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www.scientiamoralitas.org
E-mail: scientia.moralitas@email.com

Ioan–Gheorghe **Rotaru**, Editor-in-Chief

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CONTENTS

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Editorial

Ioan-Gheorghe Rotaru
Professor PhD.Dr.Habil. 'Timotheus' Brethren
Theological Institute of Bucharest, Romania
dr_ionicarotaru@yahoo.com

Recent research shows that the study of fiction books increases empathy, further contributing to the development of social relationships. Reading books helps us to understand ourselves and others better. As we become captivated by reading, we become more and more emotionally engaged in the lives of others, thus exercising a wide range of emotional manifestations and feelings in a safe area, ourselves not being affected. Fiction is otherwise processed at the level of the brain, compared to commercial messages, scientific articles, or articles in newspapers and magazines, producing a much stronger impression. For example, an article about how harmful alcohol is to our health only temporarily changes the reader's perception of alcohol. Still, a novel about an alcoholic and the problems caused by alcohol consumption will make such strong impressions that it could permanently change the reader's attitude towards that dependence. This is for the simple reason that we are much more willing to accept the assertions of some novel characters that we feel close to us by reading their life story than of some real people, which we do not know directly, such as an expert or a journalist who writes an article.

We are less and less affected by the problems that affect a mass of people, but we can be influenced to tears by a person's sufferings, even if he is just a fictional character. Fiction develops empathy due to the reader's immersion in the metaphor represented through that fiction; in other words, its transposition into the character, it's as if all those things happen to him, it's as if all those emotions, states, and feelings are his. The reader loses track of time and sometimes does not even notice what is happening around him.

Precisely this mental journey in another time and space, the identification with another character, facilitates the change of attitudes, beliefs, confidence in the reader. Fiction, perhaps more than any other category, represents a real treasure of knowledge and information, having a power that no other form of communication has. It has the role of making you penetrate someone else's mind to see how he thinks and what mental connections he makes. When you read a story, an event, you have to see the world through the perspective of the characters and observe how it interacts with its environment, a fact which can be an interesting experience. It is one thing to read a history book and another thing to read a historical fiction book. The latter will put you in the middle of the action and force you to interact with your contemporaries to live in that period, which will make you happy you understand it better. Thus, fiction is a kind of simulator of situations that helps us weigh many experiences and cause-effect relationships without having to live them on our own experience. Just as computer simulators can help us deal with complex problems, in the same way, books can help us understand the complexity of social life. Books will teach you to read reality correctly, said Mircea Horia Simionescu, and this should be the thought in our desire to prepare and develop for life.

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Multilingualism, Francophony and the Perspectives of the Romanian Education*

Titus Corlățean
Associate Professor, "Dimitrie Cantemir" Christian University, Bucharest;
Adjunct Professor "Carol I" National Defense University, Bucharest and
Bucharest University of Economic Studies, Romania
tcorlatean@gmail.com

ABSTRACT: According to the relevant norms of national and international law, the right to education is consecrated as a fundamental human right. The 17 Sustainable Development Goals, as prescribed by the UN 2030 agenda for Sustainable Development, included as Goal no. 4 the "quality education." Multilingualism in international relations and organizations and within the national education systems represents important pillars from this perspective. The Francophone identity and its cultural, educational, and political dimensions are essential parts of this topic. The COVID-19 pandemic's dramatic impact on human development and education increased their relevance and necessity nevertheless. Romania is an important actor of the organization called "Organisation Internationale de la Francophonie" (OIF), including at the level of national school and university educational systems in French language and promotes through political European, and international mechanisms and policies the principle of multilingualism.

KEY WORDS: education, sustainable development, pandemic, multilingualism, Francophone, Romania

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Introduction

The right to education is consecrated both in national and public international law, as well as the international literature review (Renucci 2012, 612) as man's fundamental right. In the national law, it is settled by constitutions and laws, as the case of article 32 (right to education) in Romania's Constitution (1991, rev. 2003) and is respectively guaranteed in the international law by specific norms. As an example, the right to education and (in certain texts) to professional training is consecrated internationally (Hennebel and Tigroudja 2016, 1222-1223) first of all in the Universal Declaration of Human Rights (article 26), the International Covenant on Economic, Social and Cultural Rights) and the UN Convention on the Rights of the Child (articles 28 and 29) in 1989. Regionally, we are first interested in international treaties in the area of fundamental rights and freedoms adopted by the Council of Europe, the leading institution in the field of democracy and human rights, where we first observe the European Convention of Human Rights, the first and most important multilateral treaty (Radu 2018, 7) signed by the mentioned pan-European organization. We specifically mention the provisions (of the first) Protocol of the European Convention of Human Rights (article 2), but also a whole set of conventions on the recognition of academic qualifications (Council of Europe, 2021) or in the field of educational policy and cultural heritage. At the same time, I could mention the Charter of Fundamental Rights of the European Union (article 14), since regionally, I could mention for other continents the African Charter on Human and Peoples' Rights (article 17). In other words, as mentioned by the literature review, the actions and documents of the United Nations, the Council of Europe and other international organizations take education as an *absolute priority* (Tomescu and Corlățean 2017, 125).

It is no surprise then that for the United Nations, the political and key action priorities, such as the case of the concept of sustainable development, for instance, included "the right to education" as a structural component. The right to development, doubled at the beginning, in the 60s-70s, by the concept of "a new economic international order" (Daillier, Forteau and Pellet 2009, 1176) mainly due to ideological reasons, progressed in the last couple of decades towards a global vision, that of "sustainable development." In other words, a vision and a process to develop humanity was necessary,

meant to meet current needs, considering the imperatives of the need to protect the environment and the rational usage of resources, without endangering the capacity of future generations to cover their own needs. This vision is impossible without treating the right to education of the current and future generations from a truly strategic perspective internationally. "Rio Declaration" on June 13, 1992, adopted by the UN Conference on Environment and Development represented the main milestone together with a set of objectives known as Agenda 21, being preceded in 1972 by the Stockholm Declaration, the United Nations Conference on the Human Environment. They have gradually prepared the key political decision adopted by the UN member states at the UN Sustainable Development Summit on September 25-27, under the UN Resolution: A/RES/70/1, entitled "Transforming our world: the 2030 Agenda for Sustainable Development". The UN Agenda 2030 for sustainable development sets 17 key global goals and respectively 169 specific goals for humanity. These objectives are integrated and indivisible and highlight the three dimensions of sustainable development: economic, social and environment (Ibidem). Naturally, one of the main action lines is concerns the transposition of the Agenda 2030 as to the level of a global agenda via planned implementation actions nationally and locally (Council of Europe, 2019).

Out of these, Goal 4 ("Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all"; Ibidem) would consecrate the imperative of ensuring *quality, inclusive and fair education,* as well as the need to promote educational opportunities for all during the lifetime. For this, one of the necessary conditions resulting from the series of documents and implementation strategies internationally, including those adopted in Europe, refers to ensuring *multilingualism in the educational process.* From this perspective, francophony covers a special place, including the cultural, political and organizational width of this phenomenon internationally, as well as its *impact on educational processes.*

Impact of COVID-19 pandemic on education

COVID-19 pandemic has significantly affected the international society both in terms of health, from the point of view of individuals' health, and a larger socio-economic level. Obviously, the impact on the educational system was

huge in the context of restrictive and isolation measures adopted by states, including the closure of schools and universities. The right of children to education was seriously affected, given the complexity of risks and challenges for the educational system and for individuals, generated by the pandemic. According to UNESCO, only for April 2020, practically at the debut of the pandemic, approximately 1.7 billion students were affected by this scourge. In terms of statistics, 80% of those involved in education faced major losses in academic terms for the year to come, including endangering future economic growth rates or incomes in various activities (Wilkerson 2020, *Forbes.com*). In this context, the experts of the World Economic Forum showed that 1.2 billion students had to abandon courses in the first part of the pandemic as schools were closed (Li and Lalani 2020, *Weforum.org*).

At the same time, the crisis generated a series of opportunities for the educational systems, first due to an accelerated promotion of e-learning educational opportunities, digital and virtual distance education platforms, stimulating the technological progress, but also the partnerships and cooperation between public, governmental actors and the operators in the private sector or actors in the civil society (Onestini 2020, *Development.asia*). Obviously, without being able to eliminate the existence of real gaps and discrimination generated by poverty, the difference between resources available among various world zones or even inside the same state or the treatment provided politically and culturally to more vulnerable groups (see the discriminating treatment applied to young and adult females in the developing countries in Africa, in restricting Islamic environments (International Institute for Educational Planning – UNESCO, 2020, "COVID-19 et fermeture des écoles: pourquoi les filles sont plus à risque (COVID-19 school closures: Why girls are more at risk", 29 Avril 2020 etc.).

In both cases, one can conclude that the pandemic changed education forever (Li and Lalani 2020, *Weforum.org*).

Multilingualism and Francophony in education and international institutions

The impact of COVID-19 on education did not diminish in any way the relevance of the UN Agenda 2030 for sustainable development, on the

contrary. Moreover, in a globalized international society, interconnected and where performance criteria make a difference, the need *to promote multilingualism in educational systems emerged increasingly*.

One knows that UN gradually elaborated a whole set of resolutions (www.digitallibrary.un.org), conventions and other documents, but also action strategies and public policies to promote the goal of multilingualism as a fundamental value of the organization contributing to the UN objectives as they are set in the UN Charter (UN Resolution A/RES/73/346 adopted by the General Assembly on 16 September 2019). These instruments and strategies refer both to the UN internal organization and functioning (Implementation of multilingualism in the United Nations system, JIU/REP/2002/11), as well as rapport established in international relationships, including educational policies, as we noted in the case of sectorial specific goals in Goal 4 of UN Agenda 2020 for sustainable development.

A special chapter in the area of multilingualism, both internationally and regionally, goes to *francophony*.

The concept of francophony came out in the late 19th century referring to countries and individuals able to use French. This gets the meaning known today, several decades later, when francophones realize the existence of a linguistic space suitable for cultural exchange. Humanists initiated this movement, a relatively natural endeavor considering the significance played by France in the universal linguistic heritage (Ministry of Foreign Affairs, n.d.).

Institutional francophony emerged on March 20, 1970, once the Niamey Convention was signed (initially called Agence de Coopération Culturelle et Technique, turned in 2005 into Organisation Internationale de la Francophonie – OIF), developing actions of international politics and political, educational, economic and cultural multilateral cooperation among the 88 states and governments currently part of OIF (www.francophonie.org). 20 March is celebrated each year as the International Day of Francophony, and the headquarters of this organization is in Paris.

The key missions of francophony are:

- Promoting French, multilingualism and cultural diversity
- Promoting peace, democracy and human rights
- Supporting education, training, higher education and research
- Developing economic cooperation for sustainable development.

The Secretary General of the organization, the OIF administrator, the Parliamentary Assembly of Francophony, the Association of Francophone Universities (AUF, one of OIF operators), the permanent conference of the ministers of education, as well a series of strategic partners, NGOs and other structures such as L'Alliance Française could be mentioned as relevant for the action to promote the principle of multilingualism and francophony in education within institutional structures (Ibidem).

The respective organization gradually developed a series of strategies and mechanisms to promote the use of French internationally in the systems of national education and in international organizations, including regionally (see *Vade-mecum relatif à l'usage de la langue française dans les organisations internationals, adopté par la CMF le 26 septembre 2006*).

According to OIF data, French is the 5th most spread language in the world, being used by about 300 million people on all continents. Two hundred thirty-five million use French daily, and 90 million people are native speakers. In 2018, 80 million students studied French. According to OIF, it is likely that in 2050 the number of French speakers in the world will reach 700 million, mainly given the demographic increase in francophone African countries (www.francophonie.org). French is the language of school instruction in 36 states and respectively the official language in 32 states and governments in the world. According to these statistics, French is the second language presented as a foreign language, following English, for 81 million people. It is the second business language in Europe and the third in the world, the 4th on the internet and the 2nd used language in international organizations.

For France, especially, francophony represents huge stakes culturally, educationally, and politically, which raises the influence in international relations on several levels, starting with the political and culminating with the cultural and economic one. No surprise then that France prepares the future Presidency of the Council of the European Union in the first semester of 2022, including efforts to consolidate the role of French in European structures. It refers to a series of assessments and statistics about, among others, the legal foundations of multilingualism and the use of French in EU institutions, the current status of its being used in official and working documents, in the translation of documents or in official or informal meetings, in the external relations of the EU, the allocated budgets, the trends

recorded during the last years etc., elements to support the actual strategies and actions, including the budgets to be allocated in the future with the aim to consolidate the profile and the role of French at the European level and, in a wider sense, in the European society. In this respect, French authorities have already launched on April 8, 2021, the working group on francophony and multilingualism in EU institutions, in the presence of state secretaries in the French government in charge of francophony and respectively European affairs (Ministry for Europe and Foreign Affairs of France, n.d.). The mentioned group is led by Christian Lequesne, professor of political science, former director at CERI (Centre de Recherches Internationales) and has the mission to present the report with the conclusions and action recommendations on September 1, 2021, in order to allow the French government to undertake in due time the measures necessary to promote the mentioned objective in the EU institutions. This will happen in the context in which 19 states and government members of the Union are simultaneously members of OIF. The activity of the group starts with the objectives stated by the President of France in his strategy on March 20, 2018 (Ministry for Europe and Foreign Affairs of France, 2021), meant to render French the fore-front place and rank in the world, while respecting multilingualism, including in the geographical space of the European Union.

Romania and promoting multilingualism and francophony

OIF is the first international organization Romania joined after the fall of communism, in 1993, being granted full membership at the Sommet in Maurius. In 2007, Romania was appointed "état-far" of francophony in the region. In 2004, our country hosted the Antenna of francophony, turned in 2014 into a regional office and in 2020, respectively, the regional head office. In 2006, Romania hosted the 11th Sommet of Francophonie and it exerts the rotating presidency of the organization between 2006-2008. In 2017, the President of the Rectors Council is elected President of the International Organization de la francophonie, a role maintained in the present. Symbolically, in 2013, the Ministry of Foreign Affairs in Romania and the General Mayor of the Capital in Bucharest launch la Place de la Francophonie (Minister of Foreign Affairs of Romania, 2013), located near

the Palace of the Parliament, the only square dedicated to francophony at that time in the European space, including the francophone one.

From the perspective of promoting French and cultural diversity in Romania, relating it to multilingualism and francophony especially, including the Romanian educational system, the following elements are relevant.

Firstly, the Ministry of Foreign Affairs (MAE) runs the Eugen Ionescu Program of Doctoral and Post-doctoral research scholarship. The program operates uninterruptedly since 2007, Romania being the only country providing such a scholarship program within OIF. MAE has provided so far scholarships to 950 doctoral and post-doctoral researchers from 39 countries, mostly from Africa. In 2021, 39 universities and research institutes in Romania were involved in this program. MAE runs the scholarships, with the support of the International Organization de la francophonie (AUF-ECO, based in Bucharest). Every year, the Eugen Ionescu scholar's day takes place either at the Presidential Administration, in the presence of that year's graduates and Romanian officials.

Romania is involved in OIF to implement the multi-annual Training Plan, in French, of diplomats and public servants. The "far-program" of cooperation with OIF took place between 2004 and 2008, with about 6500 Romanian diplomats and public servants being trained as diplomats and public servants in French. Since 2019, OIF provided another program to Romania, the Francophone Institution Initiative ("Initiative Francophone d'Etablissement" - IFE), aiming to consolidate the National Administration Institute (INA) as a training provider, including French. IFE started to operate in September 2018 and then interrupted its work during November 2019-August 2020 (as a result of temporary interruption of INA). The program is funded by OIF (from states' membership fees) and the Romanian party, equally. In 2021, the plan will return to normal operation. In their dialogue with OIF, MAE aims to include institutions, organizations and personalities in Romania (universities, associations and academia) among the training providers in French agreed by OIF, to offer courses and seminars within IFE, in Romania and the region.

From the point of view of institutional multilingualism, our country is an active actor to promote multilingualism within international organizations.

Romania is an active supporter of multilingualism in regional and international organizations and one of the traditional sponsors of the Resolution on multilingualism, which is adopted every other year in the plenary session of UN General Assembly. In 2019, Romania was one of the facilitators of this resolution. Most of the heads of diplomatic missions of Romania actively participate in the reunions of the Francophone Ambassadors Groups, activities organized by these groups on the International Day of francophonie and the efforts to promote multilingualism. Moreover, numerous heads of diplomatic missions of Romania abroad actively engaged in the presidency of the Francophones Ambassadors Groups (as it is/was the case in Paris, Brussels/UE, Budapest, New York, Sofia, etc.) The Heads of diplomatic missions in Romania also animate the Francophones Ambassadors Groups in many countries where there are no members, associates or observers of francophony (such as the Netherlands, Pakistan, etc.)

Regarding the support of education, training, higher education, and research from the perspective of French education in Romania, several aspects are relevant.

There are two French international schools in Bucharest – *the French high school Anna de Noailles and École Française Internationale* (EFI, private school opened in April 2019).

There are 109 francophones routes in the secondary and vocational education, either state or private ones. Over 60 bilingual study profiles carry out their activity in Romanian schools and high schools, the highest number in all EU member states outside of France, 24 of them providing a French international baccalaureate recognized in France. 13 of them received the Excellency award *FrancEducation*, offered for three years by the French Ministry of Education. According to data from the Embassy of France in Romania, there are 18 bilingual Romanian-French high schools in Bucharest and 12 other cities, there the language instruction is fully in Romanian and Frenchy, checked and accredited by a French organism, recipients of the FrancEducation brand and other 5 cities with as many high schools which declare themselves Romanian-French, but which were not accredited so far.

The number of French teachers is the highest in all states in Central and Eastern Europe. At present, there are 7,500 French teachers (in 2015, their number was 9,000).

In higher education, Romania occupies the first place in Europe regarding the French study programs (except France) – 109 in the whole country in all fields – scientific, technical, legal etc. Over 300 interinstitutional partnerships unite higher education institutions and other francophone countries in the world, concluded base on academic autonomy.

The first edition of the French Olympiads took place in Cluj-Napoca, May 7-10, 2015, at the initiative of the Ministry of Education in Romania, with OIF support. Starting with 2015, the International Olympiad (which takes place, in fact, in central and Eastern Europe) was organized each time in one of the OIF member states in central and Eastern Europe. In 2018, the Olympiad was organized in northern Macedonia, while in 2019 in the Republic of Moldova. The Romanian students were each year at the top of the French International Olympiad.

On the other hand, Romania signed a series of key agreements in the field of education and research with OIF. The Agreement Memorandum between the Ministry of National Education and Research and Association of Francophone Universities (AUF) was signed in March 2016, with the aim of completing research projects, with the support of funding and expertise from AUF, within the 3rd national research plan (2015-2020).

The partnership memorandum on educational cooperation in the strategic field of francopony (2015-2022) was signed in Paris on November 25, 2017 between OIF and the Ministries of Education in Romania, Albania, Armenia and the Republic of Moldova. Later, northern Macedonia signed in their turn the memorandum in 2018, and Bulgaria initiated procedures but has not signed it yet.

An executive protocol signed between the Institute of Atomic Physics and AUF aims at 10 research projects in physics and strength of materials, durable energy, environment and biotechnology etc.

Based on the working documents of the Romanian authorities on their relationship with OIF and, respectively, the reporting sent by them about actions undertaken to promote learning French, based on the requirements of the 32rd resolution of the Ministerial Conference of Francophony (Antananarivo, November 23-24, 2016), it results that education in French remains a priority, this language preserving the status of the second modern language most used in our country. About 99% of the students in primary and

secondary education learn French as the first or second foreign language, 22% from high school students coming from the bilingual school units choose later the Romanian francophone routes. 41% of the total students in the secondary education system learn French. During the school year 2018-2019, about 1,2 million students studied French in school, out of whom 7000 students study it in either intensive of bilingual way.

Finally, academic francophony in Romania is seen as highly dynamic, sincere there are 39 universities and research institutes members of AUF, out of whom 23 public universities and 16 private ones, with a total of 60 degrees in French and, respectively, 59 master programs.

Significant elements in the country report concerning Romania, among others, appear in the 2019 edition of the OIF report entitled "La langue française dans le monde" (Organisation internationale de la Francophonie, 2019).

Conclusion

Francophony, included in the vision to promote multilingualism in international relations, is part of those vital instruments to promote an open, inclusive, educated and competitive model of society and, lately, the fundamental concept consecrated to the United Nations about Agenda 2030 for a sustainable development of the international society.

Francophony represents much more than the historical, linguistic, educational and cultural dimensions, which are all undoubtedly important. There is a prominent political francophony, supporting multilateralism in international relations to the detriment of unipolar type of models, based on the appeal to use force in the international society. Furthermore, equally, a community of democratic values, relying on affinities and a shared francophone identity and the aspirations to ensure peace, security and cooperation in international relations. Of course, the role of education in French for systems sharing such values remains vital.

Romania is part of this appealing and extended family, geographically. Given historical reasons, cultural and educational ones, but also political factors, our country has the genuine interest to preserve and consolidate this "état-far" status of francophony in our region. So much more since

demographic perspectives at the international level confirm a numeric expansion in the future of this cultural and political family. This implies, among others, that Romania articulates in the coming years a coherent educational policy and allocation of adequate resources, including ensuring a competitive academic workforce and an ongoing connection to international educational francophone networks. This strategy cannot emerge but from a politically correct vision and, respectively, through political will. There are both subjective and objectives reasons, pragmatic, in this direction.

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Compensatory Benefit of the Innocent Spouse under Romanian Law

Ciprian Raul Romițan
"Romanian-American" University, Faculty of Law;
Partner of "Roș & Co" Law Firm, Bucharest, Romania
ciprian.romitan@rvsa.ro

ABSTRACT: In some cases, after the marriage has been dissolved, a significant economic imbalance can be created as regards the living conditions of one of the former spouses, and should therefore be required that, if he/she is not guilty of divorce, to be assured of living conditions similar to those which he/she had during his/her marriage. The tool which the interested spouse has at his/her disposal is the compensatory benefit. By regulating the institution of compensatory benefit, the Romanian legislator wanted to offer a legal instrument that would compensate for a possible imbalance in the way of life that the divorce would produce to the person requesting such a benefit. The study shall make a theoretical and practical analysis of the conditions for granting the compensatory benefit, the method for determining the amount and the procedures for amending and ceasing it.

KEY WORDS: dissolution of marriage, compensatory benefit, innocent spouse, spouse's exclusive fault, living conditions, significant imbalance

Preliminary Remarks

After marriage, the spouses have a series of *rights* and *duties*, of *a personal nature* and of *patrimonial nature*, which will accompany the marriage throughout the life of its existence. However, at the dissolution of marriage, all the rights and mutual duties of the former spouses are lost.

However, with the declaration of divorce, there is no "categorical and immediate rupture between spouses, and they continue to be "linked" without being "united" by what might be called "post-conjugal solidarity" which can be activated, where appropriate, *by the maintenance right* or *the right to compensatory benefit of* the former spouse" (Florian 2013, 401).

If during the marriage the spouses enjoy and have similar living conditions, even if one of them earns incomes from working, in many cases, after the marriage has been dissolved, a significant economic imbalance is created as regards the living conditions of one of the former spouses, and should therefore be required that, if he/she is not guilty of divorce, to be assured of living conditions similar to those which he/she had during his/her marriage. The tool which the interested spouse has at his/her disposal is *the compensatory benefit*, which, as indicated in the specialized literature, although it has no "ambition to perpetuate the material comfort of the past, has the vocation to limit the disadvantages of its loss" (Florian 2013, 402; Hageanu 2017, 197). It should be pointed out that "the purpose of compensatory benefit cannot be to equalize the assets of the spouses after the marriage has been dissolved" (Nicolescu 2020, 153).

It follows from the above that the purpose of the compensatory benefit is to provide the innocent spouse with similar living conditions to those during marriage by obliging the spouse guilty for the dissolution of the marriage to a benefit, which may be in cash or in kind. In other words, *the purpose of the compensatory benefit is* not to cover entirely the possible loss incurred by the innocent spouse, but merely to moderate it, to balance the situations of the two, taking into account also the means and interests, present and future, of the debtor spouse.

Granting of this compensatory benefit has been shown in court practice,"*is not conditional upon proving any damage, and its purpose is to assure the innocent divorced spouse a life as close as possible to that during the marriage*" (Botoșani District Court, Civil Decision No 161A/2013).

Concept and regulation

As mentioned above, the compensatory benefit is an" absolute first" in Romanian civil law and must not be confused with either the right to compensations or the maintenance obligation between the former spouses,

because the condition and rationale of the legal regulation are different. By regulating the institution of compensatory benefit, the Romanian legislator wanted to offer a legal instrument that would compensate for a possible imbalance in the way of life that the divorce would produce to the person requesting such a benefit (Bodoaşcă 2020, 353).

Therefore, we can call *the compensatory benefit* as a" right recognized in favor of the claimant spouse when the divorce is ordered out of the exclusive fault of the defendant spouse" (Moloman 2012, 262), or "a legal means to compensate for the imbalance caused by divorce regarding the way one of the spouses lives" (Motica 2018, 168).

The right to compensatory benefit, as a possible effect of the dissolution of the marriage (divorce), was first enshrined in Romanian civil law, with the adoption of the Civil Code in force, and is governed by Article 390-395 of the Civil Code (Law No 287/2009 on the Civil Code, published in the Official Gazette of Romania, Part I, No 511 of 24 July 2009, as amended by Law No 71/2011 for the implementation of Law No 287/2009 on the Civil Code, published in the Official Gazette of Romania, Part I, No 409 of 10 June 2011, republished in the Official Gazette of Romania, Part I, no 505 of 15 July 2011). In regulating the compensatory benefit in the Romanian Civil Code, its editors were inspired by the French Civil Code (art. 270-282) and the Québec Civil Code (art. 427-430).

Legal characters of the compensatory benefit

From analyzing the provisions of Article 390-395 Civ. Code, governing the compensatory benefit, we consider that it has the following legal characters:

– *Patrimonial character*, because the Civil Code regulates it among the patrimonial effects of the dissolution of marriage (Article 385-395 Civ. C.);

– *Optional character*, deriving from the provisions of Article 390 (1) Civ. C., according to which "a claimant spouse *may receive* an offsetting benefit" (s.n);

– *Subsidiary character*, as attested by Article 390 (3) Civ. C., which expressly states that "the spouse claiming the compensatory benefit may not claim from his former spouse also maintenance pension under the conditions of Article 389 Civ. C.";

– *Variable character*, deriving from the provisions of Article 394(1) Civ. C. which states that "the court may increase or decrease the compensatory benefit, if the debtor's means and the creditor's resources are changed significantly";

– *Character intuitu personae*, deducted from the provisions of Article 395 Civ. C. according to which "the compensatory benefit ceases by the death of one of the spouses, by the remarriage of the creditor spouse, and where the latter obtains resources likely to ensure him/her living conditions similar to those during the marriage".

Conditions for granting the compensatory benefit

According to the provisions of art. 390(1) of the Civil Code, "In case the divorce is ordered out of the exclusive fault of the defendant spouse, the claimant spouse is entitled to a benefit, meant to make up, as much as possible, for the imbalance the divorce would cause in the living standard of the claimant". (2) "The compensatory benefit may be granted only if the marriage has lasted for at least 20 years". Moreover, according to Article 390(3) Civ. C. the compensatory benefit cannot be combined with the maintenance pension covered by Article 389 Civ. C.

The analysis of these provisions sets out a number of conditions (three positive and one negative) which must be met cumulatively for the granting of the compensatory benefit, namely: the divorce must have been pronounced due to the exclusive fault of the defendant spouse; the marriage must have lasted at least 20 years; there is a significant imbalance which the divorce determines in the living conditions of the person requesting the benefit and the negative condition resulting from the provisions of Article 390 (3) Civ. C., that of the impossibility of combining the compensatory benefit with the maintenance pension (Avram 2016, 148-149). For the same purpose, in a case, the court stated that *"the compensatory benefit can be granted if four conditions, three positive and one negative, are met. Thus, the Civil Code establishes three positive conditions: the divorce must be pronounced of the exclusive fault of the defendant spouse, there must be a significant imbalance which the divorce would cause in the living conditions of the innocent spouse, and the duration of the marriage should be at least 20 years. Regarding the negative*

condition, this derives from the interpretation of the provisions of Article 389 Civ. C. in the sense that the former spouse must choose between compensatory benefit and maintenance pension because they cannot be cumulated. The four conditions are cumulative. Regarding the first condition, the court states that the spouse claiming the compensatory benefit must not be guilty of the divorce and that the spouse who is liable for the compensatory benefit is exclusively liable for the marriage being dissolved. Therefore, the compensatory benefit cannot be granted if both spouses are responsible for the dissolution of the marriage, nor in the case of divorce by the agreement of the parties. In this case, the dissolution of the marriage is to be pronounced by common fault of the parties, so that the first condition for the compensatory benefit is not fulfilled" (Motru Law Court, Civil judgment No 1244 of 5 October 2020).

1. The divorce to be pronounced from the exclusive fault of the defendant spouse [Article 390(1), sentence I Civ. C.]

It follows from the interpretation of the provisions of Article 390 (1), sentence I Civ. Code that only the spouse not guilty for the dissolution of the marriage may claim compensatory benefit. This means that compensatory benefit cannot be granted in the case of divorce by the spouses' agreement, whether pronounced by the court or by the civil status officer in the case of administrative divorce or by the notary public in the case of divorce by a notary, and where the court has ruled on the "common fault" of the spouses in the dissolution of the marriage, according to the provisions of Article 379 (1), second sentence Civil Code.

For example, in a case in which the claimant requested that his/her former spouse, on whose fault the divorce was declared, pay a benefit which compensated for the imbalance that occurred to his/her living conditions, the court stated that *"the granting of this compensatory benefit is not conditioned upon proof of damage, and its purpose shall be to assure the innocent divorced spouse a life as close as possible to that during the marriage. Therefore, as the conditions laid down in the said legal text are fulfilled and as the claimant's incomes were always significantly higher than the defendant's incomes, which enabled them to have a comfortable, worries-free life, and by the dissolution of the marriage the life of the defendant - claimant at least from the material point of view, undergoes*

a major change and having to apply other standards in accordance with his/her incomes, the District Court will force the defendant to pay a compensatory benefit in the form of a life annuity of 10 %, of the net permanent income obtained by the claimant over a period of 5 (five) years from the date of delivery of this decision" (Botoșani District Court, Civil Decision No 161A/2013).

2. The existence of a significant imbalance that the divorce would determine in the living conditions of the one requesting the compensatory benefit award [Article 390 (1), second sentence, Civ. C.]

As the legal text also shows, the imbalance must be significant, i.e. "liable to destabilize the patrimony of the claimant spouse" (Irinescu 2015, 128).

This *significant imbalance* will be assessed, on a case-by-case basis, by the court on the basis of the elements stipulated in Article 391 (2) Civ. C., taking into account both the resources of the spouse requesting it and the overall income of the other spouse at the time of the divorce, as well as the living prospects of the innocent husband. The court must also consider, in establishing the compensatory benefit, the age, state of health and professional training of the spouses, the possibility of income-producing activities and the effects of liquidation of the matrimonial property regime, by verifying both the assets, and the liabilities that will be left to every spouse. For example, in a case, the court stated that *"the evidence produced fully proves that the defendant never pursued gainful activities during the marriage, and the daily family life was secured from the money received by the spouse and material from the cultivation of the land of the common dwelling. The defendant did not engage in gainful activities during the long marriage period, which could have been set up in contribution periods necessary to establish an own pension right, and now at the age of around 60, she is still without own material means of support necessary for her maintenance. Considering the old age and lack of a professional qualification, the defendant still has minimal chances of accessing a job in the labor market in the area in which she lives. Therefore, in the absence of any secure material means of subsistence, a significant imbalance in her living conditions continues to persist"* (Medgidia Law Court, Civil sentence No 1793 of 23 November 2018). In another case, in which the claimant was requested to pay a compensatory benefit in the form of a life annuity amounting to 1,000 lei per month, the court ruled that *"the innocent spouse who claims that the other is required to pay compensatory benefit, must suffer from divorce a significant imbalance in his/her*

living conditions. This is a matter of fact to be proved by the person lodging this request. The claimant did not give reasons for this imbalance, namely to mention that during the marriage she was provided with living conditions that offered expenses of an amount of X lei, and that she had an income of a much lower amount. No evidence has been produced from the claimant that would prove the incomes and expenses of the parties during the marriage, the amount thereof and the incomes she will have after the marriage has been dissolved. The claimant made a simple claim in the sense that it is no longer able to carry out gainful activities at this time. From this point of view, the request to order the defendant to pay a compensatory benefit appears to be groundless, since the court cannot check the condition of the existence of the significant imbalance" (Constanța Law court, Civil sentence no. 4145 of April 8, 2015, commented by lawyer Tudor Ion).

3. The marriage has lasted at least 20 years [Article 390(2) Civ. C.]
We believe that this relatively long period of time was considered by the Romanian legislator in order to discourage the marriages concluded, not for the purpose of establishing a family, but for the purpose of obtaining material benefits. In other words, the legislator considered that *only a long-term marriage justified the granting of a compensatory benefit to the innocent spouse*. As also stated in the specialized literature (Florian 2018, 345),"rigorously, the minimum duration of 20 years should be related to the date of the divorce decision remaining final, this being the time of the judicial dissolution of the marriage" [Article 382(1) Civ. C]. It follows from the analysis of the legal text of Article 390(2) Civ. C. that the legislator has considered exclusively the duration of the marriage, without including in the minimum duration of 20 years, their pre-marital coexistence in the form of cohabitation or engagement. Also, given that the legal text does not distinguish, we consider that the condition is fulfilled also if, during the 20 years of marriage, the spouses had some interruptions in the life community in the form of separations *de facto* (Florian 2018, 345; Nicolescu 2020, 155). In a case where the court found that all the conditions required by law for the granting of benefits were fulfilled, it was decided that *"the compensatory benefit may also be granted where the marriage is actually dissolved for the separation de facto, for more than two years, since in this case, the claimant assumes the failure of the marriage"* (Bârlad Court, Civil sentence No 2870/2015).

Regarding the minimum duration of 20 years of marriage, imposed by law in order to benefit from a compensatory benefit, we acquiesce the views expressed in the doctrine and consider that the legal provision of Article 390(2) Civ. C. "may create an unfair situation, as there may be innocent spouses who suffer a significant imbalance through the disposal of a 10, 15 or 19-year marriage and who could receive such compensation" (Moloman and Ureche 2013, 171; Hageanu 2017, 199). Considering that the suffering caused to one of the former spouses as a result of divorce cannot in any way be quantified, particularly by the minimum duration of the 20-year marriage, we propose *de lege ferenda*, together with the above-mentioned authors, that the minimum period of 20 years of marriage necessary for the granting of the compensatory benefit to be waived, and the judge in charge of the divorce settlement, after producing the evidence, determine in each case whether it is necessary to grant it, irrespective of the length of the marriage between the two spouses.

In another case, the court ruled that *"… the applicability of Article 390 Civ. C, concerning the compensatory benefit to which the spouse guilty for the marriage dissolution may be liable, cannot be retained, since the condition concerning the duration of the marriage of at least 20 years is not fulfilled"* (Focsani Law Court, Civil Matters, Civil sentence No 1570 of 2 April 2013). In addition, in a case where the claimant has requested that his/her former spouse, on whose fault the divorce was declared, be obliged to pay a benefit which would compensate for the imbalance which occurred to him/her in his/her living conditions, the court considered that *"the conditions laid down in the law are fulfilled [Article 390(1) and (2) Civ. C. (n.a.)] and as the conditions laid down in the said legal text are fulfilled and as the claimant's incomes were always significantly higher than the defendant's incomes, which enabled them to have a comfortable, worries-free life, and by the dissolution of the marriage the life of the defendant - claimant at least from the material point of view, undergoes a major change and having to apply other standards in accordance with his/her incomes, the District Court will force the defendant to pay a compensatory benefit in the form of a life annuity of 10 %, of the net permanent income obtained by the claimant over a period of 5 (five) years from the date of delivery of this decision"* (Botoșani District Court, Civil Decision No 161A/2013).

4. Impossibility of cumulating the compensatory benefit with the maintenance pension *[art. 390 (3) Civ. C.]*

Although the normative wording is slightly defective, we consider, along with other authors (Nicolescu 2020, 155), that, in essence, the double claim is not forbidden, but the cumulative granting of the compensatory benefit and the maintenance pension. Where the court has rejected the claim for compensatory benefit to the innocent spouse, the latter may subsequently apply separately for maintenance pension if the legal conditions laid down in Article 389 Civ. C. are fulfilled. For example, the spouse who claims the compensatory benefit cannot claim from his/her former spouse also maintenance pension for incapacity to work. During the divorce process, the requesting spouse has to decide whether to receive a compensatory benefit or a maintenance pension. For this purpose, in a case in which, by way of a statement of claim and counterclaim, the spouse responsible for the dissolution of the marriage has been required to pay the former spouse a maintenance pension until he/she ceases to be disabled and, in the alternative, to pay him/her compensatory benefits and moral damages, the court stated that *"according to Article 390 (3) Civ. C. the spouse claiming the compensatory benefit cannot claim from his/her former spouse a maintenance pension also, under the conditions of Article 389 Civ. C. As has also been pointed out in the doctrine, the prohibition of the cumulation of the two forms of repair is natural, since, although different in terms of regulation and legal nature, both are intended to compensate, as far as possible, for the imbalance caused by the divorce in the living conditions of the one requesting the payment. The two legal institutions – the maintenance pension between the former spouses and the compensatory benefit – are different. If in the case of maintenance obligation the essential condition to be fulfilled is that of the state of need of the person requesting it, due to incapacity to work due either to sickness or to old age, in the case of a compensatory benefit, it is about a significant imbalance which the divorce produces in the living conditions of the person requesting it"* (Suceava Court of Appeal, Civil Decision No 993 of 18 September 2013).

Determination of the compensatory benefit

Pursuant to Article 391 (1) Civ. C. compensatory benefit may be claimed only when the marriage is dissolved. In other words, compensatory benefit

cannot be claimed during the marriage, before the application for divorce was lodged, even if the spouses were separated *de facto* or after the court ruled on the dissolution of the marriage. However, although the judicial way for determining the compensatory benefit cannot be avoided, if the spouses agree, they can decide, both in terms of the form and amount of the benefits, throughout the divorce process.

It should be pointed out that, where the claimant does not claim compensatory benefits in the course of the divorce proceedings, by a claim ancillary to the main divorce claim or, where appropriate, by the defendant, by a counterclaim, the disclaiming of the right to compensatory benefits is applicable.

The application for a compensatory benefit shall be lodged, either as an application ancillary to the application for a divorce or separately, before the divorce is pronounced. In determining the compensatory benefit, account shall be taken, according to Article 391 (2) Civ. C. of several criteria, as follows:

– The resources of the spouse requesting it;

– The means of the other spouse who will have to pay it from the time of the divorce;

– The effects which the liquidation of the matrimonial property regime has or will have;

– Any other foreseeable circumstances likely to modify them, such as the age and state of health of the spouses, the contribution to the raising of the minor children which each spouse has had and is about to have, vocational training, the possibility of carrying out an income-producing activity and the like.

The criteria set out in Article 391(2) Civ. C. are flexible in the sense that the judge will not be able to know exactly what the material situation of the innocent spouse will be, but will only consider mere assumptions as to the situation of his/her living conditions (Moloman and Ureche 2013, 172).

In other words, the judge will have to examine not only the material situations of the possible creditor and possible debtor, but also any other circumstances to modify them. In this respect, as professor Emese Florian also points out, "the judge is invited to exercise futurology" (Florian 2013, 408).

In a case in which the payment of a compensatory benefit was claimed pursuant to Article 390 Civ. C., the Court *"rejected the counterclaim lodged by the appellant claimant C.D. for forcing the husband C.G. to pay a compensatory*

benefit from which to compensate for the significant imbalance which the divorce creates in the living conditions of the claimant, and the district court considers this solution to be correct. Thus, according to the evidence produced in the case the appellant defendant is a pensioner, achieving a monthly income of about 1000 lei, which is substantially equal to the pension income realized by the husband of C.G., and considering that during the whole period of the de facto separation and at present the appellant defendant has remained in the household with all the assets acquired by the spouses during the marriage, it cannot be claimed that the level of living in terms of the material state of the appellant defendant has suffered a considerable imbalance, her material situation remaining approximately the same" (Gorj District Court, Civil Decision No 834 of 5 September 2014).

Form of the compensatory benefit and guarantees

The form of the compensatory benefit may differ depending on the actual situation of the two divorcing spouses. Thus, pursuant to Article 392(1) Civ. C. the compensatory benefit may be set in *money*, under the form of a global amount or *life-long annuity*, or *in kind*, under the form of *usufruct* on *movable* or *immovable* assets belonging to the debtor. According to the provisions in art. 706 of the Civil Code, "the right of usufruct can be granted for any movable or immovable, tangible or intangible assets, including a patrimonial estate, a factual universality or a share thereof". In other words, the usufruct right may relate to any property in the general civil circuit, a patrimonial estate, a factual universality or even a share of such universalities *de facto* or *de jure* (for developments, Bîrsan 2017, 269-270).

According to Article 393 Civ. C., "the court may, at the request of the creditor spouse, oblige the debtor spouse to provide security in rem or to give a bail to insure the annuity execution". Where a "guarantee in rem" has been provided, the provisions of Articles 2.343 to 2.479 Civ. C. relating to the mortgage and Articles 2.480 to 2.499 Civ. C. relating to the pledge shall apply. If the court has ordered the debtor to pay a bail, the provisions of Article 1.057 et seq. Civ. C. relating to legal bail shall apply (Bodoașcă 2020, 361).

The lodging of such security shall *be optional* and, depending on the circumstances of each case, the judge may determine whether or not the security should be established. The purpose of establishing the security by the judge is to *ensure the payment of the annuity* (Frențiu 2012, 344).

As shown in the literature, the court can also establish *a mixed compensation*, partly in money, partly in kind (Lupascu and Crăciunescu 2021, 360). As regards annuity, Article 392(2) Civ. C. provides that this may be set in terms of a percentage share of the debtor's income or a specified amount of money.

The court may, by a divorce judgment, determine the length of time for which the annuity and the usufruct are constituted. Thus, under Article 392 (3) Civ. C., both the annuity and the usufruct may be established throughout the life of the person applying for the compensatory benefit or for a shorter period. For example, in a case, the court ordered the husband guilty for the dissolution of the marriage to pay, to his former wife, a *"compensatory benefit in the form of a life annuity, amounting to 10 %, of the net permanent income obtained by the claimant over a period of 5 (five) years, from the date of delivery of this decision"* (Botoșani District Court, Civil Decision No 161A/2013).

On the grounds of Article 393 Civ. C. at the request of the creditor spouse, the court may require the debtor spouse to provide a security in rem or to give a bail in order to ensure the annuity execution. In other words, the debtor may be required to provide a security only at the request of the creditor spouse and only where the court has established that the compensatory benefit is in the form of a life annuity.

Modification and cessation of the compensatory benefit

Pursuant to Article 394 (1) Civ. C., the court may increase or decrease the compensatory benefit if the debtor's means and resources are significantly modified. In other words, the court decision establishing the compensatory benefit enjoys a relative authority of *res judicata* (Avram 2016, 151). For example, in a case concerning the cessation of the payment of the compensatory benefit provided to the defendant, the claimant pointed out that *"although his incomes did not change since the initial settlement, medical expenses have increased as a result of the serious deterioration in his health condition through the discovery of new diseases by doctors, which is also reinforced by the Medical letter submitted to the court. Consequently, taking into account all the evidence produced, the court will decide to reduce the amount of the compensatory benefit to which the appellant was obliged by a previous decision and forces the claimant to pay the defendant a compensatory benefit in the form of a monthly annuity, of 15 % of the net income*

obtained by the claimant, throughout the entire life of the defendant" (Constanta District Court, Section 1 Civil Matters, No 919 of 14 May 2029).

The compensatory benefit shall cease by the death of one of the spouses, by the remarriage of the creditor spouse, and when the latter obtains resources likely to assure him/her living conditions similar to those during the marriage (Article 395 Civ. C.). As one can see the listing of the grounds for cessation of the compensatory benefit is exhaustive, which only ceases in the event of the death of one of the spouses, the re-marriage of the creditor spouse, or where the creditor spouse obtains resources which would ensure similar living conditions to those during the marriage. For example, in a case in which the claimant asked the court, on the basis of the evidence to be produced, to order the cessation of the compensatory benefit to which he/she was liable to the defendant following the civil sentence in which the divorce was pronounced, the court has held that at present, *"the circumstances regarding the defendant's own income have changed significantly since the civil decision no. 790/30.10.2014 and the civil sentence no. 58/14.02.2017, increasing from lei 438 per month to lei 800 per month. At the same time, the total income of the defendant is lei 1,200/month (combining the pension with the compensatory benefit) and the claimant has an income of lei 1,155/month, according to the unique declaration. Therefore, for the above considerations, the court will admit the claim lodged by the claimant and order the cessation of payment of the compensatory benefit established in the favor of the defendant and incumbent upon the claimant"* (Lehliu Gară Law Court, Civil judgment No 61 of 19 January 2021).

As we have already mentioned, the list of reasons for the cessation of the compensatory benefit is exhaustive, which is why other cases can no longer be added, such as, for example, the loss of employment or even the loss of the debtor's ability to work. In the latter cases, we consider, along with other authors, that "the court may be asked to reduce the amount of the compensatory benefit or to suspend it provisionally" (Hageanu 2019, 180). It is for the supervisory body to establish that the compensatory benefit is ceased, i.e. the law court of the defendant's domicile [art. 94 (1) let. a) corroborated with art 107 Civ. C.].

Where the compensatory benefit consists of an amount of money, it shall be indexed *de jure* on a quarterly basis according to the rate of

inflation [Article 394(2) Civ. C.]. It should be pointed out that the quarterly indexation of the compensatory benefit "does not exclude the revision of the compensatory benefit" (Florea and Florea 2019, 127).

Conclusions

As a conclusion, from our analysis of compensatory benefit, the following result:

– For granting the compensatory benefit, several conditions must be fulfilled cumulatively: the divorce must have been pronounced due to the exclusive fault of the defendant spouse; the marriage must have lasted for at least 20 years; there must be a significant imbalance which the divorce causes in the living conditions of the person requesting the benefit; the impossibility of combining the compensatory benefit with the maintenance pension;

– The right to a compensatory benefit may be redeemed only with the divorce;

– In determining the compensatory benefit, account shall be taken of several criteria: the resources of the spouse who requests it; the means of the other spouse who will have to pay it from the time of the divorce; the effects that the liquidation of the matrimonial property regime has or will have; any other foreseeable circumstances of a nature to modify them, such as the age and state of health of the spouses, the contribution to the raising of the minor children each spouse has had and is about to have, professional training, the possibility of carrying out an income-producing activity and the like;

– The compensatory benefit may be set in money, under the form of a global amount or life-long annuity, or in kind, under the form of usufruct on movable or immovable assets belonging to the debtor;

– At the request of the former spouse concerned, if there is a significant change in the means of the debtor and the resources of the creditor, the court may increase or decrease the compensatory benefit;

– The compensatory benefit shall cease at the death of one of the spouses, by the remarriage of the creditor spouse, and when the latter obtains resources likely to assure him/her living conditions similar to those during the marriage.

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The Evolution of Intellectual Property Concepts at National and International Level

Mihai Dorel Vlad
"Dimitrie Cantemir" Christian University of Bucharest, Romania
vladmdorel@yahoo.com

Sara Vlad
"Dimitrie Cantemir" Christian University of Bucharest, Romania
saravlad@yahoo.com

ABSTRACT: Closely related to this field is the activity of research - development and innovation which is a strategic component, decisive for economic development and social progress. Thus, science, technology and innovation represent fields that constantly generate technological progress, ensuring the sustainability of development and the prospective economic competitiveness of Romania. At the same time, innovation and technological transfer are solutions for solving economic problems and for the permanent renewal of the necessary technologies by connecting Romanian research to the requirements and pressures of a free, expanding market, in the context of globalization.

KEY WORDS: innovation, technological transfer, Intellectual property, solutions, economic competitiveness

Introduction

Intellectual property protection has become a global issue as a result of the development of world trade in products that include copyright or industrial property rights. The protection and global promotion of intellectual property is an element of vital importance, of economic development, piracy and counterfeiting being a cross-border issue, whose approach must have the support of the political class and civil society (Roș 2001, 88).

Cooperation and coordination between the public and private sectors in the field of counteracting the phenomenon, building capacities to combat intellectual property fraud, promoting national and international regulations to prevent and repress piracy and counterfeiting and last but not least awareness of the phenomenon, are the main ways to reduce global risks in the field of intellectual property protection.

In the evolution of globalization, an important aspect is the agreement concluded between the members of the World Trade Organization, known as the Trade Agreement - Related Aspects of Intellectual Property Rights (TRIPs), which is the most complex multilateral document on intellectual property globally (Macovei 2010, 104).

In the field of global intellectual property protection, the TRIPs agreement is considered a global standard that imposes common international rules in the field and regulates how the basic principles of world trade and international agreements in the field of intellectual property protection are applied, the most appropriate way to protect. Intellectual property, the legislative and practical consolidation of these rights in the national state territories, the settlement of disputes between WTO member states as well as the special provisions regarding the transition period, until the full implementation of the system.

There is no universally accepted definition of piracy or counterfeiting, but there are different definitions of the term and activities that are closely related to it. Sometimes the interest varies depending on the context in which it is used. In English-speaking countries, the term "counterfeiting" is used primarily for flagrant infringement of trademarks, while "piracy" is used more in connection with copyright (OMPI 2001). From the protection of property to the protection of the creation of the human mind was a step favored by creating appropriate legislation in the field.

In Romania, the first law in the field of intellectual property appeared in 1879 by a decision of the Parliament and which referred to the Law on Trademarks. At the same time, the issue of adopting a law on Patents for Invention arose, which appeared only on January 17, 1906, efforts being made since 1880. On this occasion, the Patent Office was established, which is now the State Office for Inventions and Brands - OSIM. Intellectual property

refers to creations of the mind: inventions, literary and artistic works, and symbols, names, and images used in commerce.

Intellectual property rights are property rights like any other - they allow the creator or owner of a patent, trademark or copyrighted work to benefit from his or her work or investment.

These rights are highlighted in Article 27 of the Universal Declaration of Human Rights, which stipulates that every human being must enjoy the protection of the moral and material rights deriving from any scientific, literary or artistic work of which he is the author.

The importance of intellectual property was first recognized by the Paris Convention for the Protection of Industrial Property of 1883 and the Berne Convention for the Protection of Artistic and Literary Works of 1886. Both treaties are administered by the World Intellectual Property Organization (WIPO). There are several reasons why the protection of intellectual property is urgently needed:

- The progress and prosperity of humanity depends on its creativity in the technical and cultural fields;
- Legal protection of new creations encourages investments and leads to other innovations;
- The promotion and protection of intellectual property stimulates economic growth, leads to the creation of new jobs and new branches of activity and to the improvement of the quality of life.

An efficient and equitable intellectual property system can help all countries to exploit the potential of intellectual property which is a powerful tool for economic development and social and cultural progress.

This system contributes to establishing a balance between the interests of the innovator and the public interest, thus ensuring an environment conducive to creativity and invention, for the benefit of all (The Marrakesh Agreement, 1994).

Intellectual property rights reward the creativity and human effort that are the engine of human progress. Here are some examples:

- The film industry, the audio and video recording industry, the publishing industry and the software industry, which invest billions of dollars to entertain millions of people around the world, would not exist without copyright protection;

- Consumers could not confidently purchase products or services without effective international trademark protection, able to deter counterfeiting and piracy;
- Without the benefits of the patent system, researchers and inventors would be underestimated to continue to seek to improve their products in terms of quality and efficiency in the interests of consumers around the world.

Intellectual property is property of the creations of the mind, inventions, literary and artistic works, symbols, names and images used in commerce (Paris Convention, 1883).

Intellectual property rights, like all property rights, allow the creator or owner of a patent, trademark or copyrighted work to benefit from his or her work or investment.

According to art. 27 of the Universal Declaration of Human Rights, everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic work of which he is the author. These rights, expressly provided for, are of particular importance, because the exploitation of the potential of intellectual property is a powerful tool for economic development and social and cultural progress (Mihai 2002, 301).

The protection of intellectual property through a strong legal framework and an effective mechanism to ensure its application are necessary due to the fact that the progress and prosperity of humanity depend on its creativity in the technical and cultural fields, and the protection of creations encourages investment and leads to other innovations. The promotion and protection of intellectual property stimulates economic growth, leads to the creation of new jobs and new branches of activity, as well as to the improvement of the quality of life.

General Aspects of Intellectual Property Law

Intellectual property viewed under its two components, industrial property on the one hand and copyright and related rights on the other, is one of the basic levers of the nation's economic, social and cultural development. In this context, it can be appreciated that the protection of intellectual property

rights is of great importance, its essence, purpose and purpose being to protect the product of human intelligence and, at the same time, guarantee the benefit of consumers to use this product.

Intellectual property includes rights to:

- Literary, artistic and scientific works,
- Shows and exhibitions of artists, photographers and television,
- Inventions in all fields of human research, scientific discoveries,
- Industrial signs, trademarks, service marks, trade names and emblems, protection against unfair competition and all rights resulting from an intellectual activity in the industrial, literary or artistic fields.

Intellectual property is intangible even if its external manifestation is visible or materially expressed (Roș 2016, 228).

Thus, a painting is a tangible object, but the object of intellectual property is the author's creativity. Intellectual property is the result of human activity, even if a device, such as a computer, intervenes during the creation of a person who makes a computer program.

The holder of the intellectual right has the legally recognized capacity to authorize or prohibit the access of certain persons to its creation in the sense of use, reproduction, etc. The separation of intellectual law from the physical object in which intellectual creation is found is sometimes difficult to imagine and understand (Simler 2010, 76).

For example, is it possible to photocopy a book for resale or to grow a plant to sell the seeds, as long as these material objects are owned by the person who wants to do these things? The answer is no, given the intangibility of intellectual law, which limits what property rights allow.

Man's creative activity has always been a decisive factor in accelerating the general progress of humanity, which has determined in the modern era the integration of intellectual property rights in the legal order of civilized countries (Puttemans 2000, 144). In the current conditions, the existence of modern economies oriented towards a free market is inconceivable without the unanimously recognized contribution of intellectual property.

An edifying example in this regard is the integration of intellectual property into the World Trade Organization (WTO) system created by the Marrakesh Convention of 15 April 1994, intellectual property being

thus integrated into the new concept of international trade, which aims to build a modern company based on the organization of the market in a competitive system that also implies a free circulation of intellectual values, which propelled them due to their increasing importance, in the context of the process of globalization of markets towards the center of world interest.

The essence of the industrial property right consists in the prerogatives of the holder of a protection title granted, on a territory and for a limited time, to realize, produce and capitalize the object of industrial property as well as to prohibit third parties from unauthorized reproduction, manufacture and exploitation.

In other words, it is a question of conferring by law a monopoly right to exploit the object of industrial property in favor of the holder, a right which is limited in time and space.

For the purposes of Article 2 of the 1967 Stockholm Convention establishing the World Intellectual Property Organization (WIPO), an intergovernmental organization specializing in international cooperation, intellectual property means the rights to literary, artistic and scientific works, interpretations of artists. performers, phonograms and radio broadcasts, inventions in all fields of human activity, scientific discoveries, industrial designs, trademarks, trademarks, service marks, trade names, protection against unfair competition, and any other rights regarding intellectual activity in the industrial, scientific, literary and artistic field.

In a concise formulation, intellectual property therefore includes the set of rules by which the protection of industrial property rights, copyright and know-how is achieved (Bertrand 2005, 198).

In Law no. 344 of November 29, 2005 on some measures to ensure the enforcement of intellectual property rights in customs clearance operations, intellectual property rights are defined as follows: copyright, related rights, the right to protected product or service marks, the right on industrial designs, the right on geographical indications, the right on patents, the right on supplementary protection certificates, the right on plant varieties (art. 3 paragraph 1 point 1).

The legislative technique used is that of enumerating the different categories of subjective intellectual property rights, enunciative enumeration and not limiting as one of the significant transformations of the intellectual

property right consists in extending the protection to objects that were previously outlawed and which, by their importance he insistently claims his vocation for protection. For example, computer programs, new varieties of plants and animal breeds, topographies of integrated circuits, etc. (Cremona 2001, 76).

Within the intellectual property between the two major domains that compose it - copyright and industrial property law, there are a number of points of contact that justify, although there are some differences, their reunion within a single division of civil law, intellectual property law, namely:

- Common fund of fundamental principles;
- The indissoluble link between the author and the work of intellectual creation, the author being recognized a temporary right of exploitation monopoly that responds to the need to reward the author who manages to impose himself through new ideas in industry or originality in literature and art;
- Both types of rights have their genesis in ancient royal privileges.

We must also note, it has been pointed out in the doctrine, that this approach does not concern all industrial property rights. Obviously, distinctive signs such as brands, names and trade names, geographical indications are more related to commercial activity and respond to a specific need for this form of activity and inventive creation is located at the confluence of industrial activity in the broadest sense and intellectual activity.

There are also a number of significant differences between the two major areas of intellectual property, such as:

- In the field of artistic and literary property, the author's personality is more vigorously outlined. Thus, along with the monopoly of exploitation of the work, many other prerogatives were established under the name of moral rights (for example: the right to decide under what name the work will be brought to public knowledge; the right to withdraw the work; the right to decide whether, in what way and when the work will be made public, etc.);
- The administrative requirements in the field of industrial property, attesting to the birth of the right are much higher and

are embodied in an administrative title such as the patent in the case of inventions or the registration certificate in the case of trademarks or in the case of designs industrial. On the contrary, in the case of artistic and literary property in the continental system, law is born independent of any administrative formality;

- Competition in the industrial or commercial environment is much fiercer than in the artistic and literary environment, which determines differences in terms of sanctions applicable in case of infringement of intellectual property rights (Bodoaşcă and Târnu 2015, 201).

Conclusions

Intellectual property largely includes the legal rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields. In general, intellectual property laws aim to give creators and other producers of intellectual goods and services, for a limited time, the rights to control how their products are used.

Intellectual property rights are property rights like any other; they allow the creator or owner of a patent, trademark or copyrighted work to benefit from his or her work or investment. These rights are highlighted in Article 27 of the Universal Declaration of Human Rights, which stipulates that every human being must enjoy the protection of the moral and material rights deriving from any scientific, literary or artistic work of which he is the author.

The importance of intellectual property was first recognized by the Paris Convention for the Protection of Industrial Property of 1883 and the Berne Convention for the Protection of Artistic and Literary Works of 1886. Both treaties are administered by the World Intellectual Property Organization (WIPO).

There are several reasons why property protection is so imperative. First, humanity's progress and prosperity depend on its technical and cultural creativity; second, the legal protection of new creations encourages investment and leads to other innovative activities; third, the promotion and protection of intellectual property stimulates economic growth, lead to the creation of new jobs and new branches of activity and to the improvement of the quality of life.

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Perspectives on the Integration of Cryptocurrencies into National Tax Legislation

Narciz Bălășoiu
Academy of Economic Studies,
Faculty of International Business, Bucharest, Romania
narciz.balasoiu@rei.ase.ro

ABSTRACT: The treatment of virtual currencies when it comes to income tax differs as much as the definitions of virtual currencies from country to country. It depends on this definition whether the existing laws corresponding to income tax can also include virtual currencies. Most commonly, virtual currencies fall under a certain category of income and thus are taxed accordingly. Many states have also published clarifying documents on how virtual currencies fit for tax purposes and how the existing legislative framework applies to them. Very few states consider cryptocurrencies as another type of currency, complementary to the usual one, whether we are talking about domestic or foreign markets, thus including them for tax purposes.

KEY WORDS: Tax system, Cryptocurrencies, legislation, regulation

Introduction

At this point, one can distinguish a general lack of coherence in how virtual currencies are handled. An attempt was made to associate it with the conventional currencies, but technological peculiarities that favor increased anonymity, as well as the lack of intermediaries, have made regulating and standardizing the treatment of this financial instrument a real challenge for the authorities in almost all states (Saidov 2018). Only a few countries

place virtual coins in the same tax regime as the conventional currencies (Belgium, Poland and Italy). In many other countries, we are talking about a lot of uncertainty about how virtual coins are defined, resulting in different interpretations of their tax regime. Cryptocurrencies are usually considered a form of intangible property or a financial asset rather than a currency. Therefore, they are subject to property taxes and not income taxes. Currency regulations often contain provisions to minimize the tax consequences of taxation for individuals or minor traders, for example by capping transactions in individual accounts. On the other hand, income from transactions in property assets is taxed in various forms such as capital gains, profit from business, individuals or traders.

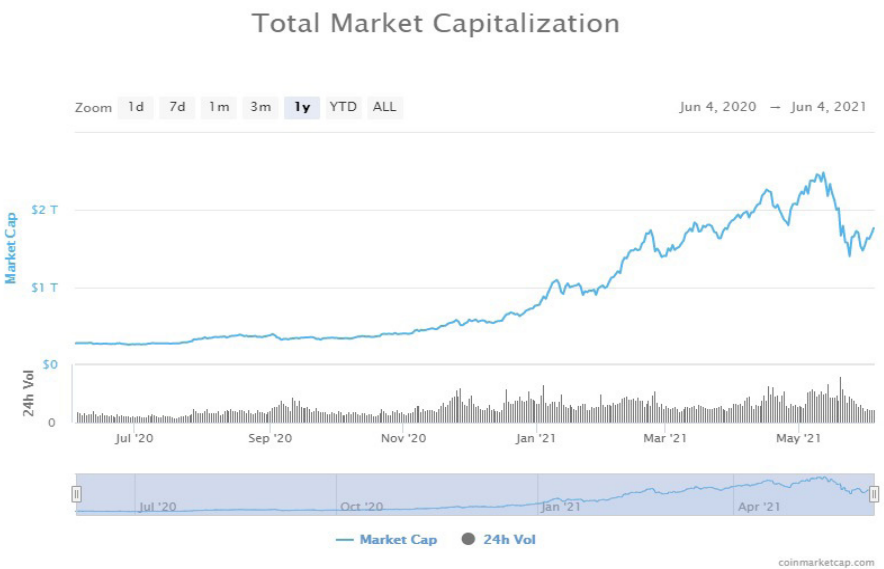

Figure 1. Virtual currencies market evolution (1 year) – *from 240 million $ to 2.4 trillion $*
Source: https://coinmarketcap.com/charts (Last accessed 01.06.2021)

Research methodology

The problems analyzed in this research are both pressing and topical, therefore the international experts and academics are making important efforts to keep up the research closely connected to the dynamics of virtual currencies

related technologies. For this paper I have used the deductive method, while corroborating public data and information provided by European institutions, US government, think-thanks, official reports and reputable research centers. At the same time, the research represents a qualitative (synoptic) analysis concerning the lack of regulatory framework and how it impacts the national fiscal systems. The research also aims to highlight the degree to which inappropriate and anachronistic political decisions, have significantly contributed to the chaotic proliferation of virtual currencies with vast implications going as far as enhancing money laundering. Assessing the current regulatory framework, we can determine if the international actors or institutions have efficient levers at their disposal to solve the problem.

Taxation of cryptocurrencies in different stages

In the same time, we need to look at the prospect of charging virtual currencies in two different stages of their lives: the creation of a token through an ICO (Initial Coin Offering) in the block chain and the transfer of this token (Jiang, S.; Li, X.; Wang, S. 2020).

The first possibility of taxation appears at the time of its creation. Coins are created through a mining process, an airdrop marketing strategy or a new token (Zainuddin 2017). So far, the attention of the tax authorities has focused mainly on the currencies taxation in the mining process. First of all, we need to differentiate between new cryptocurrencies resulting from the mining process and the contributions received by miners to complete virtual transactions. Coins received from airdrop campaigns are of very low value, so the focus is not on them. Many states, moreover, do not turn their attention to taxation even when creating cryptocurrency via the mining process, although this is undoubtedly an event that determines this possibility (Natarajan, Krause and Gradstein 2017). The situation is not the same in the case of the transfer of the currency further on the chain, this being considered a "taxable event".

So, we are talking about a large number of states (Andorra, Argentina, Austria, Croatia, Estonia, Finland, Japan, Luxembourg, New Zealand, Norway, Slovenia, South Africa, the United States and the United Kingdom) that indicates the time of registration of new mined tokens as a possible

charge. If the time of receipt of the token is recorded on an invoice / fiscal receipt type document, the unit value of the virtual currency received is included in income tax / capital tax / other taxes and fees, and income tax is applied according to its income category, whether we are talking about tax for individuals or legal entities. The costs associated with this type of income are deductible.

There are other states considering that taxation must take place at the time of the transfer, either at the first exchange between the miners, or at the transfer of the final currency. Thus, the total value of the virtual currency at the date of disposal is included in taxable income (Rohr, J. and Wright, A. 2018). In most cases it is lower than the acquisition costs. These deductions generally involve the costs of the calculation technique in the mining process (Australia, Austria, Estonia), and sometimes the deductibility of these costs is unclear (as in Poland).

The time of the transfer of the token or currency is commonly treated as income from capital gains, and the taxation related to the regulations on capital gains applies. The tax treatment of capital gains in many countries involves tax rate reductions, partial exemptions or situations in which they are included in ordinary income, in which case a progressive tax rate applies. At the same time, there are states that apply exemptions to capital gains depending on the profitability of the holding period. In the field of virtual currencies, this would mean that mining revenues remain tax-free (Peláez-Repiso, Sánchez-Núñez and Calvente 2020).

Countries that consider that taxation should take place at the time of the transfer include Croatia, the Czech Republic, Denmark, Estonia, France, Latvia, Poland, Singapore or Slovakia. Last but not least, the states in which the taxable event is that of receiving a new virtual currency unit differ from case to case depending on the approach of the mining process. We are talking here about Australia, Canada, Germany, the Netherlands, Singapore, Sweden or Switzerland.

Short and medium perspectives on virtual currencies regulation

In the future, environmental policies will also play an important role in defining the fiscal policies of virtual currencies, since the basic calculation mechanisms can have important environmental consequences, especially in

areas where electricity comes from fossil fuels. Pollution costs are not reflected in the price of cryptocurrencies, therefore a tax treatment of electricity costs associated with the mining process would be applied in accordance with the tax treatment associated with virtual currencies.

Looking ahead, there are some areas that will develop rapidly and need to be considered. These areas will most likely need separate and constantly updated methodologies. A case in point is the treatment applied to new goods resulting from a cryptocurrency split, known as "fork". Very few countries apply specific legislation in this case, and a question that needs to be addressed is whether the taxpayer receiving the property should comply with tax laws. One approach could be to tax these assets when the taxpayer takes possession of the property or on first disposal, relative to a zero basis (Valente 2019). If the taxable event occurs upon receipt of a new token, lawmakers must consider how the taxpayer addresses liquidity issues, inability to access the asset, or how losses are treated if the value of the new asset decreases upon receipt.

Stable currencies and virtual currencies issued by central banks are the new forms of virtual currencies, with unique features that must also be adapted to specific crypto legislation. If the application of the virtual currency methodology for this type of new cryptocurrencies can create problems, specific methodologies can be developed. For example, their treatment as a fiat currency may be considered in the case of cryptocurrencies issued by central banks or securities in the case of stable currencies for tax purposes.

Another important aspect that will become more important in the future is the new types of tokens and their new features. The rapid evolution of tokens makes it very difficult for states to develop methodologies for tax treatment effectively implemented in the market, such as those generated by "proof of stake" protocols, or the use of virtual currencies as interest-bearing goods. Implementation in such ways is closer to application in the spirit of developing a new token. Although similar to the use of virtual currencies in kind, new token assets have rather specific characteristics than traditional financial or capital assets that generate profitability and are less similar to assets that depreciate over time. Thus, the question arises whether tax treatment similar to capital income should be applied rather than capital gains.

Conclusions

Virtual currencies are a rapidly evolving and challenging form of crypto assets for tax legislation. The challenges derive in particular from the nature of virtual currencies and their hybrid characteristics, their definition in the category of assets, lack of centralized control, cvasi-anonymity or difficulties in valuation. Other challenges may arise with the rapid evolution of technology, but also of currencies, taking into account recent developments resulting in the growth of stable currencies or virtual currencies issued by central banks (Witzig and Salomon 2018).

First, legislators need to ensure that they provide a very clear legislative framework and implementing rules to complement it. This legislative framework must start from the integration of cryptocurrencies in the current fiscal regime. Even if this happens in a tangential manner, under existing legislation on the taxation of goods or capital gains, implementing rules or implementing guidelines for their implementation would promote more clarity and certainty for taxpayers.

If existing laws behave unclearly or are not adapted to the special characteristics of virtual currencies, then policy makers may opt for specific legislation. This may consist of amendments to existing legal provisions, but both the legislation and the amendments and completions must be extremely clear and concise.

Another very important starting point can be a legal definition of virtual currencies. There is an urgent need for a comprehensive approach that addresses all taxable events and revenue formats associated with virtual currencies. Then, in terms of tax consequences, there are some key concepts of particular importance that need to be addressed, either under income tax, VAT or other property or transfer taxes, so that there is more clarity for taxpayers. These include the creation of virtual currencies and the costs associated with them; exchange with another virtual currency, fiduciary for goods and services: their transfer as a gift or inheritance; loss or theft; stable currencies, issued by banks, etc.

For a broader purpose, methodological rules may also include how other crypto assets are treated for tax purposes. Because methodologies for crypto assets or currencies are currently minimal in many countries, while

their parallel development could prove truly helpful. We must also take into account the need for their frequent revision and adaptation. In this constantly evolving field, any methodology must be constantly reviewed in order to remain relevant in comparison with technological developments. Other countries' approaches and international trends must also be incorporated.

In making any decision, beyond the inherent debates, decision-makers must clearly and unequivocally explain the rationale behind the tax treatment adopted or adapted to existing legislation. A clear logic behind the decision can make it much more explicit, transparent and flexible in the event of the emergence of new currencies.

Besides framing and updating the legislation, another important aspect is the follow-up on the implementation and compliance with it. The volatility and shifting value of cryptocurrencies can cause problems in ensuring compliance with legal requirements (Kiviat 2016). Other challenges may arise due to different exchange rates for the same virtual currency, the lack of evidence of trust currency translation in some cases and the need to maintain complex cash flow records and transaction data. Tax administrations will face problems in obtaining credible and timely information about these transactions. In this respect, a greater role in following up or stimulating intermediaries to provide information to tax authorities could simplify this process.

Also, in order to facilitate compliance with the legislation, especially in the case of small taxpayers, measures can be considered to reduce the need for valuation, possibly by amending the legislation on pooling assets or by facilitating compliance where trade is no longer treated barters according to VAT rules. Excluding exchanges between different types of virtual currency from income tax could also lead to simplification. Earnings can be taxed when the tokens are converted into fiat money or if they are used to purchase goods and services.

Given the multitude of small crypto traders, i.e., those who do not undertake this activity in a business capacity or enjoy a limited income, special attention should be paid to simplifying the legislation applied to them or occasional transactions. For this group of individuals, tax systems could apply exceptions for personal use, for example, depending on volume, transactions or value earned. Governments could also consider whether a simplified system applicable to small transactions or purchases would be

more effective in avoiding the consequences of taxes on capital gains from each if a transaction is completed.

Another aspect to be taken into account by decision makers is how the fiscal treatment of fiscal currencies is aligned or may undermine the political objectives assumed at national level. For example, governments' policies to stimulate the use of electronic means of payment and the decline in the use of cash could lead to the development of virtual currencies issued by central banks. The COVID-19 crisis also accelerates this process.

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An Analysis of the Role of Artificial Intelligence in China's Grand Strategy: Perception, Means and Ends

Leo S.F. Lin
The University of Southern Mississippi, USA
w951096@usm.edu

ABSTRACT: This article examines the discourse on the role of artificial intelligence in China and how it fits into China's grand strategy policies. In particular, this article will focus on three grand strategy components: leader's perception, grand strategy means, and grand strategy ends. The author identifies that China's evolving national interests and strategic ideas are the central concern for its grand strategy by analyzing original texts. Beijing has the most ambitious AI strategy of all nations and provides the most resources for AI development. Since 2017, AI development has become part of China's grand strategy plans, setting out goals to build a domestic artificial intelligence industry. The AI sector has turned into a national priority included in President Xi Jinping's grand vision for China. China's goals are to make the country "the world's premier artificial intelligence innovation center for AI" by 2030. Ultimately, AI will foster a new national leadership and establish the key fundamentals for great economic power. There are many AI applications in several grand strategy means, including military and economic policies. This article uses a qualitative content analysis method to examine the case. Data was collected from Chinese leaders' speeches, government statements, official publications, and Chinese state media. This article concludes that AI has become one of the key components in China's grand strategy means, including economic, military, and intelligence capabilities. By promoting AI technology, China's grand strategy goals are maintaining national power, national face, and international reputations.

KEY WORDS: China's grand strategy, Artificial intelligence, China dream

Introduction

China's artificial intelligence (AI) strategy is one of the most comprehensive in the world, which sets specific targets to ensure the competitiveness of Chinese technological power. (Artificial Intelligence Index Report 2021). With the continuous effort to strengthen China's power over the past decades, artificial intelligence (AI) has become a key technology that would make China stand out globally in the next few years. With the world's largest population, its large internet audience, and data resources, AI would become the "new oil" of world politics (Nye 2020, 125). China has been investing heavily in the research and development of AI and has set a goal to be the world leader in artificial intelligence by 2030. Some experts believe that China could achieve its goals. Given the importance of machine learning as a general-purpose technology that affects many domains, China's AI development strategy has particular importance (Lee 2018, Nye 2020, 126). Some recent literature has provided a basic understanding of the role of AI in China's grand strategy development. Gregory Allen (2019) identified AI as a means to achieve several goals, including advancing the "intelligentized warfare," fighting terrorists in Xingjiang (domestic surveillance), and countering the United States (Allen 2019, 6-9). Joseph Nye (2020) pointed out that nearly half of the giant global companies in the age of Artificial Intelligence are Chinese companies, which "dare not defy the Chinese Communist Party, rendering them tools in China's geostrategic competition toolkit" (Nye 2020, 125). However, this research does not provide a clear understanding of AI's role in China's grand strategy policies.

Therefore, this article asks: "what is the role of artificial intelligence in China's grand strategy?" To answer this question, this paper employed a qualitative data analysis based on grand strategy theoretical concepts. The data were collected from original texts in the Chinese language. Despite the limited data available to the western world, this research helps understand the role of AI in China's grand strategy development. In this article, the author first offers an overview of AI development plans in China, followed by a theoretical perspective of China's grand strategy concepts. Next, this author explains the methods used to conduct empirical analysis. Finally, this author presents the results and discussions. This paper contributes to a further understanding of the Chinese use of AI in its grand strategy.

The Development of Artificial Intelligence Plans in China

China progressed with several plans over the past few years. In May 2015, Chinese Premier Li Keqiang and his cabinet released "Made in China 2025" (MIC 2025, *zhongguozhizao erling erwu*), a national strategic plan to further develop the manufacturing sector of China (The State Council of China 2015). The plan aims to upgrade the Chinese industrial manufacturing capabilities, growing from labor-intensive workshops into a more technology-intensive powerhouse (The State Council of China 2017a). The key objective of MIC 2025 is to identify essential technologies, such as artificial intelligence, 5G, aerospace, semiconductors, electric vehicles, and biotech, to level up Chinese industrial power and alter the dynamics in global markets. On July 20, 2017, the State Council of China (2017b) issued the "New Generation Artificial Intelligence Development Plan" (AIDP, *xin yidai rengong zhineng fazhan guihua*). This policy outlines China's strategy to build a domestic AI industry and become a leading AI power by 2030, making China the world's premier artificial intelligence innovation center. Chinese President Xi Jinping called for embedding advanced technologies into the real economy to foster growth engines and new business models (Xie and Jing, 2017). This was the first time AI was mentioned explicitly in a Communist Party of China work report (Future of Life Institute, 2020). The two documents mentioned above "form the core of China's AI strategy" (Allen 2019, 3). At the operational level, in 2016, China's Minister of Industry and Information Technology (MIIT 2020) released the "Three-Year Guidance for Internet Plus Artificial Intelligence Plan (2016-2018)," which focuses on enhancing AI hardware capacity, strong platform ecosystems, AI applications in important socioeconomic areas, and AI's impact on society.

In December 2017, the MIIT issued the "Three-Year Action Plan for Promoting Development of a New Generation Artificial Intelligence Industry" (2018–2020), which sets out targets that strive to achieve major breakthroughs in basic research and a series of artificial intelligence products by 2020, form an international competitive advantage in key areas, deepen the integration of artificial intelligence and the real economy, and integrate AI into manufacturing industries (Bhunia 2017). The Ministry of Science

and Technology (MOST) and a new office called the "AI Plan Promotion Office" are responsible for implementing and coordinating emergent AI-related projects. An AI Strategy Advisory Committee was also formed in 2017 to research strategic issues related to AI. Additionally, an AI Industry Development Alliance was also established, co-sponsored by more than 200 enterprises and agencies nationwide, and focuses on building a public service platform to develop China's AI industry (Future of Life Institute 2020).

In 2018, The National Innovation Institute of Defense Technology (NIIDT) had established two research organizations focusing on the military use of AI and related tech: the Unmanned Systems Research Center (USRC) and the Artificial Intelligence Research Center (AIRC). The AIRC also likely conducts classified work for the Chinese Military and Intelligence Community (Allen 2019, 8). In February 2019, China established a New Generation AI Innovation and Development Zone. In March 2019, Chinese President Xi Jinping presided over the seventh meeting of the Central Committee for Comprehensively Deepening Reform (*zhongyang quanmian Shenhua gaige wiyuanhui)*. The meeting reviewed and approved the "Guiding Opinions on Promoting the Deep Integration of Artificial Intelligence and the Real Economy" *(guanyu cujin rengong zhineng he shiti jingji shendu ronghe de zhidao yijian)*. The meeting pointed out that to promote the deep integration of artificial intelligence and the real economy, it is necessary to grasp the characteristics of the development of a new generation of artificial intelligence, adhere to market demand as the orientation, and target industrial applications, deepen reform and innovation, optimize the institutional environment, stimulate corporate innovation vitality.

In May 2019, the Beijing Academy of Artificial Intelligence (BAAI) released the "Beijing AI Principles" *(rengong zhineng Beijing gongshi)* with a multi-stakeholder coalition consisting of academic institutions and private-sector players such as Tencent and Baidu. (Artificial Intelligence Index Report 2021). The principles are proposed as an initiative "for the research, development, use, governance and long-term planning of AI, calling for its healthy development to support the construction of a community of common destiny, and the realization of beneficial AI for mankind and nature" (BAAI

2019). The principles have been officially endorsed by leading universities (including Tsinghua University and Peking University), national research institutions (including Institute of Automation, Chinese Academy of Sciences, Institute of Computing Technologies, and Chinese Academy of Sciences), and the Artificial Intelligence Industry Technology Innovation Strategic Alliance (AITISA).

Theoretical Perspective of China's Grand Strategy

The term "grand strategy" was officially introduced by Liddell Hart in 1929, emphasizing that grand strategy – higher strategy – was about more than winning the war, but achieving "a state of peace, and of one's people, [that] is better after the war than before" (Hart 1967). Later, according to Bernstein et al. (1994), grand strategy expands on the traditional idea of strategy beyond military means to include diplomatic, financial, economic, and informational means (Murray, Knox, and Bernstein 1996). In later interpretations, Barry Posen describes grand strategy as "a political-military, means-end chain, a state's theory about how it can best "cause" security for itself" (Posen 1986). John Lewis Gaddis posits that grand strategy "is the calculated relationship of means to large ends" (Gaddis 2002). This author adopts the definitions proposed by Barry Posen and John Gaddis. A grand strategy is a nation-state's theory about producing security for itself (Posen 2014).

This article differentiates three variables for analysis. The first variable is the leader's perception in grand strategy decision-making. Andrew Scobell (2014) argues that there are two faces of Chinese strategic culture, which affect leader's images. The first face of strategic culture is concerned with a country's self-image (the perceptions and realities of its own dominant strategic traditions and the policy outcome they produce). The second face of strategic culture involves the image constructed by the Chinese leaders towards other countries (Scobell 2014, 52). In an empirical study, Lin concluded that "Chinese leaders view themselves as peaceful and defensive based on traditional cultural philosophy."

On the contrary, Chinese leaders tend to characterize the United States as more focused on aggressive and offensive intentions concerning China"

(Lin 2021, 18). Guiding ideology is another factor. Dominant ideologies can affect the state's attitudes toward international affairs and willingness to use force (Haas and Haas 2005). Political ideology is a "set of beliefs about the proper order of society and how it can be achieved" (Erikson and Tedin 2015). Thus, Marxism-Leninism became the first official ideology.

The second variable is grand strategy means. This article argues that the Chinese grand strategy policy includes military policy, diplomacy, economic policy, intelligence instruments, and state extraction of resources. Military policy is a set of ideas implemented by military organizations to pursue desired strategic goals (Gartner 1999, 163). Diplomacy is the implementation of foreign policy, as distinct from the process of policy formation. Diplomacy can also help drive and guide cooperation between military, economy, and intelligence services (Griffiths, O'callaghan, and Roach 2008, 79). Economic policies are the actions that a government takes to influence the economy of a state (Brown and Ainley 2009, 5). Intelligence instruments are essential tools for Chinese foreign policy and grand strategy. Sun Tzu's words have often been quoted: "Know the enemy and know yourself; in a hundred battles, you will never be in peril" (Tzu 2007). Neoclassical realism identifies state extractive and mobilization capacity of domestic resources as a crucial intervening variable between systemic imperatives and the grand strategy policies states undertake (Schweller 2009).

The third variable is grand strategy ends. The goal of the Chinese grand strategy is a debated issue as the Chinese government did not reveal it explicitly to the public. However, there are at least two grand strategy goals that can be identified. First, maintaining national power. Waltz claims that national power is constituted by a web of military, economic, and political capabilities, asserting that a "state's political competence and stability" constitute an inseparable element of national power (Waltz 2010, 131). Second, China's grand strategy is to maintain the Chinese national face and international reputation. Peter Hays Gries termed it "face nationalism," linked to China's domestic audience and external relations (Gries 1999, 63). The theoretical model of this article is summarized as the table below:

Table 1: Theoretical Perspective of China's Grand Strategy

Leader's perception	Means	Ends
• Self-image • Image of others • Ideology	• Military policy • Diplomacy • Economic policy • Intelligence instrument • State extraction of resources	• National Power • National Face

Methods, Data Collection, and Coding Procedures

This article employs qualitative content analysis to understand the role of AI in China's grand strategy. There are several advantages of using the qualitative content analysis method. First, this is an unobtrusive data collection. Therefore, the author's preference does not affect the results. Second, content analysis is transparent and replicable by other researchers. Additionally, this is a flexible method allowing the researchers to delineate the scope of appropriate sources. Data was collected from state media, government officials' speeches, and Chinese Communist Party official publications (all Chinese). The author used Chinese keywords searching AI strategy, AI policy, and AI development. The data ranges from 2015 to the present time. Since only a small number of texts meet this criterion, the researcher analyzed all of them. This author determined 19 documents as evidence for analysis, and 74 codes have been coded from the documents.

Regarding the set of categories and coding rules, this article uses variables based on the above theoretical perspective to examine the role of AI in China's grand strategy. Three groups of categories are examined, including leader's perception, grand strategy means, and grand strategy ends. In the "leader's perception" category, this author assesses the texts relating to indicators, including "leader's perception on the role of AI," "ideology," "China's self-image," and "image towards others." This author investigates AI applications in the "grand strategy means" category, including military policy, diplomacy, economic policy, intelligence instruments, and state extraction of resources. In the "grand strategy means" category, the research was conducted examining the related concepts of national power, national face, and international reputation.

Within the coding and analysis process, key terms were located in documents, identifying other words or phrases appearing next to them, and the meanings of these relationships were analyzed to better understand AI's role in China's grand strategy. After reviewing the data, the author manually coded the data in the appropriate categories. Next, the author used MAXQDA software to help the process of counting and categorizing words and phrases. MAXQDA is a software program designed for computer-assisted qualitative methods of data and text analysis. After completing the coding, the collected data is analyzed to find patterns, translated into the English language, and conclusions were drawn in response to the research question.

Two research limitations should be highlighted. First, content analysis can sometimes be overly reductive, neglecting some context and ambiguous meanings. Second, the coding process and results interpretation could be biased, affecting the reliability and validity of the results and findings.

Results and Discussion

Figure 1 shows the relationships between different codes and the frequency of each code. The following codes that have no relations have been ignored by the software, including "state extraction of resources," "diplomacy," "ideology," and "image of others." The code map shows that the discourse of AI in grand strategy focuses on the perception of the roles and functions of AI, which are mainly connected to the discourse of military policy and national power. Military power is connected with intelligence instruments. National power has strong relationships with economic policy and international reputation.

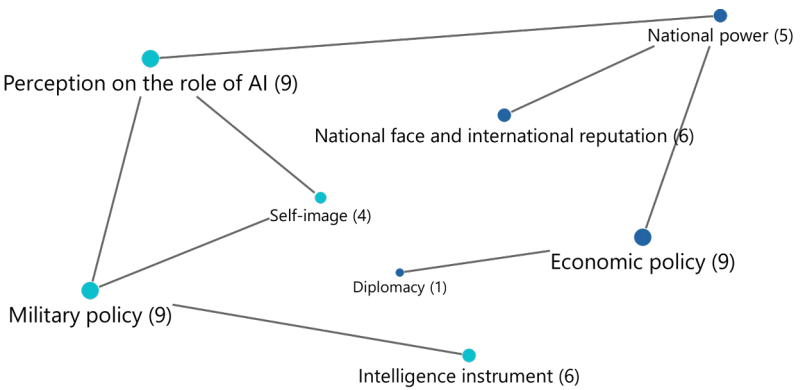

Figure 1. *Code Map of AI in China's Grand Strategy Discourse*

In Figure 2, the discourse of AI centers on AI as a means of grand strategy, including military policy, diplomacy, intelligence instrument, and economic policy. The field of military policy shows more weight in the results. There is less mentioning of AI's role in diplomacy. Although China does not explicitly connect AI and its foreign policies, China's leadership believes that AI technology is critical to the future of global military and economic power competition. A leader's perception of the role of AI is a key factor in China's grand strategy discourse. Regarding the grand strategy ends, national power and international reputation appear less than the grand strategy means.

Figure 2: *Code Frequencies in Segments (AI in China's Grand Strategy Discourse)*

Leader's Perception

Chinese top leaders believe that AI will become a crucial tool for China's long-term development. President Xi Jinping has also stated that the robot revolution is expected to herald the Third Industrial Revolution. In his speech during the "study session," Xi said that China must "ensure that our country marches in the front ranks where it comes to theoretical research in this important area of AI, and occupies the high ground in critical and AI core technologies." Xi further said that China must "pay firm attention to the structure of our shortcomings, ensure that critical and core AI technologies are firmly grasped in our own hands." (Allen 2019, 4). The guiding ideology for the development of artificial intelligence is Xi Jinping's thoughts. In the "*Notice of the State Council on Issuing the Development Plan*

for the New Generation of Artificial Intelligence," based on "the spirit of the 18th National Congress of the Communist Party of China and the third, fourth, fifth, and sixth plenary sessions of the 18th National Congress of the Communist Party of China" and the "spirit of General Secretary Xi Jinping's series of important speeches," China aims to accelerate the deep integration of artificial intelligence with the economy, society, and national defense (The State Council of China 2017b).

Regarding the self-image of the role of AI, China's leadership believes that AI technology will be the "dominant factor in determining future battles" (Xinhua 2019), emphasizing AI's critical role in the future of global military and economic power competition. Chinese leaders posit that, over the past years, Chinese AI technology is becoming increasingly mature, making China one of the major countries in artificial intelligence industrialization (Zijuan 2021). However, there is still a gap between China and the developed countries on the overall AI development (State Intellectual Property Office 2018). About the image of others on the role of AI, China perceives that world science and technology will soon have a breakthrough in the development of AI. Therefore, the Chinese People's Liberation Army (2019a) "must accelerate the advancement of military intelligence construction and accelerate the forging of an intelligent army." In an official talk, President Xi pointed out that "Artificial intelligence is a strategic technology that leads this round of scientific and technological revolution and industrial transformation… and an important strategic instrument for us to win the initiative in global technological competition" (Xinhua 2018).

There are opportunities and challenges associated with China's AI strategy. Regarding policy opportunity (*zhengce jihui*), AI strategy would encourage the companies to participate in global cooperation at the national level. The Belt-and-Road Initiative has become an important policy for international cooperation. The second is the technology opportunity (*keji jihui*). AI strategy provides an opportunity for the rise of global and regional scientific and technological innovation. The third is the market opportunity (*shichang jihui*). Economic globalization has provided AI development a wider space.

Concerning challenges, the first one is the international and domestic environmental challenge (*huanjing tiaozhan*). The impact of the COVID-19 and the economic downturns have increased the risks of the development of

AI. The second is the talent challenge (*rencai tiaozhan*). A serious shortage of high-end multinational talents has become a challenge for China's AI development. Finally, cultural challenges (*wenhua tiaozhan*). Cultural differences among countries and the different local standards, ethics, and customs would cause problems for AI development (China Academy of Information and Communications Technology 2020).

Grand Strategy Means

Chinese leaders consider AI as an important military and intelligence means. In his report to the 19th National Congress of the Communist Party of China, President Xi points out that AI in military development will help achieve the party's goal of strengthening the military in the new era (Zhi-Zhong 2020). He vows to accelerate the development of "intelligenized military" (*junshi zhineng hua)*. To use AI in developing weapons, China focuses on the dual needs of intelligent warfare system operations and constructing an intelligent weapon and equipment system (People's Liberation Army News 2019b). AI in military development is becoming a powerful driving force to promote military reforms, and it will have a profound impact on rules of operations and methods of combat in the future (Xinhua 2019). Major General Ding Xiangrong, Deputy Director of the General Office of China's Central Military Commission, defined China's military goals to "narrow the gap between the Chinese military and advanced global powers" by taking advantage of the "ongoing military revolution . . . centered on information technology and intelligent technology" (Allen 2019, 5, Kania 2017). AI is also a tool for domestic security purposes. For example, big data AI has been used to fight terrorists in Xinjiang province. In addition, the Chinese government uses technology such as face recognition system to identify and locate the activities of terrorists (Allen 2019, 6).*

AI is also an economic and diplomatic means. Specifically, Chinese leaders consider AI as the "new engine" (*xin yinqing)* of economic development. AI will release the enormous energy accumulated in previous technological revolutions and industrial transformations, profoundly changing human production (The State Council of China 2017b). President Xi states that

**General Wang Ning, "Global Terrorism: Threats and Countermeasures" (8th Beijing Xiangshan Forum, Beijing, October 25, 2018).*

AI development is an important strategic starting point for China to win the global science and technology competition, and is also an important strategic resource to promote the optimization and upgrading of industries and the overall rise of productivity (People's Net 2019). Xi argues that China must seize the opportunity to integrate AI into industrial development providing new momentum for high-quality development, improving the intelligent level of traditional infrastructure, and forming an infrastructure system that meets the needs of the Chinese economy and society (Xinhua 2018). For example, China uses the Belt-and-Road Initiative, in which AI "has become an important theme of international cooperation on the BRI, sharing opportunities for intellectual development (Xinhua 2020a)." In September 2020, State Councilor and Foreign Minister Wang Yi delivered a keynote speech in "Seize digital opportunities to seek cooperation and development" seminar organized by China Internet Governance Forum and focused on digital economy development and cooperation, data and supply chain security, and the process of global digital governance (Ministry of Foreign Affairs 2021).

Grand Strategy Ends

The grand strategy of the People's Republic of China (PRC) has become a focal point in International Relations (IR), Security Studies, and Strategic Studies since the rise of China at the end of the Cold War era (Lin 2019, 208). The People's Republic of China (PRC) is an emerging power that became the second-largest economy in 2010. To maintain economic growth and industrial competitiveness, China emphasizes its economic and technological development. The Chinese government considers a new industrial revolution which could be the key to retain Chinese economic and military power.

The goals of pursuing the China Dream (*zhonggue meng)* and the Strong Army Dream *(qiang jun meng)* are the primary grand strategy ends, enhancing Chinese national power and international prestige. China's 2017 National AI Development Plan identifies AI as a "historic opportunity" for national security leapfrog technologies. It suggests China should "firmly seize the major historic opportunity for the development of AI . . . and support national security, promoting the overall elevation of the nation's competitiveness and leapfrog development." Chinese leaders believe that China is still in important strategic

opportunities that can expand AI technologies. With the help of AI, China will develop better network power, digital power, further advance the industrial base, modernize the industrial chain, and improve economic quality, efficiency, and core competitiveness (Xinhua 2020b). China aims to enhance the new generation of artificial intelligence technological innovation capability, develop a smart economy, build a smart society, and maintain national security. China also invests resources to accelerate the construction of an innovative country with scientific and technological power. The goals include the "two centenary" *(liang ge yibai nian)* goals and the Chinese dream of the "great renaissance" *(weida fuxing)* (State Intellectual Property Office 2018). With the current plans, Chinese leaders believe that China will become a global artificial intelligence competition leader. China will build an open, shared, high-quality and low-cost artificial intelligence technology and application platform that is inclusive of the world and cooperate with the construction of the BRI projects and promote a "community with a shared future for mankind" *(renlei mingyun gongtongti)*.

Conclusion

China vows to become the global leader in AI development and the primary center for AI innovation by 2030. From this analysis, the role of AI in China's grand strategy centers on grand strategy means, particularly economic and military. The roles and functions of AI are crucial in China's military, economic, and intelligence capabilities. To prepare for an "intelligentized warfare," China stresses AI applications in military and intelligence fields. Although in official documents Chinese officials tend not to specify whether China's AI efforts are countering the US military power, scholars believe that China sees military AI R&D as a cheaper and easier path to develop Chinese equivalents of American AI systems (Allen 2019, 8-9). Economic capability is another focus, which is often connected with the discourse of national power. China is determined to ensure that it will catch up with the AI technologies and applications, competing with other economies. The overall goals are to increase the national power, national face and international reputation of China. Chinese leaders, including Chinese President Xi Jinping and Premier Li Keqiang, believe that AI development is an opportunity to build strategic capability and impact a state's future competitiveness. Thus, the importance of AI in China's grand strategy will only gain more ground in the future.

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Unfaithfulness – Cause and/or Effect in Couple Dysfunctionality?

Ciprian Corneliu Ciurea
Ps. PhD Candidate, "Aurel Vlaicu" University, Arad, Romania
cipriancorneliuciurea@gmail.com

ABSTRACT: Over time, when in crises, the partners in a marital couple have tried to solve their problems in an extramarital frame, the unfaithful relationships being the constant cause of couples' dissolution, no matter the age or durability of the marriage. Unfaithfulness has been the way married people chose to express themselves against narrow, traditional patterns, and a dull private life. Therefore, the adulterous relationships have meant, to some extent, the attempt to compensate for the dissatisfactions of the married life, thus sweetening the banality of the conventional and the bitterness of having an unwanted partner.

KEY WORDS: marital couple, faithfulness, unfaithfulness, sexuality, variables of unfaithfulness

Introduction

This article represents a revised and extended subchapter from the Dissertation titled *Married couples' perception of infidelity*, unpublished, presented in front of the Evaluation Committee of the University of Bucharest, Faculty of Sociology and Social Work, in June 2011, in Bucharest.

Hereafter, we intend to approach the marital relationship from the perspective of major issues that can occur inside the couple, accentuating unfaithfulness. Following the presentation of some introductory notions, some statistics related to the prevalence of unfaithfulness, as well as the way extramarital relationships have been perceived from a historical and cultural point of view, we intend the reader to focus on some ways of manifesting

unfaithfulness, ways that have been identified and explored throughout our research. Furthermore, we shall analyze some variables of unfaithfulness, such as they are studied in published literature, simultaneously capturing a possible cause of unfaithfulness, from the perspective of changing modern and postmodern perception of sexuality.

1. The marital relationship

The notion of **marital couple** designates "a generating core of the family micro group, expressing structurally and functionally the way in which two opposite sex persons model each other creatively, after they get married, growing, motivating, and determining each other through adjusting and assimilating each other, simultaneously on a biological, psychological, and social plan" (Mitrofan and Mitrofan 1991, 97). Even if from a marital viewpoint, the society proposes alternative options to the notion of "couple," in this article we shall refer only to the heterosexual marital couple.

The marital relationship is important in the lives of most people, even in the postmodern society, people looking to have safety in their lives, by entering a couple relationship (Træen and Stigum 1998, 42). Marriage has a privileged status amongst grown-ups' relationships, being a "crucial nomic instrument" (Berger and Kellner 1964, 5). Published literature sees marriage as "a dramatic act in which two strangers unite and define" (Berger, Kellner 1964, 5), the meaning of "stranger" here being that of two persons that come from different contexts. Socially recognized, marriage has some dominant themes (romanticism, sexual fulfilment, self-achievement and self-discovery through love and sexuality), which can be found in all layers of society. In this context, sexual faithfulness is a label of trust, and sexual exclusivity is "the specialty" of marital relationships (Reibstein and Richards 1992).

2. Issues inside the marital couple

The dynamic of marital interactions seldom orients the marital couple either towards cohesion, stability, and progress or towards dissension, instability and, sometimes even, dissolution. Every stage of the marital life cycle is assaulted with problems or conflicts, their causes may vary from an individual to another and from a couple to another (Stoica-Constantin 2004, 48). These

issues may be determined by different incompatibilities, common purposes, personality traits, degree of communication, perception of self, personal values, breaking rules, inappropriate attitudes, interpersonal relationships and needs. Inevitably, the problems and conflicts contribute to the evolution of the relationship towards a positive or a negative conclusion.

The conditions of a precarious economic situation may trigger, in a married person, defense behaviors or a mechanism of compensation for all the frustrations, tiredness, discouragement and anxiety. **Alcohol, cigarettes, illegal drugs, or medicine** taken "by ear" are the most frequent refuge for the persons psychologically "worn out" by an unhappy marriage or burdened by everyday problems (Mitrofan and Mitrofan 1996, 220-221). In a couple we may notice appearing conflicts caused by the distribution of roles, the execution of chores and even by money. Moreover, there are persons that can become emotionally addicted to their partner, especially in a passionate relationship (Valleur and Matysiak, 20). From addictions to domestic violence, it is just one small step, taking refuge in alcohol or drugs being a real nightmare for both the consumer and his family.

Domestic violence is a consequence of the power ratio between men and women. The phenomenon has always existed, and taking over power by one of the partners, generally men, was socially reinforced over time. The mind-set behind domestic violence is the traditionalist family model, in which the man is the head of the family and the woman must obey even to his violent acts. The women, who are victims, are educated to keep silent, considering that they are guilty of their partner's aggressive behavior and thus they must endure and accept the acts of violence in order to keep the family together (Giddens 2001, 178-179).

Aside from the above, in the couple we can see **communication blockages,** which can be caused by the incapacity of both partners to understand the sexes' differentiated needs and by not knowing the mind-set or gender differences (Mitrofan and Ciupercă 2002, 170-171). When it comes to communication, both men and women forget about the gender differences, namely that they listen to in a different manner, they perceive/offer different solutions to problems, they respond to stress in a different manner, they decode differently their partner's words, and they express their love in a different way. Also, the effects of this double message are of the most

damaging, the spouses being unable to clearly interpret the received messages and, consequently, they are induced with confused, doubtful, and ambivalent actions. An ineffective communication may, in time, generate conflicts which could have been avoided should the problems be discussed on time. After all, any problem can be solved through dialogue, talking about it, not avoiding it.

Another factor which contributes to intensifying the family issues is **the impossibility to reach intimacy,** this being that "special quality of two persons to be emotionally close to each other" (Mitrofan 2002, 102). Linked to this private aspect of the marital relationship are the **sexual problems.** In the sexual act, the partners continuously engage to one another, and therefore the contemporaneous couple gives a greater importance to sexual performances, aspect which even became obsessive (Ciupercă 2000, 237). Men complain, in general, that marital sexual relations have become rarer and, even if there are women who would want to have more sex, few talk about this. Furthermore, from a qualitative viewpoint, a great deal of sexual relations do not automatically imply great pleasure, sometimes men even rape their wives.

When the marital relationship is not based on trust, honesty, and reciprocal respect, there inevitably appears **jealousy,** which describes a set of feelings that appear when a person perceives her erotic relation with her loved one as being threatened (Mitrofan, Mitrofan 1996, 124). In general, jealousy appears under pathological aspects, dominating the life of the jealous one, and it frequently appears in sensitive, anxious, susceptible persons and who think they are being betrayed and manifest themselves through acts of violence, aggressivity, suicide or even passionate murder (Chelcea and Ivan 2006, 224-225). Trust betrayal depends totally on what the couple established or thought of having established (Spring 2009, 18).

Faithfulness is seen, by many, as an absolutely necessary thing in the evolution of a love relationship. Although the motivations for **unfaithfulness** are diverse, there is never just one cause or just one responsible for it. Even if it appears mostly as a result of a dysfunctional marriage, unfaithfulness may as well be the cause of the problems a couple faces.

Neglecting marital problems instead of solving them may lead to a major marital crisis which can end up in a **divorce,** that is presented as "a complex psychosocial phenomenon which represents the final form of the

marital life dissolution" (Voinea 1996, 65). Engaging tensions, conflicts, frustrations, and dissatisfactions, divorce is, in general, caused by a new perspective of marriage (it is no longer seen as a failure, but as a positive response to a critical situation), by the economical emancipation of woman, as well as by the democratization and liberalization of social life. In particular, divorce is caused by multiple factors: big age difference between partners, psychological and behavioral incompatibilities, dissatisfaction, alcohol, unfaithfulness, jealousy, abuse, and even in-laws and relatives' involvement.

3. Unfaithfulness

3.1. Introductory notions

Viewed, in published literature, as a breaking of moral laws of marital faithfulness, by one or both spouses, unfaithfulness is characterized by a fracture on the emotional-moral plan, by tensions, fighting, and even violence (Voinea 1996, 96). Although, from the "betrayed" spouse perspective, it can be seen as a cause of couple disputes. Still, from the unfaithful spouse viewpoint, it is, most of the time, a defense response to an unsatisfactory and dysfunctional marital relationship. Therefore, adultery may be "a type of communication, the message being: *For me, this relationship does not work!*" (Nuță 2001, 134). From an interactional viewpoint, one or both spouses' adultery is a clear symptom of a deficit of marital interaction. Although, historically speaking, unfaithfulness represented "the vicious pleasure of senses", "a monstrous image of a savage sexuality,… between two beings in an animal-like state" (Adler 2003, 129), today it is more of a challenge, a test of competence (not just sexual). Being viewed by some specialists as "an evolution determined by a beginning and an end, with a random character" (Simmel 1998, 16), unfaithfulness does happen to someone, but it is something that occurs between two people, the wholeness of the love affair being accomplished when the risk of losing everything combines with pleasure (Duval 2000, 35).

From the viewpoint of the impact over close relationships, unfaithfulness is the most frequent motif for divorce (Betzig 1989, 669), with damaging impact on marriage (Pittman, Wagers, Gurman and Jacobson 2002) and on feelings of love and safety. The betrayed spouses often experience humiliation,

anger, jealousy and even breakdown (Buunk and van Driel 1989), female unfaithfulness (real or presumed) represents the main cause for domestic violence and spouse homicide. (Daly, Wilson, and Weghorst 1982, 12.,15).

Although the hidden nature of extramarital relationships, as well as the development of contraceptive techniques, have crippled the scientific attempts to quantify the extramarital sexuality, there still are numerous studies on this subject. The experts suggest that the probability of a partner to have an affair, while married, varies from 20% to 25% (Widerman 1997, 168), other studies indicate the fact that one third of men and one fifth of women had extramarital relationships (Kinsey, Pomeroy, Martin 1948, 282). According to some other research, the parameters for extramarital relationships seem to be 50% for married men, the number for married women being extremely close (Thompson 1983, 18). Furthermore, people whose lives are characterized by routine (home, job, children) may have fewer possibilities to enter unfaithful relationships, compared to those who travel more. Moreover, because sexuality is more socially monitored in rural areas than in urban ones, one can presume that a bigger percentage of people in urban areas have extramarital sexual relationships (Træen, Stigum 1998, 43). However, it is possible that men and women do not necessarily have more sexual relationships but seem to have in an extramarital context (Weeks 2012, 321-325). Although many people experience non-monogamy in secret and shamefully, they allegedly continue to accept the morality of monogamy (Reibstein and Richards 1992).

From a historical and cultural point of view, unlike premarital sexual relations, extramarital relations were more severely regulated. There were more restrictive for women than for men, sexuality varying between the different social layers. Men from the upper class have cultivated sex and eroticism more often. At the same time, the working class was too exhausted by work to give sexuality the same importance, sex being more related to the idea of reproduction. By contrast, the middle class gave sexuality the role of mutual exchange of security, intimacy, and pleasure (Træen and Stigum 1998, 43).

In the Romanian space, faithfulness was a virtue, marriage being a sacred institution. In rural areas, feminine unfaithfulness was harshly sanctioned, the person being forced to leave the village. Men unfaithfulness was tolerated, and the consensual relationship with a widow did not generate too many talks. In urban areas, there was more freedom between spouses,

unfaithfulness being very much present amongst artists, writers and even politicians. It was a "virtue" to be the mistress of a "minister" as it was seen as a way to claw your way to the middle, to get privileges or to open doors in different areas. There were also "selfless" or "out of boredom" infidelities experienced by some officers' wives. In modest environments, spouses' faithfulness was greater, man treating his wife as personal goods (Academia Română 2003, 155-158).

3.2. *Ways of manifesting unfaithfulness in a couple*

Research has made it possible that today we benefit from numerous psychosocial studies regarding marital faithfulness, certain theories being elaborated. Starting with a glimpse, a certain manner of speaking or listening, embracing, kisses and ending with intercourse, all these can be ways in which unfaithfulness can manifest. The easiest to define is the carnal infidelity, because, in most cases, it involves intercourse, but it becomes less evident when it is just tenderness (touching, kissing, embracing). Even more difficult to establish is the mental unfaithfulness, which implies sharing secrets, and matters of the heart to a third person, especially when you have not discussed them with your spouse.

Between the partners of a marital couple there is an unspoken agreement for total faithfulness, in this context, the infidelities being thus accidental, clandestine and of all types. When talking about ***non-consensual infidelities,*** we discuss the **mild infidelities** which mean looking at and desiring someone, teasing to flatter, flirtation being limited to embracing and caressing only. In addition, the **blow** infidelity (for an hour, a night) suits an occasion, coming on a background of personal dissatisfaction. Not in the least, the **relationship** (for a month, or years) is a type of unfaithfulness which lasts, and in many cases, the spouse finds out eventually (Leleu 2003, 56).

There is as well, the category of **contractual infidelities,** in this category, enter **couples** that **openly** admit the possibility that one or the other spouse may be involved in a love affair with a third person, the monogamy laws being very permissive in this case. By contract, the partners agree to live as a couple (with their main partner), but in a complete sexual freedom. Some couples share everything, introduce their partners to each other (Bird,

Melville 1994, 163), and even discuss the terms under which the affairs shall unfold: not too much emotional connection, never in our bed/house/town/ or in front of our neighbors (Reibstein and Richards 1992, 101-102). Other couples, on the contrary, adopt such a marital lifestyle and both partners keep silent regarding their extramarital relationships. The particularities of such agreements are the following: the affairs are allowed as long as they are hidden, lying is allowed to camouflage an unfaithful relationship, and, last but not least, the extramarital relationship must not interfere with the main relationship (Gartrell 1999, 26).

Concurrently, there are persons who live in a **community** and share everything: goods, needs, and even their loves. They make the assumption that, since no one can satisfy the totality of one person's needs, this satisfaction can only come from multiple changes of partners. In general, the person living in a community is someone "searching" and is the believer of non-accumulation theory, non-possession and declares himself against marriage (Leleu 2003, 69). There also are families that adhere to these community groups, all these based on the idea that either by being faithful, or by fear of public opinion, or because of educational, moral, and religious laws, the monogamous marriage induces, from the very beginning, "a psychological and sexual neutering of the spouses" (Mitrofan and Ciupercă 1998, 89-90). The life span of such a community is short (two, three years) and every individual has the right to have sex with any partner of choice, in the community prevails equality, irrespective of the social class.

Some couples cannot find erotic pleasure but by **changing partners**. The term "swing" designates a volunteer and temporary exchange between couples with sexual purpose, the sexual combinations taking place with the full acceptance of all parts involved (Mitrofan and Ciupercă 1998, 92). This differs from the community group as the couples are married. Although, in this case, sex is desecrated, the purpose in which the couples accept the exchange of partners is to shake things up, to revitalize their fantasies and, maybe, to compensate for their dissatisfaction. To all these we may also add less clear motivations, such as: the need to feel the fear of losing to reinvigorate their feelings, the satisfaction of a certain masochism seeing their spouse in someone else's arms. It is estimated that in "swing" relationships there are involved young couples and middle-aged couples, members of middle class,

with relatively high incomes, that, except for these sexual practices, have an extremely conventional behavior. (Rădulescu 1999, 315).

3.3. *Variables of unfaithfulness*

Based on the negative impact unfaithfulness has on marriage and family relationships, researchers have identified more variables, which can predict infidelity. In the studies, there were noticed characteristics of persons who are susceptible to extramarital relations, identifying both the circumstances and the factors associated with unfaithfulness (Vangelisti, Gerstengerger 2004, 60).

According to research, the individual feature most associated with unfaithfulness is gender, women being less prone to infidelity than men. They have more love affairs than their spouses, while women mostly choose married men, when entering extramarital relationships (Lawson and Samson 1988, 429). On the other hand, men who have a sexual perception of extramarital relationships seem to approve of these more easily than women, women perceive these relationships rather emotionally (Glass, and Wright 1985, 1103). Men's increased tendency towards unfaithfulness might be due to their access to more resources, such as the exposure to more potential partners. Moreover, unfaithful individuals tend to have more permissive values and much libertine sexual attitudes compared to those who remain faithful (Prins, Buunk and VanYperen 1993, 40). At the same time, individuals who have unlimited socio-sexual orientations and increased sexual appetite are more prone to unfaithful relationships (Seal, Agostinelli and Hannett 1994, 1).

Other studies indicate that not just gender difference is the most important variable in infidelity, but "the opportunity variables", such as income and working status, also make a difference (Atkins, Baucom and Jacobson 2001, 735. 743).

Not in the least, studies show that individual tendencies to take advantage of extramarital sexual opportunities are greatly connected to the quality of the marital relationship. Negative marital contentment is associated with unfaithfulness, infidel partners complaining about the low frequency and poor quality of sexual relations (Edwards and Booth 1976, 76-78). Hence, we can conclude that partners with a low marital satisfaction will look for high quality extramarital sexual alternatives.

3.4. Changing the perception of sexuality – possible cause for unfaithfulness

The end of the 19th century and the beginning of the 20th century has brought a change in the perception of sexuality, this entire period representing a transition with regard to sexual values and behavior, a transition that transformed the intimate and erotic possibilities of millions.

As a result of the research, four major directions have been identified in the development of the social and sexual life (Haavio-Mannila, Kontula and Rotkirch 2002, 194), directions that reflect the general trend of transition from traditionalism to liberalism.

The first direction is linked to what happened in the 20th century, when **sex was "secularized"** (Weeks 1986, 90), this meaning that sexuality started to be seen more as a personal choice, detached from religious and ideologic values, imposed until then. So, being less ruled by governmental or divine laws, sexuality has become more dependent on the individual's choice of a lifestyle, and the latter has gradually grown detached from the institution of marriage. Once freed from the sexual authoritarianism, the new "sexual freedom" gave people multiple and new possibilities of sexual exploring, the changes acting as a solvent for the old values. The new sexual opportunities have paved the way for the rise of a new ethics, that most people have taken advantage of (Weeks 1986, 91). Being allowed to live together before marriage, more and more young adults have started to become unable to morally distinguish between consensual relationship and marriage (Jamieson 2004, 35).

The second major trend identified was the **liberalization** of attitudes and the emphasis of rights for people with different sexual orientations. Abortion, birth control, divorce, extramarital and premarital sexual relations, consensual relationships, and homosexual relationships are just a few of the directions where more permissiveness occurred. This led to a new recognition of feminine sexual legitimacy. Today, sexuality openly addresses everybody, "offering a cacophony of values and alternative possibilities" (Weeks 1986, 92).

The third major change is represented by **the growing diversity of domestic lifestyle types.** Actually, the traditional connection between marriage, family and sexuality has been interrupted. Since even the relationships pattern have changed, family has reached a crisis, whose cause

and expressions led to "an anxiety of marriage" (Weeks 1986, 93-94). On the other hand, diversity led to the occurrence of some nontraditional patterns for family, patterns such as: single persons (never been married), cohabitation, "stepfamily" (resulted from remarriage and putting together children from different parents), monoparenththood (families resulted from divorce or death, as well as those created through artificial insemination), the so-called "open marriages", multi adult households, homosexual and lesbian couples, and, probably, many other types (Macklin 1980, 916-915).

In the fourth place, the diminishing of the reproductive role **has oriented sexuality towards pleasure and leisure,** both sexes are, today, expressing their love through sexuality. Since they look for high quality relationships, more individual rewards and even sexual happiness, the spouses have started to put pressure on each other. This trend is in harmony with „the theory of exchange", that says people seek and enter realtionships to obtain rewards, staying in a relationship as long as it is favourable, according to the cost ratio (Hurlbert 1992, 105). Schmidt even claimed that "drive" or "instinct" are no longer primordial motivations for sexual relations, people now seeking powerful sensations, the purpose now being not the ease or equilibrium gained through sex, but that endless source of arousal and emotion (Schmidt 2001, 645-646).

Conclusions

The consequences of an unfaithful relationship are diverse, from severe and permanent dissolutions of the family, to psychosomatic diseases, suicide, and even passionate murder. Some faithful partners accept their spouses, accepting and forgiving them when they return to their families. Others do not want to risk resuming the relationship, thus exposing themselves to more pain and disappointment. Nevertheless, giving up a dysfunctional, damaged relationship may be the easiest solution, but it is also a way to avoid facing some harsh truths about self, life, love and taking responsibility, which may make the relationship functional. Although from the "betrayed" spouse perspective, unfaithfulness may appear as a cause for the couples' problems, however, from the unfaithful point of view, it is a defense response against an

unsatisfactory and dysfunctional marital relationship. Although extremely hurt by an extramarital relationship, many are brave enough to admit they can remain together, they can each take the blame for their own mistakes, and that, together, they can rebuild trust and marital intimacy.

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Comparative Study of Medical Statistics of Romania-Russia-Japan about the Evolution of Diabetes

Georgeta Stoica-Marcu
Assoc. Prof. Ph.D., Ovidius University from Constanta, Romania
daniella_gsm@yahoo.com

ABSTRACT: The International Diabetes Federation (IDF) is the umbrella organization for more than 230 national diabetes associations in 170 countries and represents the interests of patients with diabetes and those at risk of diabetes. The Federation has been leading the global diabetes community since 1950. Diabetes and its complications are among the main priorities of public health (UMF Cluj-Napoca, 2009, 28-35). According to the statistical data presented in the paper in Romania in an adult population was 15,545,800 adult diabetes: 8.8% with a total of adult diabetes cases: 1,278,300, of which 30% of cases reach neuropathy. The estimated growth rate for 2045 is 15% for Romania and Russia. Japan in an adult population: 93,968,800 has 7,390,500 cases of diabetes corresponding to a sampling of 7.9% close to Russia and lower than Romania.

KEY WORDS: diabetes associations, diabetes prevalence, evolution of diabetes

Introduction

In a global context, Europe ranked 3rd in 2017 (in descending order of number of cases), with 58 million cases of diabetes, after the Western Pacific, 158 million and Southeast Asia, 82 million. In terms of estimating the evolution (%) of the number of cases by 2045, Europe is in 2nd place, this time in ascending order, by 16%, after the Western Pacific, where an increase of only 15 is estimated % of the number of cases. It should be noted that the number of cases of DM is estimated to increase by 156% in Africa

and 110% in the Middle East and North Africa by 2045 data provided on 25.02.2020. Romania and Russia are included in the European area with a total of 57 countries. Out of the total of 463 million diabetics in the world, the European area has 59 million patients, a number that will increase to about 68 million in 2045 (estimated increase of 15%).

Romania: adult population: 15,545,800; diabetes prevalence in adults: 8.8%; total cases of diabetes in adults: 1,278,300. Russia: diabetes prevalence in adults: 7.8%; total adult diabetes cases: 8,288,500; data provided on 14.05.2020. Japan is one of 39 countries in the western Pacific. Out of a total of 463 million diabetics in the world, the western Pacific area has 163 million patients, a number that will increase to about 212 million in 2045 (estimated increase of 30%). Japan: adult population: 93,968,800; diabetes prevalence in adults: 7.9%; total cases of diabetes in adults: 7,390,500.

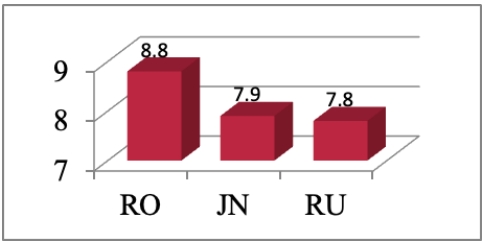

Figure 1. From the point of view of the evolution of the cases, it is observed that Romania has increasing indications for type 1 diabetes compared to Japan where the indications are on a level. *Source: Statista 2021*

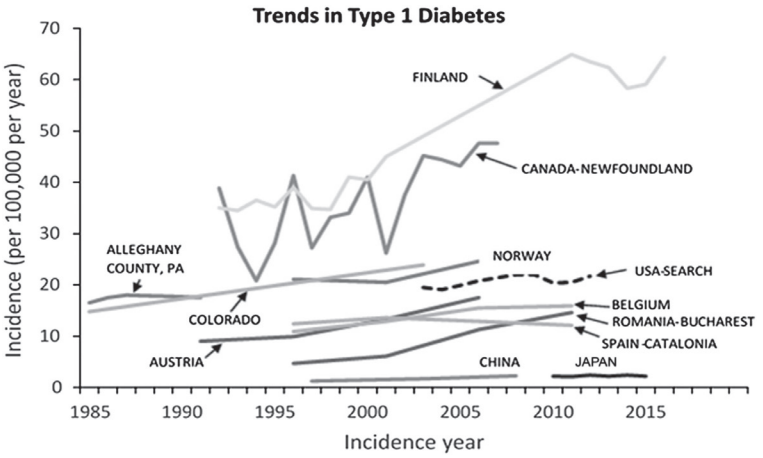

Figure 2. Trends in type 1 diabetes from 1995-2015. *Source: Dabelea 2018*

At the level of 2016, out of the total of 56.9 million deaths caused by diseases, a number of 1.6 million people died due to diabetes (2.8%), increasing by 1 million compared to 2000 (IDF 2016).

Diabetic peripheral neuropathy is a complication of diabetes regardless of whether it is insulin-dependent or non-insulin-dependent, with 4% of diabetic patients developing this complication five years after the diagnosis of the underlying disease, the percentage increasing to 15% twenty years after the onset of diabetes (Popa 2008, 23).

Diabetic neuropathy, one of the late complications of diabetes, can affect every segment of the nervous system. It is rarely a direct cause of death, but it is a major cause of early morbidity and disability, affecting 50-60% of diabetic patients. Studies have shown that 30-40% of diabetics have symptoms of peripheral diabetic neuropathy, the prevalence increasing with age, reaching about 44% among diabetic patients over 70 years. Peripheral diabetic neuropathy is the most common form of diabetic neuropathy. It occurs in both patients with insulin-dependent diabetes and those with non-insulin-dependent diabetes, affecting approximately equally both sexes (Jayaprakash, Bhansali and Bhansali 2011, 133).

National Diabetes of Romanian Program

Objectives:

a) secondary prevention of diabetes [by dosing glycosylated hemoglobin (HbA1c)];

b) ensuring the medical treatment of patients with diabetes, including specific medical devices (insulin pumps, insulin pump systems with continuous blood glucose monitoring sensors and consumable materials for them);

c) self-monitoring of insulin-treated patients with diabetes mellitus (glycemic self-monitoring tests and continuous blood glucose monitoring systems).

1) Physical indicators:

a) number of people with diabetes evaluated by dosing glycosylated hemoglobin: 55,920;

b) number of patients with diabetes treated: 823,280;

c) number of self-monitored patients: 241,600, of which:

c.1) number of self-monitored children with type 1 diabetes: 3,440;

c.2) number of self-monitored insulin-treated adults with diabetes: 238,160;

d) number of patients with type 1 diabetes receiving insulin pumps: 280;

e) number of patients with type 1 diabetes beneficiaries of continuous glycemic monitoring systems: 500;

f) number of patients with type 1 diabetes beneficiaries of insulin pump systems with continuous blood glucose monitoring sensors: 100;

g) number of patients with type 1 diabetes beneficiaries of consumable materials for insulin pumps: 506;

h) number of patients with type 1 diabetes beneficiaries of consumables for insulin pumps with continuous blood glucose monitoring sensors: 100;

i) number of patients with type 1 diabetes beneficiaries of consumables for continuous glycemic monitoring systems: 500.

2) Efficiency indicators:

a) glycosylated hemoglobin tariff / dosage: 20 lei;

b) average cost / patient with treated diabetes / year: 1,076 lei;

c) average cost / child with type 1 diabetes / year: 1,860 lei (400 tests / 3 months);

d) average / adult cost with type 1 diabetes / year: 960 lei (200 tests / 3 months);

e) average / patient cost with self-monitored type 1 diabetes with continuous glycemic monitoring system or insulin pump systems with continuous blood glucose monitoring sensors, as well as for adult with type 2 diabetes and other types of insulin-treated diabetes / year: 480 lei (100 tests / 3 months);

f) average cost / patient beneficiary of insulin pump: 8,115 lei *);

g) average cost / patient beneficiary of continuous glycemic monitoring system: 12,994.80 lei;

h) average cost / sick beneficiary of insulin pump system with continuous glycemic monitoring sensors: 28,109.90 lei **);

i) average cost / sick beneficiary of consumable materials for insulin pump / year: 7,617.78 lei;

j) average cost / sick beneficiary of consumable materials for continuous glycemic self-monitoring systems / year: 10,510.50 lei;

k) average cost / sick beneficiary of consumable materials for insulin pump system with continuous glycemic monitoring sensors / year: 16,939.65 lei.

*) The average cost / patient with diabetes benefiting from an insulin pump of 8,115 lei includes the insulin pump and consumables for 12 months.

**) The average cost / patient with diabetes benefiting from an insulin pump of 28,109.90 lei includes the insulin pump with continuous blood glucose monitoring sensors and consumables for 12 months.

In **Romania**, over 60% of people with diabetes develop diabetic neuropathy, and about 7% reach not only diabetic foot, but amputations of the lower limbs, pointed out Augustus Costache, representative of the National Health Insurance House, in the opening of the VI -editions of the Congress of Diabetic Neuropathy and Diabetic Foot.

Diabetes and its complications are one of the main priorities of public health. In 2017, there were 1785,300 cases of diabetes registered in Romania. According to the PREDATORR study "Prevalence of diabetes mellitus and prediabetes in the adult Romanian population" - Prevalence of diabetes mellitus and prediabetes in the adult population in Romania: in 2017 in an adult population of 14382000 were registered 1785300 cases of diabetes in adults aged 20 to 79 years, with a prevalence of 12.4%. In 2018, 860,558 patients with diabetes received treatment under the National Diabetes Program, and in 2019 (first trimester) their number was 821,587. The rest are in various other situations (early stage that does not require medication, undetected disease or medically untreated, etc.).

The number of beneficiaries of the program has doubled in just ten years, and the budget allocated annually has increased almost five times in the same time frame, exceeding in 2018 the amount of 1 billion lei. This program is the largest of the 14 national programs carried out by CNAS in terms of the number of patients, and the second in terms of funding after cancer. Over 20% of the total funds allocated to national curative programs go to this program. Over time, the program has been continuously improved to better meet the medical needs of patients.

Russia

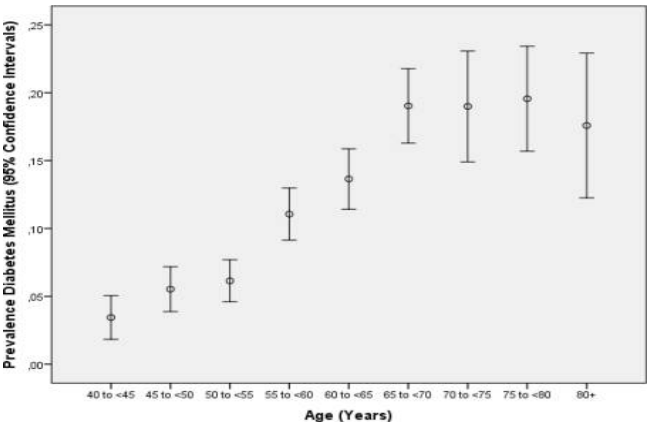

Figure 3. Distribution of cases of diabetes by age
Source: Bikbov et al. 2019

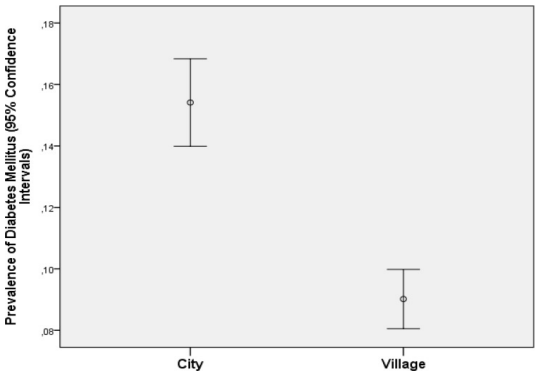

Figure 4. Diabetes prevalence (95% margin of error) compared to urban / rural environment in Russia
Source: Bikbov et al. 2019

In **Russia,** 19.3% of the adult population has prediabetes, T2DM is diagnosed at 5.4%, and 54% of subjects with diabetes are undiagnosed. The impact on group segments shows a higher incidence with increasing age, especially after 45 years. Regarding the distribution of diabetics by sex, women are more affected by diabetes, but for the undiagnosed, the ratio changes, especially for those under 60 years of age (Bogomolov 2014).

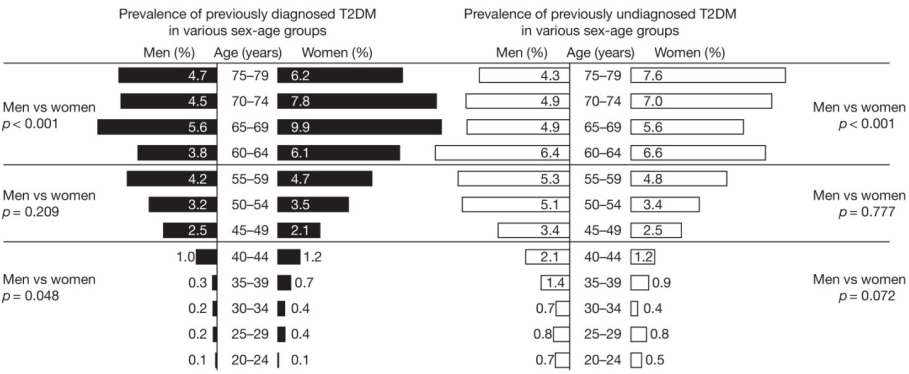

Figure 5. The prevalence of diabetes by confirmed and undiagnosed sex in Russia
Source: Dedov et al. 2016

In **Japan**, according to data published by the Japanese Ministry of Health, Labor and Social Protection, there are over 10 million prediabetics in 2016, although there is a decrease compared to 2012. For diabetics there is an increase of 500,000 compared to the data provided in 2012 and is for the first time the threshold of 10 million cases is exceeded.

Among the risk factors in the increase in diabetes are highlighted the aging population that is more vulnerable to disease and the increase in obesity due to lack of exercise and irregular diet. Another important factor is the introduction, since 2008, of mandatory medical examinations on metabolic syndrome examinations related to the prevention of lifestyle diseases. The number of cases is expected to increase due to the accelerated aging of Japan's population.

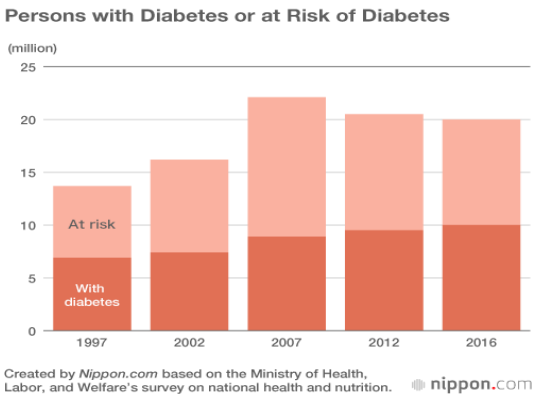

Figure 6. People with diabetes or at risk of diabetes in Japan. *Source: Nippon 2018*

Conclusions

According to the statistical data presented in the paper in Romania in an adult population was 15,545,800 adult diabetes: 8.8% with a total of adult diabetes cases: 1,278,300, of which 30% of cases reach neuropathy. The estimated growth rate for 2045 is 15% for Romania and Russia. In Russia there are 8,288,500 cases of adult diabetes in an adult population of 105,621,900, the prevalence of adult diabetes being 7.8%, below the level for Romania. In diabetic neuropathy, Russia has a percentage of 23.3% of cases [2011 level data]. Japan in an adult population: 93,968,800 has 7,390,500 cases of diabetes corresponding to a sampling of 7.9% close to Russia and lower than Romania. For the year 2045, an increase to 30% is forecast due to the accelerated aging.

In conclusion, Romania has the most patients with diabetes compared to the population, including those affected by diabetic neuropathy. In this case, Japan is in second place in the ranking. Russia has the lowest number of diabetics. The role of nutrition in the lives of the populations of Romania, Russia and Japan has a special importance in maintaining good health, in the correct and harmonious development of the body, in the prevention of a serious condition such as diabetic neuropathy. A healthy eating body will be stronger and will have a metabolism that will work well throughout life.

Regarding the worrying forecasts, Romania and Russia should follow the example of Japan, which has a high-performance program, detailed on diabetes comorbidities and nutritional plans included in treatment protocols at the national level. This does not exist in Romania and Russia. In rural areas in Romania and Russia, patients with diabetic neuropathy are poorly monitored, while in Japan there is clear and detailed evidence. The differences and eating habits are reflected as we have seen in the number of diabetics in each country, namely we Romanians consuming more processed foods, we are sicker than the Russians and the Japanese.

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Legal Fiction in the Light of the Four Principles of Classical Logic

Cristian Neacșiu
PhD student, "Andrei Radulescu" Law Research Institute
of Romanian Academy, Bucharest, Romania
cristian.neacsiu@gmail.com

ABSTRACT: The succession of logical forms being a facet of the otherness of time, the subsumption of materiality, and especially of conceptuality to different logical patterns become a truism that wears the garment of a logical evolutionary process. By this, it is imperative to undertake a logical-philosophical analysis on some conceptual entities that show traces of ancestry, in the sense of researching their logical permanence. The concordance with the temporality of this research demands, as essence, the research of the logical permanency related to that *logicae prima facias*. The latter *prima facias* as a logical pattern must imperatively be represented by the logical entity that has the value of *ab initio* point on the scale of temporality, namely the classical logic. Considering an *ab initio* conjugated homologous point, but which designates the source of fictionality in the field of law, we conclude that the legitimacies, functionalities, respectively subtleties of the principal pattern of classical logic that is incident in the conceptuality of legal fiction must be investigated in order to conclude over the actuality of this abstract construct of law-part of legal reality, as well as on the actuality of the precepts of classical logic as *prima facias logicae*.

KEY WORDS: legal fiction, classical logic principles, fictional mechanism, physical reality - GIVEN, legal reality - constructed, physical reality continuous relation function

Introduction

Considering that "causal explanation (...) plays a fundamental role in all sciences" (Zamfir 1987, 19) and thus it "(...) seems to be a universal

explanatory scheme used in all scientific disciplines to explain any phenomenon" (Zamfir 1987, 19), we can conclude that all other explanatory schemes (structural-material or functional in all the sciences subsumed to the two spheres - the real sphere and the human sphere), although they are high degree of complexity schemes "(...) might consequently be reducible to causality" (Zamfir 1987, 19).

Since fiction can be considered in the sense of *otherness of truth*, and to this definition we apply the previous explanation, we consider that the elementary explanatory scheme of the first is represented by, respectively coincides with, the logical truth. In short, the elementary explanatory fiction scheme = the scheme of logical truth. This egalitarian relationship between the two diametrically opposed values reveals certain paradoxes that derive from the fact that if the first scheme contains the idea of fictionality, the second one should be a scheme of intrinsic illustration of fictionality. Combining these two features, by containing the idea of fictionality, the elementary explanatory scheme of fiction becomes *a scheme of addition* in relation to the logical truth. Thus, the idea of fiction is the determining element through which the shaping of the relationship between the two schemes takes place. In this way, the scheme of logical truth *per a contrario* would suggest the idea of fiction and fictionality. On the other hand, the elementary explanatory scheme of fiction, paradoxically, would also contain the idea of truth! (More precisely we can consider that the elementary explanatory scheme of the legal fiction paradoxical/paradoxally the idea of truth)

In order to have an adequate understanding of this abstract concept of law, we should overcome this axiological paradox by considering the theological argument according to which "(...) all knowledge is in the service of theology which uses patterns and suitable terms for each type of knowledge" (Saint Bonaventura 2010, 77). To that end, man as God's creation first met Good, and after the fall into original sin, he met Evil. Therefore, from that moment on, it has been axiomatized (Thus the axiomatic principle can be found in ancestral times) as a universal principle that in order to know, re-know, and understand a *fundamental axiological value* (The Good, The Truth, or the Beauty), one should at least understand the correlative value (evil, falsity, unjustice, ugliness) of the first one (primary axiomatic value idea).

Taking into consideration this universal principle (that includes the essence of *non contra dictionary* principle as the main principle of logic) and supplementary applying it in the field of logics by considering its particular incidence in a special logic, such as the legal fiction one, with regard to the latter we should consider that "(...) in that logic, everything derives from a contradiction" (Priest 2020, 144).

Thus, why could we not subsume to the classical logic this logic directed by the antinomy of the contradiction? In order to answer this axial question, as far as the logic of legal fiction is concerned, we should consider it determined by the contradiction related to the four cardinal principles of classical logic- *the principle of identity, the principle of non-contradiction, the principle tertium non datur*, respectively *the principle* of *sufficient reason* - as elements of "(...) tri-modal realism (...)" (Dumitriu 1975, 357).

Taking into consideration the extent to which these cardinal principles find themselves into this logic triggered by contradiction, we could characterize this logic as one related to the pattern of the classical logic. To that end, regarding *the principle of identity* and considering that "(...) each material or ideal object is characterized by two types of properties" (Bieltz 1992, 8) and "some belong to other objects and based on them the related object together with other objects having the same properties can be grouped into a class of objects" (Bieltz 1992, 8), and correlatively "other features tend to differentiate the related object from others, including those belonging to the same category with the related object" (Bieltz 1992, 9), we should consider this logic determined by the contradiction in relation with the two forms of reality (By its legal fiction and construct reality part, physical reality is a component of legal reality created by distorting, modifying or contradicting the value of the first one) included and therefore presumed by the legal fiction. Thus, due to the fact that legal fiction at least presupposes the plane of reality due to the fictional mechanism, it becomes a feature making this abstract construct and reality be part in the same category of objects, namely the general category of realities.

But, on the other hand, legal fiction distorts this basic plane of reality through the same fictional mechanism approaching thus this distortion and valorizing it by transposing it into a specialized reality, the legal reality. Thus, this abstract construct of law also makes a differentiation from physical reality.

Summing up, we conclude that through the fictional mechanism, it is implicitly involved the principle of the classical logic of identity, regarding the situation of legal fiction (This logical qualification triggers the immanence of the fictional mechanism regarding the abstract concept of legal fiction. The character of immanence is highlighted by the fact that framing this distortion in the category of realities (as a logical object category), the fictional mechanism realizes the legal fiction legitimatization as a form of reality, based on the cardinal principle of classical logic, the principle of identity. So, *the fictional mechanism is the intrinsic element of the legal fiction which validate it as a form of reality* (primary axiomatic idea). In this way, from this primary axiomatic idea a second such idea derives, namely that the legal fiction is a concept of law that achieves an axiological self-validation. The first consequence that emerges from this second axiomatic idea is that it highlights the fact that this abstract concept of law, legal fiction, is a specialized conceptual construct of legal nature which dose not only reveal a high degree of abstraction, but it even possesses an axiological autonomy. Since legal fiction requires a specialized framework of existence and development in the form of its own functionality, namely the law as a system, we can conclude that this axiological autonomy cannot be absolute, but must be considered as relative. The second consequence that emerges from the second primary axiomatic idea is represented by the question if, like the specialized conceptual constructs, the general conceptual constructs can possess axiological autonomy? In an attempt to answer, considering the logical rule applied in the legal sphere, the ***specialia generalibus derogant***, it would appear that since it derives from the general, the individual in turn took over the aspect of possessing an axiological autonomy from the latter general. Therefore, the general in turn should possess an aspect of axiological autonomy. On the other hand, considering that the general includes the individual (*propriam* definition), the first one becomes a complementary-confirmatory bed of the watercourse of the second one, and when the individual one axiological self-validates itself, it does that in the same riverbed represented by the general. Thus, just as the stream of water barely shapes what holds it, so the individual possesses an axiological autonomy and thus self-validates itself, determining in an inductive sense, a similar but ruled by the general autonomy. q.e.d.), because the two realities subsumed to legal fiction belong to the same category of

objects: the category of reality planes (both physical and legal reality, which must be considered as reality planes) and also two different entities within the same category (one being a part of physical reality, and the other being a part of specialized information reality, the legal reality). Thus, in addition to the validation of legal fiction as a form of reality, the fictional mechanism also realizes its differentiation as a specific form of truthfulness/specialized form of truthfulness. So, by respecting *the principle of identity* related to classical logic, the fictional mechanism has the value of an element of validation, as well as of differentiation as reality, for the legal fiction. On the other hand, with regard to *the principle of non-contradiction*, considering that "(...) certain features are incompatible, which means that the presence of one of them in a certain object entails the exclusion of others in the same object" (Bieltz 1992, 10) we understand that legal fiction achieves the exclusion of this principle of classical logic through the fictional mechanism. Thus, if we analyze legal fiction only in terms of its content, because it brings together the attributes of a distorted reality, thus excluding the content truthfulness of reality, then we realize that the former fully applies *the principle of non-contradiction* to classical logic. But if we look at this abstract construct of law by considering its functionality - the fictional mechanism, then legal fiction excludes *the principle of non-contradiction* as a principle of classical logic, since the latter also implies the part of physical reality from which legal fiction starts from. So, at its background, legal fiction applies *the principle of non-contradiction* as a principle of classical logic and at the functional level, legal fiction excludes this principle (Primary idea for the legal fiction notion). In other words, as an ideational background, legal fiction is circumscribed to *the non-contradiction principle* of classical logic, and as functionalism background it excludes this principle (Primary idea for the legal fiction notion).

That is why we can say that legal fiction is an abstract construct of law that enshrines in its intrinsicity the principle of classical logic of non-contradiction and which, paradoxically, through its functional synergy, excludes this principle (Primary idea for the legal fiction notion). In short, legal fiction is an abstract construct of law that intrinsically enshrines classical logic, but which operates according to the canons of a logic different from and derogatory from classical logic. Thus, the possession of *logicae clasicae* and the functioning based on an *alter pars logicae* represent the indicator that

the logic of legal fiction is one related to the pattern of new logic (primary idea - Thus, that *alter pars logicae* becomes *novum pars logicae*). In another structure of ideas, but in the same ideational plane, considering that "(...) any sentence must be considered in relation to a system of sentences, and from this point of view, there are only two possibilities for any sentence: be accepted or not be accepted in a system of sentences" (Bieltz 1992, 12) because "(...) any third possibility is excluded" (Bieltz 1992, 12), we consider that this principle has to be studied within legal fiction

Thus, as an *ab initio* point of this research, the notion of *system* of *sentences* must be considered. Relating this notion to the content of legal fiction, we consider that in the form of the system of sentences can reside only one of the two realities subsumed to legal fiction, the physical reality or legal reality. However, relating the idea of the system of sentences to the construct represented by the fictional mechanism that ensures the functionality of the legal fiction, it appears that the mechanism of the latter one itself represents the system of sentences.

Therefore, the following possibilities are to be considered:

I. physical reality or legal reality represents the system of sentences;

II. fictional mechanism as a whole represents the system of sentences.

In other words, when we refer to the content of legal fiction (which can be normative in the case of legal fiction, jurisprudential in the case of jurisprudential legal fiction, or doctrinal in the case of doctrinal legal fiction), the system of sentences is first of all represented by reality-constructed, part of legal reality, and, in a subsidiary way, it can be considered also the part of physical reality from which the legal fiction starts.

Summarizing our explanation, in general the system of sentences must be seen as reality-constructed when we consider the content of legal fiction, respectively as an exception, the system of sentences must be considered to be the part of physical reality from which this abstract construct of law starts from when we consider the object of legal fiction (Primary idea for the legal fiction notion).

Using the two conceptual entities: the object and the content of the legal fiction (considering these two as autonomous conceptual entities, our aim was to highlight their own role in legal fiction, because in relation to the latter, being in a part-whole relationship with legal fiction, the two can be seen only as parts of a conceptual whole entity. This axiological finesse delimitation is

of interest especially by considering the notion of fictional mechanism. Thus, within the legal fiction as a unitary whole, delimitations can be made in the form of conceptual autonomy regarding the object, respectively the content., conjugated with the aspect that the legal fiction subsumes an entire mechanism that ensures its functionality and implicitly substantiates it functionally. This conceptual autonomy denotes the fact that this abstract construct of law presupposes conceptual detachments of its parts, precisely to highlight the functional role of the latter, and combined with the aspect that legal fiction, it subsumes a whole mechanism that ensures and implicitly substantiates its functionally. In other words, legal fiction brings together component parts that can reside in an autonomous conceptual form when appropriate, respectively subsuming in its own conceptual sphere, a whole functionality represented by the fictional mechanism. In other words, legal fiction is an abstract concept of law whose intrinsic parts can be the object of autonomy, the latter synergism being ensured by a functionality that, although not worth its own content, is part of its sphere: the fictional mechanism), we obtain different values of truth depending on the mutual reporting meaning of these two.

Thus, when we consider for analysis the content of legal fiction (which is equivalent to analyze legal fiction itself), the system of sentences being represented by legal reality, this concept of law (and implicitly the part of legal reality which it creates it) appears to us as one of truthfulness, which thus excludes the idea of falsity

On the other hand, when we consider and analyze the object of legal fiction (represented by the part of physical reality on which this abstract concept of law affects its action), the system of sentences being represented by the physical reality plane, this construct of law appears as one of falsity, which thus distorts the veracity of physical reality.

Briefly expressed in the form of a graphic, the idea lies in the form of:

I. the content of legal fiction → legal reality ← attracts truth;
as a reference system,

respectively

II. the object of legal fiction → physical reality ~ ~ ~ ~ ~ »illustrates the idea of falsity by distorting physical truthfulness
as a reference system

From synthesis I and II, it appears that taking into consideration the object and the content determined by it, the legal fiction, acquiring only one of the two prime axiological values - truth / falsehood, applies *the principle tertium non datur* (Primary value about legal fiction notion). The element of interest regarding the incidence of *the tertium non datur principle* in the situation of legal fiction is represented by the reflection of this principle in the functionality we designated by the notion of fictional mechanism, as an entity that ensures the functionality of this abstract construct of law. Thus, since this mechanism contains at a functional level both realities subsumed to legal fiction (the part of physical reality that is the object of legal fiction, respectively the part of reality-constructed that is outlined on the basis of the first - physical reality, respectively legal reality), it means that the former implicitly contains both systems of sentences as reference systems, according to which legal fiction can be qualified alternatively by both axiological values derived from the primary axiological values: truth, respectively falsehood.

Omissio medio, by assuming both realities (however, taking into account the need to continuous report to physical reality, the fictional mechanism imprints the value of deliberate falsity to legal fiction, deliberately constructing falsity, which is legitimized by the purpose of legal fiction, which also represents the reason for its existence. Thus, even in the case of legal fiction, this legitimation of falsity which is achieved through the function of continuous reporting to physical reality, is only a particularization of the general legal rule that the general interest takes precedence over the particular interest, respectively the particular interest yields in the face of the general interest. q.e.d.), the fictional mechanism is the element that can impress both axiological values derived from primary axiological values to legal fiction, thus excluding *the principle tertium non datur.*

Summing up, we conclude that at the material level through object and content determined by the object (thus, depending on the object and content, we could define the legal fiction as *an abstract concept of law that is constructed by transposing in a distorted form the object itself, within its content, in order to determine the achievement of a legal goal. Or, in other words, legal fiction represents an abstract concept of law constructed by transposing the extrinsicity represented by its object into the intrinsicity represented by its own content, subsumed to achieve a desideratum of the former*. The specific element

of these definitions lies in the fact that we become aware that we are in the presence of an abstract construct, whose abstraction is determined by the fact that it approaches within its own content its object, which is a notorious entity - part of physical reality), legal fiction applies *the principle tertium non datur*, but at the level of functionality through the fictional mechanism legal fiction excludes this principle (Primary value about legal fiction notion).

Last but not least, considering that "(...) any sentence has a basis (...)" (Bieltz 1992, 13) that "(...) requires us not to accept or reject a certain sentence, unless we have a satisfactory basis for its acceptance or rejection" (Bieltz 1992, 13), it becomes imperative to analyze the incidence of *the principle of sufficient reason* regarding the situation of legal fiction. In other words, the idea of subsuming this abstract construct of the right of a legal desideratum is an indicator of the principle of sufficient reason. The subsuming emerges on the one hand from the material side represented by the content of legal fiction, as well as from the functional side represented by the rule of priority of the general interest over the particular one, enhanced by the function of continuous relation to the physical reality.

Thus, as a *ratio juris*, the incidence of *the principle of sufficient reason* is a priority in legal fiction, being fully understood that the revelation of this incidence must be the easiest as a finality, by reference to all the other three incidences of the other three cardinal principles of classical logic. In other words, of all the four principles of classical logic, the priority of the incidence of the principle of sufficient reason determines an easier revelation of this incidence, both the priority and the ease being paradoxically necessary to be related to themselves as homologous aspects of the other three cardinal principles of classical logic. This quadratic principle incidence (notion similar to the previous one: trinitar) requires the research of the idea of logical correctness of the legal-fiction in the field of classical logic (One should note that there is identity in the form of overlap between the notions by which these axial rules are qualified in the case of classical logic: "cardinal principles" and the way, respectively the degree, to which these principles ensure the representativeness of classical logic. In other words, just as the four cardinal points ensure the full representation of the two-dimensional geographical spatiality, similarly, these axial principles ensure the representation in a succinct but full manner way of classical logic, the consequence of this being

the fact that just as the representation made by the four cardinal geographical points ensures the spatial orientation, in a similar way, the four cardinal principles of classical logic ensure the orientation in the field of this science and, most importantly, ensures its comprehension, as a logical mega-structure of thought. q.e.d.).

Regarding the ease with which these cardinal principles of classical logic are incidents in the situation of legal fiction, we consider that a hierarchy of them is not without effect. To that end, without a preferential principal hierarchy we consider that in order to build the structure of the incidence of these cardinal principles in the situation of legal fiction, we must take into consideration that the principle of sufficient reason is in the place of centrality that constructs this hierarchy.

Thus, without losing sight of the fact that, from a *phylogenetic* point of view (an aspect different from *ontogenetic*, since the notion of *phylogenetic* refers to the antecedent from which a physical or conceptual entity derives its origin from. On the other hand, following this source derivation, the ontogenetic path of a physical or conceptual entity in question begins. Taking into consideration the above, we should consider that the ontogenetic itinerary begins with the oldest *ab initio* point of the antecedence of a physical or conceptual element and ends with the beginning of the ontogenetic path which in turn lasts until the terminus of this physical or conceptual entity. Noting that only in the case of physical entities, as a rule there is a terminus of them (such as: the life of a human being). However, this rule could not be stated in the same way with the same title in the case of conceptual entities, as some of them, being in a continuous evolution, are evolutionarily subsumed to a continuous itinerary, which is thus perennial to the existence of human society (e.g.: the notion of property in civil law. This is a conceptual entity that retains its historical permanence - any form in which it can exist requires a human subject holder - natural person, respectively holder of a conceptual entity - legal person, but which is also subject to a permanent evolutionary readjustment - the emergence of intangible assets as an object of property right, such as cryptocurrencies, etc. However, there may also be conceptual entities that have an ontogenetic terminus point and implicitly are obsolete, such as the institution of *capitis deminutio* in Roman law. etc. q.e.d.), the principle of sufficient reason has its origin in the old Latin logical

rule *cessante causa*, *cessat effectus*, the latter principle can be either a premise or a conclusion within the hierarchy in question.

I. It has the value of a premise and implicitly occupies the *locus primus* within the hierarchy, if in the process of researching legal fiction as a conceptual entity through classical logic we start from the idea that this construct of law must have its own raison d'être and subsequent conceptual existence.

II. The principle in question has the value of a conclusion if the reason in question is outlined after following the research itinerary of this abstract construct of law that ends with the revelation of its legitimacies and functionalities.

In the first case, the idea of the existence of a reason regarding the legal fiction is a conceptual one *in situ* which stress the need to undertake a research on this abstract concept of law, precisely in order to be able to highlight this reason. Thus, after considering the *premise* value of the principle of sufficient reason, in a natural methodological fluency, follows the consideration of the *conclusion* value of the principle of sufficient reason. In other words, the legal fiction reason demands as a precedence, the consideration of the previous idea that this construct of the law possesses an own reason of being and conceptual existence. So, in outlining the legal fiction reason, we should begin with the previous idea that principle of law has its own raison d'être and subsequent conceptual existence. So, in defining the legal fiction we start with the valorization as a *premise* of the principle of sufficient reason and continue with the valorization as a *conclusion* of this principle of classical logic.

Overlapping to this itinerary the application of the other three principles of classical logic in legal fiction, we realize that their integration takes place during a logical path between the sufficient rationale of the legal fiction as a *premise* and the rationale of this abstract construct of law as a *conclusion*. Thus, the trilateral ensemble - the principle of identity, the principle of non-contradiction, the principle *tertium non datur* - is imposed between the reason of conceptual legal fiction *in situ* as a premise and the reason of this abstract construct of law as a conclusion.

In this way, the comprehension, the explanation of the functionality and the legal fiction consist in a logical itinerary observing the application of the four logical principles to the situation of the legal fiction. We should take

into consideration that these four principles of classical logic do not apply to legal fiction in a unitary manner, but three of them are limited by the one that has the nature of a justifying principle of legal fiction: *the principle of sufficient reason*. In other words, the application of these four cardinal principles to the situation represented by legal fiction begins with the principle of sufficient reason and ends with the latter (through this division of the principle of sufficient reason, being highlighted the aspect that in the particular situation of legal fiction this principle of classical logic has the value of a premise of being, as well as the value of a posthumous enhancing element. In other words, in the particular situation of legal fiction, the principle of reason sufficient as a principle of classical logic, *ab initio* values the premise of existence and *postum fiction existentia* values as a rational element through empowerment. Questioning the cause of this division of the principle of sufficient reason in the case of legal fiction, without losing sight of the need to group three of the four principles of classical logic into a trilateral logical way, dictated by logical legitimacy, we have to take into consideration that there is also a secondary cause of this division, namely the abstract character of this concept. In other words, since by its essence legal fiction is an abstract concept in terms of comprehension, the reason that justifies it cannot be a linear and structured *uno icto* reason, but only after realizing the purpose of this abstract construct of law this reason becomes a full and implicitly potentiating one, so that it can only be a reason divided into several parts and structured in the *alter pars additio mode*. Summarizing the above, we must consider that in the situation of legal fiction the reason that substantiates and justifies it is not a reason that substantiates and justifies, at the same time, a conjunctive reason (the term subjunctive being used to highlight the reunion through the logical operation of the conjunction – "∧", the aspect of substantiation as an idea of being, as well as the justifying aspect as a reason for existence by purpose), but it is a reason that substantiates *ab initio* and then imperatively justifies an additional *pars ratione finalis*, a cumulative reason. Without reiterating the idea, we can briefly state that since the reason behind legal fiction is a cumulative reason, the incidence of the sufficient reason principle of classical logic within this first concept of law is not an *uno icto* and linear incidence as in the case a conjunctive reason, but it is a structured incidence. Adding the idea of the degree of abstraction to the previous consideration, it appears

as a rule that the reason behind the entities - notions or concepts that do not have an abstract character- is linear, *uno ictu* and thus conjunctive, while in the case of entities - notions, concepts that have an abstract character- the reason that revolves around them is a structured, non-linear and thus cumulative, as an exception. Next, adding to the previous consideration the idea of linear information, respectively the idea of wrapped information, it appears as a rule that in the situation of entities - notions or concepts as flat information that do not have an abstract character- the reason is linear, *uno ictu* and therefore conjunctive, while in the situation of entities - notions, concepts as wrapped information that have an abstract character - the reason is a structured, non-linear and thus cumulative, as an exception. Regarding the latter idea, to resume, the linearity of information determines the linearity and the *uno ictu* character of the fundamental reason - conjunctive reason, respectively the wrapped character - multi-planarity of information determines the structuring and nonlinearity of the fundamental reason - cumulative reason. With regard to the two hypotheses, there would be a special situation in which plane-linear information should have an abstract character, respectively the special situation in which wrapped information should not have an abstract character. As for the latter, since any wrapped information is composed of a linear-plane accumulation of information, whether the composition is structured or not - amorphous, the decryption of the wrapped information in terms of comprehension requires *sine qua non*, the detection of the meaning/significance of each constituent planar information. Thus, in the event that those individual findings are not made, the wrapped information is not comprehensible and thus is presumed to be abstract information or at least *potential abstract* information. *So, any wrapped information is at least potential abstract information and in no case is an informational conglomerate devoid of the abstract character* (axiomatic idea). On the other hand, in the case of the first special situation, we consider that there is that flat information that have a comprehensible content, but whose meaning and content cannot be understood, and in this way they appear to us as linear, flat information with abstract character. This information is the one that has the value of Given and is revealed through dogma. For example: God-Son existed before the times. This information in the field of theology is linear-plan information related to its content, but in terms of its meaning

and reason is abstract information, as it is not comprehensible to human reason, because it succinctly emanates the possibility that God-Son existed before temporality, since He was born almost two millennia ago!)

Therefore, in a similar manner we can assess that: attracting classical logic in what we consider the full explanation of the concept of legal fiction implies together the principle of identity, the principle of non-contradiction and the principle *tertium non datur* in a circularity that is represented by the division of the principle of sufficient reason.

Submitting the above to an attempt to prioritize the four cardinal principles of classical logic regarding their incidence in the situation of legal fiction, we consider that the following hierarchy:

the principle of sufficient reason - conceptual idea *in situ*
↓
the principle of identity?
↓
the principle of tertium non datur
↓
the principle of sufficient reason - *pars conclusiva*

This scheme can be considered as having the value of a *canon of classical logic regarding legal fiction. Therefore, from the perspective of classical logic, the explanation of legal fiction as a conceptual entity of law can be offered through its own canon.*

Starting from the statement that "also called 'validity', logical correctness coincides with the property of a logical form being composed in such a way that it fully respects the laws of reasoning (...)" (Bieltz 1992, 15), namely the four cardinal principles of logic which "(...) are fundamental laws of reasoning" (Bieltz 1992, 15), we should verify whether the canon of classical logic related to legal fiction (and implicitly the four cardinal logic principles applied to the legal fiction), the latter one as *a logical form*, respects through its own structure these cardinal principles.

Overcoming the axial extremes represented by: the *eo ipso* (in the current particular situation, the phrase "*eo ipso* observance" expresses the

idea of concordance between the essence, structure and functionality of legal fiction and the four cardinal principles of classical logic, namely the principle of identity, the principle of non-contradiction, the principle *tertium non datur* and the principle of sufficient reason) observance of these principles, respectively the *eo ipso* nonobservance of them, which attract and both exclude the logical correctness of this abstract construct as a form of law, we consider that in the situation of legal fiction is important to have *a gradual form by approximation of the logical correctness* of the latter, as a form determined by the extent to which legal fiction applies these four main rules. In other words, the logical correctness regarding the classical logic related to the legal fiction is not the traditional one in the sense of *esse* or *non esse*, respectively *de veritas* or *non-veritas*, but it is a logical form by approximation. Therefore, the logical correctness of legal fiction to which the four cardinal principles of classical logic are subsumed is *a logical correctness by approximation* (primary value about legal fiction notion).

Without losing sight of the latter form of logical correctness related to this abstract concept of law, in terms of the principle of identity, its incidence in legal fiction is one that can be seen only by reference to the physical reality plane. Thus, the function of continuous reporting to the physical reality of the fictional mechanism is the instrument through which the principle of identity is highlighted in the incidence of legal fiction as a cardinal principle of classical logic. Since the essence of this principle is *to compare what is comparable* (and through this, the principle of identity presupposes as a premise a universal rule of classical logic applied in the case of comparison. Moreover, this cardinal principle of classical logic, claiming the operation of comparison, implicitly presupposes the logical rules subsumed to this operation, especially the one that suggests the aspect that must be subjected to comparison, the terms that are *eo ipso* are comparable. Thus, *the principle of identity - cardinal principle of classical logic, claims as a premise an operation as functionality: comparison and implicitly the underlying background of the latter: the rule of universal logic which consists in the idea of comparing what is comparable eo ipso*), it follows that it presupposes at least two entities as terms of comparison, which in the case of legal fiction can only be represented by the part of physical reality that makes the object of legal fiction, respectively of the constructed reality that is outlined according to the latter part of physical reality. Summarizing, one should take into consideration

the principle of identity - a cardinal principle of classical logic - as an incidence in the situation of legal fiction that requires both planes of reality subsumed to this abstract construct of law (primary value about legal fiction notion).

On the other hand, regarding *the principle of non-contradiction*, we realize the incidence of this cardinal principle of classical logic within this content by referring only to the content of legal fiction. However, without penetrating the functionality of this construct of law, the fictional mechanism, we should consider that the former also demands a function of continuous reporting to the plane of physical reality (this *claim as imperative through a functionality of physical reality* is the consequence of the aspect that this cardinal principle of classical logic intrinsically subsumes the idea of incompatibility, respectively the idea of simultaneity. More precisely, through functionally valued simultaneity, this principle excludes the overlap or even the conciliation of two fundamental antonymic axiological values (Truth and Falsity), when they concern the same object. Thus, through the incompatibility that emerges as the functional valorization of simultaneity by this cardinal principle of classical logic is generated as an effect the idea of exclusion that underlies the principle of identity. In short, by subsuming two ideas, one of which is of a functionalist nature, the essence of the principle of identity as a cardinal principle of classical logic is outlined, namely the *exclusion*).

Thus, only in relation to the content of legal fiction, this principle mainly demands reality-constructed and, in a subsidiary and less powerful than the principle of identity, the part of physical reality that is the object of legal fiction. However, referring to the plan of the functionality of legal fiction (represented by the fictional mechanism), although the differences between the two planes of veracity fade functionally, the latter mechanism also takes into account the part of physical reality that is the object of the former.

Summing up the above, it appears *that the principle of non-contradiction in the situation of legal fiction, in the prima facias claims only reality-constructed and only in the deeper plane of functionality of this abstract construct of law claims the part of physical reality that is the object of legal fiction* (primary value about legal fiction notion).

At the same time, with regard to *the tertium non datur principle*, we should consider that at the material level, through object and content determined by the object, legal fiction applies this principle, but at the level

of functionality, through the fictional mechanism legal fiction achieving its exclusion.

In conclusion, it is clear that the trilateral ensemble is defined by the principle of sufficient reason as divided into two parts:

- the principle of identity is the only one that claims *uno ictu*, both plans of veracity subsumed to legal fiction which shows that it has the easiest impact on the conceptuality represented by legal fiction;

- the principle of non-contradiction is one of the two principles that claims the two planes of veracity in a staged manner: first the reality-constructed, and then the part of physical reality that is the object of the legal fiction. Moreover, it is one of the two principles which applies itself within the intrinsic materiality of legal fiction, respectively it is excluded from the functionality of this abstract construct of law;

- with regard to *the tertium non datur principle*, the previous ideas are valid, by stressing that that the exclusion of the former, unlike the exclusion of the principle of non-contradiction, has a more pronounced functionalist character which is associated with a subtler impact.

Thus, taking into consideration the above, regarding the incidence in the situation of the legal fiction of the principles within the tri-principal ensemble, the decreasing series of this incidence is the following:

the principle of identity> the principle of non-contradiction> the principle tertium non datur

In support of the above we present the series of ease of ascertaining the incidence of these tri-principal elements in the situation of legal fiction:

principle of identity> principle tertium non datur> principle of non-contradiction, or
principle of identity> principle of non-contradiction> principle *tertium non datur*.

With the mention that the incidence of one of the two ways of the series of *the ease of ascertaining the tri-principal elements* is given by the subject-author from whom the legal fiction emanates (the legislative body in the case of legal fiction, a judicial body in the case of jurisprudential legal

fiction, respectively a doctrinaire of law in the case of doctrinal legal fiction), because "(...) the subject is the one who adds something extra to the facts so the truth to be construction, not pure reflection" (Dima 1975, 59).

Adding to this principal trinitarian ensemble the principle of sufficient reason as the delimiting-limiting principle of the extremities (similar to a *framing limit*) of this ensemble, the decreasing series of incidence becomes:

[principle of sufficient reason - premise> principle of identity> principle of non-contradiction> principle *tertium non datur*] ← principle of sufficient reason - conclusion

Also, regarding this *tri-principal ensemble* in the conceptuality represented by the legal fiction "all three principles remain valid, as long as only the modality as such is considered" (Gică 2015, 104), the manner in question being represented by this abstract concept of law.

Last but not least, related to the notion of logical correctness is also the idea of truth, especially the way of establishing it. Thus, we should consider that the essence of the way of establishing the truth is *correspondence*. Even more, the same idea is of the essence of the notion of logical correctness, because "like the truth, logical correctness is born as a result of a correspondence (...)" (Bieltz 1992, 15).

Returning to the incidence of the idea of correspondence regarding the value of truth, one should take into consideration the following premises: first of all, the idea of *consideration by restraint* (of physical reality), *comparison*, the idea of *partial or total overlap* or rather, *descending or equivalent itinerary* (this being equivalent in the case of a truth regarding only one plane of reality), *ascending retro-itinerary* in order to have success in finding of the aspect of partial or total overlap of truth, all these elements having a topic of temporality in terms of their realization.

In other words, the establishment of a conceptual truth *in situ* according to a physical truth requires the following functional steps: consideration by retention → ascending way of making itinerary or equivalent to the constructed truth → comparison → descending way of making itinerary or equivalent to the physical truth - GIVEN (retro-itinerary) (we note that in the case of legal fiction the retro-itinerary is represented by the *continuous reporting to the physically reality of the fictional mechanism*).

Thus, in the situation of constructing a conceptual truth *in situ* (as in the case of legal fiction) all of these imperative functional stages are subsumed to the idea of correspondence with the physical truth-GIVEN (primary value about legal fiction notion). We note that in the case of physical truth the correspondence is established between the part of physical reality that is the object of physical truth and its expression as information in the content of this truth

In the case of *in situ* conceptual truth the correspondence is established between this information expression and an information over-expression that is constructed by modifying/distorting or contradicting the first expression. Thus, the physical truth presupposes the correspondence materiality → information (ideality), and the conceptual truth *in situ* presupposes the correspondence information (ideality) → over-information (ideality) (thus, the conceptual *in situ* truth although it is exclusively related to ideality it cannot delimitate itself of the physical reality. To that end, the conceptuality designed by legal fiction which although has the value of a conceptual *in situ* truth still does not establish a direct correspondence with physical reality but mediated by physical truth - GIVEN).

In another adjacent plan of analysis, regarding the notion of *logical correctness*, we should start from the fact that the latter presupposes the idea of observing some logical precepts, observance which in turn implies the *idea of correspondence*. Thus, we can consider that the *notion of logical correctness implies the idea of correspondence through the idea of respect/conformity*. As for the qualification of the latter correspondence, we must start from the object of logic. By this, considering the material on which logic acts on is represented by statements about material entities (related to physical reality) or conceptual (*erga omnes* to the former), we can conclude that *the object of logic is a formal one as an ideal*. In short: *the object of logic is a formal object as an ideal* (primary value about legal fiction notion).

Next, this object is the element that must correspond to the formal reasoning laws of logic (such as the four cardinal principles of classical logic). Thus, if the object / term subject to comparison - the object of logic (that can be only conceptual) is considered to be the apparatus of comparison, this, as the apparatus in which the comparison takes place, is also conceptual, showing that the link between the term subject to comparison and the object of logic can only be conceptual.

Thus, *with regard to the correspondence that is established between logical precepts and an entity that falls within the scope of its object as a science, this correspondence is an absolutely pure conceptual correspondence*.

Thus, we can conclude that:

- in the case of correspondence between the content of a physical truth and its object, it is a *material correspondence relatively integrated into the ideal*;

- as regards the correspondence between the content of a conceptual truth *in situ* and the physical truth-GIVEN, this is an *ideal relative correspondence* (due to the fact it claims physical reality as object of physical truth);

- regarding the correspondence between the content of a conceptual truth *in situ* (having a buit value) and the physical reality, this is a *material correspondence absolutely integrated in the ideal*;

- as regards the correspondence between a conceptual truth *in situ* (having a buit value) and logical precepts, this is an *absolute ideal correspondence*.

The first three situations refer to the correspondence that is established in the case of *truth*, and the last one is the correspondence that is established in the case *logical correctness*. In short, we can consider:

1. physical truth → physical reality: *material correspondence relatively integrated in the ideal*;

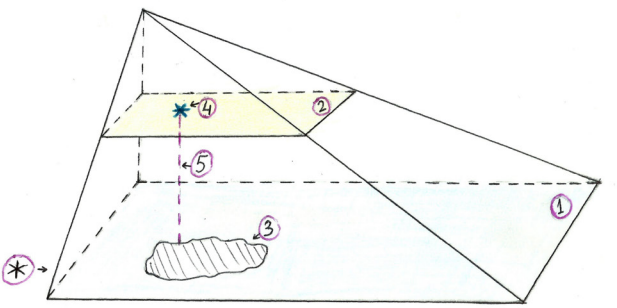
2. conceptual *in situ* truth - constructed → physical truth-GIVEN: *relative ideal correspondence*;

3. conceptual *in situ* truth - constructed → physical reality: *material correspondence absolutely integrated in the ideal*

4. conceptual *in situ* truth - constructed → precepts and rules of logical reasoning-GIVEN: *absolute ideal correspondence*

Coming back to the correspondence explained by hypothesis 1, this is relatively integrated into the ideal, since physical truth is the value expression of physical reality, as an expression that is integrated and thus related to ideality, or, in other words, physical truth is the value form - truthfulness of a part of physical reality, as a form that tends to and ultimately belongs to ideality (that can be interpreted in the sense of a definition of physical truth).

In order to illustrate precisely the propensity of truth towards ideality, the representation of the latter must be realized as a fundamental axiological value, within the conceptual construction of the Pyramid of Knowledge:



[E]Legend:

* - Pyramid of Knowledge

1 - physical reality plane;

2 - information reality plane;

3 - the part of physical reality that implies the physical truth;

4 - physical truth;

5 - link between physical truth and the part of reality involved (Where N means the two meanings to be considered as *axiological equivalence relation*, the connection that is established between the part of physical reality subsumed to a physical truth and the latter one).

In this way, the locus of physical truth in relation to the plane of physical reality is established; From the above, it appears that physical truth as a true expression of a piece of physical reality is contained in the plane of information reality (in this way, the locus of physical truth in relation to the plane of physical reality is established). Considering that in the itinerary that starts from the base of the Pyramid of Knowledge (basis represented by the physical reality plane) and reaches its top (point representing the spiritual reality), the information reality being located in the middle within it, the latter appears to us as the first stage of integration within this first conceptual construction. Since the last level of the latter is represented by the spiritual reality - located in the top area of this conceptual construction, and at the same time, the top of the Pyramid of Knowledge, being a point representing the Perfect (which by the idea of sphere intrinsically subsumes perfection), the Infinite and implicit the Absolute, it turns out that the plane of information reality is *a plan of integration in relative*. Even more, we can consider that it is the only relative integration plan within the Pyramid of Knowledge.

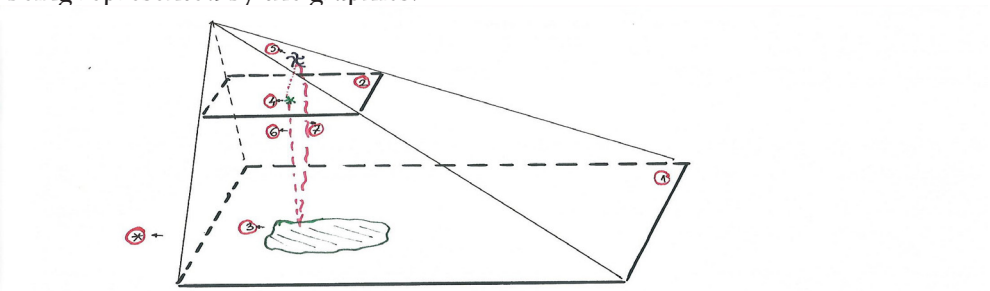
Summarizing the above, we can consider that:

- the plane of physical reality is the supporting plane of the Pyramid of Knowledge;

- the information reality plan is the only relative integration plan within this conceptual construction;

- the plan of spiritual reality is the only plan of integration in the Absolute within the Pyramid of Knowledge, with the specification that it does not reside in the form of a plane, but paradoxically, it resides in the form of a point represented by the top of this conceptual construction, which at the same time paradoxically, is the fundamental plan (paradox overcomes by the ideational fundamental nature of this point) of the Pyramid of Knowledge.

Regarding the correspondence between a conceptual *in situ* truth - constructed and the physical truth - GIVEN, this is the correspondence that opens the series of correspondences integrated in the ideal, being relatively integrated in the ideality because through the physical truth whose expression it realizes, it cannot be detached by the materiality that is represented by the physical reality, but remains *indirectly connected* to it. This entire functionality, being represented by the graphics:



[E]Legend:

* - Pyramid of Knowledge;

1 - physical reality plane;

2 - information reality plane;

3 - the part of physical reality that implies the physical truth;

4 - physical truth;

5 - conceptual *in situ* truth - constructed;

6 - link between physical truth and its related part of physical reality;

7 - connection in the form of the indirect retro-connection between conceptual truth in situ -constructed and the part of physical reality subsumed

to the physical truth which in turn is presupposed by this conceptual truth (where N means the two meanings to be considered as *axiological equivalence relation*, the connection that is established between the part of physical reality subsumed to a physical truth and the latter one).

From the above graph, one can note that the *locus* occupied by a conceptual *in situ* truth is located proximally superior in the information reality compared to/in relation to the *locus* occupied by the physical truth, which in turn is assumed by the first conceptual truth. The reason why conceptual *in situ* truth realizes this exercise of distance in the form of the axiological demonstration that "(...) utopia is nothing but an exercise in the possible" (Antohi 1998, 104), resides in the fact that this truth is an intermediate form of truthfulness, between the perennial truth that is contained by the spiritual reality and the physical truth that is contained by the physical reality. In this way, the conceptual *in situ* truth, although it tries an exercise of the distance from the physical truth, is in a propensity and implicitly orientation towards the perennial truth.

In short, *both the physical truth and the conceptual in situ truth are contained by the information reality* (axiomatic value idea).

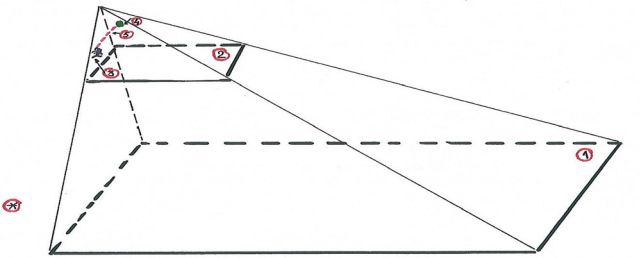
Regarding the connection in the form of the indirect retro-connection between the conceptual *in situ* truth - constructed and the part of physical reality that is subsumed to physical truth (which in its turn is supposed by this conceptual truth), we note that it has a material value due to the fact that it has as an initiating point of emergence, physical reality, respectively it is absolutely integrated in the ideal through its presumed character, as well as through the tendency of the conceptual *in situ* truth towards the ideality represented by the spiritual reality.

Last but not least, the correspondence between the conceptual *in situ* truth - constructed and the precepts and rules of logical reasoning is the only absolute ideal correspondence from all four correspondences that are established within the Pyramid of Knowledge through the value of truth. The elements that lead to this conclusion are represented by:

- the aspect of the propensity of the conceptual *in situ* truth towards the ideality represented by the perennial truth, as an ideality that is contained by the spiritual reality, respectively

- the nature of GIVEN of the precepts and rules of logical reasoning.

Thus, this nature of the universal GIVEN and the propensity in question make the conceptual *in situ* truth, as well as the precepts and rules of logical reasoning to be positioned in the upper side of information reality, and this *locus* to be as close as possible to spiritual reality. In this way, the correspondence between them is an ideal one integrated in the absolute, being illustrated in the graphic below:



[E]Legend:

* - Pyramid of Knowledge;

1 - physical reality plan;

2 - information reality plan;

3 conceptual *in situ* truth - constructed;

4 - percepts and rules of logical reasoning - GIVEN;

5 - correspondence → between conceptual *in situ* truth and precepts and rules of logical reasoning;

Summarizing the essences of the three previous graphs, it appears that depending on the part of physical reality *locus* (part of legal fiction) located within the physical reality as a network, the locus of physical truth located within the information reality, respectively the locus of conceptual truth (constructed through legal fiction) located in the upper frame of to the latter reality, this abstract concept of law realizes an exercise of axiological distance, "mastering the procedures of ambiguity, antiphrasis, and allusion (...)" (Antohi 1998, 119).

Without being *utima verba*, it becomes a truism the fact that the incidence within the conceptuality represented by the legal fiction, and by the four cardinal principles of the classical logic in the form of an ensemble of the principal trinity that is delimited by the highest justifying value principle of all determine the substantiation of this abstract concept of law through a

polyvalent logic in which "(...) the meaning of *true* and *false* values (...) does not correspond exactly to that attributed in bivalent logic" (Gică 2015, 106) and thus, through the logic of legal fiction, is being outlined a part of legal reality in which "(...) polyvalent logics actually operate with bivalent logic" (Gică 2015, 106).

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Resilience of Criminal Organizations

Bogdan Buneci
Ecological University of Bucharest, Romania, Law School
bogdanbuneci@yahoo.ro

ABSTRACT: The evolution of organized crime presents one of the most serious threats to the security of the European Union. These became extremely professional and having a transnational character was necessary to stabilize a strategy in combating it. Strengthen law enforcement and judicial cooperation in the fight against criminal structures, with a view to eliminating as far as possible the proceeds of crime, which are the main force of criminal organizations and the response to criminal offenses to modern technological developments. The resilience of criminal organizations, as well as their ability to adapt make them have a certain longevity and gain high profits from criminal activities.

KEY WORDS: resilience, criminal organizations, plurality of criminals, European Union, translational organizations

Elements of criminal organizations

In Romanian criminal law, crimes are committed by a perpetrator or a plurality of offenders, respecting the principle of legality of incrimination in the sense that the crime is the only basis for criminal liability.

From the point of view of the plurality of offenders, we can have a natural plurality, a constituted plurality or an occasional plurality, also called criminal participation.

The perpetrators of a criminal act are those who directly commit the act, the same legal provision referring to co-perpetrators, and in the case of criminal participation we can also have instigators, who intentionally cause another person to commit a criminal act or accomplices who also intentionally facilitate or assist in any way in committing a criminal act.

The natural plurality of offenders is when those crimes can be committed only by the minimum contribution of two individuals. The occasional *plurality* of perpetrators or criminal participation is when a larger number of people participate in the commission of the deed than is necessary for its commission.

The *constituted* plurality represents the form of the plurality of offenders and is done by associating or grouping several persons to commit crimes. In the Romanian Criminal Code (OG 2009, I, no. 510) they are regulated in art. 367 regarding the establishment of an organized criminal group, art. 309 regarding the establishment of illegal information structures and art. 35 para. (1) of Law no. 535/2004 (OG 2004, I, no. 1161) on combating terrorism - *the act of associating or initiating the establishment of an association for the purpose of committing acts of terrorism or the accession or support, in any form, of such an association.*

For these forms of plurality, there must be a group of several people, being structured and acting in a coordinated manner over a period of time in order to commit crimes. From the point of view of the plurality of criminals, we should first refer to how a criminal organization is defined. The concept of "organization" in contemporary sociology was defined by Robert Faris in the Dictionary of Social Science (Gould and Kolb 1964, 661) where it is shown that a "*social organization*" is a stable set of social interrelationships between components (people or groups), which results in characteristics that are not found in this element and generates a *sui generis* entity.

It is known that criminal organizations are a special form of organized crime and have certain specific criteria such as:

- Have illicit purposes, in the sense that they are constituted in order to obtain benefits from the commission of crimes motivated by economic, social, ethnic, religious or political considerations;
- The cohesion of the criminal organization depends on compliance with the provisions which led to its establishment;
- Communication within the criminal organization depending on its closed, open or semi-open nature. Given the structure and hierarchy within a criminal organization, communication relationships are made according to the roles of each perpetrator in the organization, whether this communication is verbal, written, direct, and indirect or in a coded language.

At the European Union level, various regulations have been adopted on criminal organizations, so that by Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organized crime a *"criminal organization"* designates a structured association established over time, by more than two persons, acting in practice to commit offenses punishable by a custodial sentence or the application of a maximum custodial sentence of at least 4 years, or by a more severe sentence, for to obtain, directly or indirectly, a financial or other material benefit. The same decision also states that *"structured association"* means an association which is not formed at random for the immediate commission of an offense and which does not necessarily have formally defined roles for its members, continuity of members or a developed structure. The decision also regulates the liability of the *"legal person"* which is any entity having legal personality under the legislation in force with the exception of States or public bodies in the exercise of public authority, as well as public international organizations.

The concept of resilience

The term *"resilience"* has been used for the first time in several studies since the 1960s, coming from psychology, considered to be the ways in which a human being faces certain difficulties in the face of stressful situations and have a good ability to cope face the challenges. Lately, in psychology, the concept of resilience refers more to that of *"power"*, and due to the experiences gained, the word *"resilience"* has changed into *"resilient processes"*, in the sense that that ability to cope with stressful situations involves a process with a multitude of factors.

Even if resilience is conceived as a psychic function, having a certain dynamic, the experiences lived by an individual make him resist and then adapt, having not only a process of defense - protection, but also a balance in front of these tensions, being able to assess and move on to personal difficulties. Translating an individual's resilience to a social group when it is structured is normal to create a certain cohesion, an identity and the resilience of the group makes it overcome certain events and situations that somehow endanger its existence, being able to it goes on not only to survive, but to expand its influence.

With regard to criminal organizations, there is resilience in the sense not only of surviving but also of prospering, even illegally by creating sources

of resilience in the sense of resisting and adapting to change, ultimately leading to the longevity of some criminal organizations. It was found that those resilient groups are those that have a strong cohesion, are more individually oriented and are characterized by strong values embraced by all people in the group.

Resilience of criminal organizations

Despite all the legislative measures taken against European countries, the criminal structures regarding drug trafficking, human trafficking, arms trafficking continue to resist over time, in some cases leading to particularly difficult challenges. This is also due to the system of information between members of criminal organizations and their ability to adapt, learning on the fly the processes that make them maintain and even develop over time (Ayling 2009).

The structure of these criminal groups (some based on the family as in the case of the mafia), the strong ties that are created within their members, the organization in the most profitable activities and the adaptation to law enforcement (in some cases using and state-of-the-art technology) make them resilient, with a constant struggle by the authorities of any European state. In studying criminal groups, one must identify how they cope with pressure and reorganize after certain destabilizing disruptions, what is the role of, for example, spirituality, the codes established in certain criminal groups and how they are influenced by ethnic, cultural values, as well as the adaptability of organizations to the evolution of society in general.

The criminal law of a state is important in dealing with criminal organizations. If the appropriate crimes are stipulated then criminal organizations also face challenges that threaten their existence, especially when it increases the level of rigor to improve investigation, prosecution and sanctioning offenses. There is a priority at the level of both the European Union and each state to reduce the opportunities of criminal organizations, establishing in this sense a real strategy to counter them.

Thus, the Council of Europe in December 2014 drafted a *"Transnational Organized Crime White Paper – TOC"* as it considered that transnational organized crime directly threatens the internal security of all Council of Europe member states and contributes greatly to the compromise of the

law and the integrity of democratic institutions. The White Paper shows that modern crime has evolved in its own way based on three key factors:

– Mobility of goods and trafficked persons (regarding goods: weapons, drugs, hazardous waste, various counterfeit products, and in relation to persons increase in trafficking in human beings and illicit trafficking in migrants);

– Institutional and political developments, in particular the disappearance of borders in certain areas or regions (the disappearance of internal borders facilitates the free movement of persons, goods, capital but also delinquents, and illicit goods, services and capital);

– Technological developments that allow and favor fast transactions, but also the rapid transfer of illicit capital generated by criminal activity - the products of crime - for the laundering of which it is essential to find safe investments.

It was found that these organized criminal groups have both a local and a cross-border dimension, not only in their composition and organization, but also in the activities they carry out and their consequences. Due to their flexibility, these groups have a great ability to adapt their criminal devices and their mode of operation. Some organized crime groups resemble criminal enterprises with a high level of expertise, structures are *developed and teams have a high level of technicality, while others have an extremely simple and flexible structure, so that the proceeds of crime are the main force of criminal organizations.*

Regarding the collection of information on the activities of a criminal organization, it is necessary to resort to special investigative methods according to certain operational needs including various special investigative techniques. To these are added, for example, controlled deliveries, covert investigations, interception of communications (listening), installation of microphones in different spaces, discreet surveillance and recourse to informants and secret agents.

European Commission and High Representative of the Union for Foreign Affairs and Security Policy in the joint communication to the European Parliament, the *European Council*, the Council, the *European Economic and Social Committee and the Committee of the Regions* of 18.03.2020 in Brussels on Strengthening Resilience - an Eastern Partnership results for all show regarding organized crime that this is a common challenge in the broad field of security. For this reason, the European Union will continue to

support: (i) enhanced cooperation with EU justice and home affairs agencies; (ii) security sector reform; (iii) combating trafficking in human beings and illicit goods (in particular drugs and firearms); and (iv) integrated border management to improve the capacity of partner countries to cope with the pressures they face and to increase their resilience. The EU will also continue to cooperate with partner countries on cyber resilience.

After the European Parliament approved on 9 February 2021 the Recovery and Resilience Mechanism designed to help European Union countries combat the effects of the COVID-19 pandemic, the European Commission in a press release of 14 April 2021 - Brussels on Combating organized crime: a new 5-year strategy to strengthen EU-wide cooperation and make better use of digital investigative tools. In this regard, the European Commission has shown the need to step up cooperation at EU level to dismantle organized crime structures by supporting more effective investigations and focusing on high and specific priority crimes (e.g. combating environmental crime, especially counterfeiting of medical products), illicit trade in cultural goods and trafficking in human beings). In this regard, it is necessary to combat the practice of obtaining funds from committing crimes to expose, punish and deter crime in the sense of revising EU rules on confiscating the proceeds of crime, combating money laundering and corruption. Given that a very high percentage of crime (over 80%) has a digital component, law enforcement and the judiciary need to have quick access to digital leads and evidence, which means that authorities should also use modern technology and have the tools and skills to keep up with the modes of operation of criminal groups.

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Religious Education. Ground for Soul Recovery

Vasile Miron
Arhim. Prof. Ph.D. Ovidius University from Constanta, Romania
vasile1960miron@yahoo.com

ABSTRACT: Religious education is an action specific to human spirituality and corresponds to the inner hope of the man to perfect himself morally and continuously reach for the resemblance with God through a clean and holy life, free from desires and sins. This action is developed progressively and consciously by the educator, according to the Christian moral principles and to a well-organized plan. It is sustained by love, trust, freedom and by the gift of God and, through its functions of improving and guiding the Christian soul, seeks the making of the moral-religious character with its perfection in the Christian personality.

KEY WORDS: education, morality, soul, virtue, perfection, holiness

The dogmatic teaching of our Holy Church defines man as being the crown of the creation or microcosmos, because he unites in himself, harmoniously, the elements of the material and spiritual worlds. Being the face and the icon of the Creator, man always reaches for the resemblance with Him, since he was made for this, as David, the psalmist, says: "Just like the deer wishes for the waters of the springs, so does my heart wishes You, God" (Psalm 41:1). When God made him, He said: "Let us make a human after Our face and appearance... And God made man after His face; after God's face he was made; He made man and woman" (Making 2:7).

From the previously created matter, God took the body, and from Himself, He gave His divine breath, which is called by the Holy Scriptures rational and speaking soul. Man - the crown of the creation - was made king o

the earthly things, but submitted to the mastery from above. "God places him on earth, as on a second big world in a small one, like another angel, mixed worshiper, watcher of the scene and initiated in the understanding, emperor of the things on earth, mastered from above, earthly and heavenly, passing and eternal, seen and understanding... and, the thing that surpasses the secret, godly through his natural inclining towards God" (Tilea 2002, 27). Only for the fact that he has deep in himself this propensity, the man unites in his person the elements of the sensitive world and of the supernatural one, even from the moment of his creation. So, the human being is perfectible, having the exact destination and the mission to complete spiritually, to achieve the ideal of perfection and to inherit the eternal life (Mathew 25:34; John 17:3). "You made us for You and restless is our soul until it will rest in You" (Barbu 1985, 63), once upon a time a great Christian educator said.

Arts and the possibility of education is a characteristic feature of the human nature and the Great Saint Vasile often high lightens it: "In us, the humans - says the holy priest- there are natural virtues which our soul achieves not through a human teaching, but are born within our nature. For instance, nobody teaches us to hate disease, but, naturally, we despite what bothers us, just like the soul, without anyone teaching it, dodges evil. Evil is a disease of the soul, while the virtue, the health of the soul. Health was well defined by some people: equilibrium of the natural energies. You wouldn't be far from the truth if you defined the health of the soul in the same terms. Because the soul, naturally and without being taught, wants something that is already its, and that is why everybody praise chastity, approves of justice and crave skill. These virtues belong more to the soul than health belongs to the body" (Fecioru 2005a, 262).

If man still keeps his propensity towards evil, he can be educated, meaning corrected, in order not to prevail in evil, but to stray from it and do good. Education is a delicate and systematic work pointed at the entire human being to wake, develop and strengthen all the powers of the soul, freely and consciously.

Man is passing and immortal, visible and invisible, earthly and heavenly, he is body and spirit. The rational soul is the being element of the man which separates him from other terrestrial beings, and its functions are: mind, sense and willingness or free-will. The soul is the divine nature of the human being

by which man can be educated, meaning that he can be molded, climbing the stairs of the virtues until reaching the shore of perfection. The mission of the soul is to dominate the sinful urges of the body, in order to keep itself clean from all sins. *"What is the coachman for the wagon, the captain for his ship, the musician for* a *musical instrument that is what the Maker made the soul to be for this earthly recipient. The soul has the brakes, it turns the stir, it strokes the strings; and when it does this well, it produces that harmonious song of virtues, but, when it weakens the strings or overuses them, it hurts the art and the harmony"* (Fecioru 2005b, 262).

The educational process has as primary purpose the improvement of the soul, and through this, the improvement of the soul, because the body collaborates with the soul to make good deeds. *"The body is the tool, is like a coat and a cloak of the soul... If it will live together with a holy soul, it will become a temple of the Holy Spirit"* (Fecioru 2003a, 61). So, education is possible, and imposes itself absolutely, like a necessity. Education is imposed like a remedy for the consequences of the sin. Through sin, the light of the wisdom has weakened, the feeling changed, the will softened and Adam's sin became spring of all possible evil.

In the pre-fall human nature there was, naturally, the after the law will, meaning, after God, which pushed us away from evil. This harmonious functionality was interrupted by disobedience. But, by showing His endless love for humans, God restores the human nature in Christ, which is flawless God and flawless Man. But man, after falling into sin, remains with the memory of perfection, missing it and feeling attracted to it. It is a long process of healing, a permanent education.

Religious education has triple theological motivation. The first ground of the education is man's dignity of being God's image, a rational, spiritual and free being. When the Savior reveals to the Samaritan woman that *"Spirit is God and those who worship Him must worship Him in Spirit and truth"* (John 4:24), He tells her, with different words that man also, essential and defining, is a spirit, consciousness; that fundamental in the human condition is the spirit and not the matter. This fact is essential for education. Moral, civic, physical and intellectual education finds its foundation when the spirit is postulated as fundamental and formative essence of man. *"What's man's use in winning the entire world, if he loses his soul? Or what could man give, in*

exchange, for his soul?" (Marcus 8:36-37). The moral teaching of the Holy Gospel doesn't teach us to neglect our duties towards the body or towards the biological necessities of the material life, but It teaches us to care, first of all, about the soul, the dearest treasure of our being, whose value is equivalent to the price of eternity. *"Let us strengthen our hearts, tense our soul, and prepare our heart! We run for our soul; we ought to aim for eternal things.* (Fecioru 2003b, 17) Just like the body feels the need for food, equally the soul needs the spiritual food of God's word and of prayer. The clothes of the soul are the adornments of the virtues and of good deeds. *"Just like you provide for your body different kinds of clothes and you mind the weather in choosing them, do the same for the soul! Don't let it wonder around empty of good deeds, but dress it with its proper clothes. By doing that, you will soon give it courage and bring it back to its usual healthy state",* (Fecioru 1987, 225-226) *says a great priest of the Church.*

The seed that cultivates the health of the soul and maintains unaltered its moral purity is faith, but not the simple or rational one, but *"the one that is born in us from the work of the virtues"* (Stăniloaie 1948, 262). This faith accelerates and ennobles the spiritual powers of man. The mind, darkened by sin is the ruin and the perish of the soul, and the one made wise by the flame of the right faith is "the *eye that illuminates the entire consciousness and gives birth to* understanding", "If the created mind comes in the world with the urge to know The Eternal One, this urge is the proof that it is made for eternity, that he exists before her, if from the first moment of her awakening she assumes he exists. And somewhere, must be found an object greater than her. An infinite object if there is, in her, a desire so strong for knowledge and if none of the finite objects satisfy her, disappointing, thus, her expectations" (Saint Chiril of Jerusalem 1993, 24) Faith develops in the atmosphere of the prayer and through the reading of the Godly words of the Holy Scriptures. Our Orthodox Church has made, from Its divine cult, an important factor of deepening the faith and of religious education, a true school which forms Christian behaviors and characters.

The entire liturgical life of Church, concretized in traditions and religious institutions, in prayers, hymns, teaching words, Secrets and continuous summons of the Holy Spirit, represented the proper spiritual

environment, the strength of the religious feeling and the fortification of his entire soul structure. In the sacramental environment of the Holy Liturgy has been drawn the profile of the true religious personality, because *"The Holy Liturgy gave birth and raised the true Christian religiosity"* (Vintilescu 1943, 43), *and "the Christian virtues without one cannot conceive the manifestation of the moral-religious character are mirrored in Liturgy and they fully develop by taking part at it. It is a spring and a promoter of Christ's life"* (Spiridon 1939, 154).

The permanent wish and striving of Church was "having *an educational school system which would pulsate the faith and Christian life and shape Christian consciousnesses"* (Mihail Bulacu 1928, 2) since *"it is not enough that God reveals the teaching in order to know it, but we must get close to Him with the warmth of our soul. Through the lifting of our heart towards God we get close to Him and, in order to be able to see Him more clearly we must open our heart and have it cleaned by the power of prayer. Only through the cleanness of our heart, we can deepen and guess the unspoken mysteries of the Christian faith"* (Mihail Bulacu 1928, 79). In order to achieve this, our Orthodox Church prays without stopping each Holy Liturgy, saying: *"The Union of faith and the communion of the Holy Spirit asking us to give, ourselves and one another and all our life to Christ God",* because *"the soul, enlightened by faith represents God, sees God as humanly as possible, walks the edges of the world and sees, even from now the future judgment, before the ending of this century and the rewarding of the promises"* (Fecioru 1993, 77-78). "Happy the ones with their heart clean, because they will see God" (Mathew 5:8), said the Savior, because these, *"by shaking off the dirt of the eye of the mind they see the One that is and they light up when knowing the Holy Spirit"* (The first Song 1987, 345), feeling God's presence and work in their life and in their souls, illuminated by grace and warmed be the flame of faith. As the believer separates himself from lust and the meanness of the sin and increases in virtues, his soul becomes more beautiful after the pattern of the divine Archetype and fills himself with God's knowledge light. That is why, repentance, as mean of rebuilding our state of soul, doesn't ever have to stoIt must become a constant preoccupation of our entire life, a tense fight against sin, a continuous moral-religious education. *"Work your soul just like a ploughman -* says a saint priest *- rip out of it the thorns, put in it the word of good faith, plant the good plants of wisdom, take care of it with all your attention and you will be like Pavel"* (Fecioru 2007, 66).

A second reason is man's mission of achieving the resemblance with God. *"Be, thus, perfect yourselves, like your Heavenly Father is" (Mathew 5, 48)* The resemblance consists in the development and the limitless perfection of "the face" and, at this stage one gets through persistence in virtue and joining efforts with the divine grace. Saint Chiril of Jerusalem says about this: *"God's work is, thus, planting and watering, and yours, to bear fruit. God's work is to give this gift, and yours, is to take it and keep it. Do not despise the gift just because it was given to you. But, once you got it, keep it piously"* (Fecioru 2003b, 21). The ones that have been working with this gift, at their full potential, freely, actively and consciously, have reached the stage of moral perfection, reaching the resemblance with God through good deed and clean life, thus, becoming authentic religious personalities. These are the saints that embodied in their deeds the ideal pattern of holy and pure life of our Lord Jesus Christ (Corinthians 4:16), because, the supreme personality after whose stature our personality must be made is our Savior Jesus Christ, the only one that could say about Himself: "Which one of you reveals me from sin?" (John 8:46) "Only when the Christian gets to be "man of Christ", can he be considered a Christian personality educated after Savior's teaching and deed". (Călugăr 1955, 13). The Savior taught more through His personal example cause, everything he promoted through word made true by deed. As a Christian teacher said: "The great lesson from Jesus consists in the fact that the example is above words and that the superior must place itself in the service of the inferior, and that the superior ought to devote itself to its inferiors" (Thibaut 1940, 146).

Due to this fact Christianity has promoted the most successful educational system of the human soul (Bulacu 2009, 2), making the synergetic action of spiritual transformation of humans and of the things from the interior and not from outside, through persuasion, through the creating example, through honest love and pure prayer, through the union of the souls and not by force. *"All the teachings of the Holy Gospel were taken from a life lived, like a model, on earth, in order to initiate the human soul of every Christian generation"* (Bulacu 2009, 8) towards a faithful identification with our Lord Jesus Christ, for the deeper living of the moral practiced by Him in the most authentic and sublime manner. *"Christianity means the eternal religious truth, means love and creating deed. This is how the true believers interpreted and lived it and especially, the Christians that lived in the first centuries"* (Călugăr 1955, 20).

The third motivation of the religious education is free-will, which must be, in turn, in a continuous shaping. *"God Himself respects the moral liberty given to man and* He *does religious personalities only from those Christians who collaborate freely and by their own will with his saving grace"* (Călugăr 1955, 9). This freedom definitely involves a moral responsibility which makes the believer persist in a hard struggle, developing an uninterrupted activity of defeating the evil, of ripping off the sin inside and channeling his will towards constant moral good, since *"the one that does not unite his will with God, stomps in his deeds and falls in the hands of the enemies"* (Stăniloaie 1947, 265). This is about liberty, in the sense of Revelation, which stands like an exit from under the "wings of being", raising the divine spirit. It is being free from sin, when the will does not watch and only chooses good, with sin not existing for it, the that is being referred to by Saint Apostle Pavel, when he says: *"Stand still in the freedom with which Christ has made us free and do not enslave yourselves again"* (Galatians 5:1).

The guidance of will towards practicing the Christian virtues has as foundation the knowing and assuming the truths of faith and the moral life rules, which make the object of the religious instruction and education. *"The religious knowledge, strengthening itself through the feeling of the heart, steps into action with the help of will... Unless the consciousness gets into contact with the will, it remains something like a stereotype, and the clueless will becomes something instinctive, without the light of the eye of the consciousness"* (Bulacu 1928, 81).

People have been preoccupied by education since the beginning. This matter is well defined in the Holy Scriptures, in the Old and also in the New Will. The educational principles of the Old Will are given under the form of written commands. They are transmitted directly by God and revealed to Moses through the Tables of Law (Exit 20:12-17) or under the form of disciplinary measures that Moses and some other biblical characters mentioned in *Pentateuch* used to give in order to correct and right the individual or the social group (Exit 21, 12, 15, 17; 23; 24).

The patriarchs and the prophets have exerted a powerful educational influence. The most educational books of *the Old Will* are: *Psalter* (the first book translated from the biblical canon of the *Old Will*), *Ecclesiastes, Solomon's sayings, The wisdom of Jesus Sirah, Tobit, Job. The New Testament* contains extremely important moral-educational principles which, our Savior Jesus

Christ, the perfect Teacher and the absolute model of Christian life, deepens and spiritualizes them, *"because the Law through Moses was given, and the grace and truth came through Jesus Christ"* (John 1:17).

The Savior's teaching and deeds have as purpose and main objectives our guidance on the road to salvation. *"Man's Son came to search and save the lost one"* (Luca 19:10). Salvation involves a long process of struggling and inner transformation. It is achieved through repentance, which means the change and the illumination of the mind by the flame of faith and by divine grace, modifying the way of thinking, feel and live, giving up at the previous life and beginning a new one, made through a steady and prolonged work of education of the soul. Christ, the Savior of the world, *"by being a Teacher, cares for people's education, not their training; His purpose is to make the soul better, not to teach it; to give pieces of advice for a wise life, not for a life dedicated to science"* (Fecioru 1982, 167). The profound wisdom that comes from His tales about repentance and doing good deeds constitutes the foundation and the fundament of the divine teaching, the purpose of saying these paradigms and phrases being the urging of the will to learn the Christian virtues and cure the soul from the injuries of the sin. *"The healing of the desires comes from there, where the Teacher, through encouraging tales, strengthens the souls, and through behavioral rules, full of love for people, like some tasty medicine, rights the sick ones towards the perfect knowledge of real faith"* (Fecioru 1982, 167).

Piousness, love, wisdom, peace, patience, forgiveness and other virtues and evangelical ideas stated by the Savior, are the pillars of the Christian education initiated by Him during His messianic activity. He is the Doctor of our souls and bodies and the Teacher through excellence. *"Just like the ones with sick bodies need the doctor, the ones with sick soul need the Teacher; first, for our wounds to heal, then lead us to the Teacher to prepare the clean soul and ready to obtain knowledge and make it able to receive the revelation of Word. Trying hard to perfect us by climbing gradually towards salvation, the Word, Which, in everything It does is a people lover, has a beautiful plan, according to an instruction with good results: first, He urges us, then He educates us, and at the end of everything He teaches us"* (Fecioru 1982, 167).

The model of Christian education is, thus, Christ, Who said about Himself: "I am the way, the truth and the life" (John 14:6), meaning, the spring of graceful life and the full revelation of the divine wisdom, because He

showed us the path that we have to follow, the truth we have to believe and the life that we have to live. He sacrificed Himself for our salvation, showing us that "a *a greater love than this no one has, a love that makes one place His friends before His life*" (John 5:18). That is why, He could also say: *"Learn from me that I am gentle and pious in my heart"* (John 11:34). Jesus Christ is the foundation of the human existence, of salvation, and, implicitly, of our education. On Him, on His life, in His Church humanity can be rebuilt and can reside because, he revealed to us the new human-divine way of life and, towards this supreme ideal that the entire humanity aspires to, who cannot be spiritually complete, unless it is in Christ. *"This is for us kike a spotless icon and we must try with all our might that our soul resembles Him"* (Fecioru 1982, 168). In the New Testament, education is a godly command drawn and applied by God's Son Himself, embodied. He *"is thus, our Teacher, The Word, The One that heals through His advice, the torments of our soul, which are against nature... Medicine is an Art that is taught through human wisdom. The Father's Word is the only doctor who heals human weaknesses; He is a healer and a saint wizard of the sick soul"* (Fecioru 1982, 169). He offered us the model and the principles of education, He takes into consideration the elements of the old testamentary education, but the religious education overtakes this on by promoting limitless love, including enemies. The law of the Talion is destroyed by the law of love that acquires a universal character. It must embrace all people regardless their social or religious condition (Luca 10:27) because, in Jesus Christ, we are all like one. *"He is Jew no more, nor Greek; no more slave, nor free; there is no male part nor female part, because you are all one in Jesus Christ"* (Galatians 3:28; Colossians 3:11), says the apostle of all nations, because, Christian life levels asperities, puts out conflicts and destroys all the barriers and dividing tendencies between people."Love greatly endures; love is benevolent, love does not envy, does not brag, does not pride, doesn't behave improperly, does not care for its own, does not get angry, does not think of evil ... it goes through everything, it believes everything, it hopes for everything, it endures them all (I Corinthians 13:4-7). Love is formative when does the moral good and struggles to share it with the others. Love is *"the enforcing of the law"* (Romans 13:10) and the crown of virtues. It names the relationships between people and transfigures the entire human life, because it is divine. God is absolute love (John 4:16), and, because *"he rules*

us, with love, towards the most wonderful life, it is only right that we answer with love; it is right for us to live according to the rules of His will, but only fulfilling the commands and guarding us from doing the forbidden, but also running from some examples and imitating others as much as we can, to fulfill, by resemblance, the Teacher's deeds and the weird of the Holy Scriptures: "After face and resemblance" (Fecioru 1982, 171).

In the post-apostle period, the religious education grows along with the spread of Christianity and the appearance of new Christian communities. The Holy Priests built the edifice of education on the foundation of evangelic established by the Savior. During this period of time, Christian Church met numerous obstacles regarding her catechetical - educational, due to ideas, attitude and very often contrary to the missionary work. The Savior's teaching and person have generated numerous controversies and disputes in the pagans' rows and in the circle of the heretical groups. This situation calls urgently the necessity of establishing an institutional religious learning. The educational process must be organized and systematic according to the necessities of the time.

The patristic teachers of the UV and V developed a prodigious activity of lifting Church's fame and christening the habits of the Christian society. The biggest role in the process of education had the institution of catechumenate which prepared and trained the newly converted to Christianity, initiating them in the secrets of the Christian belief. *"Catechumenate didn't just build an instrument for sharing the knowledge in the domain of Christian religion, but, especially, one for the moral-religious of the catechumen. The fact, and not only knowledge decided one's admission for receiving the Secret of the Holy Baptism. Fast, prayer, spiritual exercises and some other similar religious acts helped the Christian accomplishment of catechumen and their passing from one class to another"* (Călugăr 1955, 24). So, the catechumenate sought the radical transformation of the catechumen's life after Christ's face and stature. The ancient man should have been crucified along with Christ, in order to kill the body of the sin (Romans 6:6; 1 Corinthians 2:14).

In the bosom of the Church it was performed, starting with the second century, the preparation *"of the called ones"* or catechumen for the receiving of the Secret of the Holy Baptism. The catechumenate had a popular character in the beginning. It prepared, for catechetical schools, the proper conditions

for their foundation. These schools have got, in time, a scientific structure, after the example of pagan universities, because the new Christian teaching was supposed to be presented in a more elevated manner.

The catechetical school of Alexandria stood out, through its sobriety and its philosophical and academic approach, due to the erudition of the great coryphaei, Origen and Clement Alexandrine, focused on the method of allegorical interpretation of the Holy Scriptures. A new orientation is adopted by Antioch school, characterized by its pragmatism, since, opposed to the first one, it uses the literary and historic- grammatical method of the biblical exegesis. Religious education, made in these schools, extended to all ages, all classes and all levels of the social life, its main purpose being the discipline of the body and the molding of the soul, according to the principles of the Christian moral. Children were also involved in this educational system because, at their tender age, they can foresee the first shy desire towards building a new inner self. And today, *"in a principled manner, this age needs our teachings: as it is tender, the teachings that are given penetrate easily to children's soul, and print themselves, just like the wax seal, in their souls; this is the critical moment if which their entire life depends: choose vice or virtue. Thus, if, from the beginning and from the early years, children are turned away from sin, and set on the right path, a good habit will be printed on them, that will remain there like a second nature; they will not be easily driven, by their own selves, to do bad things, the habit will restrain them and it will urge them to do well. Through those, we will make them more useful for the state, more than even the elders, and we will instill in them, even from youth, the virtues of the maturity"* (Băbuț 1997, 16), *says a great Christian teacher.*

The catechists of the first patristic period use, wisely, all the persuasion, conviction and guidance teaching means. By receiving the Holy Secrets and attendance at religious services it was sought the appearance of the predisposition for prayer, and, through the listening of the teaching words they sought the planting of religious beliefs and Christian habits. Catechetical schools made a scientific religious education, establishing linking points between the profane and Christian teaching.

Starting with the Renaissance, man was hit by two destroying periods of time: atheism, which encloses it in the boundaries of nature, inferior to man, depriving him of the example and the superior goal of the existence and,

sentencing him to a spiritual weakness, and the materialism that subordinates the spirit to matter. Having an anthropocentric foundation, deprived of the God Creator, this materialism makes man a slave of the basic instincts, through a disastrous transformation manifested by sensualist, obsessions and sexual aberrations, drugs, deadly illnesses, robbery, violence, murder. These devilish orientations overthrow the order of the soul values and the entire logic, thinking and human sense.

Man forgot the sense and the purpose of his existence on earth, and the religious formation comes to remind him and to justify his existence. It constitutes the means and the condition of fulfilling the purpose of life. The entire education, with its multiple aspects, must have as objective and purpose, the man's ennobling, his religious molding, if we want to build, wisely, *"on stone"* and not *"on sand"* (Mathew 7:24-27). This instructive-educational action always wants *"to embody in the believer's personality the true Christian consciousness with pure consciousness; the knowledge of the religious truth with the holiness of life, with the living of the Christian life n dependence of a sensibility purified from desires and sins"* (Călugăr 1955, 239).

Church was not and will never be wrong when trying to influence for better the activity of all the human education factors in Its spirit, in order to shape the man as man, not only as a scholar, as artist, technician, worker, etc., and this is because the religion does not only pursue the maximum development of man's natural skills, but, above all, the accomplishment of the man involved in the supernatural order of the Sacred. For this, *"we need new Church, a living Religion, a Religion with apostles convinced of the role of the Christian love, and not apostles with great and famous relatives and with empty and difficult to understand words"* (Bota 1929, 84), meaning, a missionary and active Church with apostles- catechists, priests, teachers of religion and Christian educators - boiling followers of the evangelic teaching, with a strong theological culture, crowned by a spiritual experience, as one cannot speak about God, unless one lives by God's will."The e*ducator is a person that must read in a soul, the beautiful poem that God has written, to read it, to understand it and make it appear written in the letters of life, like the scholar reads the divine work in the star that shines on the sign. The educator is suddenly a magus and a prophet"* (Posard 1937, 46). Accordingly, *"God must live in you, for you to be able to know him. You have to find Him first and, afterwards, you must preach*

Him to others, saying, like Pavel, what you know, what you feel, what you are, what you can, now, when God lives within you and works in world through you. Do you seek Him in ration? You will never find him and you will stray away from Him even more. As a while, if He lives in you, He Himself will speak to men through you" (Cristescu 1928, 21). Today, more than anytime, it is required that the Christian teacher, regardless whether he is a missionary priest or a teacher of religion, to teach through his personal example, to be like a flame that lights in the candlestick (Mathew 5, 16). *"Verba volant, exempla trahunt"*, said old Latins. Teaching words do not echo and do not stir man's interior, unless the one that sends them lives accordingly to them. The priest, among his parishes, and the teacher of religion, in the tight circle of his apprentices, must make the undoubtable proof that he lives *"as a man of God"*. On the contrary, his moral ideas and principles cannot have credibility and, in most cases, they meet wondering hearts and broken will. *"God's man preaches, evangelizes, shepherds and announces the ones to come to his people and creates, through his personality, job and preaching, an atmosphere in which the soul breaths easily like in God's world.* (Cristescu 1928, 34). According to Saint Gregory of Nyssa, man *"was endowed with life, with reason, with wisdom and with all the good things that only the godly nature has, for each of these to awake in him the longing for God, with Whom he knows he is related"* (Bodogae 1998a, 294). He is the crown and the jewel of the creation, being made from material body and rational and immortal soul. Man has in himself all the beings ever created, which have preceded him in existence, like the superior involves what is inferior and the general involves the particular. Man's greatness does not consist in the fact that he resumes in himself the macro cosmos, but in the fact that he is face of The One Who made him. *"The Creator gave special worthiness to our being just by making it after His face, giving him, thus, the possibility of making himself like Him"* (Bodogae 1998b, 30).

In order to defeat the obsessions and aberrations become pathological today, to be able to convert the energies in the values creating powers, to save the man from degradation and to rebuild him, the human being created after the resemblance of God (Making 1:27), we must be aware that the spirit leads us and not the body, a biological complex, which is weak and perverted. *"If we live with the Spirit, then in Spirit we should walk"* (Galatians 5:25), cause, if we live by the body, we shall die, but if we kill, with the Spirit, the deeds

of the body, we shall live (Romans 8:13)". *The body sees through eyes; and the soul through mind. And just like the body without eyes is blind and does not see the sun, that lights the entire earth and sea, nor can enjoy light, so does the soul if it does not have good mind and pious living, it is blind and does not understand God, Maker and Benefactor of all, and does not worship Him, nor will it be able to enjoy His purity and the eternal goods"* (Stăniloaie 1927, 25).

The goal of spiritual education through religion is eternal, pursuing salvation. It is not mistaken with some other ways through which man's molding is attempted, but, at the same time, it also minds them, saluting the ones that do not exclude God's presence and work in their *programme*. Church, while fulfilling Its formative ideal, needs instruction. But the religious education is nor limited only to informing about the Christian moral principles, but it also involves the private experiences of each person in the secret conversations with God. *"Thus, we need divine grace, sober mind and watching eyes in order not to eat the cockle like wheat and hurt ourselves unknowingly, nor to be torn by mistaking the wolf as sheep, nor believe a benefactor angel the loser devil and be swollen by it"* (Fecioru 2003b, 49).

Christian religion is not a philosophy of the words, but of facts; it is not a study object, but a way of life. World will truly change when its inhabitants will seek, before everything, the holiness of their lives and they will endeavor *"to search, first of all, God's Kingdom and His justice" (Mathew 6:33),* because *"we are His being, built within Jesus Christ to make good deeds, which God prepared beforehand so we can walk among them"* (Efeseni 2:10).

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Method as Necessity – The Superstructure of Gnosticism in I. P. Culianu Analysis

Stelian Manolache
Priest PhD Associate Professor,
University Ovidius, Constanța,Romania
stelian81stely@yahoo.com

ABSTRACT: The disconcerting diversity of mythological contents conveyed by the literature related to ancient Gnosticism was a sufficiently prohibitive factor for all attempts at integrated analysis, systematization, or theological-historical evaluation of the origins and evolutions of this. Against this background, accurately locating the methodological limits of previous analytical attempts, I.P. Culianu managed, resorting to a radical paradigm shift, to establish a new way of researching gnosis, identifying and operationalizing a method capable of overcoming a good part of the difficulties previously recorded. Given the exceptional significance of this perspective of exploring the mythological contents of gnosis, our study aims to evaluate the Romanian scientist's method, paying close attention to its theological significance precisely because ancient Gnosticism's religious dimensions are indisputable and, implicitly, defining.

KEY WORDS: Mircea Eliade, I.P.Culianu, invariants, Gnosticism, binomial

Preliminaries

Studying the modern research on Gnosticism structure and results – practically debuting with Hauptprobleme der Gnosis (1907) of the German theologian Wilhelm Bousset – I. P. Culianu will remark the recurrent difficulties in the attempts to identify the distant origins of the mythological infrastructure of Gnosticism (Rotaru 2005a, 250). Subsequently, he will

remark the failure of the traditional historical approaches in explaining how Gnosticism gained its present philosophical-theological profile. Culianu considered that all the attempts to localize gnosis's original space – as a mythical narration and particular theological system – are inoperative. One reason could be the fact that all the possible solutions were already tested: the ancient Persia – Wilhelm Bousset, Richard Reitzenstein, Rudolf Bultmann; Judea after 70 dC – Birger A. Pearson, Robert M. Grant, Jean Daniélou, Greece – Simone Pétrement, Adolf von Harnack, Samaria – Jarl E. Fossum, and Egypt– M.E. Amelineau. Moreover, the complete lack of theological homogeneity of the particular gnosis and the contradictory character of their founding mythological facts limit the possibility of interpretation and explanation as syncretic religious phenomena, determined by the interaction and reciprocal influence of specific theological systems (Culianu 2015, 85-88; Culianu 1995, 77-80; Petrement 1996, 189-190; Manolache, 200, 30).

Thus, the temptation to offer imperative syncretic valencies to Gnosticism and connect it to other prominent ancient religions (Rotaru 2005b, 234-236) – under the pretext explaining it more coherent and complete - will represent, in I. P. Culianu's opinion, only the result of a sum of methodological errors. Gnosticism will represent only an independent historical entity, from a theological point of view, and must be perceived and analysed only with the guarantee of its originality in relation with other historical entities (Culianu 1995, 80).

The invariants – an attempt to systemize

In the first phase - *Les gnoses dualistes d'Occident. Histoire et mythes*, 1990 -, Culianu considered using the so-called invariants a solution suitable enough to allow – especially from Ugo Bianchi's systematic perspective – the identification and quantification of the fundamental theological particularities of the ancient Gnosticism, and even the individualization of the main categories. Shortly after – *The Tree of Gnosis. Gnostic Mythology from Early Christianity to Modern Nihilism*, 1992, Culianu changed his perspective so much that he doubted even defining and using the research invariants (Culianu 1995, 32-33; Culianu 2005, 90). We present the main stages in developing the exhaustive analytical instrument Culianu considered the researchers should use.

a) Even if the initial sense of the invariant concept belonged to linguistics, Claude Lévi-Strauss considered it among the central founding units to a systematic level. He used it the theological space to analyze theological myths, as a distinct feature, capable of separating and individualizing (Levi-Strauss 1978, 252-253). Considering the gnosis, the product of a phenomenological attitude more than the polymorphous expression of a particular theological-philosophical perspective (Petrement 1996, 187-188), Hans Jonas (*Gnosis und spatantiker Geist*, I, 1934) filters the rich Gnostic literature to highlight the invariants. He considered the invariants as essential common factors in the doctrine of all particular gnosis, to a moral-ethical level, highlighting the fundamental contents and individualizing concerning any theological-philosophical systems. Therefore, considering the syncretic character as undisputable (Manolache 2000, 30-31), Hans Jonas presents the following distinctive features of Gnosticism:

- It is *dualist* in a theological sense, by putting creation in connection to the successive autonomous action of two distinct entities, which are nor necessarily antagonistic and co-eternal, and not necessarily transcendent (Ugo Bianchi) (Culianu 1995, 23); rigorously, we can distinguish between the radical dualist type and the moderate type; the first one corresponds to systems as Zoroastrism and Manicheism, which put the world and the man to the intersection of two ontologically equal divinities' actions, still opposed and irreconcilable because they represent the good and the evil (Culianu 2015, 89);
- It is anti-cosmic, presuming that the world matter is irreversibly evil; the evil is consubstantial to the immanent Universe – a creating action's finality of a limited and ignorant pseudo-divinity (Harnack 2017, 71);
- It postulates the existence of a structure built on an aeons' world – the so-called vertical scheme, because a specific Gnosticism's dependence on Platonicism – even Philonism, as Adolf von Harnack believes – requires a progressive transition from transcendence to immanence (Culianu 2015, 89); in fact, the vertical scheme is the invariant mostly permitting the development and endless multiplication of the fantastic narrations specific to gnosis (Harnack 2017, 70), pretending they can connect – in a Platonic sense – to a good divinity, which transcends a material world with a consequent evil constitution.

b). Hans Jonas's approach was completed by adding other invariants, aiming to consolidate this ancient Gnosticism analysis method. For example, Hans-Martin Schenke will add the invariant represented by consubstantiality, respectively the ontological identity between the good divinity and the human soul. From this perspective, the man appears as superior to the world, especially to his Creator – the Demiurge Demiurgul (Culianu 1995, 138); this means negating the anthropic principle because humans do not belong to this world and do not obey it (Culianu 2015, 89). Consubstantiality assimilates the simultaneously platonic and Gnostic theme of the soul imprisoned in the body (*sôma – sêma*); following a universally big mistake in the aeons'"inter-space", which does not belong to the human world, the man becomes exiled in the part of the world formed by the same rudimentary substance as his body. (Culianu 1995, 137; Burkitt 2008, 43-53).

Also mentioning Carsten Colpe's contribution to the extension of the distinctive features' content area, we highlight that "the completion" of their structure belongs to Ugo Bianchi (*Il dualismo religioso: Saggio storico ed etnologico*, 1958), who created what H.-R. Patapievici calls the complete expression of Gnosticism's research using invariants (Culianu 1995, 351). Thus, the Italian scholar nominated a series of doctrine and moral-ethical particularities among the invariants, as the antecedent sin, the Anti-Somatism, the Metensomatosis, the Encratism, the Docetism, and Vegetarianism (Culianu 2015, 90), considering that they are specific to Gnosticism as a whole and can individualise Gnosticism among other religious systems or philosophical visions.

Another notable endeavour in finding the distinctive feature of gnosis belongs to Elaine Pagels, who suggested (1979) the possibility to define the feminism of gnosis as invariant, an "ecclesiological" feature opposable to the men's prominent role in Churches and Synagogues. In her argumentation, Elaine Pagels invokes the significant, even determinant, oppositions women had had in the Gnostic communities, starting with the increased numerical proportion ending with women's access to cultic-sacramental leading positions – teacher, evangelist, priest, prophet, or even bishop. (Pagels 1999, 108-110).

The invariants critique

Examining the invariants' theological content, I. P. Culianu will observe that they can individualize Gnosticism only concerning the traditional forms of Judeo-Christian theology (Culianu 2015, 90). Moreover, numerous juxtapositions on the themes from other religious and even philosophical systems diminish drastically their capacity to describe gnosis exclusively and, implicitly, separate it from other theological-philosophical visions.

On the other hand, after a more in-depth analysis, the Romanian scholar will remark on the invariants' limits in their theological conformity with the real Gnosticism. Some particular gnoses tend to evade from the doctrine areal of the particular distinctive features, presenting opposing characteristics compared to those presumed. Each invariant will behave differently when used to analyze Gnostic systems, resulting in levels of accuracy and analytical relevance too little homogenous; their use in an uncritical manner generates inevitable imprecisions and ambivalences.

a). We will present as follows the most important landmarks of I. P. Culianu's critique of the invariants and their analytical relevance (Culianu 2015, 89-91; Culianu 1995, 82-83):

The Dualism – an immediate evaluation of the dualist thinking's coverage reveal that not only the gnosis credit evil with an ontological causality, which is hypostasized – most frequent by the Demiurge, but also a series of other non-Gnostic religions – Zoroastrism, Manicheism, Orphism – and great philosophical systems (Empedocles, Heraclitus, and especially Plato and Plotin). In these circumstances, although dualism is practicable recognizable in all gnosis (Petrement 1996, 190-191), as proved by Adolf von Harnack and Hans Jonas, its definition as the specific feature becomes problematic. Due to the possibility to distinguish Gnosticism only partially – even if a significant feature, its functionality as a delimitation and particularisation instrument appears as considerably diminished.

The Anticosmism – although dominant, the world description as consequently evil does not refer to the ensemble of Gnostic interpretations in the field because, in an example, the Valentinians perceive the world as simultaneously good and evil. At the same time, the *Tripartite Tractate* considers the world rather good than evil (Culianu 2015,174); the same Anticosmism also appears in other dualist religious systems, as Manicheism,

Bogomilism, or Catharism; thus, invalid as a variant for the entire Gnostic areal and interfering with other religious systems, the Anticosmism cannot be considered a distinctive characteristic, despite the credit given to it by Ugo Bianchi, who took in consideration the capacity to distinguish between the Platonic and Neoplatonic pro-cosmic dualism and the Anticosmic dualism;

The antecedent sin – by defining the antecedent sin as invariant and describing it as the disastrous event before the creation of man and determining its estranging condition, Ugo Bianchi intended most of all to distinguish between Gnosticism and the teachings of the Church (Culianu 2015, 27); we appreciate that the antecedent sin can individualise the Gnostic thinking better than the Dualism and the Anticosmism, being, due to its increased filtering capacity, closer to that the concept of invariant should mean, mainly because it allows the delimitation of Gnostic systems from Platonism, Neoplatonism, and Zoroastrism;

The Docetism - I. P. Culianu analysis the Docetism as a possible invariant starting from Ugo Bianchi's attempt to consider it as definitory in relation with the entire Gnostic thinking; in the end, the Romanian scholar remarks the appearance of an unsolvable difficulty. The particular gnosis reveals the apparent antagonism between the Docetists, who consider that the Saviour's resurrected body is different from the sacrificed body (Cerint, Baslide, Ipolit, a.o.), and Phantasiasts, who state that Christ never had a human body, but an apparent body (Saturnin, Marcion). Therefore, the difference between Docetism and Phantasianism blocks the establishment of a distinctive feature of this type;

Consubstantiality and *The Vertical Scheme* – frequently present in the Gnostic systems and expressing two categories of significant particularities, consubstantiality and the vertical scheme will have the destiny of other invariants because they are also present in Platonism; implicitly, they will be able to individualize gnosis only in relation with Judaism, Christianity and, eventually, concerning Zoroastrism, Orphism and the two Cathar dualism systems;

The Feminism – I. P. Culianu also invalidates the invariant proposed by Elaine Pagels (G. Koch identified a similar feature to the radical Cathars in Languedoc). He observed that the presumed sacramental qualities and responsibilities (bishop, priest, or prophet) assumed by women do not meet the necessary general characteristics. This type of situation is instead

a minority, even isolated as frequency. The presumed extended access of women to various sacramental-liturgical dignities in the Gnostic communities appears to Culianu as completely lacking historical sustainability and the example of the prophets Maximilla and only confirm the rule of the patriarchate of the gnosis (Pagels 1999, 110).

b) In a context where similar reasoning can be applied to all the other invariants, I. P. Culianu will conclude (1992) that "Bianchi's attempt to formulate a genetic hypothesis based on a number of distinctive featires became extremely" (Culianu 2015, 91), so their use can be relevant only if they are applied to predetermined sequences of Gnostic writings ("on an individual text or texts class."). The essence of this conclusion resides in the invariants' incapacity to fulfil, to acceptable standards, their function of a method for theological exploration and diagnosis. Practically, I. P. Culianu criticizes the analytical attempts based on the use of invariants for their incapacity to overcome an intrinsic methodological deficit, created and fed by the following complementary elements:

- The ambivalence created by invariants toward the requirement of permitting the apparent separation from other contemporary theological-philosophical systems, not only from the Christian and Judaic Orthodoxy; in other words, although the descriptive area of the invariants exceeds the doctrine of the Gnostic teachings, the invariant cannot be the distinctive features claimed by their supporters
- The so-called incomplete inference or the insufficient degree of generality of many proposed invariants (eventually with the exceptions represented by the dualism and the antecedent sin). The majority of the distinctive characteristics, presumed to be general, are not found and used by the Gnostic systems' totality; moreover, specific characteristics, as the anticosmism, are, not once, substituted by their reverse, the procosmism or the libertinism.

In essence, I. P. Culianu highlights the difficulties in the attempts for the invariants' use to localize what is theologically specific to the Gnostic systems concerning their theological-philosophical environment. Thus, Culianu believes that there is an impossibility to highlight authentic, distinctive characteristics that accurately describe the specificity of gnosis (Culianu 2015, 90-92; Culianu 1995, 47). The immense solutions diversity

proposed by particular gnoses for the significant theology interrogations and philosophy (Hoeller 2003, 19-20) and for their moral-ethical practices (because "the gnosis could be considered a dramatic representation of the human condition.") (Petrement 1999, 203) will compromise the analytical use of the invariants. The relevance of each Gnostic invariant will be marked to its annulment by the risk to be constitutive for other religious or philosophical thinking systems.

The necessary character and the optimal profile of the method

Related to the invariants' limits, I. P. Culianu concentrates on founding a fundamental new analytical method, capable of allowing an adequate theological diagnosis of the particular gnoses. To mark methodological progress, any analysis procedure must overcome the deficiencies of the previous attempts, meaning to individualize the Gnosticism as a whole better and facilitate the preoccupations for the systematization and classification of the particular gnosis.

a) To create favorable circumstances for this desiderate, I. P. Culianu starts from a series of theological observations and conclusions, capable of ensuring superior certitude to the future method:

- The particular gnoses coagulate by integrating/ cumulating/ synthesising (Manolache 2000, 57) preexistent mythological data/ sequences/ themes; their provenience is universal, including all the ancient spirituality centres (Iran, Egypt, Samaria, Judea, Greece, India, and others). Implicitly, the architecture of the ancient Gnosticism will assimilate and reflect a good part from what his contemporary world assimilated as mythology and soteriologic aspects in theology and philosophy (Eliade 1992, 359-360);
- Any analytical construction aiming to explore the essence of Gnosticism must assimilate its appurtenance to counter-culture because "the Gnostic discovers himself totally estranged from his culture and rejects all the cultural institutions and norms." (Eliade 1992, 362-363); thus, paradoxically, the theological content of the particular gnoses will oppose in general to the theological-philosophical environment where it manifests. However, it remains connected to it from the perspective of the fundamental mythological facts/data.

Consequently, the analysis of ancient Gnosticism cannot be based only on its research as an integrated system of mythological sequences, the localization of its origins, or the discerning of the external forming influences. Thus, I. P. Culianu believes that reaching the desiderate of analytical attempts for the gnosis requires a fundamental paradigm change, as proceeding and perspective of the starting point.

b) Starting from these premises (i.e. the methodological novelty and the redefinition of the analytical foundation), I. P. Culianu formulates his method for the understanding, explanation, and a detailed description of the Gnostic speculative systems. To find the *mathesis universalis* (H.-R. Patapievici) which is perfectly compatible to the specificity of gnosis, the Romanian scholar will reject the historicist and comparative approaches and will adopt the identification and formulation of the "rules for the generation of the system", that "combination" specific to the Gnostic thinking, prevailing on the mythological contents and their temporal evolution (Manolache 2000, 57).

Treating Gnosticism as a conglomerate of mythological facts and data subsumed to some significantly changing scenarios (theogonic, cosmogonical, anthropogenic, soteriological, etc.), I. P. Culianu aims at identifying the mechanism for the birth and construction of Gnosticism, disregarding the historical and geographical circumstances of each gnosis. To function and offer valid conclusions, this mechanism must concomitantly be:

- *Universal* – able to explain, sustainably and exhaustively, the Genesis and configuration of the theological-philosophical configuration of each particular gnosis;
- *Quantifiable* – to result from the operationalization of a set of simple, immediate and logically valid rules.

At this point, I. P. Culianu will identify the mechanism as the reason, the human thinking, because, "once started", it "will automatically produce infinite variants (of particular Gnostic systems), which are perfectly predictable starting from a simple logical analysis." (Culianu 1995, 32-33). Moreover, by considering thinking as the generating mechanism, the Romanian scholar believes that he also identified the modality to coherently and logically explain and describe Gnostic mythologies' diversity. Thus, the thinking will gain in its relation to Gnosticism, a value of usage, generating

mechanism and explaining the principle, beyond details and historical-mythological landmarks.

I. P. Culianu considers the man's tendency – physiologically and neurologically justifiable – to preponderant reason based on the computational logic of the bundles of oppositions. He will consider that the elementary oppositions as true/false, white/black, or positive/negative, always observable, not only that establish the abstract sphere of reasoning and logic constructions, but also disseminates the incidence in the different spheres of social, cultural and religious acts and facts. To a level of history and philosophy of religions, the recurrence of mythological data "polarisation" and their placing in opposable theological relations was already highlighted by Robert Hertz – 1909, T.O. Bidelman – 1961, and others. Mircea Eliade "...connected the (religious) dualism and the binary classification systems, as right/left, up/down, day/night." (Eliade 1992,189-191) so I. P. Culianu's thesis that "Gnosticism [...] had no other origins than the human mind." (Culianu 2015, 93) Partially appears in connection to other significant scientific research. With the "quality" of being universally acknowledged and perceived as an antagonist and irreconcilable, the elementary oppositions gained a "social and mental consistence" that generates the terms of the universal polarity good-evil. Once this cognitive threshold is reached, the development of the dualism - subsequently of the Gnosticism – evolved in an accelerated manner, until the good terms coagulated, due to the "negative experience of the world", and became norms for men and society, "with the aim to preserve the man and his interiority despite the hostile world." (Culianu 2015, 43).

The bundles of oppositions as mathesis universalis

How will thinking be able – operating in terms of a simple *mind game*, as I. P. Culianu wrote – to determine the extreme diversity of the Gnostic systems? Alternatively, is it possible for the human mind "facing multiple choices." (Culianu 1995, 339) to be the ultimate causal and decisive factor of the immense Gnostic mythology?

a) As answers, we will underline that the generating mechanism using the bundles of oppositions requires placement in a minimal mythological

frame, a starting point in later development and a source for elementary theological-philosophical building elements. This mythological context is for all the Gnostic systems the Genesis, especially its cosmogonical and anthropogenic sequences; they will not be through the traditional Judeo-Christian exegeses, but in an entirely antagonistic manner – the reverse exegesis of the Holy Scriptures. This hermeneutic will deny the ecosystemic intelligence – presuming that the world's Creator is the good and transcendent God. It will also deny the anthropic principle – considering the man is not anymore consubstantial with the world, and the world estranges the man from his real condition and vocation. Practically, Gnosticism, outside the mythology revealed at some point, will be founded on a particular endeavour of reversed exegesis, denying the ecosystemic intelligence and the anthropic principle. Thus, a dramatic situation appears when "everything interpreted by the Old Testament as good will be interpreted as bad by the Gnostics, and vicevesa". So, the Creator will be a bad Demiurge, Can a "representative of the real transcendence", and the Serpent as the Saviour or as Logos (Culianu 2015, 158-162). The range of interpretations generated by the reversed exegesis is extensive. The Book of Genesis transforms, in this type of interpretation, ina "game board." (Culianu 2015, 335-336), where, after an analytical exercise at the University of Chicago (1987), I. P. Culianu distinguished approximately 50 distinct exegeses (many completely antagonistic) for the themes in the first two chapter of Genesis (Culianu 2015, 335).

As a result, using the reversed exegesis of cosmogony and anthropogony for the Genesis, Gnosticism will coagulate its own "scriptural base" – the Holy Scriptures read in a key opposed to the Judeo-Christian key, followed by the building of systems.

b) I. P. Culianu observes that starting from the immediate results of the reversed exegesis, "the game on the theme of Genesis is easy to follow and it is entirely and exclusively a logic game (Culianu 2015, 335-336), re-combining and re-arranging the sequences." (Culianu 1995, 163). Related to the operational content, we highlight the following aspects:

- As concrete finality, the reversed exegesis applied to various relevant themes/acts/characters in the Genesis will lead to elementary and autonomous mythological-theological sequences; these sequences, formally and logically opposable (good Creator/ evil Creator, good

world/evil world, Serpents' good action/Serpent's evil action) are the "primary material" for the generating *mind game*, tending to explore and exhaust all the possible solutions for the logical interpretation of the biblical text in the limits of the two fundamental "negations" of the ecosystemic intelligence and the anthropic principle;

- The completely autonomous elaborated logic sequences will enter, pushed by the subjectivity of the Gnostic heretics constructing a speculative mythology (Culianu 1995, 158), an avalanche of combinations and re-combinations, generating individual Gnostic systems.

I. P. Culianu observes that, for each mythological-theological sequence, the Gnostic system will have two interpretation options in the form of two opposable/antagonistic logic contents. Therefore, each sequence (bundle of oppositions) – s*i* will appear as a binomial of options (S_{i1}, S_{i0}), from which the Gnostic will always choose just one, S_{ij}, where $i = 1, 2, ..., n$ and $j = 0, 1$. In the end, the "formula" of any Gnostic myth will be the composition, using the juxtaposition, of the autonomous sequences S_{ij}, respectively S_{1j}, S_{2j}, S_{3j},..., S_{nj} . they will not enter in the composition only as "isolated units" – individual sequences *sij*, but also as prefabricated "construction elements" – $S_{1j} \varphi S_{2j} \varphi ... \varphi S_{kj}$, where $k < n$, with the theoretical possibility to choose the sequences and their (evil/good) "sign."(Culianu 1995, 162). Vertically arranged, the sequences *sij* will take the form of a tree – the tree of gnosis *i*, a plastic description of all the systems possible to obtain by combining a predetermined number of logic "bricks". On the other hand, we observe that the Holy Scripture as a whole is the "game board" of the sequences – bundles of oppositions; any motif, theme of character interpreted in two antagonistic modes can become an elementary mythological sequence – s*i*, which will generate a binomial of logic operations (S_{i1}, S_{i0}),. The interpretation of the biblical sequence u complete opposed manners is little relevant because the binomial (S_{i1}, S_{i0}), are logic products and do not necessarily claim a valid theological base or the hermeneutic rigour. Therefore, the fundamental Gnostic principle of denying the ecosystemic intelligence in the reversed exegesis of Genesis 3: 9-11 ("*And the Lord God called unto Adam, and said unto him: Where* art *thou? [...] And he said, Who told thee that thou* wast *naked? Hast thou eaten of the tree, whereof I commanded thee that thou shouldest not eat*), founds the essential opposition omniscient God/ ignorant Demiurge. Less

intelligible are the reversed exegeses transforming the Serpent in a positive (good) character, starting from Genesis 3: 4-5. ("And the serpent said unto the woman, Ye shall not surely die: For God doth know that in the day ye eat thereof, then your eyes shall be opened, and ye shall be as gods, knowing good and evil".) , or those who conclude that Christ was not resurrected in the body because the two disciples did not recognise the Saviour when they travel to Emaus (Luke 24: 15-31).

This process of generating Gnostic systems "tends to continue until the exhaustion of all (logic) possibilities." (Culianu 1995, 163). The lack of attestation for a particular combination variant of sequences does not mean that this is less attractive, accessible, or coherent. It only means it was not active until that moment. The potential character of some combination variants (forming a "virtual mythology") reveals the time limitation of the generating logic mechanism. Moreover, despite the "generating process has no, theoretical limits"), constraints caused by the "socio-intelectual structure of the epoch" can operate in practice., adding to the barrier created by the traditional Judeo-Christian interpretations of the biblical references for the creation.

Conclusions

Detaching from the invariants' method and formulating a new *mathesis* for the approach of gnosis, I. P. Culianu intends to formulate a method capable "to permit us to navigate equally right to the microscopic level of the textual variants to a macroscopic (systemic) level." (Culianu 1995, 47). Therefore, in his understanding, the new method for the analysis of gnosis has all the imperative qualities, taking into consideration the following aspects:

a) the bundles of oppositions are immune to the diversity of Gnostic myths, which made possible the finding of authentic invariants; implicitly, I. P. Culianu can substitute the concept of "essential feature" of gnosis with "the notion of myth range or logical tolerance range.". Thus, a system that, for example, considers the Serpent's work "good" will be equally legitimate in a Gnostic sense to a system describing the Serpent's intervention as "evil";

b) the analysis using the bundles of oppositions transcends the issues – proved to be indissoluble – of the search for the origins of Gnosticism and the evidence of the forming influence of various mythologies (also explaining

this myths' universality because the source is in "the logical structure of data forming the Gnostic problem.") (Culianu 2015, 355);

c) any Gnostic system contains the capacity to multiply through the simple mental game of activating/ not activating the logical operations in the rows of successive operations; thus, the Gnostic myths "are not just transmitted and are the result of a continuous process of continuous re-elaboration, tending to deplete all the logic possibilities present *in nuce* in each of their sequences." (Culianu 1995, 170);

d) the extreme diversity of Gnostic systems, capable of halting even the release of authentic, distinctive features, becomes perfectly explainable with the help of bundles of oppositions; they will describe all the Gnostic aspects, historically attested or virtual, as "the result of concretizing the logic possibilities from each sentence in each individual version of a myth"; thus, the activation of a binomial $(S_i1,\ S_i0)$,will generate two particular Gnostic systems; in case of two binomials, $(S_i1,\ S_i0)$, and $(S_j1,\ S_j0)$,, we are in the presence of 4 potential systems, while for *n* binomials, 2^n particular gnosis will be generated, already forming autonomous historical-religious categories.

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