conflicts between residents of the recognized territory. It retains a complex system composed of army, special services, police, justice, which could resolve controversies and altercations between citizens as well as between citizens and state. In the conditions in which a state does not own sufficient resources to provide internal and external security, in a result of a voluntary or an imposed act, it will enter alliances.

Three mechanisms prevail in the administration of conflicts and war – limitation of destructive and anarchic tendencies in international politics – permutation of international politics and the elimination of its destructive and anarchic tendencies – settlement of divergent interests through the separation of anarchic and destructive tendencies from their rational aims[9, 418]. The state possesses competence – the offering of the legal continuity of the legal society. A nation is in this way, perceived as a whole in space and time. The state offers the sentiment of attachment towards the past and the element of pride towards a heroic personality – the state offers the necessary institutions to the citizen – it holds the necessary pressure and constraint instruments to apply norms and principles[9, 522]. The state's power is important but it is not essential, as demonstrated by civil wars. It proves that the state does not guarantee the maintenance of internal peace. The state could be regarded as an artificial historic creation, formed either through constitutional conventions or as a logical conclusion and continuation to historical developments.

International collaboration is based on the virtues commonly shared by peoples. Collective security is an example, which could be enacted through the consolidation and the development of the UNO system[10, 322]. Such security system may allow the formation of an alliance with not only security purposes, but that could include the social and economic aspects of it. The political attitude and system is full of happenings and irrationalities that hold a direct impact on the external politics of the state. An efficient or rational external policy is defined by the minimization of risks and the maximization of benefits[9, 49]. Political realism desires to maintain the photography of the political world as close to the picture as possible. Max Weber, states that interests and not ideas dictate human actions. At the same time, visions dictate our actions. Power represents the totality of means through which a man, an institution or a state fixes, maintains and uses its control upon others. The control may be applied through violent methods or through psychological means. War is loathed and considered a bane, yet it is practiced as much and as many times it is required.

The means used in the name of national security depend on the aspects, the possibilities and the importance of the external enemy[6, 296] entertaining the illusion of an external danger. Penetration of states and the dismissal of borders has, as a result, the assurance of peace based on the interaction between the society and citizens and not between the states and their elites[4, 179-180]. The development of the mediating institution as a resolving mechanism of the clashes, the mediator may be a person, an organization or a state. UNO is the most efficient and omnipresent mediator. Political threats are directed against the organizational stability of the state, the idea of state and especially its ideological, organizational and national identity. The interests of the industrial structures in the security domain, as in the armament-producing industries and those who deal with oil[3, 354]. Interest points are raw material markets, sale markets and transportation itineraries.

Conclusions. Economic correlation may lead to the settlement of altercation in between states through cooperation[13, 229]. In multipolar societies, the existence of too many influences does not allow any of them to set the rules and the limitations between allies and adversaries. In the prospect of alliances, the states place their resources in order to fulfill their interests. Wars between big powers have as an aim the balance of power, fighting for their own interests to produce a collective good. The state must have the capacities to reinforce peace through pressure and fear, [this capacity] named Leviathan by Hobbes. It must have the ability to administrate the differences amid individuals and groups existent in a society. At the same time, it must possess capabilities to regulate the aggressive tendencies of other societies that aim towards their own dominance. The state must rejoice at the support of the population that it governs. With a weak and unable state in the security domain, there will be the transmission of the security object in the hands of the individuals. Sovereignty and independence of the state are perpetually lost and internal problems become international issues with consequences upon the internal norms and principles of such state. The annihilation of the competences held by the state leads to the instatement of global strain, especially as a consequence of the emergency of micro subgroups – the citizen, as an actor in international policy[11, 105]. The process of globalization has been enhanced by the reducing economic, social and political distances between states but has made them internally more vulnerable to external influences. This interdependence eliminates the differences between internal and external policies, as concerns the powerful states [interdependence] it resonates with external problems. Small states see foreign policies as a form of domestic policies.



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Data prezentării: 16 decembrie 2014

PROCESELE INTEGRAȚIONISTE ȘI TRANSFORMĂRILE SOCIAL-ECONOMICE

PROBLEMELE ASIGURĂRII SECURITĂȚII ENERGETICE ȘI PERSPECTIVELE DE DEZVOLTARE A REPUBLICII MOLDOVA ÎN SPAȚIUL ECONOMIC ȘI ENERGETIC AL MĂRII NEGRE

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Rezumat

În articol sunt descrise unele aspecte și probleme ale asigurării securității energetice și sunt studiate perspectivele de dezvoltare a Republicii Moldova în contextul economic și energetic al regiunii Mării Negre. O atenție deosebită este acordată problemelor ce vizează dezvoltarea economică și competitivitatea țării în condițiile actuale, prioritatea strategică de bază și poziția Republicii Moldova în cadrul cooperării în spațiul Mării Negre.

În condițiile actuale de dezvoltare a economiei mondiale, o afirmație justificată ne sugerează că competitivitatea unei țări sau a unui grup de țări tot mai mult determină nivelul de utilizare al tehnologiilor înalte, asigurarea economiei cu resurse naturale și, în special, energetice, continuă să fie baza independenței economice și potențialul creșterii economice a oricărui stat. În acest context, pentru Republica Moldova, factorul promițător și important îl constituie reorientarea economiei de tranziție spre economia inovatoare, precum și atragerea investițiilor străine pentru realizarea sarcinilor relevante privind asigurarea securității energetice a țării.

Securitatea energetică se prezintă ca un element definitoriu în cadrul securității



naționale a țărilor-lider din lume. Mulți experți consideră, că aspectul politic al lumii moderne nu este determinat de apartenența la blocul militar, dar de deținerea rezervelor de energie sau lipsa acestora. În realitatea actuală, există multe probleme nesoluționate atât în domeniul securității economice și energetice a Mării Negre, cât și în asigurarea stabilității politice din regiune în general. În mod evident, în situația creată, Republica Moldova va trebui să rezolve problemele de importanță strategică privind dezvoltarea țării în contextul transformărilor geopolitice contemporane și al perspectivelor Moldovei în cadrul spațiului economic și energetic al Mării Negre.

Mai mult decât atât, trebuie acordată o atenție deosebită problemelor nerezolvate ce vizează stabilitatea și securitatea în regiune, care împiedică dezvoltarea unei cooperări eficiente. Acest lucru presupune o participare mai activă a Republicii Moldova în cadrul negocierilor privind proiectele în domeniul infrastructurii și reconstrucției sectorului energetic al economiei, consolidarea eforturilor de a atrage investiții în sectorul energetic, în dezvoltarea coridoarelor de transport. Republica Moldova trebuie să utilizeze, în mod activ, oportunitățile de cooperare cu guvernele, companiile multinaționale, operatorii și organizațiile din zonele geopolitice ale Mării Negre la nivel politic, tehnic și comercial, bazată pe înțelegerea intereselor lor, reieșind din interesele naționale ale statului și în interesele obținerii beneficiilor reciproce.

Cuvinte-cheie: securitate energetică, securitate economică, mediu concurențial, competitivitate, strategie de dezvoltare.

THE PROBLEMS OF ENSURING ENERGY SECURITY AND DEVELOPMENT PROSPECTS OF THE REPUBLIC OF MOLDOVA IN THE ECONOMIC AND ENERGETIC REGION OF THE BLACK SEA

Abstract

In the article there are described some aspects and problems of ensuring energy security and Moldova's development prospects in the economic and energetic context of the Black Sea region are studied. Particular attention is given to problems concerning the country's economic development and competitiveness in the current conditions, the basic strategic priority and Moldova's position within the cooperation in the Black Sea area.

Keywords: *energetic security, economic security, the competitive environment, competitiveness, development strategy.*

Introduction. In the current conditions of the global economy development, a safe assertion lies in the fact that the competitiveness of a country or a group of countries increasingly determines the level of use of high technology, providing the economy with natural resources, especially energy, which continues to be the base of economic independence and potential growth of any state. In this context, for Moldova, the promising and important factor is the reorientation of the transition economy to the innovative economy and attracting foreign investment for the achievement of relevant tasks regarding the country's energy security.

Energetic security is presented as a defining element within the national security of the world's leading countries. Many experts believe that political aspect of the modern world is not determined by membership in the military bloc, but by the possession or lack of energy reserves. The current reality is that there are many unresolved issues, related to both economic and energetic security of the Black Sea and the political stability of the region in general. Obviously, in this situation, Moldova will have to solve problems of strategic importance regarding the country's development in the context of contemporary geopolitical transformations and perspectives of Moldova within the economic and energetic area of the Black Sea.

Basic text. Energetic security. The energetic security of the developed countries truly faces serious problems. For example, countries such as Japan, South Korea, Taiwan and some European countries do not have resources of hydrocarbons and in the UK, Norway and the Netherlands - domestic deposits are almost exhausted.

Of course, changes also occurred in the structure of the world market for oil and gas consumers. Previously, only three highly developed regions of the world were considered as the main consumers of oil and gas: North America (primarily the United States), the European Union (especially Germany, UK, France, Italy) and North-East Asia (Japan, South Korea, Taiwan) [1]. Under these conditions radical movements of international interests in the energy sector in the Black Sea region are taking place, which play an independent key role in providing the European countries with energy resources, including the Republic of Moldova.

The transitional importance of the Black Sea region as a key element that connects East and West increases due to the intensifying struggle for control over energy resources and energy flows; and the Middle East's geographical proximity leads to a military and strategic importance of the Black Sea region. The current and incomplete certified picture of the situation in the energy sector



allows confirmation that the world energy demand is increasing annually. However, the impossibility of reproducing such strategic resources permits to predict a disproportionate dynamic growth of demand and supply. Therefore, the current reality obliges major energy consumers, including European countries, to seek alternative energy producers, respectively, in this context, for Europe, energy security will mean a diversification of sources.

Of course, the European policy in the Black Sea region regarding the problems in the energy sector carries a pragmatic character. The Black Sea is a complex and diverse region that combines history, culture, religion and traditions of different nations. Despite this, the region has a huge development potential, although it has never been renowned in terms of stability and peace. Throughout its history, basically, the region was in the clash of radically different interests. Accordingly, today the region is one of the hot spots of the planet, the contradictions being unresolved and aimed at the emergence of an increasingly fierce and competitive environment, which in certain periods is passing through an open confrontation [2].

To be noted the fact that OBSEC Member States are called upon to play a crucial role in the political, economic and energetic stabilization and security efforts of the region in the undertaken integration processes' context. Thus, in special circumstances there are four states: Azerbaijan, Armenia, Greece and Moldova, which have no direct access to the Black Sea, but have close links and, for various reasons, are active participants in the events that occur in this region. Therefore, by the specificity virtue of the region and the existing problems in the economic development of our country, the priority areas of cooperation and perspective for Moldova are not only the economic and energetic security sectors, but also areas such as trade and economic development, banking and finance, energy, transport and transport routes, agriculture and the agro-industrial complex, healthcare, environmental protection, innovation, exchange of statistical data and economic information, cooperation in the social field. Therefore, we attest that Moldova's position in the cooperation in the Black Sea region is quite broad and well-founded and not limited to the transformation of the Black Sea in a region of energy transit and buffer zone between the East and West. An important moment in the Black Sea region strategy for all states must be the stability and the guarantee of economic and energetic security. But the current situation shows that the competition, instability and confrontation of interests continue to increase. This situation cannot lead to a satisfactory outcome for all the states of the region. Therefore, the Republic of Moldova either accepts this competitive environment with the opposition of

interests, which in the future will result in a safety hazard, or participates in designing and building an open development strategy of the region, taking into account the interests of all states in the region, the security system development regarding energetic issues and creating policies, under which both the resource providers and their consumers would benefit.

According to the situation in the Black Sea region, but also the conditions of instability of Moldovan economy, it is very difficult to determine the strategic prospects of the country's long-term development. Moreover, the country's economy in general, Moldovan society is constantly being reformed lately, without clear prospects for completion of the initiated reforms and finding a sustainable balance in vital areas. The complexity of this stage of state development is subject of the unfinished transition to an efficient model of economic development and governance. In recent years, due to internal reasons and external factors, the country has reached a state of a prolonged political and socio-economic crisis, which significantly increased the stagnant phenomena in practically all vital spheres of society and state. Negative phenomena in the political and economic systems have painfully affected the main vital spheres of Moldovan citizens, have exacerbated social problems, have intensified polarization trends in the society, manifestations of alienation and intolerance in the social and political environment.

It is obvious that the power structures of the country are unable to provide society with clear answers to current questions - how and from which resources, the sequence of priorities through which a new quality of development will be achieved. In the virtue of a narrow approach and the predominance of corporate interests, which is presented as a strategy typically has a general and fragmented aspect, not distant from the national core values of the long-term interests and objectives. In this context, it is difficult to talk about the energetic security of the Republic of Moldova, let them alone identify the development prospects of the country in the economic and energetic context of the Black Sea region.

Moreover, the low level of socio-political forecasting in the society, the lack of a systematic general and analytical approach, poor strategic thinking generally complicate opportunities for the ruling class to develop and provide the company with an effective strategy to overcome the stagnation and to ensure a sustained movement of society. This situation complicates the formation of a consensus in Moldovan society regarding the new policy content, supported and shared by society, regarding the socio-economic development in the near future. At the same time, a number of contradic-



tions are accumulated, and failing to resolve them lowers the Republic of Moldova's development possibilities.

First, it is necessary to identify contradiction between the stated model of democracy, market economy and the real operated practice of the state and political governance.

Secondly, between the objective need to develop the national economy based on free competition and entrepreneurship, and clan capitalism and oligarchic elements [3]. These elements tend to develop further in the battle between business and political groups in terms of taking full control over the economy and the state in general, involving in this illegal activity the majority party officials and corrupt bureaucracy.

Still, there is an objective need for an expanded international cooperation in economic development, honoring its international obligations, the need to develop eco-methods for implementing business activity. Moreover, society needs a state of law, ensuring, in practice, the state of law principles, but in reality, we are facing an unreformed state, with the state judicial systems that are politically controlled, which generate legal nihilism in the society and corruption in the respective government institutions.

However, there are contradictions between the objective need to ensure the social world and harmony in the society, and the widening gap between the standard of living of the profoundly rich minority and the overwhelming majority of the poor, between the representatives of different national and ethnic groups, which cynically are politically involved in a power struggle. It should be noted the wide manipulation of the public opinion by the use of mass media, the increasing politicization of a large number of public and non-governmental organizations etc.

These contradictions already appear as real uncertainties of Moldovan state and national priorities of the citizens, the dominance of the selfish mentality and oligarchic party environment, the continued growth of the corruption and abuse of office, the number of extra-legal political practices, the lack of effective democratic control of the citizens over those who govern them. The accumulation of these contradictions condition the further deformation of the entire socio-cultural context of the contemporary Moldovan society as an integrity, with its transformation into a society of double or even triple standards. Therefore, the elements of the general and systemic crisis, in which the Republic of Moldova is, requires an objective, in-depth analytical understanding of the reality in terms of the nature of problems and events faced by society, finding ways of solving them and

ensuring sustainable development of the country. The development strategy of the country must provide qualitative, systemic and irreversible changes in key areas of the society's life in accordance with the general democratic principles and the true acronym values of the Moldovan people, based on the rich culture and ancient history.

Conclusion. All of the existing contradictions must be addressed not only in the strategic development of the country, but also in terms of energy security of the Republic of Moldova, especially in the economic and energetic context of the Black Sea region. Moldova should advocate for the development of equal partnership relations of OBSEC members, and in addition establish bilateral relations with each of the participants, who in view of economic development of the countries in the Black Sea region will turn it into a player with full rights and complete weight.

Moreover, special attention should be given to the unsettled issues aimed at the stability and security of the region, which hinder the development of an effective cooperation.

This fact implies a more active participation of the Republic of Moldova in the negotiations regarding projects in the field of infrastructure and reconstruction of the energy sector of the economy, strengthening efforts to attract investments in the energy sector, in developing transport corridors. Moreover, the Republic of Moldova should actively use the opportunities of cooperation with governments, multinational companies, operators and organizations from the geopolitical Black Sea areas, politically, technically and commercially, based on the understanding of their interests, taking into account the interests of the State and achieving mutual benefits.

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Data prezentării: 20 decembrie 2014



TRANZACȚIILE OFFSHORE - O PROBLEMĂ PENTRU SECURITATEA ECONOMICĂ NAȚIONALĂ

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Rezumat

În viziunea autorului, eficiența structurilor și derularea tranzacțiilor offshore poate fi apreciată ca o formă a luptei de concurență pentru atragerea clienților potențiali. Totodată, tranzacțiile offshore reprezintă o problemă, prin faptul că afectează negativ încasările bugetare ale țărilor cu fiscalitate mai ridicată și, implicit, conduc la creșterea evaziunii fiscale, la exodul de capital, la spălarea de bani. Firmele offshore sunt activ folosite de către agenții economici din Republica Moldova în diferite domenii. O consecință serioasă a acestui fapt ar putea fi pierderea de către Republica Moldova a încrederii din partea țărilor Uniunii Europene și a finanțatorilor internaționali, dezorganizarea sistemului economic și financiar al țării.

Cuvinte-cheie: tranzacție offshore, jurisdicție offshore, companie offshore, investiții, exod de capital.

OFFSHORE TRANSACTIONS - A PROBLEM FOR NATIONAL ECONOMIC SECURITY

Abstract

In the author's view, the efficiency and performance of offshore transactions can be considered as a form of competitive struggle to attract potential customers. However, offshore transactions is a problem in the fact that they negatively affect budgetary revenues of countries with higher taxa-

tion and thus lead to increased tax evasion, the capital flight, money laundering. Business agents actively use offshore companies in the Republic of Moldova in different areas. A serious consequence of this could be the loss of confidence and international donors by Moldova from EU countries, disorganization of the country's economic and financial systems.

Keywords: *offshore transaction, offshore jurisdiction, offshore company, investments, capital flight.*

Introduction. Offshore transactions are conducted through offshore structures operating under offshore jurisdictions. Currently there are more than 60 offshore areas or regions considered as tax havens in the world. They are mainly located on islands / islets (British Virgin Islands, Bermuda, Man, Jersey, Guernsey, Nauru etc.) or small countries (Liechtenstein, Malta, Monaco, San Marino, Panama, etc.). Some countries, such as Switzerland, have a long history of banking secrecy, while others (Bahamas, Liechtenstein etc.) wanted to imitate the most advanced in this area. The legislation of these countries or territories encourages foreign investors in setting up companies on that territory.

To choose the most appropriate jurisdiction, be it about international trade or investment, can often be difficult and requires a very careful analysis. Most offshore jurisdictions have removed foreign exchange controls and introduced provisions on corporate activity to meet a more diverse range of applications in connection with international transactions.

These countries (territories) provide investors, in addition to tax benefits on taxation, with a number of other facilities as well, namely: ensuring the liberalization of foreign exchange transactions, in some countries book-keeping is not mandatory. Investigation of this phenomenon is important because it creates problems in developing and implementing fiscal policies, in ensuring security for business agents and the state. In this study we aim at: theoretical explanation and interpretation of offshore transactions, highlighting their influence on the image of Moldova and the EU trust in the ability of Moldova to monitor economic and fiscal policies.

Applied methods. To attain the proposed objectives we resorted to economic methodology and epistemology. We applied situational analysis, comparative study, factor analysis, content analysis. These allowed us to elucidate the advantages of offshore companies, and also negative influences that they exert on the country's image.

Geographical location of the offshore area has a particular importance as the place of doing business does not depend on the place of incorpora-



tion (registration) of the legal entity. Thus, among the main advantages of offshore companies can be listed the following:

- Reduced taxation. In all tax havens an easy mode of fiscal taxation of offshore companies is guaranteed by law. Taxation is zero or close to zero.
- Low bureaucracy. Offshore companies are exempt from the obligation to keep accounts, business registers, and are not liable for the balance sheet.
- Anonymity. Shareholders and directors' data identification is not public.
- Protection of heritage. The law guarantees the right of the shareholder to dispose of the entire patrimony of the company. Offshore company profits will be used at anytime at will of the beneficiary company.
- Well developed infrastructure. Tax havens offer perfect service for telecommunications, have a well-developed and stable banking system.

What concerns the establishment of offshore companies, they are subject to the regulations of the jurisdiction of origin.

The most popular areas of use of offshore companies are:

Foreign Trade. Currently, a commercial transaction takes place between two companies. In this case a 3rd company appears, an offshore company, in the register of which there will appear a profit transferring in such away from a high tax jurisdiction to the one with low fees or no fees.

An offshore company will receive from the customer an order and goods will continue to go directly from the manufacturer to the buyer. This offshore company's intervention in the marketing chain is advantageous for both exporter and importer. The exporter can use this payment scheme to transfer profits derived from the difference between the cost of goods sold by him and the selling price. The importer may also use an offshore company to avoid paying taxes on the difference between the purchase price of the goods and the price at which goods will be sold in his country.

International Investment. Many countries impose taxes on profits earned in that country by foreign citizens, this income is taxed at source (15-20%) before repatriation. Some countries have signed agreements to avoid double taxation, which can reduce or even eliminate taxes. If a country used as an intermediate country has a low level of taxes, the result is to avoid payment of fees, and avoid taxation of dividends when receiving them in investor's country.

Finance. An offshore company can provide loans to other companies located in an area with high taxes, with taxes deducted from interest. In this way both investment can be made by a foreign company, which may be advantageous due to laws protecting foreign investors, and savings in fees.

Enterprises for personnel services. Many people engaged in construction, engineering, aviation, finance, entertainment and film industry can make considerable savings from tax exemption, by linking to an offshore staffing services company. Offshore companies are engaged in providing services to individuals outside the company where they are residents, and collected taxes can be accumulated offshore tax-free in those offshore centers. Payments to individuals can be organized so as to minimize collected taxes.

Holding companies. Offshore companies and trusts are often used for protection of investments in subsidiaries and / or associated companies, public or private companies and projects of cooperation between two companies. In many cases, capital income resulting from private investments can be made without paying taxes. In case of dividend payment, low taxes in a holding company can be achieved by using an offshore company in a jurisdiction that has agreements on double taxation with contractual countries. A holding company manages financial resources of the principal company, especially its profits. A holding company owns stock in profitable companies at a territory with high taxes, the latter can eventually become a foreign investor, with all the advantages of that status, and can rent equipment or even capital, at a convenient rate.

Trusts. Trusts are a British invention, by which a person transfers a part of its assets to another person, who will keep, manage and control them. This legal entity manages copyrights, inventions and innovation licenses, trademarks and patents, etc., offshore earning revenue.

Owners of land and real estate. Possession of property through an offshore company allows reducing inheritance tax payments, fees payable when selling, as well as income tax. In many countries they do not distinguish between natural and legal persons as owners of properties and such transactions may be carried out easily.

Offshore companies can take ownership of property and land, gaining a number of advantages related to taxes such as property transfer tax.

Hiring companies. Many companies turn to offshore companies to engage foreign employees for various positions. This helps reduce additional costs related to salaries and mission expenses, providing the possibility of optimizing taxes and social insurance at the same time.

Intellectual property, license, franchise. Offshore companies may hold or obtain intellectual property rights, including technical knowledge, licenses and royalties. Based on the acquisition of these rights, they can sign



licensing or franchise agreements with interested companies worldwide. The proceeds can be gained by carefully selecting an offshore jurisdiction.

Merchant enterprises. Just from the early twentieth century, using offshore companies for the purchase of merchant ships was an important function of certain offshore jurisdictions. For some companies the so-called flag of convenience is more profitable as for the flag state taxes paid are lower than in the home country of the owner, and because, in this case, the collective labour agreement of ITF type is applicable, negotiated by the International Federation of Transport and companies holding a flag of convenience vessels, which often is cheaper than the national one.

Therefore, in the offshore transactions they apply schemes that are based on the comparison of legislative tax, financial, currency norms which are a legal instrument of planning and minimizing company's taxes. However, offshore schemes are often applied with violations, including criminal and legislation violations. Experts believe that in order to obtain maximum profit business organizations often use illegal schemes. Moreover, territories and offshore companies are used for money laundering, tax evasion. For example, illegal capital outflow during 1993-2010 was: from Russia - \$ 797.9 billion (207% of the foreign debt worth \$ 385.1 billion), from Ukraine - \$ 166.8 billion (144% of the foreign debt worth \$ 115.9 billion), from Kazakhstan - \$ 138.2 billion (118% of foreign debt worth \$ 117 billion).

Moldova in this regard is not an exception. According to the study "The Price of Offshore Revisited", made and published by the Tax Justice Network group, during 1994-2010 nearly \$ 2 billion was removed from Moldova, if you were to add the return on investment hidden in tax havens. The total amount of unregistered capital out of the country in 2010 is about 43% of total external debt, which was estimated at \$ 4.4 billion.

Raider attacks in the summer of 2011 on banking and financial institutions in the Republic of Moldova were committed through offshore companies. According to figures released by the State Registration Chamber, reflecting investments in equity in the period January-November 2012, British Virgin Islands offshore companies hold 95% of total foreign investment in the capital of enterprises in northern Moldova and Cyprus offshore companies hold 44% of total foreign investment in capital to enterprises in the center.

In August 2013, two major pharmaceutical companies were suspected of laundering money through offshore, of tax evasion, forgery of documents and delivery of poor quality drugs. According to estimates, these firms would have harmed the state budget by over 90 million lei.

States create on their territories offshore jurisdictions to attract foreign capital, to develop banking system, information technology, to contribute to employment, especially for lawyers, accountants, in ICT, insurance, banks. Usually, developed countries provide offshore services only in certain regions of its territory or in certain areas of activity. More developed countries back up offshore business in the countries under its influence (UK - British Virgin Islands, Jersey, Guernsey, France - Monaco, Switzerland - Liechtenstein etc.). Through these centers a considerable amount of world financial flows, controlled by financial British, French, Swiss circles, is running.

But officials in industrialized countries with high rates of taxation, with an established system of exchange and tax control accuse offshore business as these countries' budgets remain without taxes, what would be the work of companies on its territory.

In addition, the redistribution of funds from home countries into offshore areas occurs due to global offshore system, which negatively influences investment situation, economic, social and ecologic environment. Therefore the major industrialized countries adopted laws against offshore, in order to reduce capital flight and minimize the financial benefits of running transactions through offshore areas, to activate fight against evasion of taxes.

In recent times, there are contradictions at the offshore level as well. If an offshore structure enhances monitoring financial flows, ensuring greater transparency, collaboration occurs with law enforcement agencies, which examine economic and financial illegalities, then the financial flows are turning to other offshore jurisdictions. Therefore, offshore jurisdictions face dilemma to increase control, improve image, losing also part of the customers, or to extend privileges, counting on the influx of additional financial resources, which will increase attention to that area from international institutions.

The world community has a reserved attitude towards an offshore system, which is explained by the negative moments in activity, including its usage by criminals to finance terrorism and drug business. Therefore the world community demands from offshore jurisdictions transparency, waiver of trade secret, expanding cooperation with law enforcement institutions, improving regulation of financial sphere.

In July 1989 at the summit of G-7 in Paris, which was attended by EU Commission, a special group to combat crime in the financial sector was created (Financial Action Task Force on Money Laundering - FATF). As a result of carried out investigations by the said group it was found that the



decisive factor in the fight against the illegal transfer of money through various financial systems is the ability of financial institutions to track customers who practice illegal activities, establish their financial operations in documents and, based on these documents, competent investigating bodies could conduct proper investigations.

FATF coordinates its actions with the United Nations, which has recently been very involved in combating legalization of money from illegal sources. The UN summit held in December 2000 in Palermo on combating transnational organized crime, involving delegations of 140 countries, adopted UN Convention against Transnational Organized Crime and on 15 November 2000 in New York two protocols to the given Convention were adopted:

- Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organized crime;
- Protocol against the smuggling of migrants by land, air and sea, supplementing the United Nations Convention against transnational organized crime.

At the international level, regional organizations created after the FATF model are concerned with combating money laundering. In particular, such organizations as Pacific-Asian Group, Caribbean Basin Member Group, Group of South West African States and the European Union Council Committee experts in assessing measures to combat money laundering. An important role in the system of international organizations is occupied by Interpol - a body, which in the fight against money laundering, applies considerable effort investigating and dealing with various international economic crimes and also accumulates and researches information on various large-scale scams committed in different countries of the world.

We can mention other international organizations with a significant role in this field, namely:

- Offshore Group on banking supervision, which ensures cooperation in combating international money laundering in offshore centers and free economic zones.
- Berne Club which includes representatives of investigative bodies of the Member States in East Europe.
- International Organization of Securities Commissions, which brings together representatives of the control bodies of the securities market (136 members from 70 countries).

- International Maritime Bureau, whose task is to prevent fraud in international trade and shipping, primarily smuggling, including currency.

- Agency ensuring security business at the International Chamber of Commerce, which operates in the field of combating international economic crime.

The major industrialized countries are expected to require existing offshore centers to adopt laws that prohibit the registration of offshore companies, with tax-free activity outside these areas. Companies will have to be located virtually in place of registration, to have office, staff, which will essentially increase costs for activity scheme.

We can assume that situations will arise periodically when some countries will introduce considerable advantages for foreign investors, especially Islamic countries or other political systems that do not depend on the US and EU. But the possibility of using such facilities will be blocked by the laws of the countries to which these facilities present an interest. The US and EU legislation will be improved so that within international trade it will be impossible to turn the place of receiving a profit into paradise tax, the difference in taxation of local and non-local business structures will be minimized.

Conclusion. The efficiency of some tax systems and special activities such as offshore areas, can be considered as a form of competitive struggle of states for potential consumers. Although in the last decades of the twentieth century there was a real race for planning and minimizing taxes tools, fairy of an offshore company ended in “black” lists and measures against offshore centers. Offshore business concept is still viable, but it does not grow any more. The fewer offshore centers offer special advantages, the greater is the number of companies that tend to be registered in these centers, the more this fact attracts offshore opponents’ attention and the faster and more rigorous counter-measures will be applied.

Offshore transactions is a problem for entire global economy and every country struggles with the levers in its possession. On the one hand, thanks to the jurisdiction in which they operate, offshore companies can help increase revenue and minimize costs of the owners, on the other hand, excessive secrecy and protection can help these companies involve in illegal activities that could harm enormously. The most serious consequence of using offshore schemes by local businesses may be losing trust by Moldova from EU countries, international donors, as scourges listed above could lead to disorganization of banking system and economic instability.



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Data prezentării: 20 decembrie 2014

UTILIZAREA METODELOR DE SITUAȚII CONCRETE, ECONOMIE EXPERIMENTALĂ ȘI DE FORMARE ÎN MANIPULAREA PROBLEMELOR COMPLEXE

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Abstract

În articol sunt supuse analizei problemele ce reies din instruirea managerilor, studenților; se propune utilizarea metodelor recunoscute în practica mondială în domeniul pregătirii cadrelor. Este vorba despre metoda situațiilor concrete aplicată de Dorien J. DeTombe în cazul problemelor complexe (*The use of cases for training handling complex problems*) Autorii evidențiază problema instruirii în două direcții ce se completează reciproc: sociologică și economică. Sociologul, profesorul Dorien J. DeTombe, reieșind din experiența sa bogată definește rolul important al metodei case-method în calitate de instrument al verificării multiplelor aspecte ale vieții reale, care în ultimă instanță spoesc competitivitatea specialistului.

Economistul Jeanne Tolordava analizează problema instruirii managerilor cu aplicarea metodelor economiei experimentale, cu ajutorul cărora este realizat și obiectivul asimilării acțiunilor de către participanții la experiment, moment ne abordat în cadrul altor metode de instruire. Analiza problemelor legate de sporirea eficienței și calității învățământului în aspectele menționate are o semnificație deosebită pentru timpul nostru.

Cuvinte-cheie: problemele învățământului superior, situații specifice, experimentul economic, instrument al verificării multiplelor aspecte.



THE CASE-BASED TRAINING AND EXPERIMENTAL ECONOMIC PRACTICES IN HANDLING COMPLEX PROBLEMS

Abstract

The article deals with the problems of training managers, students by methods that found recognition in the world of training. This is the method of specific situations, applied by professor Dorien J. DeTombe in the study of complex problems (The use of cases for training handling complex problems) and methods of experimental economy. The authors presented the problem of learning in two mutually complementary perspectives - sociological and economic.

Sociologist, professor Dorien J. DeTombe, basing on her many years of practice, identifies important appointment of case-method as a way to test many aspects of real life, which ultimately increase a specialist's skill.

Economist, professor Jeanne Tolordava considers the problem of training managers by the methods of experimental economy, which achieves the task of learning activities of participants in the experiment, which is not provided by other methods of learning.

The studying of problem of raising the level of specialists' education in the two considered aspects represents an undoubted interest.

Keywords: *the problems of training, specific situations, experimental economy, case-method.*

Introduction. Real problems in society are often complex, not well defined and involve more than one domain. They are unlike the problems we were used to solve in school. Education focuses, if problem solving gets attention at all, on small domain related on already solved problems.

Managers of profit and non-profit organizations are confronted with complex diffuse societal problems. Before these problems can be solved they have to be defined. Problem setting is defining the problem. Managers should get the opportunity to train problem setting. In order to enhance transfer training should be as close as possible to the real life situation.

A free form of game can be a good learning environment for training problem setting. In this game a problem setting situation can be simulated. By taking a case as a prototype for a complex problem, a case like implementation of the computer in education or the reorganization of healthcare in a country one can experience all the aspects of problem setting, like

complexity, context boundness of the knowledge and data retrieval. Making a conceptual model of the problem in a semi-natural learning environment of a free form of game with a case as a complex problem we hope to get some transfer to problem setting in real life situations [3].

Education. This discussion is part of a research of the use of databases in setting complex problems. This discussion focuses on the question of transfer of teaching problem setting and problem solving. In order to enhance transfer the training situation should be as close to the real problem setting situation as can be. Problem setting with cases can be used to simulate real-life problem setting. A free-form-game can function as a semi-natural learning environment. In using cases the managers can experience all aspects of real life problem setting like complexity, context boundness of the knowledge and data-retrieval in order to make a conceptual model of the problem.

Teaching environment related to knowledge levels. By setting and solving problems one should be aware that one can distinguish several levels of knowledge. Each level of knowledge needs a different learning environment and a different guiding [1]. The first level is maintenance knowledge, context free learning of rules and facts. This is presented as universal time-invariable knowledge. Here the teacher is the expert in a reproducing learning environment. In schools much attention is given to the learning of facts and rules within a special domain. This is what one calls maintenance learning. Most of the time learning of facts and rules are just handed over to the pupils.

The second level is context dependent knowledge, so-called innovation learning. This needs a heuristic guided learning environment in which the teacher is the guide. An aspect of this level is that one should be aware that the knowledge of the first level and second level exists and that there can be blind spots in the knowledge. This requires meta-cognitive skills in a self-steering environment, an environment where people can be active in learning auto-regulation and auto-controlled skills. In this environment the teacher is the facilitator.

A free form game can function as an environment in which auto-regulation and auto-controlled skills can be trained. The problems where Artificial Intelligence and education focus on are mostly domain related problems, problems of which the answer is known. Little attention is given to the context, boundness of the knowledge, to innovation learning or to the idea of living in changing situations in a changing world[5].

Real societal problems. In education there is not much opportunity to get acquaintance with setting and solving complex problems. To be able to handle these kinds of problems managers should get some opportunity to



train setting complex problems in an educational setting. In order to enhance transfer this educational setting must be as close to the real situations as possible. One should look for a learning environment where the real situation can be simulated. A conference room as learning environment, where a free form game is played with a case as a complex problem all aspects of problem setting can be trained. Cases imbedded in a free form game can be a good semi-natural learning environment in which context boundness, different knowledge levels and information retrieval can be trained.

Setting a case like healthcare or implementation computers into education can simulate the problem setting of a real societal problem. In these cases one must in cooperation with other people define the domains, the aggregation level, the involved organizations, time scope and train data retrieval in trying to make a conceptual model of the problem.

Setting a case can be imbedded in a free form game. A free form game is a game with as little rules as possible, where in a non threatening situation people can learn to practice problem setting of complex domain exceeded problems. A free form game gives the participants the opportunity to experience the context boundness of each others' knowledge. The context boundness is the personal knowledge of each participant, the knowledge that is coloured by experience, culture, position and discipline by which she or he considers the problem. Beside this the participators may have divergent interests and different power.

This context boundness can cause serious communication problems. In playing a free form of game one can learn to deal with hidden agendas, divergent interests, experience the blind spots in the knowledge, experience changing levels from outsiders view point to the insider point of view and the complexity of the problem. In setting complex problems one meets not only the boundaries of one's own knowledge, but also the boundaries of the knowledge in the field.

In order to get full profit of the training the actors should be able to handle in accordance to their own capacities and to their own interest. In a free form game with a special case as a problem setting item, the problem space will not be narrowed by a teacher to the space in which one must search for a solution.

The actors can try to define the problem space themselves. In this kind of free form game the game-operator has a role as a facilitator. The debriefing at the end of the game can be used to enhance learning. The actors should be made conscious of their own behaviour during the play. Meta-cognitive activities as auto-regulation and auto-control should be enlisted

to enhance transfer. In a free form game the participants have the chance to deal 'real life cases' with missing data using rules of thumb under time pressure like in real-life, without making too much accidents .

The conference room with cases as prototypes for complex problems can function as a learning environment in which managers can carrying on policy exercises. In a conference room, which can look like a boarding room the managers can be trained in a semi-natural learning environment.

Playing a free form game with a case as a prototype for problem setting in a conference room one can simulate the natural problem setting situation in semi-natural learning environment.

In this way we hope to find some transfer of the trained knowledge and skills for setting complex domain exceeded problems to the setting complex real-life problems.

The next direction, which also helps in acquiring knowledge and habits, is economical experimenting and modelling. In this case, on top of training, another objective is also reached, namely, behavioral research of the participants of each experiment.

It has to be noted that economic experiments, in essence, are comparable to that of Physics, Chemistry and other natural sciences, with the only difference that they are carried out on individuals, who take economic decisions in the settings of an experimental laboratory (computer class), where people are playing business games.

During decades it was believed that the experimental method is inapplicable in economics. But addressing the experience of psychological science has laid, on the analogy, a foundation for the experimental economics, the essence of which is modeling of artificial situations with all the behavioral parameters of economic subjects controlled by experimenter in the laboratory settings. In the laboratory experiments, similarly to the psychological experiments, the group of participants is assigned a task of decision-making, allowing for understanding the typical behavior of economic agents under the controlled laboratory conditions. One of the advantages of such method is the possibility of a clear definition of the choice of the behavior model in the given economic situation, while analyzing the procedure of decision-making and factors, determining the final choice of an agent from a diversity of choices available in real life.

The basic methodology principle of the experimental economics is application of experimental methods for testing how justified the economic theories are, which nowadays constitutes the inseparable part of scientific research.



Experimenting in economics implies series of principal specifics in comparison to the experiments in natural sciences. Experimental economics may be characterized as testing of postulates of the economic theory by action of individuals that act as prototypes of executive officers that are actually involved in deciding over one or another issue under the controlled situations. So far as the subject of an experiment is a human being and all its actions are determined by its individual identity, it's practically impossible to achieve an absolute repetitiveness of the experiment and predictability of results. Unfortunately, many parameters of human behavior, (e.g. risk appetite) cannot be controlled in the frame of experiment. For that reason for obtaining the valid output it is necessary to set forth the specific rules for arranging and carrying out the experiment. Currently the vast field of knowledge is being intensely developed within the Experimental Economics, which defies such limitations – this is computer experimenting, where the perspectives of the experimental economics are huge.

It has to be noted that economic experiments, in essence, are comparable to that of Physics, Chemistry and other natural sciences, with the only difference that they are carried out on individuals, who take economic decisions in the settings of an experimental laboratory (computer class), where people are playing business games.

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The foundation for it was laid by Vernon Smith, the 2002 Nobel Laureate in Economics. The prize was awarded for his work in the research of the alternative market mechanisms through the network algorithm methodology.

As The Nobel Committee has noted, on awarding this prize: "Controlled laboratory experiments have emerged as a vital component of economic research and, in certain instances, experimental results have shown that

basic postulates in economic theory should be modified. This process has been generated by researchers in two areas: cognitive psychologists who have studied human judgment and decision-making and experimental economists who have tested economic models in the laboratory” [4].

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This new field of economic science has gone the way from the separate simulation models used in teaching towards the important tool of research of the complex economic systems, which allows as for analyzing of their dynamics, so for forecasting their behavior.

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Data prezentării: 21 decembrie 2014

MIGRAȚIA INTERNAȚIONALĂ A FORȚEI DE MUNCĂ: FENOMEN IREVOCABIL

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Rezumat

În perioada actuală, internaționalizarea firmelor, globalizarea proceselor socio-economice a accentuat fenomenul migrației forței de muncă. Mișcările geografice ale populației au existat în toate timpurile, urmând liniile comerciale și aglomerările de resurse. Actualmente, mișcările forței de muncă sunt influențate de mai mulți factori. S-a schimbat contextul legislativ, cel politico-administrativ însă nu și substratul motivațional ce stă la baza alegerilor și acțiunilor umane. În baza teoriei lui Maslov, putem constata acțiunile umane ca motivate, iar la baza motivației este nevoia satisfacerii unor necesități biologice, bazale. Sunt persoane care nu au asigurat un minimum de resurse și cărora necesitățile vitale nu le sunt satisfăcute, ele vor tinde să și le satisfacă inclusiv prin migrarea către zone care pot asigura acel minimum considerat confortabil și necesar existenței lor. Aceste nevoi și această tendință stau la baza unor strategii economice exploatate din plin de unele companii și societăți. Fenomenul de atragere a forței de muncă ieftine se regăsește adaptat și în zilele noastre în strategiile unor corporații, care folosesc ca și forță de muncă persoane din state în curs de dezvoltare sau zone defavorizate, pe care le exploatează. Este suficient să ne gândim la exodul de „inteligență” din Europa de Est către Occident și către SUA. Exodul de „inteligență” nu trebuie apreciat ca un factor exclusiv care stă la baza fenomenului migrației, ci doar ca o explicație parțială.

Cuvinte-cheie: migrare internațională, imigranți, emigrație, șomaj, forță de muncă, transnaționalizare, efectele migrării forței de muncă, liberalizarea factorilor de producere.



INTERNATIONAL MIGRATION LABOUR FORCE: IRREVOCABLE PHENOMENON

Abstract

In the current period, firms' internationalization, globalization of socio-economic processes emphasized the phenomenon of labour force migration. Geographical movements of population existed at all times, following commercial lines and clusters of resources. Currently, labour movements are influenced by several factors. It changed the legislative and the political-administrative context, but not the motivational level that are at the base of elections and human actions. Based on Maslov's theory we can affirm that human actions are motivated and at the base of motivation is the need to meet certain biological and basic needs. There are people who have not secured a minimum of resources and whose vital needs are not met, they will tend to meet them including migration to areas that can ensure that minimum considered as necessary and comfortable for their existence. These needs and the strategies are at the base of economic strategies fully exploited by some companies and societies. The phenomenon of attraction of cheap labour is found nowadays adapted in strategies of some corporations that use as labour force people from developing countries or disadvantaged areas, where they operate. Just think about the exodus of "intelligence" from Eastern Europe to the West and the US. Exodus of "intelligence" should not be considered as an exclusively factor underlying the migration, but only as a partial explanation.

Keywords: *international migration, immigrants, emigration, unemployment, labour force, transnationalization, effects of labour force migration, factors of production liberalization.*

Introduction. An important component of demographic phenomenon, which exerts direct influence on employment and a fundamental characteristic of the population today, is the movement of people, their movement from one place to another. This right has been recognized for more than 50 years, with the adoption of the Universal Declaration of Human Rights, which states in Article 13 that everyone has the right to move and live within the boundaries of any state. However, everyone has the right to leave the country and return to it. Since 1994, every year, during the UN General Assembly the problem of international migration was debated being adopted in Resolution 56/203 on 21 December 2001.

International migration, a phenomenon involving demographic, social, economic and political consequences, increased significantly since 1980, and

the interest for analyzing this process intensified and included all regions of the world. Discussions on low fertility, aging, unemployment, brain drain, human rights, social integration, xenophobia, human trafficking and individual security requires international organizations to review policies on international migration, as well as potential benefits or disadvantages involving transit countries or countries sending / receiving migrants. In the international migration, we meet two interlinked processes: immigration and emigration.

Immigration is receiving displaced population in the country of destination, temporarily or permanently. Host country or country of immigration is characterized, in economic terms, through the following elements:

- relatively higher economic development;
- greater demand for labour, compared to national availability;
- low share of youth and working age population in total number of population.

Emigration is moving of population between home (residence) and work (host country). In this case, the country of origin is characterized by a lower level of economic development, a high percentage of youth and generally the working age population in the total number of population, high birth rates, lack of opportunities for national use of force vacancies, lack of investment in some sectors. However, the country of origin, from where labour force leaves, is called the country of emigration.

Emigration is very selective in terms of aspects such as age, marital status, sex, education level, etc. While adults migrate almost permanently, the elderly and children migrate more slowly. Studies show that men migrate in greater proportion than women do, and if we are dealing with migrant families, there is obviously balanced movement of children, the elderly and women. The selective nature of international labour migration results in determining the differences between population compositions from where migrate and the populations of the countries who immigrate. Young people especially emigrate, and in this point, there is a tendency to migrate, which is stronger among unmarried with a certain skill in different professions. The share of women in migration increases very sensitively after family regrouping and, which is relatively new, developing female activism.

Applied methods used in the study: analysis and synthesis, comparative study, logics. Migration has become a global process that has affected almost all countries, either as a state of origin, transition and destination. Labour migration has become very large, contributing greatly to the forma-



tion of labour markets for both countries of emigration and immigration. Migration flows also have a major impact on the distribution of population, quantitative, and moreover, qualitative structure, influences demographic, social and economic security of countries of the world.

Countries of the world in terms of position towards migrants can be classified into immigration countries (especially developed, rich countries) and emigration countries (developing countries). Currently virtually all states have engaged in an active process of migration. Even countries with closed regimes participate more actively in international migration circuit, emigration being subjected to very harsh scrutiny here compared to immigration.

Labour force, usually moves from countries with surplus labour, or which are not able to capitalize on existing human resources, to countries with insufficient work force. The developed countries are now in direct competition to attract qualified human capital by issuing more attractive programs and strategies for these persons. Currently the number of states, that are at the same time, countries of emigration and immigration countries, is increasing. The US following the annual migration of skilled labour saves 15 billion dollars.

International migration of labour means working age population movement outside their own country in order to be trained in working relationships with employers in other states. Traders and persons traveling abroad for service (if a contract with foreign employers is missed) are not included in the category of labour migration.

A number of factors determines the increase in intensity of labour migration in the modern period:

1. intensifying internationalization of economic life, which contributed to the movement of all factors of production, including labour;
2. uneven development of national economies, increasing disparities in economic development of different groups of countries or even within states, which has prompted the emergence of migration flows;
3. increased tendency to liberalize the movement of production factors, liberalization caused either by certain specialized international economic institutions (WTO, WB, FM, OMM) or important players in the global economy (transnational corporations that provide labour movement to capital, or transfer capital in regions with surplus labour);
4. integration processes in the world economy that stimulate the movement of labour between integrated states;

5. business cycle stages, in which the economies of countries or the world economy in full are present (in economic boom phases the demand for labour, including foreign labour, increases, and during crisis - decreases);
6. widening of international economic system through the interaction of two antagonistic blocs in 1990s 90s: the capitalist and socialist systems;
7. improving global transport system that allows information, goods, services and people move quickly and freely in any part of the world;
8. social relations expressed by internationalization of marriages, cultures;
9. demographic factor expressed by uneven growth of the population in countries of the world and, accordingly, filling labour markets unequally;
10. partial employment of labour force and the existence of the phenomenon of unemployment, etc.

These can be grouped into economic (unemployment, relocation of economic activity, globalization of production and capital), political (institutionalization of International Economic Relations, changing geopolitical balance of power, transparency of borders, etc.), socio-demographic and socio-cultural factors (mixed marriages, the spread of religions and missionary activity of religious cults, uneven natural growth of the population, etc.). Among other factors that may influence migration can be ecological, psychological, humanitarian, cultural factors that will increase, as the level of socio-economic development of the states will approach.

At different stages of development of human society migration factors were different. Initially the main factor was the natural one. Subsequently a significant factor during the endless wars of conquest, colonization of territories was a political factor. Many military conflicts that occurred during the XXth century were accompanied by increasing migrants seeking asylum, migration flows heading towards areas with a higher security level. In the contemporary period economic factor, migration flows have a significant role, being intensified during the economic crisis and after two World Wars.

Economic factors are manifested through uneven development of states from economic point of view. Workforce migrates from countries with low income, low living standards to states with high-income level, developed social infrastructure with advanced standard of living. Another reason within the economic factor is the degree of labour resources assurance. States with a surplus of labour, with a high unemployment level stimulate labour migration, and vice versa, countries with labour shortage, the insufficiency of socio-professional categories, the discovery of significant resources, strong development of certain industries or of



the service sector attract more numerous labour flows. Also professional transit migration, which accompanies movement of capital, is a part of economic factor. Transnationalization of economic life entailed the emergence of this type of migration. The liberalization of the movement of production factors served as a catalyst for labour migration that continues today.

The international movement of labour is influenced by non-economic factors as well: social, political, ecological, natural. Social factors, for example, are closely related to the economic factor, material and social welfare are often correlated. Migration flows are selective in social terms. Young people (20-40 years) usually migrate, who more easily adapt to new living conditions than older people do. Men are prone to migration more often than women are. The level of training is also an important variable in the selection of migrants; people with a higher educational level are preferable to those without a specific qualification.

Several features characterize international migration of labour in the modern period:

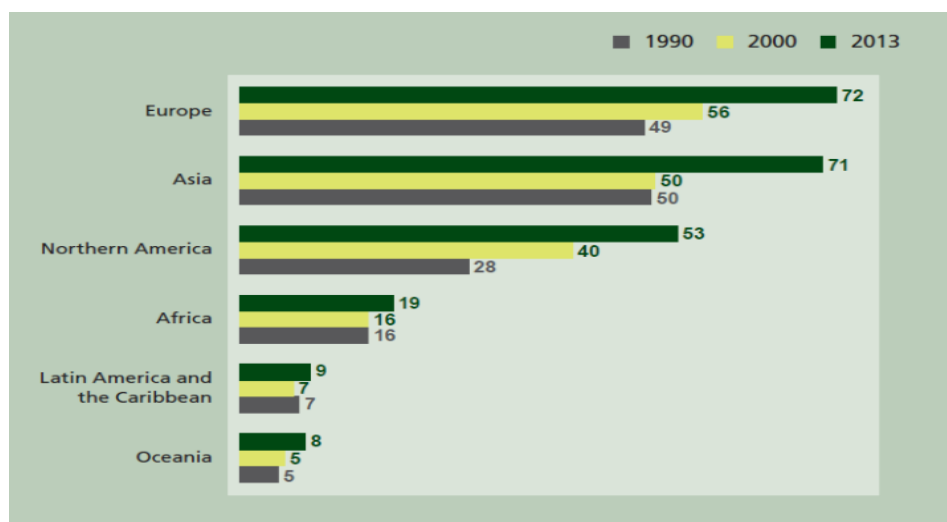
1. Labour migration included practically all countries, continents, gaining global character. In the early twenty-first century, there were over 200 million people with migrant status.
2. The main reason for migration remains economic one.
3. Migration directions have also been changed. If in 1950s-1980s the main direction of migration was from developing countries (DeC) to developed countries (DC) since the early 80 the reverse process is observed, labour migration from DC, accompanying capital, migrate to DeC. A migration on the direction of developing countries - developing countries has had a steady growth.
4. Illegal migration of labour has been currently intensified. About 20-40 percent of migrants are illegal, in the EU 10-15% (2012) [3].
5. Not only quantitative but also qualitative changes, expressed by increasing number of skilled migrants, are present in international migration.
6. There is an increasingly active involvement of states in monitoring and directing migration process.

The volume and direction of international labour migration have varied widely during contemporary history. The volume of labour migration has been growing steadily, although the intensity of the phenomenon was different at times. The first massive labour migrations were forced migrations in the XII-XIX centuries. Migration during this period was influenced by the development of the slave trade. The main direction of slaves' migration was from Africa to America (especially in the USA). In 1650-1850, the population in Africa fell by 22% because of the transfer of labour to the American continent.

The XIXth and the beginning of the XXth century were characterized by large transoceanic migrations that drove millions of people from Western Europe and then from southern and eastern Europe to North America, Australia and Latin America. In the XIXth century about 30 million people emigrated in Europe and at the beginning of the XXth century until World War I over 20 million people more migrated. [1] Migration process to America was partially interrupted during World War II, which was restored after a short period. European migration in the XIXth century and the first half of the XXth century had global effects, leading to popularity and economic exploitation of large areas of North America, Latin America, Australia and New Zealand.

In post-war period migration flows to the “New World” faded, and the pole of attraction for migrants became Western Europe. Restored economies after the war needed a large number of workers ensuring economic growth in the period that followed, states in Western Europe, including the UK, France, Germany receive more immigrants than they lost in the previous period from neighbouring countries. In the second half of the XXth century some centres / centres of attraction of labour migration were formed, such as Western Europe, North America, Asia Pacific, and others (Figure 1).

Figure 1
Centres for attracting labour migration (mln.), 1990, 2000, 2013



Source: United Nations, Department of Economic and Social Affairs, Population Division (2013). International Migration 2013 Wallchart (United Nations publication, Sales No. E.13.XIII.8)



Countries in Central and Northern Europe receive immigrants from southern Europe and former colonies. Inflows of migrants from North Africa were directed to France, to the UK - immigrants from India and Pakistan, while in the Netherlands most migrants were from Indonesia and Suriname, its former colonies. EU states currently estimate about 5 million migrants, which represents about 5% of their population. Germany, France, UK, Belgium, Netherlands, and Switzerland have received the highest number of migrants. For the last 10 years after the collapse of the socialist system, a large number of migrants came from Eastern European countries and South East. Several countries in Southern Europe have turned from countries of emigration into countries of immigration [2].

Another important centre of contemporary migration was formed in Asia Pacific region: Brunei, Japan, Hong Kong, Malaysia, Singapore, South Korea, and Taiwan. These countries increasingly use the services of foreign workers, especially in activities that do not require high qualifications.

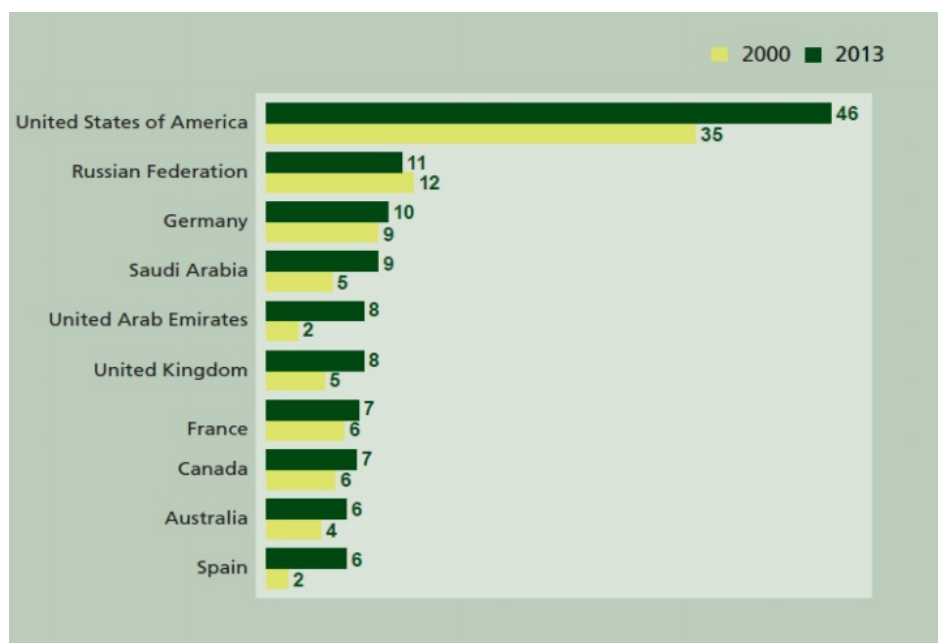
North America has absorbed 1.4 million migrants annually, followed by Europe with an annual net gain of 0.8 million and Oceania with a modest figure below 90,000 migrants annually. The highest rate of emigration has had Latin America and the Caribbean, with one migrant per 1,000 persons. For Africa and Asia net emigration rates were estimated to be very low, i.e. 0.4 to 0.6 migrants per 1,000 people. The amounts earned by migrants in receiving countries and exported to the country of origin should not be overlooked as well.

According to data recently published by the United Nations, more than 45 million of foreigners currently live here. The figure is four times higher than in any other country in the world (Figure 2).

Australia, through attractive immigration policy has served as a destination for more than 200 thousand of foreign workers. Like the US, Australia pursues a policy of assimilation of migrants. Oil boom in OPEC (Organization of Petroleum Exporting Countries) increased demand for both qualified and unqualified labor. The share of foreign workers in six monarchical states exceeded 50% of workers: Bahrain - 51%, Saudi Arabia - 60%, Oman - 70%, Kuwait - 86%, UAE - 89%, Qatar - 92%.

Immigrants' labor plays a significant role in the contemporary global economy. Given the large number of foreign workers in the economy of some countries, any regulation can lead to increased tensions on the labor markets of countries of the world. The effects of labor migration are multiple. They

Figure 2
**The top ten countries with the largest number of immigrants (mln.),
2000 and 2013**



Source: United Nations, Department of Economic and Social Affairs, Population Division (2013). International Migration 2013 Wallchart (United Nations publication, Sales No. E.13.XIII.8).

influence the socio-economic life of all world states, proof being more active concern towards the phenomenon of migration. Migration has positive and negative effects for both recipient and for the donor countries (Table 1).

International migration flows directly affect labor markets both in donor and recipient countries. Migration can help reduce unemployment in countries with surplus labor and receiving countries can reduce labor market demand. Immigration fills working places in sectors not required by local workers. In Belgium, for example, half of the miners, in the US - 70% of farmers, in Switzerland about 40% of construction workers are foreigners. Immigration has influence on regional labor markets. Migration shall ensure redistribution of labor in accordance with current requirements.

Conclusion. Entrepreneurs in recipient countries gain from immigrant labour. They are ready to work under a lower remuneration than remunera-



Table 1

The effects of international migration of labor force

For recipient countries	For donor countries
Positive	
1. Stimulation of competition for domestic products as a result of lower production costs by using cheaper labour.	1. Cash transfers in convertible currency in the country.
2. Multiple effect (stimulation by foreign labour in production and employment in adopted country).	2. Reducing pressures from resources of labor surplus and social tension.
3. Economies that ought to be made for the professional training of the workforce (to import skilled labor).	3. Free professional training of its workforce, its knowledge of advanced forms of work organization.
4. Maintaining of social stability through taxes.	4. Receiving funding and aid from recipient countries and international organizations specialized in social-economic development programs geared towards creating new jobs.
Negative	
1. Increasing tensions on the local labor market.	1. Economic losses as a result of lower human potential and especially the working age population segment.
2. Intensifying, as a result of increased demand on the labor market, the downward trend in labor costs.	2. Losses from vocational education and training of migrants.
3. The challenge of national and ethnic conflicts between local people and immigrants, social tensions manifested by discrimination and hatred against immigrants.	3. Demographic risk expressed by reducing population's reproductive potential and the erosion of family institute.
4. Increased unemployment.	4. Illegal emigration is missed of any social, political or economic individual right.

tion standards in this country, so employers retain local workers' wage increase. In several countries a labour market with double standards operates: on the one the purchase of qualified and highly paid local labour occurs, and on the other - foreign labour is ready to work at hard and underpaid jobs. Immigration, in such a way contributes to increased competition in the market for low-skilled labor and that contributes to decreasing of real wages for local workers, which contributes to increased social tensions and pressures made by these political class to tightening of acceptance terms of immigrants [3].

At the same time, migrants can obtain higher qualifications in the receiving countries, experience that can then be brought home. Entrepreneurial activity may refresh them, as a result of experience and investments made in domestic business by migrants returned home.

International migration is an ambivalent phenomenon, unable to say, if it is an entirely positive or negative process. The effects of migration on population (those immigrating and receiving) are different and cannot make a universal classification applied to all the stars of the world. It depends very much

on the country, on the economic, cultural and political life of migrant population and its characteristics compared to that of the receiving state.

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Data prezentării: 18 decembrie 2014



ROLUL DIASPOREI ÎN DEZVOLTAREA SOCIAL-ECONOMICĂ

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Resumat

Articolul este dedicat descoperirii potențialului diasporei, cu scopul de a contribui la dezvoltarea economică în țara de origine. El se bazează pe cercetările făcute de un grup de autori în cadrul proiectului *Diasporas & Development policy* proiect în Institutul de Politici Migraționiste în Washington și diferiți cercetători din lume care se ocupă cu problemele diasporei. A fost dată noțiunea diasporei, arătate tipuri de diasporă și modelelor de activitate. Antreprenorii din Diasporă sunt în situația unică de a recunoaște oportunitățile în țările lor de origine, pentru a exploata oportunitățile, cum ar fi “primul automobil” și de a contribui la crearea de locuri de muncă și creșterea economică. Dar multe țări în curs de dezvoltare au avut un succes limitat în atragerea de investitori direcți din diasporă și antreprenori în țările lor de origine. Acest articol promovează înțelegerea mecanismului prin care firmele din diasporă pot contribui la dezvoltarea lor natală, prin crearea de întreprinderi și de locuri de muncă, stimularea inovării, crearea de capital social la nivel transfrontalier, precum și canalizarea capitalului politic și financiar față de țările lor de origine. Se discută natura antreprenoriatului din diasporă, condițiile care creează cele mai bune oportunități pentru investiții directe în țările de origine, precum și diferite strategii, folosite de unele organizații de susținere a întreprinzătorilor diasporei și asocierile lor.

Cuvinte cheie: diaspora, patru tipuri de diasporă, contribuția în dezvoltarea țării de origine, investiții directe, capitalul social, antreprenoriatul diasporei, nivelurile de angajament.

THE ROLE OF DIASPORA IN SOCIAL-ECONOMIC DEVELOPMENT

Summary

The article is devoted to elicit to diaspora's potential, to contribute the economic development in country of origin. It is based on the researches made by group of authors in the frame Diasporas & Development policy project in the Migration Policy Institute, Washington and other researcher who concerned diaspora's issues. The article shows the determination of the Diaspora, its types, and the way of their activities. Diaspora entrepreneurs are uniquely positioned to recognize opportunities in their countries of origin, to exploit such opportunities as "first movers," and to contribute to job creation and economic growth. But many developing countries have had only limited success in attracting diaspora direct investors and entrepreneurs to their countries of origin. This article promotes the understanding of the mechanism by which diaspora firms can contribute to their homeland development by creating businesses and jobs, stimulating innovation, creating social capital across borders, and channeling political and financial capital toward their countries of origin. It discusses the nature of diaspora entrepreneurship, the conditions that best create opportunities for diaspora direct investment in countries of origin, and various strategies employed by some organizations to support diaspora entrepreneurs and their ventures.

Keywords: *Diaspora, four types of Diasporas, contribution to homelands development, directing investments, social capital, Diaspora Entrepreneurship, Levels of Commitment.*

The term Diaspora, long used only to describe the dispersion of the Jewish people throughout the world, has in the last thirty years elicited unprecedented interest and has attracted attention not limited to the academic world, but also from the media and is now part of everyday speech. It has come into such generalized use as to be applied to all forms of migrations and dispersion of a people, even if not as a result of migration.

Diaspora areas and territories must be gauged first in the host country, where the community bond plays the essential role, then in the country or territory of origin – a pole of attraction – through memory, and finally through the system of relations in the network space that connects these different poles. The term Diaspora often has more of a metaphorical than an instrumental role. We can narrow down the different criteria suggested by most authors to four essential ones:



- The population has been dispersed in several places, not immediately neighboring of the territory of origin, under pressure (disaster, catastrophe, famine, abject poverty).

- The choice of countries and cities of destination is carried out in accordance with the structure of migratory chains, which link migrants with those already installed in the host countries.

- This population is integrated without being assimilated in the host countries, i.e. it retains a rather strong identity awareness linked to the memory of the territory, of the society of origin and its history

- These dispersed groups of migrants (or groups stemming from migration) preserve and develop among them and with the society of origin, if the latter still exists, multiple exchange relations (people, goods of various natures, information, etc.) organized under networks. Relations tend to be horizontal rather than vertical.

For a Diaspora to be able to live on by transmitting its identity from one generation to the next, it must, have places for periodic gathering of a religious, cultural or political nature, or for all three at once, in which it can concentrate on the main elements of its iconography. They also include restaurants and grocery shops, newsagents and the media (newspapers, community magazines, local radio and television stations, websites).

Four major types of Diasporas. The different Diasporas are deployed on a world scale at the beginning of the 21st century, with an unequal degree of globalization and at times a more or less confirmed continental tropism (adaptation to the new environment) among them. In every Diaspora, the folklore, cuisine, language and culture in the wide sense (literature, cinema, music, press), community life and family bonds play a fundamental role. Family connections constitute the very fabric of the Diaspora. Similarly, the community link is always present in and constitutive of every Diaspora. The most distinguishing characteristics are the unequal degree of their structuring and their organization, and the more or less decisive influence exerted by their nation of origin, when it exists. Religion, enterprise and politics are the three major fields through which these two discriminating characteristics manifest themselves. We can sketch a typology according to these criteria from the example of some Diasporas.

A first set of Diasporas is structured round an entrepreneurial pole; everything else is subordinated to it or plays only a secondary role. The Chinese, Indian and Lebanese Diasporas are the best examples of this. The nation-state of origin does not exercise any decisive influence, either be-

cause it is pluralist (Hong Kong, Taiwan, mainland China, South-East Asia in the case of the Chinese), or because it is deliberately discrete and intervenes only in case of extreme difficulties (the case of India), or because it is too weak and divided (the case of Lebanon). Entrepreneurship constitutes the central element of the reproduction strategy of these Diasporas.

Another set of Diasporas is that in which religion, often associated to a language, is the main structuring element: this is the case of the Jewish, Greek, Armenian Diasporas. This religion is monotheistic and strongly connected to a sacred language, be it Hebrew, Greek, Aramaic, or Armenian. Enterprises play a very important role in the life of these Jewish, Greek and Armenian Diasporas, but they are not the central pole that ensures the reproduction of the Diaspora in the long run. That pole is religion: the synagogue and the church, with a pronounced ethnic tint, are the constitutive elements of these Diaspora communities. On the other hand, ever since it has existed, the Nation-State has had an increasingly stronger influence on its Diaspora.

A third set of Diasporas is organized chiefly round a political pole, when the territory of origin is dominated by a foreign power and the main aspiration of the population of the Diaspora, is the creation of a Nation-State. For example, the Palestinian Diaspora, which had succeeded in establishing a real state in exile, the Palestinian Liberation Organization (PLO), whose objective to establish a Nation-State next to the State of Israel has already been partially achieved by the creation of the Palestinian Authority endowed with territories that it has administered since 1994.

A fourth set is organized around a racial and cultural pole; this is the case of the black Diaspora, on which hinge several ways of defining identity. This Diaspora stands out first by the continental scope and the diversity of its territory or territories of origin.

In this article we analyze Diasporas as the source of improving the economic situation in the country of origin. General definition of diasporas is following - "it's an ethnic minority groups of migrant origins residing and acting in host countries but maintaining strong sentimental and material links with their countries of origin - their homelands" [16]. Diaspora members identify themselves as members of a dispersed identity group with continuing common ties to the homeland. As shown in a recent paper, diasporas abroad have a strong impact on the number, skill composition and concentration of international migrants [3]. There are several ways in which diasporas can stimulate economic development in their homelands [14].



First, diasporas contribute to financial flows to their home countries through private money transfers (remittances) to family members [13].

Worldwide, remittance flows reached \$550 billion in 2013 and are expected to reach over \$700 billion by 2016 [World Bank, 2013]. Manual and the reclassification of several developing countries as high-income countries. The true size of remittances including unrecorded flows through formal and informal channels is likely to be significantly larger. In several developing countries, diasporas contribute significant portions of their homeland's GDPs.

Second, diasporas can have a substantial impact on trade flows. In fact, international transactions are plagued with informal trade barriers – such as information costs and cultural barriers - in addition to formal trade barriers like transportation costs and tariffs. The presence of people with the same ethnic or national background on both sides of a border may alleviate these problems as confirmed by a growing empirical literature [4]. Immigrants can also stimulate imports to their new country of residence by purchasing goods from their homeland (supporting international trade in ethnic products).

Third, diasporas may facilitate the domestic firms access to technologies and skills through professional associations, temporary assignments of skilled expatriates in origin countries, distance teaching, and the return of emigrants with enhanced skills. These contributions are particularly relevant in countries suffering from brain drain in specific technical sectors. The diaspora can contribute to knowledge creation and diffusion by acting as a conduit for knowledge and information flows back to the sending country [1].

Fourth, a recent literature has established a causal relationship between the size of diasporas and bilateral flows of foreign direct investment to the migrants' homeland [8; 5; 12]. Migrant networks facilitate cross-border information flows increasing the degree of familiarity between home and host countries. Just as migrants may have a taste for commodities produced in their home country, they may also have a home bias for their investments' decisions.

Diasporas also organize philanthropic activities targeted to the homeland, either through diaspora organizations, faith communitiesD organizations, or less informal, more individual ways. In 2011, recorded remittances were nearly three times the amount of official aid and almost as large as foreign direct investment flows to developing countries (World Bank, 2011). A possible outcome of this kind of network is to increase international research collaboration, thus bringing benefits to sending countries. There is evidence of linkages between highly skilled migrants and their countries of origins as shown by internationally co-authored articles [15].

Migrants may not be the first group that comes to mind when considering who is likely to become an entrepreneur. But emigrants and their descendants are, in fact, uniquely positioned to recognize investment opportunities in their countries of origin and to exploit such opportunities by taking advantage of their ties in two worlds. Entrepreneurs are people with a unique combination of traits: They are attuned to market openings and the investment environment, alert to opportunity, innovative, and tolerant of risk.

Development practitioners and policymakers are beginning to examine the role of diaspora entrepreneurs in directing investments toward their home countries, thereby promoting economic growth. Compared with remittances or diaspora bonds, entrepreneurial investments give diaspora members more direct control over the use of their funds. And diaspora members are often more willing than nondiaspora investors to risk starting or engaging in business activities in high-risk or emerging markets. Moreover, their knowledge of the local political, economic, and cultural environment, as well as their personal connections and linguistic abilities, may give members of diasporas a “first mover” advantage when investing in or starting businesses in their countries of origin [11].

Despite the advantages of attracting diaspora direct investors and entrepreneurs to their countries, many developing countries have experienced only limited success in actually doing so, particularly those at war or experiencing internal conflict and social upheaval. Complicated tax laws, limited access to local financing, and corruption are all conditions that can deter individuals from pursuing economic activities in a given country and persuade them to look for opportunities elsewhere.

Organizations that support diaspora entrepreneurship take on multiple roles, sometimes creating networking opportunities among business leaders and at other times forming strategic institutional partnerships to foster long-term economic growth in knowledge-intensive sectors [11].

The five types of their involvement are: networking, mentoring, training, investment, and venture capital and partnerships. All these describe ascending levels of commitment to the entrepreneurial project. While a combination of all five levels of engagement is likely to foster entrepreneurship, for a variety of reasons — including availability of resources and time, and the different actors involved at each level — the more passive forms of support (toward the base of the pyramid) are likely to proliferate and dissipate more quickly than the more active forms of support near the peak.

Since at least the 1970s, researchers have studied entrepreneurship



among immigrants in their countries of destination, emphasizing immigrants' contributions to local economies through the small and medium enterprises (SMEs) they establish and run, their role in fostering niche markets in immigrant communities, and their ability to offer jobs to the native born as well as other immigrants. Recent research also shows that entrepreneurship among immigrants living in the world's advanced economies is on the rise, especially in the retail, wholesale, restaurant, and catering businesses.

There is reason to believe that through diaspora direct investment in their home countries, diaspora entrepreneurs can play an important development role. When successful, diaspora entrepreneurship fosters business development, job creation, competition, innovation, and the creation of transnational business networks. It can also tap into existing social capital in destination countries and generate new opportunities for economic, social, and political capital sharing through the global networks entrepreneurial activities create.

Necessity entrepreneurs are often defined as those who are simply self-employed. Unskilled immigrants or returnees who establish their own businesses to create employment for themselves have different networking opportunities and approaches to starting businesses than high-skilled immigrants with business experience abroad. Those running businesses that require little education and low start-up costs usually work in sectors that are oversaturated with competitors and have razor-thin profit margins. Thus, while self-employment can create value for the entrepreneurs themselves and any employees they might have, research shows that necessity entrepreneurship has no real effect on economic development.

Opportunity entrepreneurs are much more likely to have a positive impact on economic development. Skilled individuals who specialize in high-demand and rapidly growing sectors of the knowledge-based economy can create huge economic opportunities and profits for businesses and their countries. Even those with little education but strong business acumen may perceive and take advantage of market openings.

The roles of diasporas in developing knowledge-based sectors in China, India, Ireland, and Israel, for example, are now well known. They have provided venture capital and connections to trade networks, facilitated technology and knowledge transfers, and pioneered development of robust special economic zones in their countries of origin.

The Global Entrepreneurship Monitor (GEM) is an academic research consortium that tracks, evaluates, and compares the level of entrepreneurial activity in 54 developed and developing countries and analyzes how it relates to national economic growth. It finds that countries with a high opportunity to necessity entrepreneurship ratio tend to have higher levels of income, exports as a share of GDP, licensing receipts, R&D expenditures, and spending on education compared to those with a low ratio. Moreover, GEM finds that necessity entrepreneurship plays a relatively small role in innovation-driven economies. Nonetheless, most governments in developing countries continue to promote necessity entrepreneurship rather than opportunity entrepreneurship. In addition to personal goals and inherent traits, a combination of economic, political, financial, and sociocultural factors influences an individual's decision to become an entrepreneur. Individuals are more likely to start a business in a country with robust economic growth, a high level of formal sector participation, a high-quality and business-friendly legal and regulatory environment, and relatively easy access to finance. Economic growth, in turn, is positively correlated with new business registrations and entry rates. According to the World Bank's World Development Indicators, the time required to start a business has a strong negative correlation with a nation's overall income level. In other words, it takes significantly less time to start a business in high-income countries than it does in low-income countries.

Regardless of a country's level of economic development, however, investors favor good governance; that is, they favor countries with relatively little corruption and with well-functioning public institutions. Good governance is positively correlated with high rates of business entry. Furthermore, favorable policies, tax incentives, and even special privileges



provided by governments have been shown to help attract diaspora entrepreneurs to invest in their countries of origin.

Access to financial capital is crucial for individuals seeking to pursue entrepreneurial activities. The micro-credit and micro-savings revolution has opened a path to entrepreneurs who operate on a very small scale. The clients for these tiny loans are typically necessity entrepreneurs at first, but some may be able to expand their businesses as loans enable them to take advantage of new opportunities. At the other end of the spectrum, diaspora investors may underwrite the creation of new industries and the growth of established sectors.

Interestingly, cultural perceptions of entrepreneurship can affect potential entrepreneurs as well. Some societies, such as that of the United States, attach high value to individual initiative and reward successful entrepreneurs with social status as well as wealth. These cultural predilections are conducive to entrepreneurship. Other cultures, however, favor group action and attach guilt or shame to individuals whose ventures fail. As a result, aspiring entrepreneurs may be discouraged from pursuing risky business ventures. In East Asia, for example, where such attitudes are prevalent, innovation is highly valued but relatively few individuals pursue entrepreneurial activities.

Over the past decade, a number of governments and other organizations have established programs to encourage emigrants and their descendants to invest in their home countries. Initiatives range from privately run and funded to government-led, but most involve some sort of public-private partnership. Many organizations are hybrids and promote activities in several categories, including networking, mentoring, investment, venture capital, and strategic partnerships.

Networking organizations promote diaspora entrepreneurship by offering opportunities for diaspora and local business leaders and professionals to meet one another (either in person or via the internet) and discuss potential business and investment opportunities in the homeland. Some networking organizations are involved in public-private partnerships to facilitate meetings between locals and members of the diaspora, while others promote networking among diaspora business leaders to foster partnerships and opportunities in countries of origin.

Prominent examples of networking organizations include the Mexican Talent Network, The African Network, the Business in Development Network, the South African Diaspora Network, and the Korean IT Network [11].

Mentoring organizations are more actively involved in supporting entrepreneurship among diaspora members than pure networking organizations,

in that they try to match aspiring entrepreneurs or business owners seeking to expand their operations abroad with seasoned diaspora experts and business leaders. Some mentors offer one-off services, while others provide internships or even job opportunities in their corporations. GlobalScot, Armenia 2020, and The Indus Entrepreneurs are examples of mentoring organizations.

Training organizations help aspiring diaspora entrepreneurs acquire the knowledge and skills to set up and run a successful business. Training programs range from transferring knowledge from diaspora experts to country-of-origin entrepreneurs to offering lessons on business management to providing guidance on how to find financing. The Ethiopia Commodity Exchange, IntEnt in the Netherlands, and the Economic Initiatives and Migration Program (*Programme Solidarité Eau*) in France are successful examples.

Investment organizations provide initial start-up funds or subsequent capital infusions, usually in the form of pooled private and public funds or matching grants. Some investment organizations take a hands-off approach to the money they offer entrepreneurs, while others are more involved in overseeing how their money is spent at various stages of project implementation. The African Diaspora Marketplace, which was a business competition that first took place in 2009 and is beginning its second cycle this year, and the 1x1 Program in Mexico have provided tens of thousands of dollars in start-up funds to diaspora entrepreneurs.

Venture capital and partnership organizations provide more than just start-up funds, and usually are heavily involved in business projects that they believe will be profitable. Often they form strategic alliances with other venture capitalists, business leaders, engineers, and other professionals. For these organizations, the number of strategic partnerships or projects supported by venture capital usually matters less than the quality of the proposed investment, the high potential for return on investment, and the impact of such partnerships and investments on economic growth in strategic sectors. For others, strategic partnerships are about fostering trust and long-term relationships among key institutions in countries of origin and destination. Prominent examples of venture capital and partnership organizations include Fundación Chile, The International Organization for Migration's Migration for Development in Africa program, and the African Foundation for Development.

Development practitioners and policymakers are beginning to examine the role of diaspora entrepreneurs in gearing investments toward their home countries, thereby creating jobs, spurring innovation, and fostering networks. Compared with remittances or diaspora bonds, entrepreneurial investments give diaspora members more direct control over the use of their funds. Given their



ties to their countries of origin, diaspora members are often more willing than nondiaspora investors to risk starting or engaging in business activities in high - risk or emerging markets. Moreover, their knowledge of the local political, economic, and cultural environment, as well as their personal connections and linguistic abilities, may give members of diasporas a “first mover” advantage over others when investing in or starting businesses in their countries of origin. Despite the advantages of attracting diaspora direct investors and entrepreneurs to their countries, many developing countries have experienced only limited success in actually doing so. Governments in their countries may still require aspiring entrepreneurs to follow complex procedures and clear many administrative hurdles to register and operate businesses. Complicated tax laws, limited access to local financing, and corruption are all conditions that can deter individuals from pursuing economic activities in a given country and persuade them to look for opportunities elsewhere.

Recent research suggests that diaspora entrepreneurship can contribute to development by creating businesses and jobs, stimulating innovation, creating social capital across borders, and channeling political and financial capital toward their countries of origin. However, not all forms of entrepreneurship contribute equally to economic development. “Necessity entrepreneurs” — who create their own small businesses because they cannot find other work — have a minimal effect on economic development. At best, they support themselves and help to reduce overt unemployment. “Opportunity entrepreneurs”, on the other hand, are much more likely to have a positive impact on economic development as they recognize and take advantage of market openings. Countries with higher levels of diaspora entrepreneurship tend to have promising prospects for economic growth, as well as proactive diaspora engagement policies, good governance, positive socio- cultural perceptions of entrepreneurship, a critical mass of human and social capital, and accessible to financial institutions and pools of capital.

Governments can modify such opportunity structures to make them more appealing to and supportive of diaspora entrepreneurs. Organizations and initiatives that help support and promote diaspora entrepreneurship can be divided into five main categories. These categories roughly translate into five levels of commitment to diaspora entrepreneurship. From the most passive to the most active, they are networking organizations, mentoring organizations, training organizations, investment organizations, and venture capital/partnership organizations. Policy responses to the challenges facing diaspora entrepreneurs include the following options:

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Data prezentării: 28 decembrie 2014



DEZVOLTAREA PIEȚEI FARMACEUTICE A REPUBLICII MOLDOVA PRIN PRISMA ANALIZEI STATISTICE

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Abstract

În orice țară sectorul farmaceutic are un rol indispensabil în asigurarea domeniului social, având un impact major în dezvoltarea economică a țării în ansamblu. În prezenta lucrare se examinează evoluția pieței farmaceutice a Republicii Moldova sub aspectul cantitativ și calitativ al acesteia. O importanță majoră se acordă sistematizării participanților ce activează pe piața farmaceutică a Republicii Moldova, examinându-se în dinamică volumele acestei piețe. Totodată un rol important în funcționarea pieței farmaceutice îi revine prețului producției care, la rândul său, este supus unei reglementări stricte de stat impacturile căruia sunt, de asemenea, abordate în prezentul articol.

Cuvintele cheie: piața farmaceutică, medicamente, producători, distribuitori, prețul.

MOLDOVA PHARMACEUTICAL MARKET DEVELOPMENT IN TERMS OF STATISTICAL ANALYSIS

Abstract

In any country pharmaceutical sector has a vital role in ensuring social sphere, and having a major impact on the economic development of the country as a whole. This paper examines the evolution of the pharmaceutical market of

Moldova in terms of its quality and quantity. Consideration is given to the systematization of participants working in the pharmaceutical market of Moldova, by examining dynamically the volumes of this market. Also an important role in the pharmaceutical market has production price which in its turn is subject to strict state regulations and whose impacts are being addressed in this article.

Key-words: *pharmaceutical market, medicine, manufacturers, distributors, price.*

Introduction. The pharmaceutical sector is an area for development of any country, which imposes the need for strict regulation under various complex mechanisms. Given the importance of this sector in terms of life and health insurance, it is strictly necessary to ensure a reasonable level of prices in the pharmaceutical market, particularly in view of the low income population in Moldova. In this context it argues for the need to implement effective administrative measures to ensure the smooth functioning of market economy mechanisms in this field.

In recent years the pharmaceutical market in Moldova has grown quite pronounced, especially after improving the legislative framework in the field, and with the creation in 2005 of Medicines Agency. It is this entity that has been assigned by law functions in the field of policy and supervision, monitoring, regulation and quality assurance of pharmaceutical products.

Thus, the role of Medicines Agency becomes increasingly important in monitoring compliance rules of the pharmaceutical market. The activity of Medicines Agency and the policy of the State in this area influence trends and prospects for further development of the drug market.

Pharmaceutical activity is a scientific-practical field of healthcare, including medicines development, standardization, registration, manufacture, formulation, quality control, storage, information, delivery and dispensing population and management of pharmaceutical companies and their subdivisions, activities performed only by the pharmaceutical company, except research to develop and test drugs made in accordance with the legislation in force [1].

Access to basic medicines and pharmaceutical products in Moldova is implicitly guaranteed by the Constitution, as part of citizens' rights to health. Ensuring that access to essential, effective, safe and quality medicines for all categories of population is one of the responsibilities of the state, provided in state policy in the field of medicine.

Applied methods. The pharmaceutical market in Moldova is organized under a general model of market organization, based on the interaction of supply and demand, has a number of specific features caused by the influence of additional factors.



In Moldova request of pharmaceutical market consists of the following [3, p.20]:

1. Medicines with a prescription is the main category in which demand formation in a share of 71.4% of all marketed medicines and have the following specific features:

- ♦ With the entry into force of the Order of the Ministry of Health no. 960 signed on October 1, entered into force on 19.10.2012 which states that 80 percent of medicines in pharmacies can be purchased only under prescription, the number of medicines purchased with a prescription from 43% to 71.4 % increased. That amendment was justified by the fact that 30% of all hospital admissions are the result of incorrect administration of medicines;

- ♦ This category of request focuses on the individual decisions of final beneficiaries who play an insignificant or totally neglected role. The request form in this case focuses on a doctor's decision who prescribes a medicine or another, that highlights honesty duties in prescriptions issued by doctors.

Specific mode of formation of demand for prescription medicines occurs essentially in the operation of market economy mechanisms and the free interplay of supply and demand of medical products. In this way, it becomes necessary to introduce strict administrative supervision measures from the state.

2. Medicines without prescription - including those categories of pharmaceutical products that are characterized by their substitutability in everyday medical practice, the so-called alternative medicines. For this type of request there are important medicines in the formation of final beneficiaries' decisions. Moldovan Medicines Agency has developed and continuously monitors the list of medicines that can be released from pharmacies without a prescription under the Medicines Commission decision, approved by order of the Ministry of Health.

3. Medicines purchased by the state. In this category we can include two forms of state intervention in the market:

- ♦ Purchase of medicines through public auctions for the needs of public institutions, including health care facilities, schools, kindergartens, universities, boarding schools for children, nursing homes, etc. For this category there is characteristic risk of corruption that distorts the free interplay of forces of market.

- ♦ Compensation of medicines by the state, partially or wholly, from the budget. Compensated medicines are prescribed by the family doctor as medically indicated. In base of recipe by a family doctor, compensated

medicines are released in pharmacies that entered a contract with the National Health Insurance Company. The price for the compensated medicines is set by authorized pharmacies. Their market share is 2.5% offset products of the total pharmaceutical market.

The offer of pharmaceutical market in Moldova is composed of original products offered by one manufacturer that has developed new product and generic products already on the market for a certain period of time and are offered a wide range of manufacturers.

Given the sources of training of supply pharmaceutical market in Moldova the following categories can be identified:

- ◆ National local producers;
- ◆ Local producers with foreign capital;
- ◆ Importers.

The offer of pharmaceutical products on the market of Moldova is formed by the following categories:

- ◆ Wholesale Distributors;
- ◆ Retailers, i.e. pharmacies.

Each level of the supply chain has features and support specific regulations regarding the production and distribution of pharmaceutical products.

Research results. The number of enterprises in manufacturing industry and pharmaceutical medicines in Moldova during 2005-2013 has registered the following evolution.

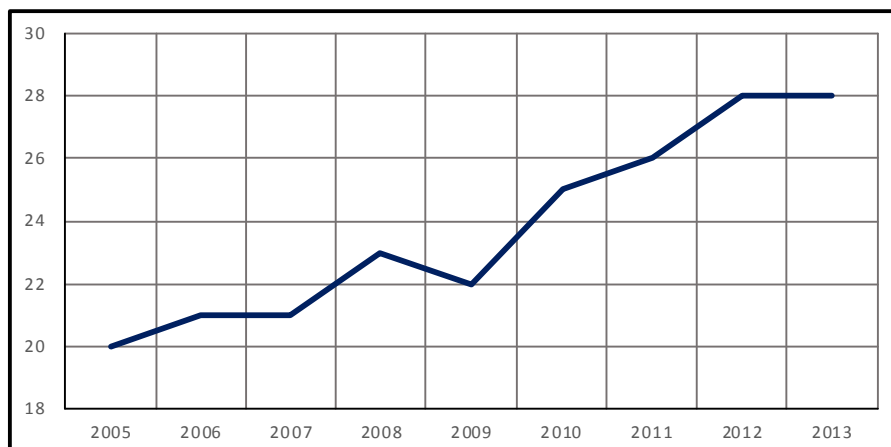


Figure 1. Evolution of the number of enterprises in the manufacturing industry of medicines and pharmaceutical products in Moldova during 2005-2013

Source: Prepared by the author based on the data from statistica.md



In the graph shown it can be concluded that the number of enterprises in manufacturing industry of medicines and pharmaceutical products in Moldova in the period 2005-2012 had a strong growth trend. In this way, the period considered the number of enterprises in manufacturing industry of medicines and pharmaceutical products that increased from 20 units to 28 units, which represents an increase of about 40%.

Local producers of pharmaceuticals in Moldova during the reporting period record the following dynamics.

For the pharmaceutical industry in Moldova, 2013 was noted, in particular by introducing mandatory standards of good manufacturing practice for medicines for domestic producers of medicines [2, page 3].

Following inspections and reports presented by the inspectorate, a committee, composed of representatives of Medicines and Medical Devices Agency and the Ministry of Health decided that just the companies that have expressed interest in the promotion and implementation of international standards of production have the right to produce and sell medicines on Moldovan territory.

Introduction of Good Manufacturing Practice for medicinal contributed to domestic producers of medicines whose number was reduced almost in half: from 28 companies, many were active until 2013, only 16 companies will continue to practice this activity.

The chart below shows the structure of domestic producers of medicines, indicating the total volume weight of each of medicinal products manufactured in 2012 in Moldova.

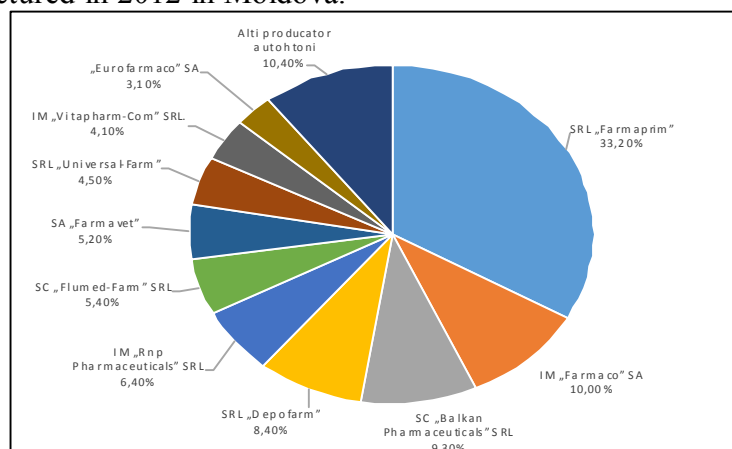


Figure 2. Structure of producers of medicines in Moldova according to the sales volume in 2012

Source: Prepared by the author based on data [3, p.23]

From the graph it is observed that the largest share in the structure of domestic producers of medicines has SRL “Farmaprim”, which was for about 33.2% of the sales volume of medicines produced by domestic producers as a whole, but the total volume of sales on the market of pharmaceutical companies in Moldova that lies only 2.4% as domestic market mainly focuses on the import of medicines. ÎM “Farmaco” SA and SC “Balkan Pharmaceuticals” SRL hold about 9-10% of the sales volume of medicines produced by local producers and other manufacturers have increasingly smaller weights.

With the increasing number of enterprises in the manufacturing industry of medicines and pharmaceutical products in the Republic of Moldova during 2005-2012 the value of production is also modified.

Further, there is development schedule of production value in manufacturing industry of medicines and pharmaceutical products in Moldova in the analyzed period.

The value of production in manufacturing industry of medicines and pharmaceutical products in Moldova in the period 2005-2012 has seen an

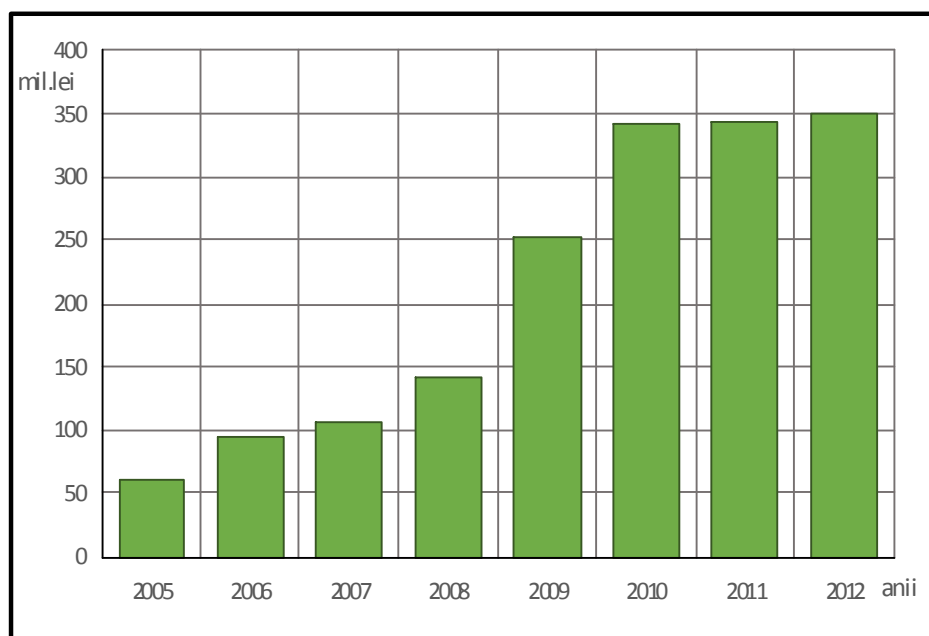


Figure 3. Evolution of the production value in manufacturing industry of medicines and pharmaceutical products in the Republic of Moldova in 2005-2012

Source: Prepared by the author based on data [5]



upward trend, increasing during this period of about 5.8 times. The highest rate of increase in the value of manufactured products to the value of the previous year was recorded in 2009, when this indicator increased by 78% over the previous year value.

It is worth mentioning that the increase in the value of output produced in the manufacturing industry of medicines and pharmaceutical products in Moldova in the period under review is due to both the increase in natural units of manufactured output and rising prices of manufactured products.

It is worth mentioning that the pharmaceutical market has certain specific elements compared to other markets for goods and services, which limits full implementation mechanisms of the market economy based on free interaction between supply and demand.

It is interesting to examine the structure of the pharmaceutical market in Moldova as sales volume of the total market, which is presented on the following figure.

It is noted that the structure of the pharmaceutical market in Moldova according to the sales volume of the total market in 2012, the largest share is held by companies specialized in the wholesale of pharmaceutical prod-

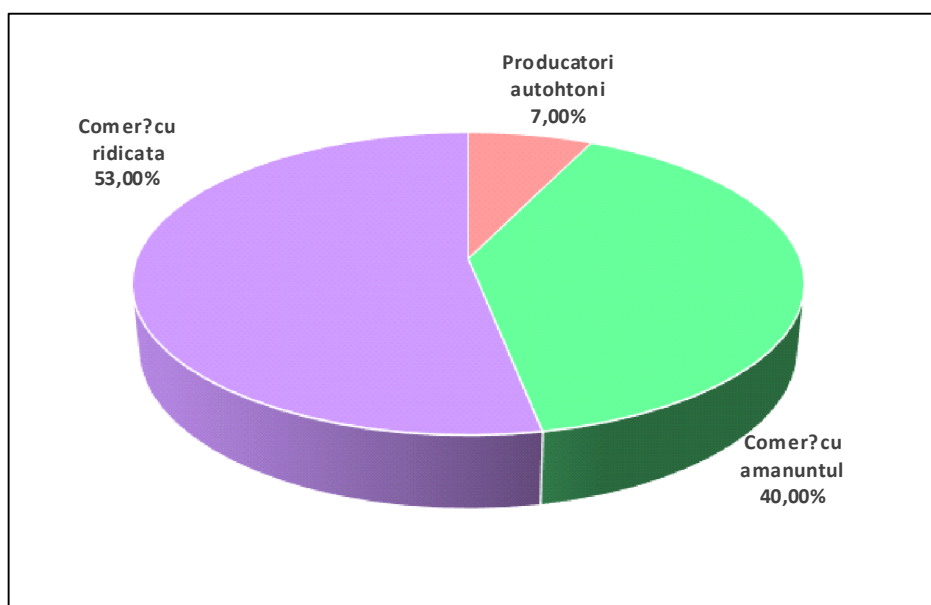


Figure 4. Structure of the pharmaceutical market in Moldova according to the sales volume of the total market in 2012

Source: [3, p.32]

ucts which use is about 53% of sales in this market. In turn, those specializing in retail of pharmaceutical products account for about 40% and the lowest share are held by manufacturers of medicinal products.

In 2012 178 companies worked in the Republic of Moldova, registered in the State Register of the Republic of Moldova that practiced the type of wholesale activity of pharmaceutical products, including 72 pharmaceutical deposits and 106 businesses, importers of pharmaceuticals.

It is interesting to note a comparative examination of the development of medicines price index relative to analog index prices of food and non-food products marketed in the Republic of Moldova in 2007 - 2013. The level and structure of price for offered enterprise products is the expression of the potential inside the company and the situation on the market. Pricing is closely related to market strategy and other components of the marketing mix.

Table 1. Evolution of the consumer price index in some groups of products in RM in 2007 – 2013

Types of goods	2007	2008	2009	2010	2011	2012	2013
foodstuff	111,0	115,6	94,4	105,7	108,4	103,8	106,6
non-food products	113,1	108,3	99,7	107,3	105,8	104,2	104,3
drugs	120,7	110,6	109,5	117,2	95,2	100,9	103,1

Source: [5]

After examining the comparative evolution of the drug prices index in relation to analog index of prices for foodstuff and non-food products marketed in the Republic of Moldova in 2007-2013 shows that this indicator varies uniformly, having an actual trend.

In general, basing on the graph we can conclude that the price index for all categories of goods recorded a peak in 2007, with the exception of food, whose upper limits manifest in 2008. At the same time it is noted that during 2007- 2010 medicines are a category of products that recorded the highest rate of prices, i.e. prices grew namely for those products with the highest rates. However, in 2011-2013 the situation changes radically and medication records a considerably lower price index (95.2 to 103.1%) compared with non-food goods and food. This is due to the introduction of state regulations related to medicines pricing, which will be analyzed in the paper just below.

A particular interest is paid at the examination of the structure of medicines sold in Moldova according to the product category and to the level of their price: cheap, average and expensive that is shown in the chart below.

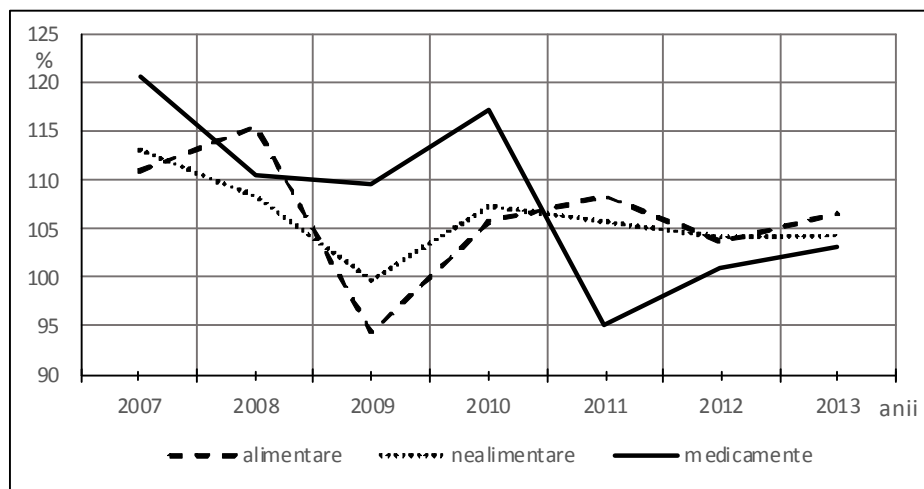


Figure 5. Evolution of the consumer price index in some groups of products in Moldova for 2007 - 2013

Source: Prepared by the author based on data from statistica.md

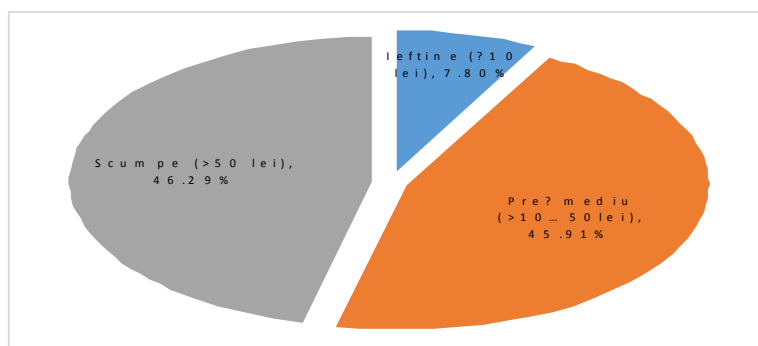


Figure 6. Structure of medicines sold in Moldova according to their price level in 2011-2013

Source: Prepared by the author based on data [2, p.15]

Comparing medicines sold in Moldova according to their price level in 2011-2013 it is observed that cheap medicines lose their weight (up to 10 lei) from 9.47% in 2011 to 7.8% in 2013. The share of medicines sold at an average price ranging between 10 and 50 lei tends to decrease from 47.74% to 45.91%. At the same time the share of expensive medicines (with unit price 50 EUR) is from 42.79% to 46.29%. These trends are explained by the devaluation of the MDL and by increasing household incomes that tend to purchase more expensive drugs, waiting from them better effects.

Conclusion. In recent years the pharmaceutical market in Moldova has grown quite pronounced, especially after improving the legislative framework in the field, and with the creation of Medicines Agency in 2005.

The offer on the pharmaceutical market in Moldova is composed of original products offered by one manufacturer that has developed new product and from generic products that are already on the market for a certain period of time and that are offered by a wide range of manufacturers. Taking into consideration the sources of training supply of the pharmaceutical market in Moldova following categories can be identified: national local producers, local producers with foreign capital, importers.

The number of domestic drug producers in 2005-2012 shows a rising trend, but the introduction of Good Manufacturing Practice Rules for medicinal contributed to the fact that the number of domestic producers of medicines was reduced in 2014 almost half: from 28 companies, that were active until 2013, only 16 companies will continue to practice this activity.

The value of production in manufacturing industry of medicines and pharmaceutical products in Moldova in 2005-2012 has seen an upward trend, increasing during this period to about 5.8 times.

The structure of the pharmaceutical market in Moldova according to the sales volume of the total market in 2012, the largest share is held by companies specialized in the wholesale of pharmaceutical products which use is about 53% of sales in this market. In its turn, those specializing in retail pharmaceutical products account for about 40% and the lowest share are held by drug manufacturers.

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Data prezentării: 27 decembrie 2014



DREPTUL EUROPEAN: TEORIA ȘI PRACTICA APLICĂRII

FORMAREA DREPTULUI ADMINISTRATIV EUROPEAN CONTEMPORAN: MODELE DE DREPT ȘI STATELE RECIPIENTE

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Rezumat

În articol, autorul analizează premisele formării dreptului administrativ european. Sub aspect teoretic, autorul evidențiază două categorii de particularități structurale ale dreptului administrativ european. Prima categorie ține de teoria managementului administrativ, a bazelor lui normative. A doua categorie de particularități structurale ale dreptului administrativ european, care reflectă relația statului cu individul. Autorul interpretează aceste particularități din perspectiva volumului și limitelor sarcinilor, și competențelor organelor administrative, reflectând nivelul interacțiunii organelor administrative cu dreptul.

De asemenea, sunt descifrate particularitățile dreptului administrativ francez; dreptului administrativ german; dreptului administrativ britanic.

Cuvinte-cheie: premisă, drept administrativ francez, drept administrativ german, drept administrativ britanic, sistem administrativ.

FORMATION OF MODERN EUROPEAN ADMINISTRATIVE LAW: LEGAL MODELS AND RECIPIENT COUNTRIES

Abstract

In the article, the author analyzes forming premises of European administrative law. Through theoretical aspect, the author emphasizes two categories of structural features of European administrative law. The first category is related to administrative management theory, its normative foundations. The second category is related to structural features of European administrative law that reflects the relationship of a state with the individual. The author interprets these features in terms of volume and limits of the administrative tasks and powers, reflecting the level of interaction between administrative bodies and law.

The peculiarities of French administrative law; German administrative law; British administrative law are highlighted as well.

Keywords: *premise, French administrative law, German administrative law, British administrative law, administrative system.*

Introduction. Before describing the main types of administrative law in Europe, one should analyze the features and components which characterize the types of administrative law, as well as to answer the question: "What are the signs that can be regarded as structure-forming?"

In this regard, we note that any administrative and legal system acquires its specific character through two categories of structural features. The first - concerns the organization of the control system in a broad sense, i.e., horizontal and vertical structure of government, administrative staff and internal procedures. The second - concerns the relationship between government and society, and, ultimately, the relationship between administrative authorities and natural persons being within the territory of the state - residents and legal persons, and, above all, citizens.

For a clearer understanding of these two categories we will analyze these two categories of structural features referring to the history of law in different countries - now members of the European Union.

Applied methods: situational analysis, comparative study, historical method.

Research results. The first category. From a historical perspective, the organization of management in general had a great influence on the develop-



ment of administrative law. For example, the application of common law to regulate issues of the British administrative authorities is often justified by the fact that in the 18th century and the first half of the 19th century, the local administrative-territorial bodies were the main actors in the control system[1]. Until now, rather loose structure of the British government explains why here the boundary between public and partial law and especially between the public and private law and legal institutions is so conditional.

In France, in the first half of the 19th century, local administrative and territorial authorities were also controlled by the courts of general jurisdiction and without any special rules were subject to civil law[2].

The reasons for this can be easily understood. In the 18-19th centuries executive power was concentrated in the hands of the monarch (in the UK - in the hands of "the King - in the parliament") and at the same time the monarch (albeit partial) was still considered as sovereign. Accordingly, the government and people, who carried out the powers on his behalf, were seen as representatives of the sovereign. However, local governments had very limited rights, making them completely mapped to individuals.

Thus, they could without much difficulty, as well as private persons, be subject to regulation by the civil law (in France) or "common law" (in the UK).

Another direction of impact on the system of administrative law is the principle of direct democracy - the most comprehensive and fully implemented in Switzerland[3]. From this perspective, it becomes clear - why the government is directly responsible not only in relation to the political authorities, but also directly in relation to citizens, communes and cantons.

As a consequence, in the political life of Switzerland the principle of democracy was more important than the principle of the rule of law (superiority of law). Control of representatives of the people, or respectively by the people was more important than the control of the judiciary.

Consequently, legal issues that had direct relevance to the judicial review of bodies' controls, had for a long time only a subordinate role.

Another example of the influence on the administrative system, implicitly on the administrative legal system, is the principle of federalism, which in the 19th century was embodied primarily in Germany and Switzerland. This historical premise eloquently explains the diversity of existing legal and administrative systems in the European Union.

In this regard, however, it should be noted that the implementation of the principles of federalism in Austria and Belgium, as well as the princi-

ples of regionalism in Italy and Spain did not have, however, a large influence on the development of the administrative organization of these countries as their administrative law and order had already been sufficiently developed and established.

The second category of structural features of the administrative system and administrative law formation in Europe - the relationship between the state and the individual, we will consider in terms of a) the scope and limits of the tasks and powers of the administrative bodies; b) the degree of coherence of control powers and regulations.

To illustrate point a) - the degree of influence of the administration on the people, in terms of the volume of authority, we will give a few examples: 1) strengthening of state intervention in economic activity and the implementation of regulatory functions have far-reaching implications for existing and functioning institutions relevant to the implementation of management. The emergence of new responsibilities of the state in the economic sphere leads to the emergence of new organizational forms and different types of state-owned companies, which assume social functions of the state. The state becomes less mediated between economy / production and a man, becoming more directly influencing and at the same time vulnerable to law enforcement. Although one should note cases of favorable state intervention in the areas of financial and economic relations - especially in crisis situations (recent financial crisis in Europe and the United States is another proof).

Another example. If control bodies are active in the field of education or social services, as well as in public services, as a rule, they have a number of tools that enable them to have a decisive impact on people. At the same time they carry out these activities, not only with the orders, commands, permissions and prohibitions, but also through the provision of services, mainly of a material nature.

The last example in this context concerns the relationship of state with church. Earlier the existence of the close relationship between church and state led to restriction of people's freedom of choice concerning the religious faith and the church. Today, in most European countries a state religion directing people in their spiritual definition no longer exist. This fact, however, does not rule out that some religions, churches and religious groups can enjoy special privileges.

Concerning point b) - connectedness of control bodies by law, we will note that it is fundamental. In this context, we will present some basic ideas



of the theory of administrative and administrative law in Europe: The primary purpose of administrative law, as William Wade emphasized, is to keep the possibility of executive power within acceptable legal limits in order to protect citizens from the abuse of these opportunities[4]. Later, developing this idea Fritz Fleiner pointed that administrative law serves as a legal regulation of relations arising between the control by the state or a public institution performing public administration and his subjects, individuals and organizations[5].

In the early 19th century, connectedness of government bodies by law was expressed rather weakly. Gradually the connectedness by law intensified, leading, ultimately, to the recognition and celebration of the rule of law (United Kingdom), the principle of the state of law / Rechtsstaat (Germany) and the principle of legality and the rule of law / principe de legalite ou preeminence du droit (France). Modern administrative functions in the EU are based solely on the principle of the state of law or the rule of law.

Consequences of strict adherence to this principle are the following:

1. Control bodies' obligation to comply with established controls and legal framework of their activities. The more detailed are the legal regulations that have been adopted by Parliament as a body of popular representation, they are also secured by the Constitution, the more important are these legal limits for administrative bodies.

2. Mandatory control of independent authorities over the activities of management bodies, which is carried out mainly by the courts.

3. The whole system of administrative law is defined by the principle of the rule of law, in the result of which the individual as a subject to be protected is increasingly in the focus of public law.

Of course, the principle of the rule of law can be designed in various ways by different symbols - the rule of law, state of law, the principle of legality and the rule of law. At first glance, these semantic differences are minor, but, in fact, they reflect different intrinsic characteristics of different systems - types of administrative law in Europe.

It is necessary to distinguish between three types of administrative law, each of which is called by the name of the country in which they were first put into practice: French, German, British type.

Let us consider each type of administrative law from two perspectives: historical development and the system of administrative law that is related to this type.

So, the French type of administrative law. Originally French administrative law and order were characterized by the following features: a) centralism, which meant that the central government had very broad supervisory powers over all subordinate structures of public administration and local governments, founded after 1930; b) the principle of legality, which meant that only law could allow restrictions on fundamental freedoms, and that it namely the act of legislation had a high place among the legal sources. Judicial review of control bodies is carried out primarily by the State Council, i.e. the body composed of senior officials, who also performed advisory and judicial functions; c) broad competence of administrative proceedings bodies: from the very beginning the State Council was competent to supervise administrative bodies, legal regulations and treaties of governing bodies. Later, however, this competency unit was complemented by claims for damages and disputes over public property.

Over time, the shortcomings of the original French system became more and more apparent. With the increase of problems of public administration consistent implementation of the principle of centralism, the system became more cumbersome and less effective, which was subjected to severe criticism from public opinion.

Since 1982, substantial reforms were carried out aimed at decentralizing the system of administrative law, first at the level of legislation, and then, in 2003, by changing the Constitution of the country. Nevertheless, France remains a unitary state with many relatively decentralized administrative and territorial units (regions, departments, municipalities and communities).

In addition, the principle of legality was found to be deficient, and therefore complemented by the principle of priority of the Constitution and international legal instruments. It should be noted that these legislative innovations were not easily implemented. For example, the principle of the primacy of international legal instruments was recognized by the State Council in full capacity only in 1989, and constitutional control was recognized only after the adoption of the constitutional amendment on 23 July 2008, before this regulatory control in full capacity was carried out only in reference to new laws passed, but unpublished, by Parliament.

These and other legislative changes[6] - the separation of advisory and judicial functions of the State Council; giving important authority to administrative courts to change the content of the disputed administrative acts and adopt new ones; legislative strengthening of the adversarial nature of



the trial - led to a radically qualitative change in the French system of administrative law.

States with the administrative and legal systems became influenced by the French model, and are represented by a large group, which includes the Netherlands, Belgium, Italy, Spain, Portugal and Greece. The similarities of institutions and agencies, as well as the norms of legal regulation of state (public) services in these countries are caused by the fact that the organization of the administration bodies was based on the same principles of centralized bodies as in France, following mainly the French legal model.

But it should be noted that countries out of this group – the Netherlands, Belgium, Italy and Greece – during last decades did not always follow the French model. These states also took into account their own traditions and needs. Moreover, these countries were also susceptible to other external influences. As a result, Italy and Belgium, for example, moved from centralism to regionalism and federalism, respectively; and Spain and Portugal, gradually began to conceive a number of institutions of German public law, which currently allows us to speak of the existence of mixed French-German model.

German type of administrative and legal system - came to light quite late, however, quickly and greatly influenced on other European countries. At large, only after the Second World War, Germany was able to provide a sufficient basis for state of law.

Today German type of administrative law is characterized by a number of features, among which the following should be highlighted: 1) a high degree of institutional differentiation, on the one hand, at the level of federal states, which are perceived as states with their own constitutional-statutory and legislative powers, on the other hand - at the level of well-developed institutions of self-government; 2) recognition of the supremacy of the Constitution, in particular, the basic constitutional rights and freedoms; 3) bodies of administrative justice are part of the judicial power system and they exercise exclusively judicial activity. Their role is mainly within the legality of administrative acts testing to resolve disputes between citizens and government.

Over the past nearly seven decades German type of administrative law, as it was already noted, has attracted the attention of other European countries. The reasons for this are the following factors: 1) German administrative law is based on modern, well-defined texts. Unwritten rules and case law do not play such a significant role, as in French law; 2) German system consists of a monolith (and this is important). It is based on the principles of separa-

tion of powers and effective judicial protection of the individual enshrined in the Constitution; 3) judges have considerable powers in respect of the administration. A court cannot only cancel the contested administrative act, but also to adopt a resolution with more far-reaching consequences.

Concerning the adjustment of the German administrative system and its legal security over the past decades, we will note that efforts have been made to strengthen federalism - the main trend is still developing in the direction of greater integrity and uniformity, resulting in fairly uniform legal and administrative regulations which have been developed nationwide and largely functioning[7].

In general, it should be noted that the changes that happened are not significant, especially since other areas of administrative law generally remained without any changes. As before, in the framework of the German model too little attention is paid to the legal legitimacy of judicial review of government regulations, which in most cases cannot be carried out directly at the request of the individual. The complex of liability issues of public authorities' alienation of property, as before, remained in the competence of the courts of general jurisdiction.

Despite the conservative nature of German administrative organization and administrative law, it had a serious impact on a number of foreign countries in Europe - especially on such German-speaking countries like Austria and Switzerland. Despite the fact that these two countries succeeded in their national unity before Germany, making their systems of administrative law partially simultaneous with the development of the German system.

Two recipients of the German model are of great interest in this regard - Sweden and Finland, which for a long time, due to the geographical distance did not experience any impact from German legal and administrative system. Also the decisions of the German type of administrative law in two countries of southwestern Europe - Spain and Portugal - seem somewhat unexpected. After all, after the collapse of socialism in Europe, Hungary and Poland were subjected to this influence, which, in fairness, it should be noted, were under influence of this model at the beginning of the 20th century.

Thus, despite the later formation of the German state administrative-legal system, it is nevertheless essential to the establishment of a pan-European model, along with French type of administrative and legal system.

The existence of so-called "Franco-German" hybrid system of administrative law in a number of European countries shows that the French and



German typology is not so different to each other and that continental European types of administrative law can be combined with each other without much difficulty. The evidence of this is the process of registration of a modern European administrative law.

UK administrative law was institutionalized in its traditional form during the 19th century. Its main features were the weakness of the central government and the dominant position of local authorities; the rule of law and “common law”; control of the administration by the Parliament and the ordinary courts; use of mainly civil law to government bodies[8].

Through the weakness of UK central government one can explain why the organization and functioning of local government were regulated, managed and controlled directly by the Parliament and the courts. The rule of law and common law were an expression of the power of Parliament. For this reason, the idea of adoption of the Constitution in a formal sense was refuted in principle, and the action of international treaties at the national level was allowed only after their implementation into national law.

During the 20th century, the British system of administrative law, there were a variety of latent processes, according to which Parliament often neglected its control function and passed laws that gave government bodies, including the government, more and more power and freedom of action. Along with this, the control of courts of general jurisdiction over the control bodies gradually weakened, which was compensated by the creation of numerous independent administrative bodies, the so-called administrative tribunals, which, as the first instance, carried out checking of the appropriateness and legitimacy of the government bodies, using less expensive procedure. In this regard, it should be noted that, before this, the trial for the plaintiff was quite costly.

Despite these new trends in the development of British administrative law and law in general, the United Kingdom, from a continental-European point of view, continues to largely retain its originality. With regard to the sources of law, it is important to bear in mind that in the UK, as it was pointed, there is no Constitution in the formal sense. Parliamentary legislation is still considered to be a clear exception to the common law and the common law, as before, acts as a source of general principles of law. Perhaps it is this peculiarity that led to the fact that in Europe the British model of administrative law had only a limited impact. Certain similarities with the law of the United Kingdom is found in administrative law and order in Ireland, Denmark, Norway.

Conclusion. In conclusion, it should be noted that the experience of of modern system of law formation, particularly administrative law, is fundamental to the reform of the entire legal system of the Republic of Moldova. And another way, as the study of the given experience, is its careful application specific to our country, which is difficult to imagine.

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Data prezentării: 30 decembrie 2014



PREGĂTIREA PROFESIONALĂ A SPECIALIȘTILOR ÎN DOMENIU PAZEI ȘI SECURITĂȚII ÎN REPUBLICA MOLDOVA ȘI ÎN STATELE EUROPEI: PROBLEME ACTUALE ȘI PERSPECTIVE

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Abstract

În ultimii ani, țările străine au acordat o mare atenție la căutarea unor noi metode de formare a studenților, contingente în instituțiile de învățământ. Există o procedură bine gândită și ajustată de recrutare și selecție de unități, centre și universități speciale profesionale de învățământ. Fiecare țară are propriile caracteristici distinctive care s-au format în condiții de factori teritorial, istorici, politice, socio-economice și particularitățile sistemelor legislative naționale. În general, se poate observa că în țările din Europa continentală modernă, educația în domeniul protecției, pază și securitate este prezentată într-o structură pe trei niveluri: primul ciclu - licențiat Studii superioare - licență, al doilea - masterat-grad-specialist, al treilea - doctorat. Aceasta corespunde structurii ierarhice a învățământului superior, inclusiv sistemului de aplicare a legii.

Cuvinte-cheie: *formarea unor principii unice de învățământ și standarde, învățământul special profesional, protecție, pază și securitate, sistem european de învățământ profesional*

PROFESSIONAL TRAINING OF SPECIALISTS IN THE FIELD OF GUARDING AND SECURITY IN THE REPUBLIC OF MOLDOVA AND STATES OF EUROPE: CURRENT AND PROSPECTIVE ISSUES

Abstract

In recent years foreign countries have paid great attention to the search of new methods of formation of the students contingent in educational establishments. There is a well-thought and adjusted procedure of recruitment and selection of the special professional educational establishments, centres and universities. Every country has its own distinctive features that have been formed under territorial, historical, political, socio-economic factors and the peculiarities of the national legislative systems. In general, it can be noticed that in the countries of the modern continental Europe the education in the sphere of protection, guard and security is presented in a three-level structure: the first cycle- Bachelor's degree- licensee, the second cycle- Master's degree-specialist, the third cycle- Doctor's degree. This corresponds to the hierarchical structure of higher education including the law-enforcement system.

Key-words: *formation of unique educational principles and standards, special professional education, protection, guard and security, European system of professional education.*

Introduction. Currently, due to the processes of globalization there is a need to harmonize training for law enforcement and the formation of common principles and standards in training, various specialists of law enforcement agencies. In this regard, it is useful to study international experience in this field in order to introduce it into the national educational system. In recent years, foreign countries more and more attention is paid to the search for new ways of formation of a contingent of students of educational institutions. Operates an elaborate and well-established procedure for recruitment and selection selection (recruitment and selection) in special vocational training institutions, centers and universities.

Of course, that each country has its own differences, which were formed under the influence of regional, historical, political, socio-economic factors and features of national legal systems.



In general, it may be noted that special education professional in the field of safety and security in the countries of continental Europe today can be represented as a three-tier system of first cycle bachelor - the licensee, the second master - a specialist third doctor, according to the hierarchical structure of the construction of higher education in the Bologna Process including for law enforcement. Three levels of professional training involves a gradual increase and complexity of knowledge, skills and practical skills as promotion and the need to respond to the changing conditions of performance.

Applied methods: situational analysis, content analysis, comparative study, allowed us to elucidate a specific training system in different European countries. Investigation results allow us to capitalize on the experience of developed countries in Europe and make recommendations for Moldova.

Research results. Regardless of the presence of higher education, work experience and rank candidate in office compulsorily undergo special training duration and content of which are due to view profile career (career profile). Depending on the above-mentioned circumstances, applicants for the position held or a person has received a nomination for the relevant post, pass some form of training in special training centers or other departmental educational institutions and universities in general, special programs relating to special expertise. Minimum for a given level of training is usually a bachelor's degree, (bachelor's level police education), and the maximum - a master's degree (master's degree).

Interesting is the fact that in some European countries training of law enforcement on the basis of common national standards of professional education, and in others, training (except for senior staff) is focused on a narrow professional special education. At the same time, such systems are not isolated, and actively interact with and integrated into the overall system of national education.

Also, one of the trends of the European system of special education is a close international collaboration and cooperation. Among the main reasons for the integration of training on the European continent, which is especially active in the 90s of the last century, one can identify the need for special education professional approach to unified European standards, based on best practice training for special forces of the leading countries of the world, as well as the establishment of various integration organizations and associations.

It should be noted that the process of integration into the European Union has led to the fact that a number of countries have implemented

reforms in the law enforcement system, including affected the educational process and training. A number of countries fully borrowed the Western system, implement it at the national level.

A few words about training for law enforcement system in our university of the State University of Physical Education and Sport (USEFS).

In the Republic of Moldova in connection with the course on European integration and system reform of state structures, in training including law enforcement, there have been some changes. Was approved a new specialty, entered in the list of specialties at number 86 - Security, Privacy, and Security. This specialty has two specializations - Provision of Civil Protection and Public Order and Security Services property. Similar trends exist in the universities of Russia, Ukraine, Romania and other countries, but only in the Republic of Moldova, provides training in this specialty and the diploma of getting higher university education.

Training in this specialty, was organized for the first time at the State University of Physical Culture and Sport, where, in consequence, was created Department of Safety and Security Protection. Curricula for the specialty were developed and approved by the Ministry of Education, Ministry of Internal Affairs, the Ministry of Justice and the Information and Security Service of Moldova. Currently, training is carried out in accordance with Balonskim process consists of two cycles: 1 cycle - the licensee Bachelor (3 years) duration of 2775 hours and 2625 auditorial hours of individual study (180 credits) and second cycle - Master's (2 years) including auditorialnyh 770 hours and 2830 hours of individual study (120 credits). Selection of students is organized on the basis of two entrance exams, one of which is physical training and test their specialty. Training is provided on the budgetary and contractual basis.

Due to the nature of the University a lot of attention is paid to cooperation with law enforcement and private security agencies. The analysis allows us to obtain the following information - about 50% of graduates in the future continue to serve in the various law enforcement agencies and special services, including in the State Security Service, a team of special police "Fuldzher" National Inspectorate of Police, Carabinieri troops (internal troops), Department of Penitentiary Institutions of the Ministry of Justice (special operations unit "Panther") territorial police stations, state-owned enterprise "Security Guard" and other services. Approximately 40% of graduates continue their work in the private and public security agencies and security services. 10% choose other spheres of activity.



As part of the faculty teaching activities carried out 5 doctors of legal sciences and professors, 20 candidates of sciences and associate professors, 20 lecturers and senior lecturers. Regularly organized and conducted round tables, seminars and conferences on topical issues of security, carried out scientific and practical research, compiled training manuals.

In connection with the police reform, the system of training of police personnel, as well as the gradual demilitarization of the police and, in accordance with the European practice of transferring part of the function of law enforcement agencies, public and private security firms, the role and importance of this specialty for the Republic of Moldova increases. This imposes the need to pay more attention to training and education.

Analysis of international experience. Slovenia. Today, training and professional development of leading cadres law enforcement system in this country is carried out two educational institutions - Police High School and the College of police training and security, which is part of the Ministry of Internal Affairs and at the same time - a branch of the University of Ljubljana.

In this regard, the College training police and security in Ljubljana (College of Police and Security Studies - CPSS) currently is an educational institution of higher education, which implements a 3-year training program approved by the Board of Higher Education of the Republic of Slovenia.

Poland. After the reforms in the police training system of vocational training in Poland consists of several stages: entry-level, mid-level and senior level.

Graduate and postgraduate education is carried out in the Police Training School in Szczytno, which trains police officers of higher qualification.

Poland's accession to the European Union made it necessary to develop a new concept of training of highly qualified personnel. The essence of these innovations is to adjust the training programs of special shots in the direction of increasing, as the number of legal disciplines, as well as the amount of instructional time.

Depending on the specialization of the legal discipline in the programs on the basis of general secondary education have a different number of hours. The program specialization protection of public order, they are taught in the amount of 517 hours, which is 19.2% of the total training time. The share of legal subjects in the training of criminal police of 20.2%, or 572 hours.

In France, the police along with senior police personnel are recruited from among civilians with a university education where you can get out of the departmental system.

Moreover, the highest priority in management training police is made on attraction of university graduates for positions of Police Commissioners. To do this, set quotas for admission to educational institutions for the police officers of the civilians who have appropriate education. For example, in the Higher School of police inspectors in Cannes are taken 55-60% of police officers with experience, and the other candidates for the study are drawn from the young people who has a diploma of civil institution. In the Higher National Police School near Lyon accepted more than half civilians who have completed a full course of university education.

Another fundamental difference between the French model of leadership training is the police, as in the above system of vocational training of the EU countries, a pronounced practical training.

The training term of officers of the average criminal police in the Graduate School of police inspectors in Cannes is 16 months (including the theory and practice). Contender for the post of Police Commissioner is being trained for 2 years at the Higher National Police School in Lyon. In this theoretical training and practical training alternates. A practice is an integral part of learning.

Candidates for the middle and senior officers of the police have an opportunity to distance learning.

Greece. Training and retraining of employees of the State Police in Greece is engaged in the Police Academy in Athens. It consists of: Police School (basic training), school officers (preparation average commanding structure), high school officers, Foreign Language School and School of Professional Studies.

For school officers allowed non-commissioned officers under the age of 35 years after the date of entrance exam and on the recommendation of the head. Get permission for training may also representatives "from outside" with the appropriate university education before the age of 28 years. Education in the school lasts 3 years, alternating between theory (10 months per year) and practice.

At the same time, you should pay attention to another important point. Each graduate school officers have to work in the police at least 10 years of age.

All police officers embarking on training at the Police Academy in Greece must undergo pre-deployment training in vocational schools within 9 months.

Police training on the rank of senior officers is carried out in the school of higher officers of the Academy and lasts for 5 months. School of Foreign Languages, in turn, offers courses in German, English and Italian.



In addition, the Police Academy offers a variety of training courses (refresher courses), including special disciplines. Traditional subjects of specialized police training here are the functions and actions of the police; relations between the police and society; problems with drugs; personal safety and self-defense; traffic; control cars, motorcycles and other vehicles.

Conclusion. After analyzing the above, we draw the following conclusions:

1. Professional training of law enforcement agencies on the European continent is a complex, plastic system able to adapt to different conditions and requirements in connection with the presence of the candidates, from the field of the police and of civilian fields. The latter may be offered a course of accelerated vocational training (accelerated police education), as in the national police academies so in relevant training centers and universities.

2. In recent years, the professional training of law enforcement in most European countries clearly seen international integration and cooperation, commitment to joint problem solving effective personnel management agencies and units. This approach helps to overcome differences in national systems of vocational training, and at the same time solves the problem of training to work in a united Europe.

3. At the senior positions in the police may be nominated as regular officers (ie, permanent police officers, similar to a licensed our internal affairs bodies) and civilians, mainly from among the representatives of law enforcement bodies (lawyers, prosecutors, judges, lawyers) specialists or administrative profile. An important criterion is the presence of a higher legal or other professional special education, as well as the experience and skills of leadership or public works. In this case, all the candidates are subject to mandatory professional training in specialized schools.

4. Police officers, even when there is significant work experience, should undergo refresher courses or training, the duration of which can be from one week to six months, to a maximum of one year. In determining the duration of the course takes into account the age, his education and length of service.

5. The main task of the professional special leadership training police, largely determines the success of their future management activities in the field of law enforcement, is the formation of a professional who is able to effectively apply their knowledge in practical work. In this regard, the development of training programs paid particular attention to the content of the subjects taught, as well as effective control of the audience.

6. Active and professional orientation training achieved widespread in European special education practical training (experiential learning), which

is expressed in the use of interactive learning systems, modeling of practical problems and working out their role in conditions as close to real.

7. One of the features of the European systems of professional leadership training is a constant exercise of “feedback» (feedback) between students, teaching staff, administration of educational institutions at all levels, as well as graduates and practitioners (through roundtables and surveys, surveys, review, etc.). In addition to national measures practiced as well and international scientific and practical seminars, allowing experts to share their experience of law enforcement agencies of different countries.

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Data prezentării: 30 decembrie 2014



AGRESIUNEA – ABORDARE TEORETICĂ. PARTEA I

Hominum causa omne jus gentium constitutum est
(Tot dreptul internațional este creat pentru binele umanității)

Constantin LAZARI, doctor în drept internațional, IRIM

Rezumat

În acest articol este supusă analizei agresiunea în relațiile interstatale și documentele internaționale care reglementează conflictele armate. Autorul interpretează definițiile agresiunii și abordările teoretice ale agresiunii în evoluția lor istorică. Printre rezultatele investigației poate fi menționat: războiul și-a păstrat în timp obiectivele și motivele, și-a schimbat mijloacele; dreptul umanitar internațional este preocupat de „scoaterea” războiului în afara legii. Securitatea colectivă contemporană este universală, ea cuprinde nu doar aspectele militare și politice, dar și pe cele economice, ecologice, umanitare și juridice. Ținem să subliniem că, în prevenirea conflictelor, eliminarea amenințărilor la pace și securitate, cea mai eficientă metodă de asigurare a păcii o reprezintă/constituie diplomația preventivă.

Cuvinte-cheie: agresiune, război, crime de război, crime contra păcii, crime contra umanității, conflict, drept internațional umanitar, Convențiile de la Haga (1899, 1907), Convențiile dreptului internațional de la Geneva 1949, Tratatul general de renunțare la război

AGRESSION – THEORETICAL APPROACH PART 1

Hominum causa omne jus gentium constitutum est
(The International Law was created for the humanities wealth)

Abstract

In this article there is full analysis of the aggression in International relations between states and all international documents that regulate the armed conflicts. The author introduces some general definitions for the aggression and theoretical approaches in the historical evolution of the aggression. Between the results of the investigation, may be mentioned that: the War kept motives and objectives; changed the means; the Humanitarian International Law is concerned about the war to be outlawed. The modern collective security is universal; it includes not only military and political aspects, but also economic, ecological, humanitarian and legal. We would like to emphasize that while preventing conflicts, eliminating peace and secure threats, the most effective method is to keep the peace that presents preventive diplomacy.

Keywords: aggression, war, war crimes, crime against peace, crime against humanity, conflict, international humanity law, Hague conventions (1899, 1907), Geneva Convention 1949, General treaty on war renouncing.

Introduction. The War was and remains a scourge that was used in some states as the way of solving their own interests. The desire to obtain the result as fast as possible was always a motive to use the forces in relations between states. In general, motives and aims that were used by war remains timeliness, but only in every historical evolution of the civilization are different. The difference is concerned in the change of methods and means of the behavior in war. In this sense horrors caused while armed conflicts were continued to grow vertiginous. Actors of the international law vehemently rejected the idea of eliminating the illegality of the war as an instrument of national states. In this way, he created the premise “humanization” of armed conflict. The result was – the codification of international humanitarian law as a way to “indirect” international community awareness of the need outlawing war. Later, the humanity has worked “titanic” as to deter war’s start, and finally, outlawing war, decelerating it as



the most serious international crime. Making a brief foray in the beginning of coding the law of the armed conflicts, we see the creation of two separate branches: the International law in this domain, Hague Law (Conventions from 1899, 1907) and Geneva Law (Convention from 1949).

In addition to the action in humanizing the methods of waging war, mankind has concluded that the renunciation of force – is the fundamental link building peace in the world, because only in this way relations could be build on the trust between nations, doing thus, one of the brightest aspirations of the people – living together, developing peaceful, sheltered world from the interference of others in domestic and foreign affairs.

Applied methods: historical method, the analysis of the contents, comparative studies. The historical method permits us to see the evolution of approaching the war as the method of decisions of the international relations actor. The analysis of the contents permits us to valorize the contents of the documents, adopted in Hague in 1899 and 1907, and Geneva Convention (1949). The comparative studies permit us to sublimate the specific methods and processes.

Research results. Before the 20th century, the war was considered as a legitimate political tool. But with the increasing cruelty and the application of new methods of warfare during armed conflict, humanity has reached the common idea about the urgent need to identify new methods of eradicating the scourge, the total use of the force and ensure peace, involving itself: the permanent abandonment of conception of the fittest, recognition of equal rights for all, regardless of size, economic power, military, etc., the right to peace and security.

In the 20th century it seems to be a tendency for limiting the use of force (for example: Draco Doctrine 1902-1903), and later to stipulate “prevent if possible, the use of force in relations between states as a requirement for ordinary course of international life” (Conventions on the peaceful settlement of international disputes, signed at the Hague on October 18, 1907).

The unlimited right of states of warfare was first questioned in the peace conference in The Hague in 1899 and 1907. According to art. 1 of the Hague Conventions on the peaceful settlement of international disputes of 1899 and 1907, the Contracting Parties undertake to resolve conflicts, considering that circumstances allowed, peaceful settling. And art. 2, offering the possibility of using intermediate mechanisms to the use of force - but only if the circumstances offered this possibility [4]. Setting up the system

of Versailles was a resounding success by creating collective security system established by the League of Nations Covenant (1919) which essentially was based on Disarmament (art. 8), peaceful settlement of disputes and outlawed war (art. 11-15).

Article 10 of the Covenant of the League of Nations imposed an obligation of the States Parties to respect and maintain the territorial integrity, political independence and current of each state against external aggression. However, according to the Statute of the League of Nations, the legality of the war was set depending on the compliance or non-compliance of formal procedural rules.

It is noted that the League of Nations undertook a number of multilateral efforts for codification of unlawful war of aggression. There were drafted projects on mutual assistance treaty of 1923 and the Protocol on the peaceful settlement of international disputes on 2 October 1924. For example, the 1924 Protocol established by art. 2 absolute prohibition of war “except in cases of resistance against acts of aggression or acting in concert with the Council or the General Assembly of the League of Nations in accordance with the provisions of the Covenant or of this Protocol”. Thus, states that violated the provisions of this Protocol in accordance with art. 10 were qualified as aggressors. But in recital lack the required number of instruments of ratification of international instruments such projects have not yet entered into force. Only in 1927, the League of Nations, by a resolution of the General Assembly established: “... a war of aggression can never serve as a means of settling international disputes and, therefore, is an international crime.”

A remarkable success for the interwar period in the criminalization of war of aggression is the adoption of the General Treaty of renouncing war as an instrument of national policy (Briand-Kellog Pact, signed on August 27, 1928). Unfortunately, this international treaty has not had the desired effect on the grounds that it does not specify a procedure for collective coercion designed to suppress violence, and one of its main limitations is the prohibition to resort to war, not the use of other forms of force or threat thereof. However, Briand-Kellog Pact stands in cases of prosecution under the International Military Tribunals at Nurnberg and Tokyo. In the continuity of the trend established in the Versailles system, Briand-Kellog Pact inserted, on the diminishing importance of force in international law in 1933, in London, the USSR and 11 other states have concluded agreements on the definition of aggression. In this context, evoke Romania’s contribution to the development of international criminal law,



including through Titulescu's efforts who opened in London Convention of 1933 ("Titulescu-Litvinov Conventions") first definition of aggression in international law. A jurist and Romanian diplomat Vespasian Pella is worth mentioning, who since 1925 has proposed criminalizing international crime of aggression, recalled the words, which are particularly important in present of this great visionary: "Punishment of the Crime of aggression will give rise to a sense of international responsibility in the hearts of government officials, feeling less experienced until today".

The definition of aggression contained in these conventions was the result of collaboration between M. Litvinov, USSR Foreign Minister, and Titulescu, foreign minister of Romania, and is known as "formula Litvinov-Titulescu" [5]. Unfortunately, due to the failure of the required number of instruments of ratification, this document has not entered into force internationally, but, however, the Convention once served as a basis for further discussion in the process of defining aggression.

In this aspect achievements of the American continent are mentioned, to the prohibition of force by signing the Treaty on 10 October 1933 Saavedra Lamas, condemning the war of aggression, which sets in art. 1 that "the settlement of disputes or controversies is resolved in various peaceful ways and will only be authorized by international law". The second half of the XX century is marked by the results of the Second World War; creation of the United Nations; Cold War; creating a bipolar world; Non-aligned Movement appearance; the fall of the Berlin Wall and the emergence of an international society in which there are exuberant attempts to make a multi-polar world that has at its base the international principles established in the UN system.

The consequences of the Second World War brought to the fore dilemmas regarding the outlawing of war and, in the case of temporary inability to achieve this goal, the creation of a collective international security that would stem to a certain extent the undermining of international peace and security established after 1945. The result in this case was the creation of military-political blocs to consolidate regional peace and security against any subversive acts against members of alliances, such as NATO (NATO) (1949) and the Alliance Warsaw Pact (constituting treaty of May 17, 1955, formally called the Treaty of Friendship, cooperation and Mutual Assistance). The fall of the socialist bloc and the end of the Cold War has "diminished" the tendency of contemporary international society to continue to improve the international system of collective security.

At present, contemporary collective security is universal; it includes not only military and political matters, but other aspects, such as economic, environmental, humanitarian and legal. We want to emphasize that, in conflict prevention, elimination of threats to peace and security, the most effective way to ensure peace is the preventive diplomacy. Unfortunately, the political and ideological divisions of that time again put “obstacles” in the creation of a new security system, strengthening its legal framework and the fact of being expectations of the international community, with the adoption of the UN Charter, on 26 June 1945. The establishment of the “Iron Curtain” prevented and thwarted over 40 years the work of the UN. However, the target set in the early twentieth century, in the limit of force or the threat of it, continued to exist. UN Charter, art. 1 sets: one of the goals of the UN is to maintain international peace and security. UN Charter laid the foundation of educating a new “universal order” governing international rules, implementing them, outlawed the use or threat of force, overriding rules underpinning the current international order, and that moment has been recognized as *jus cogens* of (mandatory rules) - art. 2 (3 and 4) of the UN Charter.

Agreement on the prosecution and punishment of major war criminals of the European Axis Powers (August 8, 1945) is a document according to which the signatory states have decided that the International Military Tribunal establishes a judge for war criminals whose crimes are without geographic location. The agreement contained in Annex Statute of the Tribunal establishes the rules of constitution, jurisdiction and functions. According to art. 6 of the Statute of the Court *ratione materiae* concerned the following crimes:

a) Crimes against peace: ordering, preparation, initiation or execution of a war of aggression or a war in violation of international treaties or agreements, or participating in a plot to fulfill any of these acts;

b) War Crimes: violations of the laws and customs of war, in which were included with illustrative character, inhuman treatment and deportation to slave labor or for any other purpose of civilian population in the occupied territories, murder or ill-treatment of prisoners of war or persons at sea, the execution of hostages, looting of public or private property, wantonly destroying towns and villages or not justified devastation of them by military necessity;

c) Crimes against humanity: murder, extermination, bringing slavery, deportation and inhumane act committed against any civilian population any before or during the war, as persecutions on political, racial or religious grounds if such acts, regardless whether or not constituted a violation of the



domestic law of the country where it occurred, were committed as a result of committing any crimes under the jurisdiction of the Court or in connection with such a crime.

Regarding ration persone Court was competent to judge any person, acting on behalf of the European Axis countries, committed individually or as members of organizations of any of the crimes listed in the Statute of the Tribunal.

Charter of the International Military Tribunal for the Far East (January 19th 1946). The foundation of this international court ad hoc was the Potsdam Declaration of July 26, 1945, signed by the US, UK and China which joined on August 8, 1945, with entry into the war against Japan, USSR. Charter Court included in its general lines, principles and rules similar to those of the Statute of the Nurnberg Tribunal, with some differences: a) jurisdiction *ratione materiae* included crimes against peace, war crimes and crimes against humanity, in a formulation similar of the Statute of the Nuremberg Tribunal, noting that the crimes against peace, aggression was punishable whether or not there was a declaration of war; b) Court jurisdiction *ratione personae* was limited to persons accused of committing serious crimes, being empowered to declare certain groups or criminal organizations, as in Nurnberg [6].

Another important document is the Declaration on the inadmissibility of intervention in the internal affairs of States and the protection of their independence and sovereignty (UN General Assembly Resolution 2131 (XX) of 21 December 1965). This act declared prohibition of intervention in the internal affairs of states both directly and indirectly. It also condemned any military intervention or other forms which endanger the personality of any state. It is noteworthy that the preamble of the resolution included a common opinion that "... military intervention is synonymous with aggression...".

A very important document for international law is the Declaration of principles of international law concerning friendly relations and cooperation between States (UNGA Resolution no. 2625 (XXV) of 24 October 1970). From the outset by Preamble declaration reaffirmed the purposes and principles of the UN Charter including maintaining international peace and security. Principle 1 of the Declaration establishes the principle of non-application of force or the threat of it in international relations. The detailed exposition of the contents of this principle a phrase has been inserted directly that war of aggression was criminalized, and namely: "The war of aggression is a crime against peace, for which liability arises under international law".

An important document in the definition of aggression is the UN General Assembly resolution 3314 (XXIX) of 14 December 1974 on the definition of aggression. This document is an unprecedented victory in international law on the grounds that the Annex resolution adopted wording of the definition of aggression. It should be noted that despite the fact that this definition was adopted by a resolution of the UN General Assembly's (recommendation), the international society could see the fruits of the International Law Commission's work on this issue. The preamble text definition declares: "aggression is the most serious and dangerous form of unlawful application of force." In the same preamble the main purpose of adopting the definition of aggression can be identified: "... the retention of potential aggressor would simplify the determination of acts of aggression ...". According to art. 1 aggression is "the use of armed force by a State ..." and by art. 2 it is set as the priority principle in the act of aggression committed in demonstration. Art. 3 provides a list of instruments that qualify acts of aggression. And art. 4 establishes that acts enumerated in the list are not exhaustive and the UN Security Council may determine other acts which represent aggression under the provisions of the UN Charter.

A key document in international law is the Final Act of the Conference on Security and Cooperation in Europe (CESC), Helsinki, August 1, 1975 containing a codification of international law enshrined in the UN Charter and the Declaration of 1970. Thus, the CSCE established three new principles of international law additional to seven previously encoded in the UN. The Helsinki Final Act repeatedly established principle of non-resort to force or threat of force. It was established a common position that: "The States Parties shall refrain from any act which constitutes a threat of force or direct or indirect use of force against another State".

Declaration on the inadmissibility of intervention and involvement in the internal affairs of states (UNGA Resolution 36/103 of 9 December 1981) [133]. With this statement Declaration of 1965 and 1970 and Resolution of 1974 on the definition of aggression were repeatedly reaffirmed. This measure is a reconfirmation of all principles promoted in the UN at the time of its creation. 1981 Declaration prioritizes the applicability of the principle of non-intervention compliance. This is manifested by establishing obligations for states including refraining from the threat or use of force in international relations. By this declaration states are obliged to refrain from any actions that would destabilize the situation in a State or its institutions. In this context, various direct or indirect acts qualified as acts of aggression may fall under this act.

United Nations Convention on the Law of the Sea (Montego Bay (Ja-



maica), December 19, 1982) is a unique resort in the area of sea that was codified customary rules in this area formed over centuries or formulates new rules as a result of new requirements arising in the context of the rapid development of international society. Although this Convention is one of its provisions awakens an interest profile for the qualification of aggression in international law through art. 19 of the Convention by affecting the meaning of “innocent passage”. Thus, according to art. 19, parag. (1) the passage is innocent so long as it does not affect the peace, order or security of the coastal State. It must be in accordance with the Convention and other rules of international law. In parag. (2) thereof is exposed to an exhaustive list of activities which may be considered prejudicial to the peace, order or security of the coastal State committed within the territorial sea littoral states, namely: a) the threat or use of force against the territorial integrity or political independence of the coastal state or otherwise contrary to the principles of international law embodied in the Charter of the United Nations; b) exercise or practice with weapons of any kind; c) collect information at the expense of defense or security of the coastal State; d) defense or security of propaganda aimed at damaging the coastal State; e) launching, landing on ships or aircraft boarding; f) the launching, landing or taking on board of military equipment; g) embarkation or disembarkation of goods, moneys or person contrary to the laws and customs regulations, fiscal, immigration or health of the coastal State; h) deliberate and serious pollution, in violation of the Convention; i) fishing; j) research or elevation basins; k) interfering with the operation of any communications system or any other equipment or machinery of the coastal State; l) any other activity not directly connected with the transition. That list includes direct and indirect actions of armed nature activities qualify as acts of military aggression.

Statute of the International Criminal Court (July 17, 1998). By creating the International Criminal Court (CIP) international jurisdictions ad hoc were replaced. Following the creation of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda found that the establishment and work of these ad hoc jurisdictions would be mostly some desperate attempts to cover up the failure of the UN Security Council of the UN in maintaining international peace and security. According to art. 1 of the Statute, CIP has international legal personality. The characteristic feature of the CIP is to its permanent status and its statute expresses the requirement of international society to prevent and punish international

crimes that harm or endanger the nature of the fundamental values of international society. Jurisdiction *ratione materiae* of CIP is limited to the most serious international crimes: a) the crime of genocide; b) crimes against humanity; c) war crimes; d) the crime of aggression.

Ratione personae of CIP refers to nationals of a State Party to the Statute accused of a crime (art. 12, parag. (2) b)); nationals of a State not party to the Rome Statute, but has accepted the jurisdiction of the Court by declaration lodged with the Registrar, and based on UN SC decision (art. 13, letter b)). Also, according to art. 27 of the Statute official capacity as Head of State or Government, a member of the government or parliament, an elected representative or a government official in any case not exempt from criminal liability and not as such constitute grounds for reducing the penalty, immunities or special procedural rules which may attach to the official capacity of a person under domestic law and international law does not prevent CIP to exercise its power to this person [7].

UN General Assembly resolution 55/2 of 8 September 2000. “*Millennium Declaration*”. An important moment for the international community in terms of promoting the principle of “non-aggression” is the adoption by the UNGA the “Millennium Declaration” that signatory states have committed to “endeavor to free people from the scourge ... war, either within or between states...”.

After the entry into force of the Rome Statute on 1 July 2002 special working group on the crime of aggression was created. The primary purpose of this special working group was to develop a strict definition of aggression that would be inserted into the Rome Statute as an amendment. Proposals addressed in this working group and the types of definitions, in particular, focused on the methodological approach used by Bosnia and Herzegovina, New Zealand and Romania in their definition proposal submitted in 2001. The end result was the adoption of Assembly Member States the status of amendments to the Statute CIP, CIP resolution RC / Res. 6 concerning the crime of aggression on 11 June 2010 [186]. The definition adopted at the Conference in Kampala is inserted into art. 8 of this resolution. In general this definition has kept the same methodological approach that was mentioned. Of course it cannot be ignored that this definition includes the all definitions which have been worked in R & D in two stages (60-70 years and 80-90 years of sec. XX) and the Preparatory Commission and the special working on the crime of aggression in the CIP.



The first part of the definition is generic approach. First the influence is art. 6 of the Statute of the Tribunal at Nurnberg by the phrase “planning, preparation, initiation or execution...”. However, the latest version of the definition of “war of aggression” is replaced by “act of aggression”. Finally, the trend has been preserved to provide a general definition by focusing on the concept of using armed force contrary to the UN Charter by the following phrase: “... after nature, seriousness and extent, constitutes a serious violation of the UN Charter”. The goal is clear. There is a tendency to enlarge the scope of the definition by using the “act of aggression” and the reference to the UN Charter prohibiting the use or threat of force.

The second part of the definition has an influence list approach that included acts of aggression list of Resolution 3314 (XXIX) of 1974. Although in this case the difference is present in the context of an analysis and detailed approach would “complicate” situation of the entire process of defining aggression. The problem is that resolution 3314 (XXIX) of 1974 establishes that the list contained in art. 3 is not exhaustive and the Security Council may after examining a concrete situation establish the existence of an act of aggression. If the definition adopted by the Assembly of Member States CIP Statute on 11 June 2010 (Resolution RC / Res. 6 concerning the crime of aggression) [186] is a concrete list without any possibility of completing CIP. Of course, resolution 3314 (XXIX), 1974 still remains a benchmark for Security Council in determining acts of aggression. Moreover, the Security Council also rarely decides to use the phrase “act of aggression” in its resolutions.

Regarding the CIP by encoding restrictive acts of aggression could be limited in its decisions in the event of initiating a case on the fact of committing the crime of aggression. However, it cannot be denied that international society is in the face of new developments in methods of waging armed conflict and recorded new forms of aggression, which clearly exceeds the list codified in 1974. Conference in Kampala in 2010 was adopted the draft definition of the crime of aggression. But for the entry into force of amendments to the Statute on the crime of aggression is required 30 instruments of ratification. Currently being submitted new instruments of ratification by Liechtenstein (8 May 2012), Samoa (September 25, 2012), Trinidad and Tobago (13 November 2012), Luxembourg (15 January 2013), Estonia (27 March 2013), Germany (3 June 2013), Botswana (June 4, 2013), Cyprus (25 September 2013), Andorra (26 September 2013), Uruguay (26 September 2013).

Conclusion. From the above, it appears that the problem of the defini-

tion of aggression so far is an “endless epic” for the international community. The absence of an official definition of aggression has prevented almost half a century from creating international criminal jurisdictions whose primary purpose would be counter crimes against peace and security of mankind.

On the other hand, in the absence of an official definition of aggression, permanently, one can see a broad interpretation and misuse of the UN Charter regarding the prohibition of the use of force or the threat of it in international relations. By mere stipulation of the ban “to use force in international relations or threat” through art. 2, parag. (4) of the UN Charter and states’ actions regarding this rule is not the ideal solution.

Of course, this value cannot be challenged by fundamental principle. However, the ambiguity of the rules included in the UN Charter is a perfect space for handling some international players who intend to avoid international liability for infringement of these rules. To some extent this is due to lack of official definition of aggression and the presence of an exhaustive list of acts of aggression by which an aggressor has to be determined. In turn, the UN Charter only uses the general term “force”.

The main idea in this regard is that the use of the term “force” would allow the UN Security Council to extend the mandate over various actions that do not represent a classic armed conflict, but would represent a threat to peace and international security. However, this idea has had a boomerang effect for the UN. In addition, the UN Security Council failed to fulfill its obligations set out in Chapter VII of the UN Charter through a broad interpretation of art. 2, parag. (4), it offered the possibility for states to abuse the “imperfection” of the UN system in the abusive interpretation of the rules of the Charter. In particular, those states relating to the use of force or the threat of it in international relations. By art. 39 of the UN Charter it was established that the Security Council of the UN is the only authority which has the task of finding a situation that endangers peace and security. It is through this rule that the main idea stands out that the UN body will hold the “monopoly” in the interpretation and application of the rule of art. 2, parag. (4) of the UN Charter. It should be mentioned that the main problem arises within the UN Security Council. Political divergences between the permanent members of the Security Council highlighted the instability of the voting process in this UN body.

Veto by a permanent member state of the Security Council as a destabilizing factor of Council actions during a crisis has been recorded since the beginning of the UN. Thus, to some extent the Security Council has failed



to fulfill its primary tasks under Chapter VII of the UN Charter during the Korean War (1950-1953), Yugoslavia (1999), Iraq (2003), etc. Only in one case it did not fail to vote unanimously for the use of force as a means of collective coercion i.e. the Iraqi aggression against Kuwait in 1990-1991. Also on the voting process dilemma could occur on various opinions about the application of the right to veto in the Security Council that belongs to the past and in particular to the Cold War. The period, when the ideological war between the two great systems - capitalist and socialist - practically influenced the course of development of the international community.

Multi-polar world, created after the fall of the Berlin Wall did not eliminate stereotypes in the Security Council. Moreover, late twentieth and early twenty-first century is marked by failures of the Security Council in the maintenance of international peace and security.

These failures occurred in the absence of an agreement between the council's permanent members in the establishment of the status quo in crises around the world. The result in this direction was recording situations when force was applied contrary to the non-application of force or the threat of it, and the Security Council could not act due to rather controversial voting procedures. That was recorded in crisis in Syria.

The political struggle of the Security Council of the United States, Britain and France, on the one hand, and Russia and China on the other side has become one fierce. In addition, the tension reached its climax when there were increasing clashes at the border between Turkey and Syria and the risk of a conflict intervention in countries of the North Atlantic Alliance (NATO). A similar scenario was present in Yugoslavia since 1999.

From the above mentioned it appears that the problem of defining aggression has negative repercussions on collective security mechanism of the UN and strict observance of the principle of non-application of force or the threat of it in international relations. These negative consequences are increasing in the context of the Security Council holding the exclusive right to identify cases that endanger peace and security of mankind. It is clear that acts of aggression fall under art. 39 of the UN Charter. The problems that arise in the process of voting in the Security Council and the ambiguity of the term "force" in the interpretation and classification of acts of aggression provide a practical unsatisfactory result.

Thus, if the categorization of acts of aggression situation is "deplorable", then it is no wonder that individual accountability for international crime of aggression has not occurred since the International Military Tribu-

nals (TIM) at Nurnberg and Tokyo. During the 1946 process it was established that responsibility for the crime of aggression can only occur in the presence of a governmental act. Or, aggression is always accompanied by a state intent to commit an unlawful act against another State or group of States to obtain political, economic or military advantages.

That is directly placed under the 'kick' the sovereignty of a state, which can only be committed by another state - subject with full rights and obligations of international law.

This "fragile" link between the political will to qualify act of aggression by the Security Council and the intention of international jurisdictions, ad hoc or permanent, of individual accountability for international crime of aggression is quite questionable and not always one that gives positive results in this regard. So far Tribunals at Nurnberg and Tokyo are the only precedents when international responsibility for the crime of aggression took place. In case of international military tribunals act of aggression qualification was held concurrently in the process.

The postwar period was to be marked, as mentioned above, by the primacy of the Security Council on classification of acts of aggression. However, tensions and heated polemics that circulated around the term "bullying" had forced the Security Council to prevent the establishment and official condemnation of an act of aggression by 1945. As a result, it is not possible on international level an individual condemnation of the responsible bodies for committing crime of aggression without a formal identification of the act of aggression. Moreover, the lack of political will in the official definition of aggression put to a standstill International Criminal Court when considering relevant cases for individual international accountability.

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Data prezentării: 30 decembrie 2014

VALOAREA REALĂ A DEMOCRAȚIEI CONTEMPORANE

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Rezumat

În acest articol, se subliniază importanța educației pe fundalul evidențierii problematicii democrației contemporane, în toată complexitatea ei. Educația pentru democrație constituie un răspuns adecvat la schimbările în viața politică de astăzi. Antrenarea tinerelor generații ca cetățeni responsabili și activi în viața comunității reprezintă unul dintre obiectivele prioritare ale sistemelor educaționale din statele democratice.

În contextul actual al confruntărilor de idei consacrate fenomenului politic, raporturilor societate-cetățean, problematica democrației, organizării și conducerii pe baze democratice ocupă un loc central.

Democrația înfloarește atunci când ea este îngrijită de cetățeni dornici de a-și folosi libertatea cu greu câștigată pentru a participa la viața societății, alăturându-și propria voce dezbaterilor publice, alegând reprezentanți care sunt răspunzători pentru acțiunile lor și acceptând nevoia de toleranță și compromis în cadrul vieții sociale.

Cetățenii unei societăți democratice se bucură de dreptul la libertate personală, dar poartă în același timp răspunderea de a se alătura concetățenilor lor pentru a-și determina un viitor în care valorile fundamentale ale libertății și autoguvernării să fie păstrate. Democrația în sine nu garantează nimic. Ea oferă în schimb posibilitatea succesului, dar și riscul eșecului. Guvernarea poporului de către popor înseamnă că cetățenii unei societăți democratice beneficiază împreună de avantajele ei și poartă cu toții poverile acesteia.

Așadar, democrația reprezintă o formă de organizare a puterii de stat și o astfel de ordine a relațiilor de putere, în condițiile cărora sunt realizate drepturile și libertățile fundamentale ale omului și cetățeanului, este respectată ordinea juridică a relațiilor dintre persoană și stat în baza principiului responsabilității reciproce, este stabilit un



regim real al legalității, cu restricțiile și limitele juridice necesare, pentru cei care exercită puterea publică, sunt asigurate consensul și echilibrul în societate.

Cuvinte-cheie: democrația, statul de drept, puterea de stat, suveranitatea poporului, democrația reprezentativă, democrația directă, democrația participativă.

THE REAL VALUE OF CONTEMPORARY DEMOCRACIES

Abstract

This scientific approach includes an investigation of the inherent features of democracy and its forms of manifestation in the contemporary period to elucidate its real value. In conclusion it argues that for democracy to have a real value in the present conditions, it is absolutely necessary to develop and strengthen its participatory forms. This can greatly help to restore citizen's confidence in the state power, tolerance and mutual support between the state and citizen.

Keywords: democracy, rule of law, state power, popular sovereignty, representative democracy, direct democracy, participatory democracy.

Introduction. The term “democracy” appeared in connection with the establishment of a state organization for the creation of distinct forms of power organization in the state. In the past, this term was used along with other concepts such as “theocracy”, “aristocracy”, “oligarchy”, “monarchy”, “tyranny” and implied the power of the people involved in Greek terminology (“demos”, “kratos”). According to Aristotle, democracy is such a social system in which people are born free and incapable, constituting the majority, and have supreme power [14, p. 45].

In the course of time, ideas about democracy have changed along with changes in human society, including the modification of the means of production, social structure and priorities of social classes.

At the contemporary stage one can say that the potential of democracy is increasingly used, in particular the consolidation of state power is held by the support of the majority who perform their interests using state [13, p. 14]. Moreover, in literature it is argued that the lack of democracy is not development [15, p. 10]; democracy is a factor of modernization activation, to accelerate the tempo of social-economic development of society moving towards progress.

Given the increasingly broad awareness of the role and significance of democracy in society, researchers identified several waves of democratization. The first wave began during the French Revolution and the American War of Independence. It included North American countries, and some countries of the European continent, Britain, Scandinavia etc. The second wave is related to the outcome of the Second World War and democratization involved in a number of countries in Latin America. The third wave (also called New wave) of democratization began after 70s of the last century, but which continues today. It included the states of southern and eastern Europe, Latin America, the post-Soviet states, Asia and the Arab world (Africa, Near and Middle East) [13, p. 14].

The accumulation of extensive experience of democratic development allows today to say that democratization is a main trend in the development of the contemporary world [13, p. 14]. However democracy continues to be a subject of extensive discussion in literature, since, on the one hand, there is not a clear and generally accepted understanding of this phenomenon, which generated different speculations on the actual role and significance of democratic transformations, and on the other hand, the experience of the last decades shows quite clearly how “painful” democratization occurred in some countries as a result of incorrect perception of the essence and value. Therefore very actual and necessary scientific research has now become the institutional side of democracy, but also of the trial in order to facilitate the process of democratization.

Methodology of scientific research. In the study we considered doctrinal theory, normative legal and practical materials, with application of the following methods: historical, systematic, analytical and logic-legal. The results expand the study to the topic issued but do not end this research.

The comparative method is an essential element for the study because it highlights the use of positive and innovative elements that led to the pursuit of carrying out government activity through public authorities, as well as any errors that may appear in the work of exercising and maintaining power.

In the process of writing this work, various methods have been applied such as historical analysis - used to investigate the origin and evolution of the theory of separation of powers and the constitutional principles of the Republic of Moldova; logical analysis (deductive, inductive, typology, generalization, specification analysis, etc.).

Further, taking into consideration mentioned above, we will point out some key features of democracy.



1. Democracy is a phenomenon closely related to the state [17, p. 6], assuming that it is the form of organization of state power (state immanent form [16, p. 78]). In this regard, if people's sovereignty implies the essence of state, then democracy indicates how and in what order it is organized and how the power operates. It should also be noted that in societies dominated by class priorities, popular sovereignty and democracy are in a mismatch relationship because in the conditions of formal democratic institutions and procedures one cannot speak about sovereignty of the people. In this case, the state only ensures minority rule over the majority [16, p. 78]. Only while the class antagonisms are overcome and all that causes lack of consensus (e.g., by forming civil society), popular sovereignty and democracy reach the necessary harmony, the state being a social-democratic state [13, p. 15].

2. The core of democracy is formed by the principle of people's sovereignty (people's right to decide alone on their fate, to establish the political line of the state and form public authorities as well as to control their activity [5, p. 256; 9 p. 55-56, 4, p. 92]), which means that the government can only be legitimized by the will of the governed. Democracy is an inalienable part of the rule of law, because the democratic system of government is based on: the people's participation in government through various forms [8, p. 290]; maximum consensus and minimum constraint [11, p. 300]. Accordingly, democratic systems ensure equal conditions for all citizens to participate in political life.

3. Democracy is also an organization of state power, where there is not only one centre of power. The organization of state power system is based on its separation into legislative, executive and judicial branches which are relatively autonomous. The legal order of interaction of these branches - expressed by distinct skills, trial running order under the "brakes and counterbalances" within the law, creates legal prerequisites and conditions necessary for state business orientation towards the search for consensus and balance, excluding the lack of compromise in the decisions of the state. At the same time, democracy enhances understanding of people - citizens and the state - its authorities, reinforcing tolerance and mutual trust [13, p. 15].

4. The core of democracy is composed of human and citizen rights and freedoms in connection with the duties and responsibilities and legal order to achieve them. Democracy as state-legal regime of exercising supreme power ensures society's responsiveness to general human values such as freedom and equality, giving the man a priority, above all values, which creates conditions for the trust and support of the population to state power.

5. Democracy implies freedom in its essence - freedom to do everything that is not forbidden by law. From this point of view, people act in a permissive regime that ensures particular interest priority over the interest of the state. On the other hand, the government acts in a regime of legal restrictions / limitations, which determine facts and recognize illegal acts done to overcome them and occurrence forms of corresponding liability.

6. Democracy implies that the state recognizes, respects and supports the rights and interests of minorities, which can be regarded as an important condition for maintaining balance and harmony in society.

7. The essence of democracy is the participation of citizens in public life. This means citizens' concern for community affairs, responsibility, interest in social problems and their political commitment [2, p. 273].

So, democracy is a form of organization of state power and is such an order of power relations in terms of which fundamental rights and freedoms of a man and a citizen are fulfilled, legal order of relations between the individual and the state based on the principle of mutual accountability is respected, a real regime of legality is established, with legal restrictions and limits necessary for those who exercise public power, consensus and balance in society are provided [13, p. 17].

In this context, we consider other view on the essence of democracy as important, according to which the following principles are inherent to it [6, p. 12]:

- a) national sovereignty is exercised by the people;
- b) ensuring people's participation in public affairs through achievement of universal suffrage, possibly by referendum, and through an authentic representative legislative body;
- c) sharing prerogatives of public authorities and mutual cooperation between the representative authorities;
- d) administrative decentralization;
- e) social pluralism, especially ideological, institutional, political, trade union, etc.;
- f) applying the majority principle to deliberative activity of collegiate authorities;
- g) constitutional consecration and guarantee of fundamental rights and freedoms of a man and a citizen.

It can thus be seen that democracy has a broader meaning than mere definition "power to the people", it appears as a an entire concept and phenomenon, accumulating, holding and harmonizing moral, political and legal values of the society, in a social and historical determined context [12, p. 109].



At the same time, we mention that correct perception of democracy would be much deformed without elucidating its components. In this regard, researchers noted that a component that ensures the vitality of democracy - the normative and organizational comprising principles underlying the organization and functioning of state power. General human (freedom, sovereignty, equality, justice, fairness, legality) and legal principles that mark the essence of the rule of law (rule of law, legal self-limitation of state power, mutual accountability of the state and citizen, etc.) [13, p. 17-18] are part of this category.

Along with the normative and organizational materials, a structural-organizational component is characteristic of democracy, expressed by forms of participation of the people in governance. These are forms of democracy - ways of making up and carrying out the will of the state. Representative democracy and direct democracy is traditionally differentiated.

Representative democracy. Democracy is a right of the people to govern itself, and government can be legitimized by the will of the governed which is achieved by elections. At the elections the electoral college gives its vote to the persons appointed beforehand. Subsequently, the representatives (or elected officials) develop state policy on behalf of those who elected them [8, p. 294] and fulfil it in their interest.

Thus, in the exercise of sovereignty, representativeness is recognized as the basic pillar, i.e. the existence of people's representatives exercising their sovereignty. These representatives elected by the people through universal suffrage are organized in certain public authorities that are representative and are dependent directly or indirectly on the political, legal bodies and moral absolute: the people [1, p. 257].

Regarding the definition of the phenomenon, professor V. Popa proposes two definitions for representative regime, claiming that it is - "indirect form of exercise of national sovereignty by the people through their elected representatives" - "a set of public authorities designated by the people to exercise sovereignty in the their name" [12, p. 146]. In his turn, the French researcher P. Pactet argues that representative regime is "the exercise of power by representatives elected by universal suffrage, empowered to decide on behalf of the nation" [10, p. 90] and M. Duverger defines a representative system as "political system in which governments are elected by the citizens and are considered as their representatives" [7, p. 92].

Direct democracy. By direct democracy one understands a system of government in which decisions are taken directly from public population.

Or, in other words, in the context of direct democracy people are self-governing. They regulate social relations, and supervise carrying out of legal norms. In practice it is impossible to achieve this form of government, all authors motivating utopia of direct democracy because of the generosity of ideas that animate it [8, p. 290] (now direct democracy is practiced in small communities, in some cantons of Switzerland).

Tudor Drăganu claims in this regard that direct democracy since it employs the vast majority of citizens in the forefront of public life fighting, it can lead, if not working in the shelter of a harmonious climate between citizens, to the potentiating of anarchy of political struggles [3, p. 7].

Since in modern conditions, direct democracy is encumbered by its practical impossibility of achieving and representative democracy increasingly tends towards the political interests of elite over the interests of the people, it must reconcile itself a harmonious combination of these two forms of democracy.

In this regard, researchers argue that in a state based on law, representative democracy should work with direct democracy, because only this will achieve an optimal system of governance. Or, "that a system of governance to be effective, it should not be based only on representative democracy, but it must be completed with more vigorous forms of direct and semi-direct democracy" [8, p. 297].

The solution in this case, in our view, is participative democracy system, which also is an element of the rule of law, assuming direct involvement of citizens in decision-making by public authorities at central and local level (through such forms of participation such as public debates, hearings before parliamentary committees, consulting local citizens, etc.).

Conclusion. Basing reportedly on the context of this article we conclude that to give real value of democracy under current conditions, it is absolutely necessary to develop and strengthen political-legal and organizational points of its participatory form, since it can largely help restore citizen's trust in the power of the state, tolerance and mutual support between state and citizen.

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Data prezentării: 20 decembrie 2014

BAGAJELE ÎN TRANSPORTUL RUTIER DE PERSOANE: CONTROVERSE TEORETICO-PRACTICE

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Rezumat

Conținutul articolului se axează asupra cercetării particularităților și semnificației juridice a categoriilor de „bagaj” și „bagaj de mână” și „bagaj neînsoțit” din transportul rutier de persoane. Problema dată este examinată pentru prima dată în doctrina națională de drept civil. Cu această ocazie se efectuează încercări de a identifica natura juridică a contractului de bagaje. Autorul înaintează o serie de propuneri și recomandări cu privire la modificarea legislației în domeniu.

Cuvinte-cheie: transportul rutier, pasager, bagaj, bagaj de mână, obligația de transport.

PASSENGER LUGGAGE IN ROAD TRANSPORT: THEORETICAL-PRACTICAL CONTROVERSY

Summary

The article focuses on the peculiarity of understanding such legal categories as «baggage», «carry-on baggage» and «paquets» in respect to obligations on passenger and baggage transportation by motor vehicle. For the first time in the civil law doctrine concerning the sphere of obligations on passenger and bag-



gage transportation the author makes an attempt to distinguish those criteria which would allow differentiating the mentioned categories. The author also offers a series of changes in legislation.

Keywords: transportation by motor vehicle, passenger, baggage, carry-on baggage, obligations on transportation.

Introduction. Bags are personal household goods and other items that a person takes when traveling. Rules on the transportation of luggage are set out in the Civil Code [1], Road transport code [2], Regulation on auto transport of passengers and baggage, approved by RM Government Decision nr.854 / 2006 [3] and the Regulation on the bus (auto station) nr.9-12 / 1999 [4]. Unfortunately, so far the issue of road transport of baggage in Moldova has not been addressed in the national legal doctrine. Instead some scientific works on this chapter were developed by Russian authors as C.Lazuchina, A.Peresîpchin and L.Ladocikina, as well as by the French ones - R.Rodière, G.Paillet etc. [5]. In its turn, luggage can be of two types: registered and unregistered (hand).

Registered luggage. According to the Regulation nr.854 / 2006, luggage is transported in the luggage section and if there is no luggage section - in the lounge of the bus. If a passenger wishes to carry luggage in the luggage section of the bus, he must purchase a ticket. The passenger may take hand luggage with him where payment is not charged. In this context, Section 9 of Regulation nr.854 / 2006 determines that baggage (registered) are passengers' objects transported separately in luggage section and hand baggage are objects that allow passengers to be transported free of charge in the lounge car (Section 9). So baggage (registered) is given specifically to carrier and is separated from the passenger carrying by the luggage section in the bus. This luggage either exceed in volume or weight set for hand luggage or, although do not exceed these limits; the passenger does not want to have to watch it, thus concluding the contract of carriage of luggage [6]. Therefore, just because it was taken specifically, a carrier bears all responsibility for damage or loss of luggage.

The baggage (registered) is transported only if there is baggage ticket. Road Transport Code defines luggage ticket as voucher issued by the cash or control machine with fiscal memory or document of strict accounting of fixed price, made in printing or electronic receipt confirming payment and luggage transport and obligatory insurance of the luggage (Article 5). Luggage ticket is purchased at the ticket office and in its absence - at the driver or conductor. In this context, the Road transport code provides that operator carrying out the regular service fee through local, municipal, regional, or international traffic

has the obligation, throughout the journey, to keep on the road vehicle tickets and filing schedule tickets (Article 70 (d) and (f)). In case of trolleybuses, buses and minibuses on urban route, they do not have luggage section, so passengers will take the baggage on the board and if necessary, will buy a ticket for extra baggage, because in urban transport there are no special tickets for luggage. [7].

Luggage ticket proves that between carrier and passenger there is a luggage contract concluded orally, and in case of loss, theft, damage or destruction of goods in baggage, the ticket will be the main source of carrier's liability to passenger. Giving luggage to the luggage section, the passenger is issued a numbered token, whose duplicate is fixed on the baggage. Arriving at the destination, the passenger will present to the driver a chip and the driver after verifying that the numbers match, will release the requested passenger's luggage (art.72 of Regulation nr.854 / 2006). The passenger may lose the chip. In such cases, the carrier will give the luggage to the passenger only if the passenger brings any evidence that the baggage belongs to him. If the evidence presented is insufficient, the carrier may require a pledge that the passenger will be refunded only after a year from the date of deposit luggage or, if he can present convincing evidence (art.76).

Applied methods: case study, comparative study, content analysis, systemic approach allowed us to develop a set of conclusions and recommendations that would serve as the ultimate goal of the investigation: improving the legal mechanism of transporting luggage. Special attention is given to the concepts: luggage, registered luggage, unregistered luggage, legal contract of luggage transportation.

Research results. Because of the small size or the characteristics of manufacturing, some buses and minibuses do not have luggage sections. In such situations luggage will be transported in the lounge, together with passengers. The place for luggage will be determined by the driver in such a way as to ensure unimpeded passage of passengers to entry and exit doors. According to the Road transport Code inflammable, explosive, poisonous, toxic, radioactive, corrosive, harmful and smelly substances and the items that could contaminate road vehicle or clothing and other persons' items are not accepted for transportation as baggage and hand luggage (Article 66 parag. (2).

The passenger has the right to declare the value of goods he has in luggage, paying a fee for this set (art. 66 of the Road Transport Code). The advantage of declaring the value of baggage is that if luggage is lost or damaged, the organization of transport will be required to reimburse the



passenger a sum of money that expresses the real cost of goods in the luggage. There are cases when the passenger either forgot that luggage was with him or from other reasons urgently gets down the bus without taking his luggage. In these cases, according to the Regulation, unclaimed baggage arriving by means of transport, regardless of whether its receipt has been issued with or without chips with numbers, carrier keeps it on the passenger's account (art. 77).

Responsibility for the integrity of luggage carried in the luggage section from the moment receiving on the board and until its release is born by the carrier. He will not be liable if damage has occurred due to a defect of the baggage, quality or vice of it. Similarly, the carrier shall not be liable if he proves that the reason of injury to baggage was force majeure or the occurrence of injury based on passenger's facts. We also point out that under the Civil Code, the carrier is not liable for loss of documents, money or other items of value, unless their value was declared and he agreed to transport them (art.989).

Registered luggage is named as handbags because the passenger takes it on the bus. For low volume and low weight, handbags remain with the passenger during the journey and are shipped free within the limits prescribed by law [8]. The carrier is not liable for loss or damage to baggage, because it remained in passenger's view. Because the handbags are not given formally to the carrier and the contract is missing, such baggage remains available throughout transportation in passenger's care and responsibility for any loss or damage is a tort [9]. In case of loss or damage to baggage, the presumption of innocence applies to the carrier. To attract carrier's liability, passenger bears a very heavy burden of rebutting that presumption.

A special category of legal relations refers to keeping luggage in the luggage section of the bus for which baggage receipt is issued. The legal relationships between bus and passenger are qualified as of deposit. As an exception, if the bus stations have automatic boxes, luggage storage is carried out under the lease; the passenger rents a casket for a certain period of time [10].

Legal nature of the contract of luggage carriage. In specialized literature there are several opinions with reference to the legal nature of the contract for road transport luggage. For playback of plenary doctrinal views, we consider necessary their systematization in groups.

The first group of researchers claims that passenger transport and luggage transport are based on different contracts. The doctrinaire L.V. Ladocikina is of the opinion that the contract of baggage transport is independent; the

transportation of passengers and luggage is based on two contracts, different from their legal nature [11]. Having the same opinion, teachers V.T. Smirnov and D.A. Medvedev state that passengers and baggage are not bound by a single means of transport and can reach different transport modes [12]. They argue (S.I. Morozov) that the proof for the conclusion of these agreements is different; namely, the conclusion of the passenger transport is confirmed by the ticket, and luggage contract - by the baggage receipt. Another difference between the contract of passengers and luggage transport lies in legal characteristics: the first has consensual character and the second - real one. Luggage contract has realistic character because it is considered concluded from the submission of the luggage to transport; another feature of the contract is that the conclusion of luggage is carried only by the person having the right to travel under the ticket presented at the submission baggage [13]. To this, doctinaire M.D. Blatnov adds that against the carrier, claims under the contract of passengers transport may be submitted by the passenger and his relatives (in case of passenger's death); claims against the carrier for the loss of baggage is entitled to be submitted only by the passenger [14].

In the luggage contract only registered baggage is concerned, for which receipt is issued; transporting handbags is carried out under the contract of passengers [15]. The same line of interpretation belongs to the Russian doctrine K.V. Lazukina who keeps claiming that obligation of passenger and baggage transportation, on the one hand, and the duty of transporting registered baggage, on the other hand, needs to be examined separately, as distinct categories. The main argument is that hand luggage can be transported in passenger's absence; transportation baggage instead may be carried out without the passenger. Another peculiarity is that transporting baggage is accompanied by issuance of a set of documents, while transporting hand baggage such a requirement does not exist. Compared to the primary obligation of passenger's transportation, hand baggage transportation has an ancillary character; transporting registered baggage is an independent obligation. Therefore, transporting hand baggage and registered baggage are totally different requirements [16].

The second group of researchers promotes the existence of a single legal act - the contract of passengers' transport, which includes voluntary obligation of transporting luggage. The teachers M.I. Braghinschii, E.A. Suhanov and V.V. Vitreanskii state that luggage transport cannot be examined as separate contract: transporting baggage is carrier's obligation that emerges from the act of purchasing a ticket by the passenger. When the



passenger gives his baggage, he takes a baggage receipt in return, and that is a confirmation of birth, within the contract of passengers' transport, of voluntary baggage delivery obligation, and not of proof of a storage contract completion [17].

Professor N.I. Naidenova brings out interesting details to this point. The author mentions that the emergence of the baggage delivery obligation for carrier depends exclusively on passenger's actions that are performed after purchasing the ticket. Baggage transmission is considered as passenger's right. If the passenger exercises his right, there arises a correlative obligation for the carrier of taking baggage, transportation and delivery of it to the place of destination. Thus, the action of transporting luggage is carried out within the passenger contract execution. Giving or not the luggage by the passenger represents execution and is awarded to passengers' contracts. If giving baggage occurred then carrier's obligation to deliver luggage arises. That obligation arises only when the passenger gives his baggage and denotes the voluntary nature of this obligation. If the passenger has only hand luggage, his right of giving registered baggage remains unperformed and therefore carrier's obligation of delivery does not arise [18].

The third point of view on the issue of the legal nature of the luggage contract is promoted by Russian researcher A.V. Peresîpkin. The author argues that the luggage contract forms a variety of contract of goods transportation. The arguments are that the passenger, in essence, is a 'sender' of the baggage. Carrier's rights and obligations arise from the moment of receiving baggage. Similar goods transport, as the recipient of luggage transport can be not only passengers but any entitled person, which proves a subjective component similar to the contract for goods and luggage: shipper, carrier, consignee.

The destination of baggage may not coincide with the point of destination of the passenger. In other words, the baggage could be transported to the destination point and in the absence of the passenger in the vehicle, which links respective relations of goods transport. Also, the legal definition of the terms "luggage" and "commodity" is similar: "tangible object received on transport in the manner prescribed by law...". Additionally to this, there is identical liability established by the rules of the Civil Code for the loss of baggage and goods. In the author's view, recognizing luggage contract as the variety of contract of goods transportation will end doctrinal discussions on where the place of luggage contract is in the system of transport contracts [19].

With reference to domestic law, professor Gh.Chibac noted that the

Civil Code defining the contract of carriage of passengers, does not treat separately luggage transportation contract, but gives a general definition. In addition, carrier's obligation to carry luggage to the destination and release it to the person authorized to receive it depends exclusively on passenger's actions committed after the conclusion of the passenger transportation contract (ticket purchase). If the passenger makes use of his right to transmit baggage for carriage, carrier's transporting obligation arises; otherwise, the obligation of the carrier does not appear [6, 175.]. As a result, carrier's obligation to carry luggage to the destination has an optional character and is contained in the contract of passengers' transportation [20].

Although art. 980 parag. (1) of the Civil Code defines what transport contract is, that definition is a general one. There is no distinction between transport passenger contract and luggage contract. For comparison, more successful in this chapter prove to be air transport regulations, namely, art. 20 parag. (1) of the Law on Aviation Security, stating expressly that airline operators will accept baggage only from passengers who have tickets. In other words, the passenger cannot benefit from luggage transportation services if he has not concluded transport passenger contract.

Exposing our opinion we respect the views according to which in the road transport there is currently one contract, the passenger's contract, but we bring important arguments in favor of the thesis of the existence of two contracts, passengers' and luggage contracts. Although it is not exposed, legislature does not deny the situation that these contracts could have a separate existence.

Firstly, buying the ticket, the passenger enters into a single contract, the passenger's contract, and pays double the price, which includes moving his hand luggage. Decision of the second contract conclusion, luggage contract, belongs exclusively, still being in counter before boarding. Consequently, road passenger transport contract always precedes the luggage contract. If the baggage dimensions exceed the limits established by law for baggage, the passenger is obliged to buy baggage ticket, which costs under internal regulations of the car station car, 10% of the ticket price. For comparison, a different situation exists in air transport. The ticket price also includes baggage charge, so that the passenger has to pay the place of hold baggage. Passenger's decision to refuse checked baggage does not oblige the airline to reimburse the cost difference for the place remained free in luggage section.

Secondly, giving luggage, it is weighed, recorded and an identification tag is applied to it, which confirms the conclusion of the luggage contract.



From this moment, we see that the passenger has two contracts: the passenger's contract that becomes the main contract, and luggage contract, that is accessory, both having a separate existence.

Thirdly, luggage with identification label is given in the luggage section of the bus, while the passenger with his hand luggage is on the bus and is not aware about the fate of his baggage except at the destination.

The legal situation of unaccompanied baggage (parcel). Practice of the Republic of Moldova shows that most unaccompanied baggage is transported with breach of customs legislation, without payment of taxes. The reason is that the legislation on unaccompanied baggage transportation is diffuse. In this context, the first question mark arising in connection with the correct name of the genre activity as road transport Code refers to "the parcel" while customs legislation uses the terms "unaccompanied baggage transport" and "transport goods".

Under the new regulations, *road transport of packages* is that road transport operation which is carried out by road vehicles for moving packages (art. 5 of the Code of road transport). For the transportation of packages in international traffic carriers must be licensed (art. 27 parag. (2) (d)). Although road transport Code entered into force on 15 September 2014, the actual implementation of legal provisions implementing the licenses for the parcel is not held. On the other hand, the introduction of licenses to transport parcels does not solve the existing problems in the field. However, practice shows that even in the presence of licenses for parcels, their transportation remains outside the law, and the reason is the lack of a viable mechanism with reference to the customs declaration procedure of packages. Moreover, the introduction of license only solves some of the carriers' problems because holding a license anyway does not allow legal movement within the EU and does not exempt from fines.

According to the Law on the import and export of goods no.1569 / 2002 [21] from the Republic of Moldova by individuals, unaccompanied baggage are goods shipped by the proprietor (owner) or at his request, which are displaced over customs border by the carrier and not accompanied by the owner (owner) (art. 2). In this context, another piece of legislation, establishing the Regulations on the import and export of goods from the territory of Moldova by individuals nr.1185 / 2003 [22] provides that the introduction of unaccompanied baggage at the territory of the Republic is perceived with mandatory import duties (except as provided in subparagraph (d) parag. (1) of article 5

of Law no.1569 / 2002), on general principles, provided that the goods mentioned are not intended for commercial production and that will be declared as established by law. Unaccompanied baggage which is designed for commercial production in the country may be brought only by operators who are registered at S.E. "State Registration Chamber" as subjects of entrepreneurial activity. The goods are qualified as unaccompanied baggage under a document issued by the owner (sender) of the property or proof of respective transport contract conclusion (section 9).

In connection with the customs declaration procedure of unaccompanied baggage, we distinguish two different procedures: for entering and leaving the country. Thus, when entering the country, according to the Regulations for the implementation of customs destinations provided by the Customs Code of the Republic of Moldova nr.1140 / 2005 [23], the carrier shall submit to the border customs office a packing list (art. 11). They must be packaged so that nothing can penetrate into their content without breaking the seal or without leaving obvious traces (art. 51).

Customs control of unaccompanied baggage is carried out only in the presence of a legally authorized representative of the owner of baggage (usually it is the driver). In the absence of the representative, crossing the customs border of unaccompanied baggage is not permitted. A representative may be any natural person with full legal capacity and who has an act confirming his right to represent this baggage (art.26). Moreover, the declaration of assets of unaccompanied baggage, customs inspector must be presented documents confirming the ownership or use of the goods (contract, commercial invoice or payment document) (art. 10 (1) (b)).

Custom Declaration of unaccompanied luggage may be made in verbal or written form. According to the law Nr. 1569/2002, physical persons have right to declare to the Custom Office in verbal mode the goods that are brought in the country whose value in custom house do not overcome the amount of 300 euro and which is not designed to the commercial or production activity (art.4 parag. (4) (b)). Due to as much time as how much is the value of the goods from the luggage is till 300 euro and the goods are not designed to the commercial activity, the Custom Declaration is made in verbal form through a simple information of Custom Inspector about the situation of the luggage. The major problem can appear for the carrier. Taking in account that overall of value of parcel post exceeds the amount of 300 euro, and the carrier always has the obligation to draw in written form



the Custom Declaration, but in the situation that he does not have the necessary documents about the luggage, he takes all legal responsibility.

The written Declaration of the goods from the unaccompanied luggage is made according to the model (Standard form DV-6), which can be seen at Annex nr.2 of the Order on customs clearance of goods passed over the custom border of Republic of Moldova of physical persons and of printed forms, which is approved through the Nr. 56-O/2008 Order. The Experience proves many violations in this chapter. First of all, at the moment of delivery of the luggage, even if the value overcomes the amount of 300 euro, the carrier does not create to the person the necessary conditions for the completion of custom declaration. Moreover between the carrier and the person is not finished a contract in written form, respectively is not released a cashier bill. Secondly, at retrieving the luggage the drivers are based on the trust of the person without verification of the luggage. Thirdly at the crossing of state border, because of reason that does not hold the act which attest the right of the property on the goods, the driver may or may not draw the written form of custom declaration but with the mistaken information.

At the Custom House the Border Inspectors find out the lack of the Custom Declaration according to the luggage and draw protocols of goods lift. The driver proceeded according to the situation, in violation of art.287parag. (1) point(10) of Contravention Code (“The transition of the wares, objects or other values over the Custom Border of RM eluding the custom control or concealing to it in special prepared places or adapted to this reason(...) or through inauthentic withholding or declaration in custom documents or in other transition documents of custom Border if this actions do not form smuggling delinquency or other delinquency”, with the application of sanction of amount 150 conventional units (3000)) or the violation of the art.248 of Penal Code with the remission of the material to the persecution organ. The punishment where there is smuggling delinquency consists in payment of fine about 150 conventional units and may be until the imprisonment from 3 till 10 years.

Case Study. The Defendant N.V., being the carrier of parcel posts, on 15.10.2012., approximately at 2 A.M. at Control line Leuseni- Albita, inside of Custom Control of the transport “Mercedes” Model, which he was driving and which was moving on Italy – Moldova Route, did not declare in his custom declaration and did not present the goods from parcel. According to the Evaluation Report drawn by the Department of Income,

the value in Custom House and the classification of the goods, the value in the Custom House consists of 108.750 lei. In the Hearing the defendant confirmed his guilt, and declared that the parcels, which are brought to the Collection point, were not verified. On 15.12.2010, when he was returning from Italy to Moldova, a person asked him to transport some parcels, whose content he did not verify, with the condition that after that, the parcels should be forwarded to the recipient at Leuseni custom post, after the Custom Control, where many boxes of shoes which were not declared were traced. At the custom house he concluded the custom declarations of the goods that he was carrying, but the boxes, which were forwarded to the transport, were not included in the Custom Declarations. Through Hincesti Court Session the defendant N.V. was recognized guilty about the commission of smuggling delinquency and on the ground of art.27, 248 parag.(5) (D), 79 from the Penal Code, he punished with the fine about of 400 conventional units, and the goods were seized to the benefit of the state(25).

Highlighting that in the scrolling period of conventional and penal process, parcels, and means of transport, are accorded the trial object status. According to the fate of these the 431 article prag.(4) from the Contravention Code, is set that at the detection of Custom Offence, the parcels and the conveyance are retained and brought at the determined place by the official Examiner of Custom Service which beside the applied fine in accordance with the 287 article from the Contravention Code, is decided on trial.

The 106 Article, parag. (2) (A) from the Penal Code provides that they are subdued to the special confiscation of implicated goods in the smuggling delinquency, as any income from these goods, with the exception of goods and income which follows to be returned to the legal owner. By the way if the owner of the goods is another person than the accused, about the commission of smuggling delinquency and the owner holds the acts that confirm the property right on the goods, then through the Hearing is decided the returning of goods to the legal owner. Otherwise the goods are confiscated in the benefit of the state.

The guilt of failure of the custom declaration procedures of the unaccompanied luggage settle about the driver and the transport. Namely the driver has the obligation of drawing Custom Declaration for the unaccompanied goods, he being the legal official of these goods. Taking in account that at the retrieving moment of abroad luggage, the driver cannot manage to verify, in the register records of the luggage he does inaccurate records.



This inaccurate information the driver reproduces in the custom declaration, but if the border inspector resorts to the physical control of the luggage, the erroneous data are tracked and the driver is sanctioned hard.

Thus at The Sculeni Custom House, after Drawing the Custom Declarations DV-6 by the driver and the passenger and conveyance, having the doubt regarding the correctness of declarations, the border inspectors resorted at the physical control of goods from the luggage. After the controlling, in two pieces of unaccompanied luggage gold objects, watches and cosmetic products in amount of 50000 lei were detected. It was drawn a protocol of contravention. Taking in consideration the great value of goods, the accumulated material on the case were delivered to the Prosecution Organ. The Cause was remitted to the Court. Heard the defendant, the witnesses, studying the material and the accumulated evidence inside of prosecution, the court settled that the minibus driver is guilty about the commission provided delinquency in accordance with article 27, 248 parag. (5) (B) from the Penal Code (Smuggling –attempted crossing the custom border of RM of scale objects, through concealing from the Custom Control) being applied a punishment of 4 years of prison, with establishment of a time trial of 3 years according to article 90 from the penal code. Trial objects (unaccompanied luggage target in the file) were confiscated in the benefit of the state (26).

At the removing of goods (including through means of unaccompanied luggage) on the RM territory, an individual has right to filch the goods being at the Custom Organ from the interior of the country (Program hours), being at the Custom Border Organ (Point 14 from the Order nr. 56 – O /2008). The verbal Declaration is accepted for the goods whose value in the Custom does not overcome the amount of 1000 euro and which is not designated to commercial activities or to production (art.4 parag. (1) from the nr. 1569 /2002 Law) .

When taking goods (including through unaccompanied baggage) from the Republic of Moldova, individuals are entitled to filch goods either from the customs authority within the country (during working hours) or from the customs border bodies (point 14 of Regulation No. 56-A/ 2008). Verbal declaration is accepted in respect of goods whose value does not exceed the sum of □ 1,000 and they are not intended for production or commercial activity (art. 4 (1) of Law 1569/2002).

Conclusion and recommendations. Generalizing mentioned above, in order to improve the legal framework relating to road transport luggage, we recommend changing Chapter XII of the Civil Code as follows: Section 2 to

be renamed in “transport of people and luggage” and Section 3 should be renamed in “Transport of goods”; Art. 986 should be completed with a new paragraph: (3) The contract of transport of luggage shall be confirmed by the baggage ticket. The shape of the baggage ticket shall be determined by special laws; Art. 987 parag. (2) of the Civil Code should be as follows: “The carrier is bound to carry the passenger and baggage to its destination safely.”

It is noted that the Contravention Code does not establish penalties if there is no luggage ticket. As a result, the obligation on the purchase of luggage tickets under section 11 (b) of Regulation nr.854 / 2006 remains without practical application. Moreover, the legislation does not establish charges for luggage transportation in national traffic, reason for which, in practice, carriers charge different fees for the luggage and without giving a proper ticket, breach the rules established by law on improving luggage contract. Taking into consideration this fact, in order to improve the legal framework, we recommend changing Contravention Code by reformulating art. 204 parag. (1) and (2) in the following variant: (1) Admission of the travel without ticket and / or luggage ticket on territory of bus station in road suburban, interurban and international transport by the driver of the means of transport or by the person in charge of approving going out in race mode of transport from bus station territory is punishable by a fine of 40 to 60 conventional units. (2) Not releasing on the route of the ticket and / or luggage ticket on the regular road urban, suburban, interurban and international transport by the driver of the means of transport or by the person in charge of the trip charge is punishable by a fine of 40 to 60 conventional units.

As mentioned, the luggage ticket, as the travel ticket is a document of strict evidence, of whose editing SE “Publishing Statistics” is responsible for. The problem is that national law does not establish the model of a luggage ticket. Consequently, luggage tickets taken from SE “Publishing Statistics” do not meet quality and design requirements. Moreover, given the fact that in Moldova the number of transporters carrying out regular international routes (bus station) is very small (most transporters work illegally, basing on Interbus book), SE “Publishing Statistics” has no baggage tickets for international transport, the existing ones are for national traffic transport [27]. Given this fact, we recommend approval of different models of the baggage ticket, for transport via regular services in national and international traffic.

Moreover, we propose the approval by order of the Minister of Transport on Road Transport tariff Storage in Moldova. As an idea, we suggest that the size of luggage fee equal is 10% of the ticket purchased by the passenger.



Generalizing law and legal practice relating to the carriage of unaccompanied baggage, we arrive at the following conclusion that the term “package” in national legislation creates some doubt. There are no uniform standards in terminology: Road Transport Code uses the term “package”, Law no.1569 / 2002 - the term “unaccompanied baggage”, and customs, criminal and contravention codes - “commodity”.

The major problem is the fact that Moldova lacks a well-developed regulatory framework with reference to the mechanism of customs declaration of packages, and for this reason, in practice there are many contradictions. This leads to a paradoxical situation when, on the one hand, the state does not establish a clear legal mechanism for the declaration of parcels of goods, on the other hand, sets tough penalties for non-compliance of transporting such goods. Courts qualify such actions as smuggling and have sanction upon the driver under art.248 of the Criminal Code and the packages are described as delicate bodies and are confiscated in favor of the state.

Licensing of parcel introduced by the new Code of road transport will only partially solve the problems that carriers face. The activity of transporting parcels will be legalized in Moldova, but will not enable justification parcel delivery service to the agents of the Member States of the European Union, which requires proof of a permissive act of Community in this regard. The problem is further complicated for Moldovan carriers in accordance with Article 1 parag. (5) (c) of Directive 2009/1072 / EC of 21.10.2009 concerning common rules for access to the international road transport market for goods [28], cargo transport (unaccompanied baggage) with vehicles whose maximum laden weight, including trailers, does not exceed 3.5 tones, does not need license in the European Union, being exempt from any carriage authorization. In the European Union the parcel transport is done at a professional level, with means of transport adapted for parcel weighing over 3.5 tones under the Community license for the parcel transportation. For Moldovan carriers to obtain such a license is impossible, including the reason that our country is not an EU member.

It requires developing a methodology for monitoring and verifying the correctness of dispatch parcels. Methodology should detail the set of documents and how to fill them when receiving packages. In this context it is necessary to simplify the process of documentation, customs declaration of parcel by the carrier and clear division of responsibility between the sender, carrier and the recipient of the parcel, in order to ensure transparency and

compliance with the legal norms of transportation, transportation of goods and parties that are really interested in concrete transport operation.

Alternatively, we highlight the need of synchronization provisions of the Code relating to road transport licensing parcel delivery with basic principles of licensing imposed by law on licensing of entrepreneurial activity no.451 / 2001. Thus, with the proposal to extend the list of kinds regulated through licensing (article 8 of the Code) with a new kind of activity, it is necessary that the Law no.451 / 2001 sets out exhaustively: a) licensing conditions, b) list of additional documents to be submitted by the license applicant and c) additional grounds for suspension and withdrawal of the license.

Because of inaccurate legislation, customs officers admit errors when verifying personal things and unaccompanied baggage. The law does not clearly indicate the segment of time when customs, verbal and written declaration can be performed. However, there are frequent cases in which the time interval between the moment of reaching the customs and the moment of starting checking, customs inspector does not create suitable conditions for declaring (inspector cannot be found, is busy, does not inform the natural person / carrier about the obligation to declare etc.) and emergency verification procedure starts with preparation of a report of an offense and a report of keeping detected goods, unaccompanied baggage and means of transport at the customs.

In order to address these problems, we recommend modifying Article 4 of the Law on the import and export of goods from the Republic of Moldova by individuals no.1569 / 2002 by means of including an additional item 6: Customs inspector records audio that he informed the individual / carrier about the obligation to make oral or written statement regarding unaccompanied baggage and personal property they own in the means of transport. Audio recording is subject to feedback from the person / carrier. The customs office shall keep audio records within 30 days.

Considering that the acquisition of foreign unaccompanied baggage individuals are unable to prepare written customs declaration, and carriers do not create suitable conditions for declaring, we propose amendment of Article 4 of the Law no.1569 / 2002 by means of introducing an additional point 7: Upon delivery of unaccompanied baggage, the individual is required to complete customs declaration in writing, listing the goods in baggage. The declaration is attached by a copy of individual's ID (passport) and documents confirming ownership of the goods. The obligation to make customs declaration available to an individual and creating conditions for filing declaration to an individual belongs to the carrier.



We note that goods sent by mail are not considered as unaccompanied baggage. Thus, under Directive 97/67 / EC of 15.12.1997 concerning common rules for the internal market development of Community postal services and the improvement of quality of service [29], the weight limit for parcels should be less than 20 kg (Article 3 parag. (5)). In this context, given the fact that the parcels proposed for transportation in Moldova by our citizens being abroad weigh more than usual weight of packages shipped within the activities of mail, parcel transport falls under the legal provisions of road transport.

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Data prezentării: 30 decembrie 2014

*Materialele publicate în revista „Relații Internaționale. Plus”
nu reflectă neapărat punctul de vedere al redacției.*

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str. Pușkin 54, mun. Chișinău, Republica Moldova, MD-2005
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