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CONTENTS

Annexion de l'Autriche par l'Allemagne (l'Anschluss) dans la correspondance diplomatique roumaine

Florin N. Şinca

1. Légation de Vienne

«Le *25 juillet, le jour de l'assassinat du chancelier Dolfuss, il y a deux ans, a été conçu pour cette-année-ci, non seulement comme un jour de commémoration de la mort du chancelier martyre, mais comme un jour de consécration de l'œuvre de réconciliation et de pardon''* — mentionnait le ministre roumain a Vienne, **Caius Brediceanu**, le 25 juillet 1936, dans une note informative adressée à Nicolae Titulescu, le ministre des Affaires Etrangères[1]. La commémoration s'est déroulée avec une « *pompe extraordinaire* »: allocutions, lumière, discours radiophonique du chancelier Kurt Schuschnigg, cérémonies religieuses. Le Front Patriotique (« Vaterländische Front ») s'est réuni à 20.00 heures, conjointement avec les représentants de toutes les unités militaires et paramilitaires. A « Stefansdom » a eu lieu un requiem, avec la participation de tous les chefs des missions diplomatiques de la capitale autrichienne. Toutes les villes et les villages ont été pavoisés en deuil.

Dans le discours prononcé à la Radiodiffusion, le chancelier Schuschnigg « *a glorifié la mémoire du chancelier martyre, en lui forgeant une figure légendaire, de vrai fondateur spirituel de l'Autriche d'aujourd'hui, sans faire la moindre allusion sur l'acte de l'assassinat ou sur les auteurs de l'odieux complot* » [2].

Le chef de la Légation Allemande à Vienne, Von Papen, s'est agenouillé à coté du président fédéral Miklas et du chancelier autrichien, lors de la cérémonie religieuse déroulée à Stefansdom. Dans l'opinion du ministre roumain, le maintien de Von Papen à Vienne était considéré comme « *un point gagné [...] pour la politique à long terme du germanisme impérialiste* ". Dans l'expansion du germanisme vers l'orient (**"Drang nach Osten"**), Von Papen était considéré comme le diplomate du moment, « une personnalité marquante », « *L'homme des faits, qui ne connaît pas des scrupules dans ses actions, audacieux et extrêmement habile* », celui-ci, pendant les deux années de diplomatie en Autriche, passant peu de temps à Vienne et essayant d'établir des connexions dans tous les milieux allemands.

En ce qui concerne la situation générale du pays, on mentionnait l'extrême droite, catholique et antinationale, qui désirait les Habsbourg au pouvoir, comme garantie de l'indépendance et de la stabilité. Entre la capitale du pays (comptant un tiers du total de la population) et la province se perpétuait un abîme, les tentatives du gouvernement de l'amoindrir étant condamnées à l'échec. Le socialisme – dont les représentants se sont maintenus au pouvoir pendant 14 ans, étant enlevés en février 1934 – quoique considéré « bourgeois et paisible », avait cédé de plus en plus le lieu aux courants communistes, malgré les mesures gouvernementales hostiles. Difficilement contrôlables, les fabriques constituaient des lieux propices pour la « *propagande rouge* », existant des rumeurs sur la présence de vrais « bataillons de combat ». Une partie des ouvriers ont adhéré aux nazis clandestins ou pan allemands[3].

Dans la province, le gouvernement bénéficiait du soutien de l'administration et du clergé. Le gouvernement Schuschnigg a décrété le désarmement du *Heimwehr*, constitué comme « *organisation paramilitaire contre le bolchevisme* », sous l'autorité du prince Starhemberg, un « imitateur de dictateur », l'opération ayant échouée grâce au caractère réfractaire du prince. Le Salzbourg, la Carinthie et la Styrie étaient considérées comme les centres

du pan germanisme, les plus proches du « Reich ».

Après trois ans où « *tout mouvement national a été suffoqué par le gouvernement* », l'amnistie accordée à plus de 10.000 de nazis, qui avaient été internés en des camps, a produit une sincère satisfaction dans le cadre de la population, ainsi comme, similairement, l'entrée dans le gouvernement d'un nationaliste allemand, Glaise Horstenau.

« *L'Autriche est encore en attente* » – achevait Caius Brediceanu son analyse[4].

Un autre signal d'alarme transmis par la Légation de la Roumanie était le discours prononcé par DrHugo Jury, suppléant du dirigeant fédéral du *Compte-rendu Ethno – Politique*[5] dans la direction centrale du Front Patriotique, repris par " *Neue Freie Presse* le 3 décembre 1937, où celui-ci commençait par la formule « *Autrichiens! Camarades Allemands!* », rappelant le « *berceau du chef de la nation allemande'* », Adolf Hitler, né en Autriche. Dans son opinion, le 12 février devait rester « *un jour joyeux* » affin de servir à l'unité et à la grandeur du peuple allemand. Il reconnaissait que « *nous sommes une Autriche allemande qui accomplit son destin allemand comme un prolongement à l'Est du peuple allemand tout entier. Nous aimerons et nous prêcherons le grand empire des Allemands qui relie tous ses fils et toutes ses filles* ». Son discours était souvent parsemé par le mot « allemand », l'orateur considérant qu'ils sortaient, alors, de "*l'obscurité de l'illégalité*", devant travailler côté à côté, épaule contre épaule, pour le peuple allemand[6].

Le nouveau gouvernement, annoncé par le chancelier et le ministre de la Défense Nationale Kurt Schuschnigg, le 16 février 1938, était le suivant: vice-chancelier fédéral – général de division Ludwig Hülgerth; ministre fédéral des Affaires Etrangères – Guido Schmidt; ministre fédéral de l'Instruction Publique – Hans Pernter; ministre fédéral des Prévisions Sociales – Josef Resch; ministre fédéral de l'Agriculture et de la Sylviculture – Peter Mandorfer; ministre de la Chancellerie Fédérale – Edmund Glaise Horstenau; ministre des Finances – Rudolf Neumayer; miniştres fédéraux à la Chancellerie Fédérale – Guido Zernatto et Hans Rott; ministre fédéral à la Chancellerie Fédérale charge des Affaires Internes et la Sécurité Publique – Artur Seyss Inquart; ministre fédéral de la Justice – Ludwig Adamovick; ministre du Commerce et des Communications – Julius Raaic; secrétaire d'Etat pour la Défence – general Wilhelm Zehner; secrétaire d'Etat pour la protection des employés – Adolf Watzek; secrétaire d'Etat pour la Sylviculture – Franz Mattesschitzer; secrétaire d'Etat pour l'Industrie – Ludwig Stepsic-Doliwa.

Le 25 février 1938, le ministre roumain à Vienne, Alexandru Gurănescu transmettait à Bucarest une note dont il résultait que

"*Le chancelier de l'Autriche a parlé hier soir (le 24 février, n.n.) pendant deux heures avec beaucoup de courage, en répétant avec obstination le réfrène <<l'Autriche libre et indépendante>>*"[7]. Le diplomate roumain comparait le discours de Hitler avec celui du chancelier, en constatant que, pendant que « *le premier veut accaparer l'Autriche* », le deuxième « *désire une Autriche libre* ». Vu l'apparition des manifestations, la Police autrichienne a pris des mesures en vue d'isoler les manifestants hitlériens par ceux du Front Patriotique. En quittant le bâtiment du Parlement, le ministre roumain aurait entendu de Von Papen: « *Je lui souhaite (à Schuschnigg, n.n.) une vie longue, puisqu'il est un homme courageux* »[8].

Von Papen prouvera encore une fois son habilité de réussir – ou au moins essayer – à éliminer les réserves des européens au sujet de l'annexion. Dans une interview accordée à Associated Press, il déclarait qu'il ne comprenait pas l'inquiétude provoquée par l'amitié entre les deux pays allemands, dans les conditions où « *l'indépendance et l'intégrité de l'Autriche sont garanties de la part de l'Allemagne* ». En même temps, Von Papen pensait en perspective à un « *Commonwealth des nations de l'Europe Centrale* ».

Citant des sources viennoises, le diplomate roumain considérait que Hitler était convaincu que l'élimination du chômage représenterait un pas important pour le soulagement des Autrichiens sceptiques. Après le discours du chancelier autrichien, « *la manifestation nazie de Garaz a pris un caractère subversif, puisque même le maire aurait arboré un drapeau nazi* ». 30.0000 paysans sont arrivés de Styrie, l'armée et la police étant mobilisées. Le gouvernement a envoyé le maire en congé et, affin de stopper l'escalade des manifestations, a disposé la fermeture des universités.

Le chargé d'Affaires, Caius Brediceanu, était informé, le 1 mars, par son homologue polonais, récemment arrivé de Budapest, sur la visite que le ministre d'externes Kanya devait entreprendre en Autriche.

En invoquant des « sources sûres », le diplomate roumain informait que, en ce qui concernait la crise politique de Londres et la démission d'Eden, celles-ci auraient été dues, en principal, à « *l'engagement pris par le Ministre des Affaires Etrangères devant le gouvernement français, de participer, conjointement avec ce dernier, à une déclaration officielle pour la défense de l'indépendance de l'Autriche, contre laquelle se sont opposés formellement Chamberlain et le lord Halifax, parce que, lors de la conversation avec Hitler, le lord Halifax avait accepté la formule selon laquelle les relations allemandes-autrichiennes constituent une question de famille* » [10].

Le 3 mars 1938, malgré le fait qu'on avait annoncé des réunions du Front Patriotique à Vienne, Linz, Graz, Innsbruck, Klagenfurt, sous la devise « *Avec Schuschnigg pour l'Autriche* », celles-ci ont été contremandées. Le lendemain, le diplomate télégraphiait à Bucarest, pour annoncer la retraite du chef de l'Etat Majeur autrichien, général Jansa, et son remplacement par le général Franz Blöme (ancien chef du Service de Renseignement), remplacement sollicité par Hitler lors de la réunion de Berchtesgaden[11]. Le même jour, après la visite de Seyss Inquart en Styrie, au lieu du gouverneur Stepan a été désigné DrRudolf Tunner, « *connu avec des sympathies nazies*[12] »

Le soir du 7 mars, Seyss Inquart a tenu une conférence à Linz, devant les référents politiques de la Haute Autriche. La conférence a été transmise par tous les postes radio autrichiens et le ministre roumain à Vienne en soulignait quelques passages significatifs, en vue de définir l'état des choses sur les lieux. « Le rôle de l'Autriche c'est de défendre la frontière orientale du peuple allemand. L'Autriche est allemande et uniquement allemande. Son indépendance n'est pas fondée sur les traités de paix mais sur la garantie du peuple allemand ". Pour lui, Hitler était « *un fils de cette terre autrichienne* », qui «*a fait libérer le Reich, ainsi que tout le peuple allemand, de l'humiliation des traités de paix*[13]. L'Accord du 12 février « *a donné la liberté et l'égalité complète aux nazis* », ceux-ci «*occuperont immédiatement des places dans toutes les administrations* ". Le salut « **Heil Hitler!** » sera permis, on reconstituait les associations allemandes de gymnastique, les nazis étaient conseillés d'entrer dans l'armée, on pouvait entonner l'hymne allemand et on autorisait d'étaler la croix gammée.

L'écho du discours a été immense, constituant « *le premier aspect de l'annexion spirituelle de l'Autriche par l'Allemagne. Dorénavant, les orateurs étaient salués ouvertement par <<Heil Hitler!>>* ''

La conclusion de Gurănescu était nette : ***«Aujourd'hui le chancelier (Schuschnigg, n.n.) est dépassé par les évènements, parce que les national-socialistes ont accaparé virtuellement le pouvoir***[14] **»**, et pour le 27 mars, le diplomate roumain informait Bucarest sur l'organisation du « Jour Allemand » à Vienne. Il n'a plus été le cas.

Le 10 mars, le diplomate roumain informait par un télégramme son gouvernement que Schuschnigg « *avait trouvé la formule spéciale du plébiscite et de l'appel au peuple. Pendant la nuit, à Vienne et à Linz des débuts de troubles*[15] *s'étaient déjà produites.* Pendant la nuit de 10/11 mars il y a eu des manifestations nazies et des éléments isolés de la Police ont été attaqués par des manifestants. A Linz il y a eu beaucoup de blessés. Dans les quartiers périphériques, quelques maisons juives ont été dévastées. Les milieux diplomatiques viennois ne voyaient aucune solution de cette situation, surtout puisque Schuschnigg avait fait appel aux « ouvriers ex austro-marxistes », qui étaient entrés en conflit sanglant avec les nazis, ce pourrait entraîner l'intervention du Reich. La fermeture de la frontière et l'existence d'une menace d'intervention armée allemande ont déterminé une tension anticipant « *des troubles qui peuvent dégénérer en guerre civile* ».

Le 11 mars, les autorités allemandes ont décidé la fermeture du poste frontière Salzburg, vers la Haute Autriche, n'importe quelle entré ou issue vers / de l'Allemagne en Autriche étant exclue. A ville Linz était mise sous l'autorité militaire autrichienne et les réservistes du contingent 1935 étaient mobilisés. Le lendemain, le général Reichenau, le commandant des troupes de la région avoisinée à l'Autriche, à été convoqué par Hitler à Berchtesgaden[16].

Les conditions imposées par Hitler étaient acceptées et la « parodie de plébiscite » qui constituait un défi personnel était annulé. Enthousiaste, la foule inondait la ville tout en criant « Heil Hitler! » et « Ein Volk-Ein Reich! ». Les formations du Parti National Socialiste commençaient à marcher et la Police avait déjà fraternisé avec les manifestants[17]. La démission Schuschnigg était imminente. Consentant au plébiscite, le président Miklas avait laissé son chancelier tomber dans sa propre faute. « *Désormais commence une phase nazie dans la politique autrichienne qui va accélérer l'assimilation avec le Reich*[18] ».

Kurt Schuschnigg a démissionné « *sous la pression des troupes allemandes entrées en Autriche* ».

Le nouveau chancelier, Arthur Seyss Inquart, a demandé à la population du calme et de « *donner tout son concours aux autorités, en vue d'une éventuelle entrée des troupes allemandes en Autriche*[19] ». Les manifestations ont pris des proportions à Vienne et dans les villes de province. A Linz il y a eu de nombreux blessés. Les conditions de Hitler ont été acceptées: renonciation à la « *parodie de plébiscite* », la démission de Schuschnigg (fait déjà accompli, la désignation dans le cabinet d'encore deux ministres nazis.

Communiqué par le ministre pour les Problèmes Sociaux, Hubert Jury, le nouveau cabinet avait la composition suivante: Seyss Inquart – chancelier fédéral, ministre de l'Intérieur et de l'Armée; Glaise Horstenau – vice-chancelier; Wolf Wilhelm – ministre des Affaires Etrangères; Dr.Franz Hueber – ministre de la Justice; Dr.Oswald Menghin – ministre de l'Instruction Publique; Dr.Hubert Jury – ministre pour les Questions Sociales; Dr. Rudolf Neumayer – ministre de Finances; Artur Reinthaller – ministre de l'Agriculture; Hans Fischböck – ministre de l'Industrie et du Commerce; Michael Skubl – secrétaire à la Sécurité, aidé par Kaltenbrunner et Klausner, ce dernier à la Propagande, étant en même temps également le dirigeant des national–socialistes autrichiens.

La Chancellerie, la Mairie et tous les bâtiments des institutions publiques ont été pavoisés par drapeaux nazis. Arrivée à Vienne de Rudolf Hess, suppléant de Hitler, qui a sollicité à la population du calme et a annoncé l'entrée des troupes allemandes en Autriche[20]. Le maire de la Vienne, Schmiz, a été démis, étant remplacé par le vice-maire Lahr.

Le matin de 12 mars, 80 avions allemands arrivaient en Autriche, dont une partie survolant Vienne. Pendant le même jour, arrivaient Himmler, Heydrich (chef du SS), les généraux Daluege, Jost, Müller et Meissner. Le Front Patriotique était dissout. « *L'entier jour est allemand* » – télégraphiait le diplomate roumain. A midi, Goebbels a lis à Radio Berlin une proclamation de Hitler, qui annonçait que les troupes terrestres et l'aviation allemande sont entrées en Autriche, « *affin d'assurer au peuple la possibilité de s'exprimer ouvertement sur son destin* ».

Le 11-12 mars 1938 les troupes allemandes envahissaient l'Autriche dans le cadre d'une opération portant le nom de code « **Otto** », et le 13 mars le gouvernement marionnette Seyss-Inquart proclamait « la Loi de l'union de l'Autriche avec le Reich allemand », qui disposait à l'art.1: « *l'Autriche est un pays du Reich allemand* ». Dans le cadre d'une cérémonie, le Führer faisait son entrée à Vienne, ovationné par environ 200.000 sympathisants.

L'après-midi, Hitler a visité la maison de ses parents de Brannau, puis il s'est déplacé à Linz, où il s'est adressé « aux Allemands ». Dans l'enthousiaste réponse à son discours, **Seyss Inquart a déclaré l'article 88 du Traité de Saint Germain comme « inexistant ».** Parti au 14 mars de Linz pour Vienne, Hitler a été reçu « *avec le plus grand enthousiasme par la population, venue de partout. Les acclamations grandioses ont duré des heures devant l'hôtel Impérial, où il était descendu, étant obligé sortir plusieurs fois sur le balcon* ». Le lendemain, dans la Place des Héros, Hitler a pris la parole, en proclamant: L'Autriche est « allemande et rien et personne n'en peut l'empêcher ». Inquart était désigné « Stadthalter ». A 14.00 heures, les troupes allemandes et autrichiennes défilaient centre ville[21].

Malgré son isolement, le président Miklas a ambitionné de ne pas renoncer à son mandat. De jure, le 13 mars, la République de l'Autriche encore existait. De facto, non plus.

Le 14 mars, 01.00 heures, La Légation de Vienne télégraphiait au ministre Gheorghe Tătărescu: « *Le président Miklas, quitté par tous*

et épuisé par une lutte inégale, a démissionné ce soir devant le chancelier Seyss Inquart"[22], qui, conformément à la Constitution, a repris les prérogatives de chef de l'Etat, jusqu'à l'organisation de la consultation populaire. En même temps, le 15 mars, le ministre des Affaires Etrangères, Wilhelm Wolff » déposait la qualité « de ministre en faveur de Von Ribbentropp[23]. Selon la loi donnée par Inquart « l'Autriche devient pays du Reich allemand ". Les lois autrichiennes restaient en vigueur jusqu'à leur remplacement par les lois du Reich. Les deux armées se réunissaient sous la commande suprême du Führer, l'armée autrichienne étant directement subordonnée au général Block.

En vue de garder le contacte avec les missions diplomatiques et consulaires, le 16 mars le ministre d'externes du Reich déléguait comme représentant à Vienne V.Stein, conseiller d'ambassade, ancien conseiller de la Légation de l'Allemagne à Bucarest[24]. Le même jour, par le télégramme no.15713, le chef de notre légation informait Bucarest sur la violation des domiciles de certains citoyens roumains de Vienne par des agents de la formation SS. Ceux-ci ont perquisitionné abusivement plusieurs immeubles et ont confisqué passeports, argent et valeurs, automobiles. La légation a protesté devant le Ministère autrichien des Affaires Etrangères, a envoyé des fonctionnaires sur place et a demandé à la diplomatie roumaine de protester à Berlin[25].

La légation roumaine de Vienne s'est confrontée également avec des situations désagréables, comme celle où l'attaché militaire, lieutenant colonel Alexandru Gavrilescu, était tombé malade même dans période antérieure à l'Anschluss et il était revenu au pays, en déterminant le ministre de la Guerre, le général de division Ion Antonescu, s'adresser au Ministère des Affaires Etrangères, en sollicitant, par l'adresse no.1534/ 12 mars 1938, recevoir des renseignements d'ordre politique ou militaire[26].

2. Légation de Berlin

Dans son discours du 20 février 1938, Hitler « *n'a prononcé un seul mot sur l'indépendance de l'Autriche, en se limitant uniquement à adresser, de la hauteur de la tribune (d'ailleurs sans beaucoup de conviction) ses remerciements au chancelier Schuschnigg, pour la compréhension que celui-ci avait témoignée lors de la réunion de Berchtesgaden* » – informait, le 3 mars, le ministre roumain à Berlin[27]. En réplique, le chancelier autrichien a eu un discours tranchant, donnant satisfaction au Front Patriotique et affirmant de nouveau l'indépendance de l'Autriche. « *Le discours du chancelier Schuschnigg a produit une vive impression sur l'opinion publique mondiale* », et à Berlin « *a surpris et a déçu* »; Même si on ne s'attendait pas à un discours favorable au nazisme, la véhémence de l'orateur a produit « stupeur et déception ». Les chiffres invoqués par Schuschnigg en vue de démontrer la vie propre de l'Autriche étaient considérés par les Allemands « comme une ironie adressée personnellement au Führer ». Les journaux berlinois ont reproduit seulement le résumé du discours prononcé par le chancelier autrichien, avec l'omission des passages où celui-ci souvenait le sacrifice de son prédécesseur, Engelbert Dolfuss[28] et la lutte pour la sauvegarde de l'indépendance de l'Autriche. En même temps, les journaux ont présenté l'Autriche comme un pays clairement menacé par le bolchevisme. Le gouvernement du Reich a adopté une attitude d'expectative. Les premiers jours « de libre champ accordé aux national-socialistes autrichiens amnistiés » – y compris les assassins du chancelier Dolfuss – ont été suivis par une série de mesures restrictives du gouvernement autrichien, dont l'établissement a été influencé d'une manière décisive par Schuschnigg[29].

Par les mesures énergiques de rétablissement de l'ordre à Graz et dans l'espace de la Styrie, où les démonstrations national-socialistes avaient connu une recrudescence, Schuschnigg prouvait la décision de veiller à la stabilité du pays. « *Toutefois, la résistance actuelle de Monsieur Schuschnigg, quoique habile et acharné, ne puisse pas, elle seule, défendre l'Autriche des tentacules de l'Anschluss* », notait le 3 mars 1938 le chargé d'affaires à Berlin, V.Brabeţian. Malgré cette observation, la plus pertinente que possible, le diplomate roumain se trompait, toutefois, quand il considérait que la France et la Grande Bretagne auraient une attitude ferme, que « *Mussolini n'est pas et il ne peut l'être, dans la question de l'Autriche, un partenaire sur lequel*

Monsieur Hitler puisse vraiment compter[30] ». Finalement, dans son information, le diplomate roumain mentionnait aussi l'Accord autrichien-allemand du 11 juillet 1936[31], qu'il considérait « d'un incontestable intérêt historique », même si, à ce moment, il était « *totalement dépassé par l'évolution des rapports allemands-autrichiens*, après la réunion de Berchtesgaden[32].

Le 25 février 1938, le chargé d'affaires Alexandru Brabeţianu, informait le Ministère des Affaires Etrangères sur le fait que le discours du chancelier autrichien « *a mécontenté profondément les dirigeants du Reich* ». *Lors de la réunion avec F.Poncet, celui-ci considérait l'annexion de l'Autriche comme indubitable; dans ce sens la Petite Entente « devrait adopter dès maintenant une décision au sujet de cette éventualité* [33] ».

Le premier jour du mars 1938, Bucarest était informé que, parmi les dirigeants du Reich allemand, le discours du chancelier autrichien était considéré « ironique et violent », en se manifestant une évidente sûreté concernant la précarité du nouveau gouvernement Schuschnigg, qui ne pourrait pas faire face longtemps aux problèmes de politique interne.

La déclaration du plébiscite était ressentie comme « une atteinte au prestige allemand ». La situation était très tendue – informait le ministre roumain – les rapports allemands-autrichiens s'inscrivant dans une nouvelle phase qui, dans les conditions où aucun changement ne serait pas intervenu, pourrait conduire à une dénonciation de l'accord de Berchtesgaden[34].

Le 12 mars, les ambassadeurs de l'Angleterre et de la France dans la capitale allemande remettaient séparément au gouvernement de l'Allemagne des notes de protestation contre l'immixtion en Autriche, malgré le fait que les chefs des missions diplomatiques des deux grandes puissances « *la considèrent comme une question de famille des deux peuples allemands* »[35].

Vu que l'ambassade de la France à Berlin avait protesté contre l'entrée des troupes allemande en Autriche (14 mars), accusant la violation de l'indépendance de l'Autriche, Von Neurath a contesté le droit de la France de s'occuper de l'indépendance de l'Autriche.

3. L'Anschluss dans la correspondance des autres légations

La Légation régale roumaine à Rome transmettait par son titulaire, Constantinide, le 27 février 1938, une note dont il résultait l'abstinence de la presse péninsulaire de faire des commentaires concernant le discours de Schuschnigg, les cercles officiels se déclarant « *très satisfaites par les déclarations de celui-ci au sujet de l'indépendance de l'Autriche*[36] ». Plus tard, le 6 mars, invoquant des sources italiennes, il informait Bucarest que « *en Autriche la démission du gouvernement Schuschnigg serait imminente, pour céder la place à un cabinet à caractère national – socialiste* » [37]. Dans son opinion, à l'occasion de sa proche visite à Londres, Von Ribbentropp proposerait, en échange de la renonciation par l'Allemagne à ses prétentions coloniales, que l'Angleterre « se désintéresse de la question autrichienne, en lui donnant main libre ». Dans les cercles diplomatiques italiens circulait une rumeur conformément à laquelle le gouvernement français ne ferait pas des difficultés dans la réalisation de l'Anschluss, parce que, dans ce cas, l'Italie « était obligée de faire front devant la pression allemande vers Trieste, devenant ainsi l'alliée naturelle de la France, contre les pressions d'expansion allemande.

De Budapest, Raoul Bossy trouvait le discours « commenté très favorablement[38] », pendant que, dans les cercles du Vatican, le chancelier autrichien était vu comme « le protecteur très courageux d'une politique ayant depuis toujours l'approbation de l'Eglise[39] ».

D'ailleurs, Hitler était convaincu que, hors les protestations régulières, la France et l'Angleterre « ne bougeront pas », télégraphiait de Hague Vespasian V. Pella, après la réunion avec le « directeur politique[40] ».

A son tour, le diplomate roumain à Belgrade, V.Cădere, notait, après les discussions avec le chef de la diplomatie yougoslave, Stoiadinovici: *« L'Anschluss a été considéré inévitable par le gouvernement yougoslave* [41]».

La fermeture de la frontière autrichienne-allemande, la concentration de troupes en Bavaria, la mobilisation de deux divisions autrichiennes, l'ultimatum allemand donné à

Schuschnigg, la démission de celui-ci et de son successeur, ont été de nature à déclencher l'alarme dans le monde politique parisien, mais les opinions « *n'ont pas le temps à se cristalliser* » – écrivait le 11 mars le ministre roumain à Paris, Cesianu, qui informait en même temps sur la sollicitation du chef de la diplomatie française d'avoir une rencontre avec l'ambassadeur allemand[42].

Le plébiscite n'était pas perçu d'une manière favorable en Italie, « *parce que par celui-ci il sera confirmé que l'indépendance de l'Autriche n'est pas le résultat des traités et conventions internationales, mais il représente également la volonté du peuple autrichien*[43] ».

A Paris, le 12 mars, l'ambassadeur allemand rassurait le gouvernement sur l'absence de n'importe quel complot au sujet de l'Autriche, pendant que le ministre roumain notait : «*L'Italie a abdiqué devant l'Allemagne, devenant un satellite sans éclat*[44]. D'ailleurs, par ensemble, la politique anglo-française a été d'abandonner leurs propres décisions de 1918-1919, de lâcheté par rapport à l'Autriche.

Dans milieux diplomatiques suédois, l'entrée des troupes allemandes en Autriche « *a produit une profonde impression*[45] », et au Vatican « *une profonde et pénible impression*[46] ». La Légation de Copenhague télégraphiait à Bucarest, le 15 mars: « *Vu la similitude de la situation et la circonstance que le Reich n-a jamais reconnu la valabilité du plébiscite de 1920 pour le Nordslesvig, l'absorption foudroyante d'un petit Etat avoisiné à l'Allemagne a produit dans tous les milieux une profonde consternation*[47] ».

Par le télégramme no.1281/ 5 mars 1938, l'ambassadeur roumain à Varsovie, Zmfirescu, informait Bucarest sur le résultat de la rencontre cordiale avec Beck, le chef de la diplomatie polonaise, dont il résultait la détermination du Führer d'engager « une action plus énergique en vue d'attirer l'Autriche dans l'orbite allemande[48] ». De la conversation du diplomate polonais avec Goering il résultait l'idée d'une instabilité de l'Autriche, dont la durée ne pouvait pas être prévue, le maréchal allemand réussissant de cacher ses intentions par rapport à la Grande Bretagne et la Tchécoslovaquie.

Suite à la réunion de Hague avec le ministre des Affaires Etrangères hollandais, assez bien informé, il résultait la satisfaction du gouvernement hollandais au sujet de la déclaration de Neville Chamberlain dans Chambre des Communes de réarmement de l'Angleterre et de fragiliser l'Axe par un rapprochement de l'Italie.

La légation de Vatican informait que les évènements autrichiens « ont impressionné profondément le Vatican », mais sa politique *"n'est pas définie que sous la forme d'une amère mélancolie et d'un impuissant regret*[49].

En conclusion, hors quelques petites exceptions, pouvant être considérées négligeables, **les légations de la Roumanie ont transmis au Ministère des Affaires Etrangères des informations précieuses, pertinentes, opportunes**. Ainsi, le facteur politique prenait connaissance de l'évolution de la situation autrichienne, pour pouvoir fonder en conséquence ses décisions de politique externe.

NOTES:

[1] Archive du Ministère des Affaires Externes, Fonds Dossiers Spéciaux (71), Dossier 268/1936-1938, f.16; Ci-dessous sera cité A.M.A.E.
[2] Ibidem, f.17
[3] Ibidem, f.22
[4] Ibidem, f.24
[5] Le Compte-rendu Ethno-Politique représentait l'Office national -socialiste, organisme prévu dans l'accord austro-allemand du 11 juillet 1936
[5] A.M.A.E., Fonds Dossiers Spéciaux, Dossier 269/1938, f.77
[7] Alexandru Gurănescu a accompli ce mandat entre le 1 novembre 1936 – 1 avril 1938
[8] A.M.A.E., Fonds Dossiers Spéciaux, Dossier 269/1938, f.1
[9] Ibidem, f.4
[10] Ibidem, f.41
[11] Ibidem, f.81
[12] Ibidem, f.88

[11] Ibidem, f.81
[12] Ibidem, f.88
[13] Ibidem, f.100
[14] Ibidem, f.102
[15] Ibidem, f.120
[16] Ibidem, f.143
[17] Ibidem, f.264
[18] Ibidem, f.194
[19] Ibidem, f.152
[20] Ibidem, f.265
[21] Ibidem, f.318
[22] Ibidem, f.249
[23] Ibidem, f.320
[24] Ibidem, Dossier 270/1938, f.1
[25] Ibidem, f.22
[26] Ibidem, Dossier 269/1938, f.210
[27] Ibidem, f.55
[28] Au pouvoir depuis 1932, Engelbert Dolfuss était italophile, hostile à l'Allemagne, en 1934 interdisant la Parti National Socialiste de l'Autriche; Il est assassiné par un commando le 25 juillet 1934; A.Popescu, La Vienne secrète, Ed.Meronia, Bucureşti, 2003, p.83
[29] Ibidem, f.57
[30] Ibidem, f.58
[31] Rédigé sous la forme d'un « *gentleman agreement* » et publiés sous forme de communiqué officiel, l'accord comprenait un préambule (où on mentionnait le désir des deux pays d'accéder à des rapports amicaux) et dix points concernant le traitement des sujets autrichiens en Allemagne et des groupes allemands en Autriche, les relations culturelles, leur développement selon le principe que les deux pays appartenait à la même sphère culturelle celle allemande, la presse et les publications les immigrants, les hymnes nationaux et les saluts, l'économie et le tourisme, la politique externe (le gouvernement fédéral autrichien s'engageait à orienter sa politique extérieure selon celle du Reich), l'attitude autrichienne devant les membres de l'opposition nationale autrichienne. Hors une « large amnistie politique », on mentionnait l'entrée au gouvernement de l'opposition national -socialiste. Le 16 février 1936, étaient imposées au chancelier autrichien les personnes qui devaient entrer dans le gouvernement.
[32] A.M.A.E., Fonds Dossiers Spéciaux, Dossier 269/1938, f.63
[33] Ibidem, f.3
[34] Ibidem, f.121
[35] Ibidem, f.175
[36] Ibidem, f.19
[37] Ibidem, f.94
[38] Ibidem, f.21
[39] Ibidem, f.40
[40] Ibidem, f.201
[41] Ibidem, f.190
[42] Ibidem, f.141
[43] Ibidem, f.141; Rome, 11 mars 1938
[44] Ibidem, f.157
[45] Ibidem, f.280
[46] Ibidem, f.294
[47] Ibidem, f.328
[48] Ibidem, f.96
[49] Ibidem, Dossier 270/1938, f.34

Romanian "Dissidence" Within the Warsaw Pact 1955-1968. Perception on Both Communist and Western Sides

Laurențiu-Cristian Dumitru

1. Political and military relations between member states. Romanian position before 1958

After the creation of the Warsaw Pact, the leader of Kremlin, Nikita S. Khrushchev set up several approaches trying to promote an embellished image of the Soviet bloc in the Western countries. This way, he used the sessions of the Political Consultative Committee to make known his foreign policy initiatives, concerning the security issues on the European continent.

Generally, during the first years following the setting up of the Pact, the activity of this institution was actually insignificant for building up and giving substance to a political and military alliance. The Soviet Union mainly focused on using the institutions of the Pact as a tool for the control and subordination of its Eastern European allies. The Soviet General Staff proceeded to a step-by-step replacement of the Soviet counselors by a Soviet military representative of the Warsaw Pact in each of the alliance member states[1]. They have been assigned to conduct and assess the military training and the programs regarding the endowment of the concerned national armies in order for these ones to fully meet the political and military demands of the Soviet Union.

Up to 1958, Romania proved to be a faithful ally of the Warsaw Pact. Even if the communist orientation promoting nationalist claims initiated by Gheorghiu Dej, somehow tending to take distance from the political guidelines imposed by the Soviet Union, (situation largely encouraged by the "new openness" promoted by Khrushchev), gained momentum, there were no controversies or misunderstandings during the meetings of the Political Consultative Committee that could have been attributed to the Romanian representatives. The dramatic moments of 1956 (the Hungarian revolution and the riots in Poland) did not indicate Romania as a "troublesome" ally, as it was to be perceived later, but for sure as one of the most devoted supporters of the actions undertaken by the Soviets.

Despite of the fact that the bipolar world acquired the specificities of the existence of two opposed political and military blocs, it took place, at Geneva, between the 18th and the 23rd of July 1955, the high level meeting of the United States President, Dwight Eisenhower, the Prime Minister of France, Edgar Faure, the Prime Minister of the United Kingdom, Anthony Eden and the President of the Soviet Union's Council of Ministers, Nikolai Bulganin. The declared purpose of that meeting was to decrease tensions on the European continent, including with respects to the nuclear weapons problem, the German issue and the confidence building up in Europe. The American President presented what it was to be known in the future as the initiative "open skies" and proposed that the American and Soviet sides made available to each other a list containing each one's strategic military equipments and to allow the air surveillance to certify that no surprise attack has been initiated. The Soviet side rejected the plan. Also, at Geneva, the American and Soviet leaders convened to sign a moratorium regarding nuclear tests, but, obviously, it did not allow the controls[2]. However, the meeting can be considered as a beginning and a positive evolution, since, for the first time after 1945, the two sides engaged in a constructive dialogue.

The 20th CPSU Congress of February 1956 constituted a particular moment in the evolution of the events in the communist world. In the secret report, that denounced the crimes

committed during Stalin's government, Khrushchev stressed that the relations with the Western side, grounded on the policy of peaceful coexistence[3]. Although the ideological confrontation, specific to the bipolarity of the global balance of power, continued, the Cominform, institution set up by Stalin in 1947, at Szklarska Poreba, was dismantled in April 1956. This background encouraged the misperception of the Soviet Union's interests and objectives with regards to its satellites, by the top Party and state decision makers in certain Warsaw Pact member states. In fact, Moscow had no intention to allow uncontrolled evolutions in these states, especially if it put at risk the strategic security or Moscow's fundamental objective – the consolidation and expansion of communism. The Soviet Union still needed the military, economic and political potential of its European allies. In the event of a strategic offensive against NATO, towards the Western Europe, the territories, economies and the armed forces of Poland, Czechoslovakia and the German Democratic Republic were indispensable for the Soviet Union's military endeavor. The situation was similar for Hungary, Romania and Bulgaria, in case the Soviet aggression targeted the Southeastern Europe. The satellite states GDP were 2/5 of the Soviet Union's one. The Soviet military and industrial complex was supplied with some of the most important raw materials (as for instance uranium), coming from the Warsaw Pact states[4]. At political and military levels, the existence of the Warsaw Pact highlighted Moscow's determination to take advantage of a powerful tool in order to impose its will in Central and Southeastern Europe.

The first session of the Political Consultative Committee took place in Prague, on January 1956. It marked the inclusion of the armed forces of the German Democratic Republic into the structure of the Warsaw Pact Unified Armed Forces. During the session, the leader of the Romanian delegation, Chivu Stoica, announced the reduction of the Romanian Armed Forces by 40,000 troops[5].

However, in this framework of relative relaxation between the two antagonistic political and military blocs, and also, within the Warsaw Pact, large scale vindictive actions took place in June, at Poznan, in Poland. Besides the economic claims, there were also explicit political ones: the withdrawal of the Soviet armed forces from Poland and, even more serious for the communist Polish leaders, the desertion of the communist construction. The movement spread fast and reached the capital of the country, Warsaw.

Despite of the displayed "new-look" and of the promise made to Tito in 1955, of not interfering any longer in the domestic policy of his allies, Khrushchev could not allow that the situation in Poland have gotten out of his control. Accompanied by Molotov, Mikoian and Kaganovici, he arrived unannounced at Warsaw, fully determined to take energetic measures. In October 1956, after several discussions, Khrushchev recognized Gomulka as first secretary of the Polish United Workers Party, abandoned the rough intentions that took him to Warsaw, but, at the same time, the Polish reformers did not achieve their major objectives either[6]. However, the sacrifice made by giving up the vindictive program saved Poland from facing a situation similar to the one that Hungary found itself very soon.

The initial claims of Hungary took after the ones of Poland. The group of Imre Nagy demanded increased political autonomy, economic independence and withdrawal of the Soviet armed forces from Hungary. There were also more radical claims, such as Hungary's withdrawal from the Warsaw Pact and the abandon of the production and propriety socialist principles. The Soviet reply was quick and harsh, and materialized in a first military intervention on October 24. Faced with the radicalization of the situation in Hungary and a tensed situation in the Suez Channel area, the Soviets agreed to discuss, on October 28, the withdrawal of their troops from Hungary. But, two days later, the Kremlin abandoned this solution. On the 1st of November 1956, Imre Nagy announced the leaving by Hungary of the Warsaw Pact, demanded the Soviet Union to withdraw its troops from Hungary, proclaimed the country's neutrality and asked the four Great Powers to recognize it[7].

The leadership in Moscow already had to deal with a strong dilemma. Not to intervene militarily would have signified that the situation in Hungary could have evolved against its own strategic interests and, at the same time, it would have created a dangerous precedent and a possible example to be followed by the other member states of the Warsaw Pact. To intervene militarily would have consequently proved that the independence and sovereignty of Hungary, as

of any other Warsaw Pact member state, was nothing more than a political declaration. Khrushchev chose the alternative that was also to be used by his successor, Brezhnev, in August 1968, namely the political consensus for action together with the other communist leaders, without asking them to participate in the foreseen military action.

In order to establish close relations with all the communist leaders and convince them of the need for an intervention that could "save" communism, Khrushchev secretly met, between the 1st and the 3rd of November, with the Poles at Brest, with Dej and Novotny (at that time in visit to Romania) at Bucharest, and with the Bulgarians at Sofia. From Sofia, he flew to Brioni, in Yugoslavia, where, together with Malenkov, he discussed with Tito, who accepted not to condemn the intervention in exchange for putting Kadar in power. They also consulted the Chinese leaders that proved to be strongly in favor of the military solution. All the communist leaders, without exception, agreed that in Hungary things were turning into a "counter-revolution", that Moscow was decided to put to an end.

Empowered by the Soviet leadership, Iuri Andropov, the Soviet ambassador in Budapest, the future KGB chief and leader of the Soviet Union, passed on the Kremlin's agreement to initiate negotiations for the withdrawal of the Soviet troops from Hungary. In reality, Marshall Zhukov had drawn the intervention plans, while General Malinin set up the command and the HQ of the Soviet intervention armed forces.

On the 4th of November, the Soviet divisions, backed by 1,300 tanks, launched the offensive against the positions of the Hungarian revolutionary forces within the country, particularly in Budapest, and shortly after crashed their resistance[8]. The Hungarian refugees' leaders in the Yugoslav Embassy were arrested on November 22nd and transported to Romania, where they were kept for some time. Imre Nagy was brought back to Hungary in 1958 where he was trialed, then convicted to death and finally executed. On the 12th of December 1956, the General Assembly of the United Nations condemned the Soviet action in Hungary, with 55 votes against 8. The lack of effective and practical reaction of the Western countries during the Soviet intervention was absolutely striking, but it could be logically explained given the regional geo-political and geo-strategic configuration in 1956. The United Kingdom and France were directly involved in the Suez crisis. The United States, despite public declarations supporting Hungary, were not willing to take the risk of a conflict with the Soviet Union, since Hungary actually belonged to the Soviet influence area in Europe, being, in fact, a founding member of the Warsaw Pact.

Evolutions in Warsaw and Budapest were carefully watched by the leadership of the Romanian Workers Party. The anticommunist movement of Hungary and the claims regarding the Romanian territory constituted reasons of serious concern for the decision makers in Bucharest, fact that made the leadership of the Romanian Workers Party to apply a large scale program of measures (with reference including to enhancing the Party's control over the armed forces) aimed to consolidate the regime[9]. By the adopted position of support to the Soviet military intervention in order to suppress the revolution, indicated the communist regime in Bucharest as one of the most faithful Moscow's allies. On the 1st of December 1956, during a retrospect drawn at the meeting of the Politburo of the Romanian Workers Party, Gheorghe Gheorghiu Dej stated that he considered the intervention of the Soviet troops both as a necessity and international duty. He made known his point of view in the context of a presentation of the Romanian communists' action when Imre Nagy had been brought to Romania out of his post revolutionary refuge of the Yugoslav Embassy in Budapest.

The unconditioned fidelity to the Soviet Union's political directives for Eastern Europe, including with regards to the repression of liberalization and national legitimacy efforts of the communist leaderships, under the cover of destalinization in Hungary and Poland, represented the essential feature of the Romanian attitude during the first years of the Warsaw Pact's existence. This understanding of the events could be supported by the fact that, in May 1958, the Soviet Union withdrew its troops from Romania. It was within this framework that the subsequent openness and delimitations in Romania's relations with the Soviet Union would take place.

Moreover, the Bucharest communist regime was not at all perceived in Occident as inspiring confidence. As a case in point, the dispatch no. 834 of the 25th of September 1957, sent to the French minister of foreign affairs, Pineau, by the

French minister in Budapest, Paul Boncour, stressed that the German Democratic Republic and Romania are Moscow's "sleeping dogs" (chiens couchants) [10].

Dej took advantage of the events that took place in the two countries to speed up the process of getting out of Romania the Soviet military presence. The initiative of the Soviet troop's withdrawal from Romania belonged to the Romanian side and was presented to Khrushchev by Emil Bodnăraş, minister of the armed forces of the People's Republic of Romania, with Dej acceptance, in August 1955, on the occasion of Khrushchev's visit to Bucharest. At that moment, the proposal was rejected by the Soviets. The Romanian leadership's unconditional support for Khrushchev, during the Hungarian revolution, was meant to increase the Soviet leader's confidence in the Bucharest team.

On the 15th of April 1957, a Soviet – Romanian agreement regulated the legal regime of the Soviet troops presence in Romania. Bodnăraş visit to Moscow, in March 1958, boosted the discussions regarding the Soviet armed forces possible withdrawal from the country[11]. In 1958, there were dispatched in Romania two Soviet army corps, comprising four divisions, mainly located in three areas: Focşani – Râmnicu Sărat, Constanţa and Arad – Timişoara, with an effective counting around 40,000 troops[12].

On the 24th of May 1958, the session of the Political Consultative Committee of the Warsaw Pact member states took place in Moscow. The final communiqué underlined that "the Political Consultative Committee approved the Soviet government proposal, in accordance with the Romanian government, regarding the withdrawal, in the near future, from the territory of the People's Republic of Romania of the Soviet troops, located there according to the Warsaw Treaty" [13]. Letting alone the striking untruth expressed in the communiqué (the Soviet troops had been present in Romania since 1944 and not according to the Warsaw Treaty), this fact, by itself, regarding the withdrawal, would essentially mark a turning point in the Romanian – Soviet political and military relations. The session of Moscow also settled that in 1958 the Warsaw Pact should reduce its armed forces by 419,000 troops, as follows: the Soviet Union – 300,000, Romania – 55,000, Bulgaria – 23,000, Poland – 20,000, Czechoslovakia – 20,000 and Albania – 1,000. Moreover, the Soviet government decided to withdraw a division from the territory of Hungary. In the end of the communiqué, the Political Consultative Committee decided to make the NATO member states a proposal referring to the conclusion of a non-aggression pact between the two political and military opposing blocs. Present at this session, the People's Republic of China delegate observer also signed the communiqué.

The Soviet troops withdrawal from Romania has been delivered between the 15th of July and the 15th of August 1958, based on the agreement concluded between the Romanian and Soviet defense ministries (later, during the same year, the Soviet counselors acting out in various fields, also, begun de leave the country), and it perfectly fit to the Soviet Union strategic and security interests[14]. Besides the reasons expressed by the Romanian part, and accepted by the Soviet counterpart, the decision of the troop's withdrawal was also due to the Soviet Union intention to rebuild its international image, strongly damaged after the military intervention in Hungary, as well as to the need to cut its military expenditures for maintaining troops in the satellite states[15].

The action itself did not affect the Soviet Union security, because Romania did not border any NATO member state, but only the Warsaw Pact ones and the relations with Yugoslavia had been normalized. On the other hand, Khrushchev wanted to increase his credibility in West by pretending to be the supporter of the relaxation policy on the continent, through effective both political and military measures. Not in the last, it is worth pointing out that by withdrawing the Soviet troops from Romania, Khrushchev intended to consolidate the national legitimacy of the Romanian Workers Party in front of the Romanian nation, and also to prove both the allies within the Pact, as well as, the West that socialism could be built up in a "people's democracy" state even in the absence of the Soviet armed forces[16]. One cannot deny in the facts analyzing, the Bucharest communist leadership initiative to request Nikita S. Khrushchev, through Emil Bodnăraş, the troops withdrawal, that was initially rejected by the soviet leadership. The genuine historical cliché of national-communist provenience that Bucharest succeeded in "imposing" Moscow to withdraw

the troops from Romania is very difficult to prove without a documented argumentation.

Most of the analyses give different explanations to the withdrawal, but all of them underline Moscow steady interest in acting in this unprecedented manner. Other analyses advance the idea of Romania's waning strategic importance which allowed Romania's behavior as a "troublesome ally" of the Warsaw Pact[17]. However, it is without doubt that the premises for a real detachment from Moscow rooted at the Romanian decision making levels, fact that was to become obvious the years to come and marked a significant openness in the field of foreign policy. Until the dissolution of the Warsaw Pact, Romania continued to be the only member states on the territory of which there were not dislocated either Soviet troops or military bases. It is worth underlining the fact that, in 1958 Romania mandated abroad 12 military attachés[18].

2. The international political and military framework of the Warsaw Pact actions between 1958 and 1964. Premises of the Romanian "dissidence"

European continent has been marked in the period 1958 – 1961 by increased tensions between the Soviet Union and the West, because of the German issue and particularly, the status of Berlin. The climax has been reached in August 1961, when the Soviets, with the support of the Eastern Germany's leaders decided to build up the Berlin Wall[19] that continued to be until 1989 the symbol of Europe division into two opposing political and military blocs and generally speaking, of the Cold War. The most relevant expression of this tension was pointed out on the 26th-27th of October 1961, when the Soviet and US tanks found themselves face to face at the frontier check point "Charlie", in Berlin. However, the leaders of the two superpowers refrained themselves from encouraging the dispute to escalate. In 1961, on this background of tension in Central Europe, the Warsaw Pact undertook three large-scale military exercises[20].

It is striking that in the case of the German issue, the leaders of all the Warsaw Pact member states backed the Soviet position. At the Political Consultative Committee session of March 1961, at the August reunion of the leaders of communist and workers parties that took place in Moscow, in the Berlin declaration of the governments of the Warsaw Pact member states of August, and at the Warsaw meeting of the defense ministers of the same countries, of September 1961, the leading thread was the blaming of the rebuilding of the Western Germany military potential, of initiating negotiations regarding a peace treaty with Germany and not in the last, of turning the Western Berlin into a "free and de-militarized city"[21].

The beginning of the '60s also testified the more and more obvious Sino – Soviet split at various levels, having deep impact in the whole communist world. Romania continued to take advantage, in its own interest, of this state of being. The Warsaw Pact cohesion tended to become just a political "label" within the framework of an escalation in the Sino – Soviet dispute. A series of events were to seriously shake the seeming collaboration between the Soviet Union and some of the satellite states, reason why, the Kremlin used the alliance as a tool of preventing possible defections within the Pact and as an invasion force against these states potential trials to detach themselves from the Pact.

Relevant for illustrating this fact was the case of Albania that, in accordance with its Maoist orientation, stopped to participate in the activities of the Warsaw Pact beginning with March 1961, and in September 1968 Albania withdrew from this political and military organization. It was to have a series of implications by depriving the Soviet Union of an important military basis of Vlora, fact that reduced significantly the naval facilities at the disposal of the Soviet fleet in the Mediterranean Sea, although the Soviet Maritime Military Fleet recorded at that moment, under the command of Admiral Gorshkov, an impetuous development that made of the Soviet Union also a naval superpower[22].

The issues of Albania's stopping to participate in the activity of the Warsaw Pact needs to be approached in a more differentiate way; given that it was the only founding member state that left the political and military alliance, which it belonged to. On the 5th of April 1961, the Albanese government addressed a letter to the

governments of the Warsaw Pact members states, regarding the Moscow session of the Political Consultative Committee of the 28th-29th of March 1961, where it was decided the withdrawal of the Soviet naval forces from the gulf of Vlora, following Albania's position towards "the imperialist Greek – Yugoslavian – American plot" [23]. The expulsion of the Albanese military attaché of Moscow, on the 22nd of May 1961, accused of making anti-Soviet propaganda among the Albanese students and officers studying in the Soviet Union, fit into the same line of action. During the same month, the Albanese government recalled all the officers studying in the Soviet Union and asked the Soviet military attaché to leave Albania. As a retaliation measure, the Soviet government decided to withdraw all its officers that activated in the Albanese navy, but the Albanese government refused to let them go before the return of its officers to Albania from the Soviet territory. Also as retaliation, the Albanese government did not appointed any longer another military attaché in Moscow, but only sent a representative to the Unified Commandment of the Warsaw Pact Unified Armed Forces.

At the reunion of the first secretaries of the communist and workers parties, from the Warsaw Pact member states, that took place in Moscow, between the 3rd and the 5th of August 1961, Albania sent a delegation with a lower level of representation (its chief being Ramiz Alia) than the other participants, fact that was used by the Soviets as a pretext for not receiving the Albanese delegation to that session[24]. In response to this situation, on the 25th of January 1962, the Albanese authorities declared the Soviet military staff of Albania, persona non grata[25]. Albania pursued its actions with a series of protest letters addressed to all the Pact member states against the fact of not having been any longer invited to the proceedings of the Warsaw Pact[26].

Aiming to deny China's access, as an observer, to the proceedings of the Pact, the Soviet government addressed a letter to the leaders of China, the Democratic People's Republic of Korea, Vietnam, and Mongolia, on the 31st of October 1961, in which they were informed that their observers could no longer take part to the proceedings of the organization, because their level of representation did not correspond to the demands.

Regarding all these issues, Romania adopted in the following years a singular position, radically different from the other Pact member states. Romania requested the readmission of Albania to the proceedings of the alliance, so that to fix the August 1961 error, highlighting that the position adopted by the Pact towards Albania was creating a dangerous precedent. At the same time, Romania considered abnormal the attitude adopted towards China, concerning the problem of its observer's participation at the Political Consultative Committee[27]. Moreover, the Bucharest regime proposed that the documents adopted at the reunions of the Political Consultative Committee should be signed by the States representatives and not by other persons, because the Warsaw Pact has been designed to function as an international interstate organization[28].

According to several historical assessments, the dispatching of Soviet missiles in Cuba, in 1962, generated the acutest crisis in the Soviet – US relations during the Cold War. Even if the two political and military blocs, NATO and the Warsaw Pact, were not involved in these events, the United States and Soviet Union found themselves to the brink of an open armed confrontation, fact that could have inevitably led to the beginning of hostilities between the two opposing military alliances, with catastrophic consequences for the entire planet.

At the beginning of October 1962, the Soviets sent to Cuba a division of SSM, consisting of five regiments endowed with a total of 38 missiles R-12, having an action range of 2,500 kilometers and 24 missiles R-14 with an action range of 4,500 kilometers. All these forces have been supported by 40 planes MIG-21, 11 submarines and a motorized brigade fully equipped, so that, the total of Soviet effectives dispatched in Cuba reached around 40,000 troops, grouped in 12 bases[29].

On the 14th of October, the United States uncovered the setting up of Soviet military bases in Cuba. On the 22nd of October, President John F. Kennedy addressed the American nation, informing about the uncovering of these missile bases and decided to keep Cuba surroundings in quarantine.

The next day, Khrushchev warned the leadership of the United States concerning the possibility of breaking out a nuclear war. Following the mediation by the Secretary

General of the United Nations and an intense exchange of messages between Kremlin and the White House, Khrushchev announced on the 28th of October his decision of withdrawing the Soviet missiles from Cuba, and Kennedy consented to lift the blockade and not to invade Cuba. Subsequently, the United States withdrew their "Jupiter" missiles dispatched in Turkey. Finally, on the 7th of January 1963, the Soviet Union and the United States informed the Secretary General of the United Nations, U Thant, on the ending of the crisis, and during the same year, they proceeded to installing a direct phone line between Kremlin and the White House, in order to avoid that a similar crisis situation happened again[30].

A peculiar fact drew the attention, right after the Cuban missile crisis, related to the mentioned events, and produced in the context of the obvious and gradual detachment from the Soviet Union of Romanian foreign policy coordinates. According to the assertion of the US diplomat, Raymond L. Garthoff, during a private meeting that took place on the 4th of October 1963, at New York, the Romanian minister of foreign affairs, Corneliu Mănescu, might have declared the State Secretary of the United States, Dean Rusk, that Romania would declare its neutrality in the event of a conflict provoked by the Soviet Union, without previously consulting Romania, and in discordance with Romanian national interests. He also informed the US counterpart that, there were no nuclear missiles on the Romanian territory. According to the same source, the Romanian official's endeavor constituted a certain fact in the international relations practice; since the American official did not make it known to the US allies either, for fear of possible leaks of information to the Soviets[31]. Without having the uncontestable proof of the "neutrality" assumed by Romania in October 1963, that has not been confirmed up to the moment by Romanian archive sources or by the direct participants at the discussions, the fact itself is relevant given that the information provided by the Romanian official represented something unconceivable inside the military alliance of the communist states, so that Romania's action might marked the first fissure within the Warsaw Pact[32].

The assertion of the US diplomat, Raymond L. Garthoff, according to which the above mentioned aspect represents the fundamental reason why Romania gradually altered its position within the Warsaw Pact, could have a real ground, but, in our opinion, there were also other factors, without minimizing the economic one's importance, that contributed to this evolution. Between 1961 and 1964, Romania rejected the integrationist efforts of COMECON, based on the principle of labor division and, consequently, of stopping the country's industrialization process, returned to the certain national traditions and symbols, canceled the compulsory study of Russian language into the schools, begun to release the political prisoners, and so on. "The new trend" adopted by Romania in its relations with the Soviet Union did not escape the perception of the United States and others main Western countries. During a discussion at the beginning of August 1963, between Mircea Malița, Romanian deputy minister of foreign affairs, and William Crawford, diplomatic representative of the United States in Bucharest, the US diplomat underlined that "the legation communicated that the assessment of the latest events of Romania led to the conclusion that, it, undoubtedly, conducts itself by its own had, and the position of pursuing its own interests is firm and not a conjectural one"[33]. During the same discussion, the Romanian leader, Gheorghe Gheorghiu Dej, mentioned that "our position" imposed the perception that in Bucharest rule "people that oppose" to the Soviet Union. "And objectively, things are just like this. And we should not be ashamed to say that there are divergences"[34].

The US diplomat thesis puts this state of things on an equal position with Romania's open contestation of the Warsaw Pact. However, these kinds of indirect proofs, although relevant for the Romanian opposition to the Soviet domination and its will of acquiring increased freedom of action in the international arena, cannot lead to the conclusion that, in October 1963, Corneliu Mănescu proposed to the United States the neutrality status of Romania. The former minister of foreign affairs of the communist Romania, questioned after 1990 in this respect, stated that he had in view to make "Dean Rusk understand that Romania was not a country of war, Romania is not an enthusiastic partner of the Warsaw Pact, we do not support the war between the two opposing military pacts, that we can only adopt a reasonable position no matter what the problem is"[35].

The US professor Robin Alison Remington thoroughly remarked that the issue of Romania's relations with the Warsaw Pact at the beginning of the '60s cannot be dissociated, in order to have a comprehensive understanding of the phenomenon, from the economic one[36]. Gheorghiu Dej's regime rejected all the initiatives launched within COMECON by the Soviets and obedient regimes of the satellite states, concerning the integration and labor division in the communist system, and promoted a sustained program of national industrialization[37]. It is of high interest in this respect, that Romania categorically rejected the so called "Valev Plan" [38].

It has come up to the attention the fact that, in 1963, Romania adopted a singular position at the United Nations in relation with the Soviet bloc and voted for the first time differently from this one on the establishment of a nuclear free zone in South America[39].

At the session of the Political Consultative Committee of the Warsaw Pact member states, that took place in Moscow, on the 26th of July 1963, there was approached a wide range of issues, subject to disputes between representatives of Romania and the other Pact member states, especially the Soviet ones. The Soviets presented a communication in which they informed on the process of negotiations and the conclusion of the agreement settled between the Soviet Union, United States and United Kingdom regarding the ban of nuclear tests in the atmosphere, the outer space and the submarine one[40]. The Partial Nuclear Test Ban Treaty was signed by the three state representatives in Moscow, on the 5th of August and came into force on the 10th of October 1963. The Romanian representative, Corneliu Mănescu signed this treaty on the 8th of August 1963[41].

It is important to analyze the dispute between the Romanian and Soviet representatives regarding the admission of the People's Republic of Mongolia into the Warsaw Pact. A few days before the reunion, the Soviet leadership sent to the participants a letter in which it was proposed the admission of Mongolia into the alliance. Romanian vehemently opposed this initiative and in the end it has been gainful. The arguments of the Romanian side proved with unshakeable logic that by admitting Mongolia into the Pact, the European regional nature of the alliance (according to article 4) would be altered, fact that would implicitly led to the general revision of the Treaty and a change of substance of the international law aspects referring to the Warsaw Treaty. With the same determination, Romania proved that in case of an aggression directed against an European member state, the Mongolian contribution to the mutual defense would have been insignificant, while in a situation of aggression in Asia, against Mongolia, the support of the European communist states would have been considerable, which was in contradiction with Romania's national interests.

At the same time, the Romanian side demonstrated that Mongolia's likely Pact joining, would immediately activate all the political and military Asian US-led alliances, which would implicitly trigger increased tension in international relations. Not in the last, Romania was fully motivated to consider that Mongolia joining would impose to the Warsaw Pact an anti-Chinese purpose in Asia, fact that our country, given the good relations established with China, could not agree to. Based on the Romanian side arguments, the Soviet proposal was no longer discussed[42].

The letter of the 14th of February 1964 addressed by Dej to Khrushchev fits into the same context of the Romanian "dissidence" within the Warsaw Pact, in which, among other things, Romania re-affirmed its support for the "wise" position adopted by the Soviets at the end of the Cuban crisis, but it could not "understand" how it was possible to take measures like these in Cuba without previously discussing them with the organization member states, according to article 3 of the Warsaw Treaty[43]. There were criticized the methods used by Moscow in its relations with the other Warsaw Pact member states, directly referring to the placement of Soviet nuclear missiles in Cuba.

Moreover, the Bucharest regime leader expressed his opposition to the initiative of founding the Foreign Policy Commission of the Warsaw Pact that had been launched in a letter addressed to his partners by the Central Committee of the CPSU on the 2nd of January 1964[44]. Dej considered that founding of a permanent commission like the proposed one would be equal to "giving up on the national sovereignty in the field of foreign policy" [45]. The Romanian position remained unchanged in this respect, the Committee of foreign ministers being founded later, at the session of the Political Consultative Committee, which took place in Bucharest, on the 25th-26th of November 1976.

3. The political and military relations within the Warsaw Pact until 1968. The particularization of the Romanian attitude

A month after an official delegation undertook a visit to China and North Korea, on which occasion Mao Zedong became directly acquainted with Romania's position in the Sino-Soviet conflict, as well as, with the Romanian side's efforts to make the public polemic between the Soviets and the Chinese come to an end[46], on the 26th of April 1964, the Romanian Workers Party issued a declaration that actually represented Romania's clear detachment from the Soviet Union in the field of domestic and foreign policy, though without leaving the communist bloc and the Warsaw Pact[47].

"The Declaration of April 1964", as it has remained known, (the official title was "The Declaration on the position of the Romanian Workers Party regarding the problems of the international communist and workers movement adopted at the enlarged Plenum of the Central Committee of the Romanian Workers Party of April 1964") represented a turning point. It also marked the initiation of the public process of Bucharest's detachment from Moscow, the assuming of autonomy in the international arena (notably in the ensemble of the international communist movement), the inauguration of a political trend in external relations that would bring to Romania the perception of "mutinous ally" within the Warsaw Pact.

It would be difficult to underestimate the importance of the April 1964 declaration for Romania's attitude within the communist military alliance. It boosted the process of outlining an attitude claiming the equality in rights of the Warsaw Pact members, which practically meant the very same thing with not recognizing the Soviet hegemony. At the same time, beginning with 1964, Romania's detachment in the field of military practice within the Warsaw Pact took a decisive course. Besides, "the Declaration on the position of the Romanian Workers Party regarding the problems of the international communist and workers movement" was delivered at the moment when Romania had already started the process of detachment from the Warsaw Pact[48].

The Romanian historiography considered the April 1964 declaration as the most important public act of national provenience that fundamentally defined Romania's anti-hegemonic orientation during the following period. It is implied that the initiative of launching this document belonged to the Romanian side, so that subsequent discussions within the structures of the communist party, pointed out the anti-Soviet orientation, it actually advanced. This way of understanding the document origin is substantially enhanced by the fact that it was elaborated and made public in the context of several actions of the same nature undertook by the Bucharest communist regime, being in fact their accomplishment and practically theorizing the position publicly expressed. We refer, as a case in point, both to the Romanian communists' position during the Sino – Soviet ideological conflict, as well as, to certain acts of Bucharest "disobedience" to Moscow, particularly in the economic field[49]. Similarly, it refers to measures of limiting the Soviet Union visibility at the level of the Romanian public opinion (the closing of the book shop "Cartea Rusă", of the Romanian – Russian Museum, of the Russian language Institute "Maxim Gorki", of the Romanian – Soviet Institute, of the review "Timpuri Noi", the change of the Soviet names of streets, localities and institutions, less classes of Russian language in the school program etc)[50].

"The April 1964 Declaration" is the stepping stone of a genuine turning point in Romania's external orientation. Its relations with the West were to be developed from the perspective of balancing the Soviet hegemony, and the domestic political evolution would tend to escape the rough Stalinism that characterized the previous period, yet without generating an authentic liberalization. The fact of contesting the Soviet hegemony became manifest not only in the field of foreign policy, (the international perspective inter-blocs), but also within the bloc policy. Regarding the latter case, the guidelines had already been settled: the opposition to the economic integration plans within COMECON and to the asymmetric alliance of the Warsaw Pact. In the last case the direction had also been engaged, both during the Cuban missiles crisis,

as well as, by the negative answer to the Soviet request of the alliance enlargement towards Asia, in 1963. Referring to the first mentioned event, for instance, Ion Gheorghe Maurer said, during the debates occasioned by the 1964 declaration, that things were not too clear within the Warsaw Pact: "There were sent missiles to Cuba. We were not aware of this matter. For the time being we do not make of this any incrimination and do not raise any problem to anybody. The existence of these missiles in Cuba caused some international tension (...). Within the framework of this tension, after a time, one can foresee a certain policy. The supreme or single commander of the military forces of the Warsaw Treaty launched an order to all the participant armies in this group of military forces that alarmed all of them. In the Warsaw Pact, there is an article 3, which binds the signatory states to mutual consultation in international political matters of most importance. I am asking: all these matters would not have justified a consultation like this? Or, at least, the order of alarming the participant state armies would not have to be issued following consultations like these? These are problems! (...) These orders are issued, these actions are implemented, and nobody is asked about. At least, we have not been asked" [51].

The analyzed period opened the way to economic cooperation with the Western countries, Bucharest having a series of contacts highly fruitful with the United States, France, West Germany, Italy, United Kingdom, Austria etc. After legations have been turned into embassies and the appointment of the first United States ambassador in Bucharest, William Crawford, Romanian – US economic relations acquired new dimensions, unprecedented and simultaneously without correspondent in the communist bloc. Welcoming the United States President, Lyndon B. Johnson's policy of "building bridges" towards the communist world, the Bucharest regime proceeded to enhancing the bilateral relations, aspect that had serious implications for the endeavors of national economic development[52]. In the period 18th of May-the 1st of June 1964, Gheorghe Gaston Marin, vice president of the Romanian government made an official visit to the United States. The outcome of this visit was excellent. On this occasion it has been signed an important bilateral economic agreement[53].

At the same time, it has been re-established the thread of the traditional friendship between Romania and France, which was to bring about concrete results at several levels. During the visit to France, in July 1964, the president of the Council of Ministers, Ion Gheorghe Maurer approached together with the French officials aspects related to the cultural, consular and economic bilateral relations[54]. One can notice the fact that during Maurer's meeting with General Charles de Gaulle in Paris, the latter promised economic help for Romania in case it would be isolated by the Warsaw Pact communist member states, as a consequence of the policy promoted by Bucharest decision-makers[55].

In October 1964, Leonid I. Brezhnev has replaced Nikita S. Khrushchev as the leader of the Party and Soviet State. The new Kremlin's leader was the promoter of the "limited sovereignty" doctrine referring to the Warsaw Pact member states, an adept of the primacy of proletarian internationalism and of the socialist system interests, on the national specific ones of each "allied" state. The implementation of this doctrine was to have fatal consequences for Czechoslovakia during the summer of 1968.

The session of the Political Consultative Committee of the Warsaw Pact participant states, that took place on the 19th-20th of January 1965, in Warsaw, stands out through the topics approached and needs to be detailed. This session was the last one in which Gheorghe Gheorghiu Dej (he died on the 19th of March 1965, from a rapidly evolving cancer) participated and the first one attended by the new Soviet leader Leonid Ilyich Brezhnev. Moreover, the reunion was the first one to take place after the April 1964 Declaration of the Romanian Workers Party.

During the discussions, the representatives of the Warsaw Pact member states assessed the situation caused by the initiative of creating NATO Multilateral Nuclear Forces (FNM), the consequences and menaces to European peace and security and expressed their concern regarding this endeavor of the North Atlantic Alliance[56]. The German Democratic Republic delegation submitted two projects to be analyzed and adopted. The first one referred to the project of a treaty on non-proliferation of nuclear weapons. The second one proposed that the foreign affair ministers reunion or of their deputies be turned into a permanent organism having its own law status.

Regarding the first project, Romania did not raise any objection to the idea of a treaty like this, but to the fact that the issue of this treaty necessitated a lot of time to be implemented, dedication and responsibility and underlined that the parts should have been asked in appropriate time in order to elaborate such a project. The Soviets rejected the Romanian point of view and demanded that the project to be examined.

Concerning the second project, the Romanian representatives argued that the transformation of a consultative reunion into a permanent organism broke the provisions of article 3, al.1, of the Treaty. They stressed that the important decisions that affected the member states common interests are the exclusive responsibility of the party and state leadership in each and every country and not of the ministers of foreign affairs[57]. The objections raised by the Romanian delegation decidedly influenced the decision of rejecting the two East German proposals. At the same time, the Romanian delegation pronounced in favor of dismantling the two political and military blocs, but the delegations of the Soviet Union and Warsaw Pact other member states opposed that this idea to be included in the session final communiqué[58].

During the same conference, Dej qualified the exclusion of Albania from the Warsaw Pact proceedings, at Moscow initiative, as an illegal decision that had to be cancelled. He motivated that "if we do not do the right things, any of the socialist countries can find itself in the situation of being excluded from the proceedings of the Political Consultative Committee, as it happened with Albania"[59]. To sum up the Romanian position on the nuclear non-proliferation, it comes to the attention the fact that the Romanian leader radically rejected the issue of condemning the creation by NATO of the Multinational Nuclear Forces, which actually constituted the purpose of the reunion, to be linked to the Warsaw Pact proposal of concluding a treaty of nuclear non-proliferation. Even if the reasons of the Romanian position, very radical in this matter, except for the rejection of the Soviet monopoly, including in the nuclear domain, have not been sufficiently clarified, it has been common knowledge that Romania perceived the nuclear non-proliferation as being part of a process of general nuclear disarmament, in fact of an effort to avoid the constitution of a nuclear monopoly[60]. It is quite possible that the Bucharest regime, by the radical adopted attitude, indirectly intended to provide explicit support to China, which had become since October 1964 a nuclear power.

The position adopted by Romania at the Warsaw reunion had a favorable echo in West. As a case in point, the Danish mass-media, that paid close attention to this session, made faithful presentations of Romania's position toward the Warsaw Pact, as well as, of the Romanian state political openness in its relations with the West[61].

As a matter of fact, after 1964, Bucharest acted on a large front in order to acquire its freedom of action at international level and to limit the interference of the alliance hegemonic power. Therefore, there were undertaken actions directed towards defying the CPSU monopoly on the issues concerning the international communist and workers movement[62], as well as, avoiding the economic integration, as a means to consolidate the national autonomy at international level.

After Nicolae Ceauşescu took over the power in March 1965, he continued the policy of detachment from Moscow and displayed an even more daring attitude than his predecessor. Referring to Romania's particular position within the communist states military alliance, General Anatoli I. Gribkov, former chief of the General Staff of the Unified Armed Forces between the years 1976 – 1989, remarked that "until 1968, namely before the allied troops entered Czechoslovakia, the relations with the Romanian leadership, both at political and military levels, were relatively normal. Once Nicolae Ceauşescu came to power in 1965, Romania's foreign policy begun to change substantially"[63]. The same Soviet dignitary considered that "during Joseph V. Stalin's life, the Romanian leadership accepted its situation of subordination to the Soviet Union, also, by copying the functions of Soviet power institutions. In the after-war first years, it did not follow critic reactions towards the Soviet system, the force of inertia was quite strong, as long as there were dispatched Soviet troops in Romania. Their withdrawal from Romania, in 1958, represented a new stage in the country development process, marked by a political doctrine of the Romanian Communist Party towards national self-development, independence, and equality in rights of the Warsaw Pact member states. The Romanian leadership tended to national independence on its

own forces. During that period, the economic contacts with the Occident have been widened"[64]. The same personality remarked that particularly after the April 1964 Declaration, Romania was referred to in West as "a dissident" within the Warsaw Pact"[65].

The new Bucharest leader's first visit to Moscow, on the 9th-11th September, actually turned into the first confrontation between Brezhnev and Ceauşescu. On his return to the country, Ceauşescu presented, at the informative session of the Executive Committee of the Central Committee of the Romanian Communist Party, all those issues taken into discussion at Moscow. The Bucharest leader made a genuine indictment to the hegemonic power, and attacked a variety of extremely sensitive problems concerning the bilateral relations, from the unsolved problem of the Romanian treasure to aspects related to certain activities within the Warsaw Pact[66].

The middle of the '60s has been marked by a strong action of integrating the armies of the Warsaw Pact member states, directed, organized and firmly led by Moscow. The Soviet Union succeeded to integrate the member states armies to the prejudice of collaboration within the Warsaw Pact, by doctrine, the modalities of representation in the Pact ruling bodies, methods of training, endowment system, the way of exercising the command within the alliance structures. Since Moscow had launched this process within the Warsaw Pact, Bucharest had nothing else to do than to set up within this organization, its own foreign policy directions, publicly expressed in 1964-1965. The occasion was to come shortly, at the reunion of the chiefs of General Staffs that took place in Moscow, on February 1966. It was precisely with the purpose of promoting the principle of collaboration within the organization (it had been often faced with the lack of consensus) that Romania asked in February 1966, at this reunion, and at the May 1966 meeting of the defense ministers, the democratization of the Pact ruling structures and the development of military relations based on real cooperation within the alliance and not on integration[67].

At the reunion of the chiefs of General Staffs, that took place in Moscow, on February 1966, the Romanian delegation presented its own point of view on the activity improvement of the Warsaw Pact military structures. According to this point of view, the Romanian delegation pointed out the necessity to improve the Rules of procedure of the Unified Armed Forces Commandment, in order to correspond with the Treaty's provisions and initial purpose. Thereby, the attributions established in the Rules of procedure placed the Supreme Commander beyond the national governments and defense ministers and the General Staff of the Unified Armed Forces became a high rank echelon of the national General Staffs. In order to support its point of view, the Romanian side gave the examples of the circumstances of the 1961 Berlin crisis, as well as, of the events of Cuba.

The attributions of the Unified Commandment have been established in the Rules of procedure adopted in January 1956, that proved to be inoperative, given the fact that its provisions did not correspond any longer to the factual reality of the member states. In order to avoid the transformation of the Pact military ruling structures in supranational organisms initiating interferences that defied the member states sovereignty and independence, and more precisely ignored to "consult" these ones' political leaderships, the Romanian side made several proposals concerning: the rules of procedure, as well as, the other documents regulating the activity of this commandment should be based on the idea that each country's party and government held the exclusive responsibility for the ruling, organizing, endowment and training of all its armed forces, both in war and in peace time; the founding of the Military Council of the Commandment, as deliberative structure responsible with adopting decisions unanimously. The Military Council examined the problems that are the Commandment responsibility. It was composed of the Supreme Commander that was the president, its deputies and the chiefs of General Staff, as members. The proposals and recommendations made by the Military Council were submitted to the approval of the Warsaw Pact member states governments. The Military Council developed its activity on the basis of rules of procedure approved by the Warsaw Pact member states governments; each state contributed with troops that had the capacity to act jointly. They could be engaged in war only on the basis of a national decision and their coordination belonged to the national

commandments. It would have been reasonable that the procedures regulating the use of these troops take into account the idea that during the wartime they would act in accordance with the operational plans agreed by the participants concerned; the commandment should have a supreme commander, deputies of the supreme commander, one for each of the Pact member state, and a chief of General Staff, that put together to constitute the Military Council.

It was underlined that none of these ones should have other functions in the armed forces they were part of. It was suggested that both the Supreme Commander and the chief of General Staff should be appointed with the agreement of all the governments of the Pact member states, selected of each country's Marshals or Generals, for a period of 4–5 years. It was desirable that during the same mandate the Supreme Commander and the chief of General Staff come from different countries. The Supreme Commander Deputies were to be appointed by the government of the country they were representing, and their attributions made needless keep in function the representatives of the Commandment by the member states armed forces. The Unified General Staff was to include officers from all Warsaw Pact participant states armed forces.

At the Soviets proposal, during the two already mentioned reunions, there begun the discussions, in order to modify the rules of procedure of the Unified Commandment. The Romanian military delegation agreed initially with the draft of this document, but there have been made a series of objections, which were inserted, as an annex, to the Protocol of the defense ministers' reunion that had taken place in Moscow, in May 1966[68]. The Romanian objections referred to the role and functions of the Political Consultative Committee, the attributions of the Unified Commandment and of the Supreme Commander, the setting up of several structures of the Unified Commandment and their attributions. They also referred to the existence of the Unified Armed Forces Supreme Commander's military representatives within the armed forces of the Warsaw Pact member states[69].

The Romanian side stressed that accepting to create the Military Council as settled in the draft, and the approval of its decisions by the Political Consultative Committee, would have actually signified that the leading of the national armed forces be no longer the responsibility of each and every state's constitutional bodies, fact that would bring about deeply prejudices the national sovereignty of the Pact's member states.

At the same time, the Romanian delegation stated that the very existence of the institution of the Unified Commandment representatives run counter the principle of member states' equality in rights, stipulated in the Warsaw Treaty. Moreover, the Romanian part expressed its opinion in favor of canceling this institution and the rules of procedure that regulated the activity of this one, arguing that it was not necessary[70]. The Romanian position gained initially an unexpected victory. Most of the Romanian proposals have been accepted, in the issued protocol of the reunion being mentioned the contradictory points of view[71]. The Romanian proposals included in the new rules of procedure draft referred to the following: the role of coordination (and not of command) of the Unified Armed Forces Commandment; the subordination of the aimed troops to be used by the Unified Armed Forces, to the respective national commandments; the officers' proportional representation in the composition of the General Staff of the Unified Armed Forces; the nuclear strategic forces would not belong to the Unified Armed Forces; the founding of the Military Consultative Council subordinated by the Political Consultative Committee[72].

At the session of the Political Consultative Committee that took place in Bucharest, in July 1966, the Romanian side passed to the Warsaw Pact's member states defense ministries, the rules of procedure draft of the Unified Armed Forces Commandment that nevertheless was not discussed. One can suppose that the Romanian position, as expressed in this draft, run counter Moscow's intentions. Moscow's reaction was quick. First of all, the Soviets adopted the tactic of backwardness. The Romanian requests to include their demands in the discussed documents have been approved and then, in a tacit way rejected. Thereby, at the defense ministers' reunion that took place in Moscow, on the 27th-28th of May 1966, in the rules of procedure draft "there were included most of the principle matters that our delegation elaborated" and, at the same time, "there were excluded

certain provisions that did not correspond to our point of view, such as: the Supreme Commander right to control the Unified Armed Forces troops and the right to have his own representatives within the armed forces of the Pact's participant states; the Soviet Union strategic nuclear forces do not belong to the Unified Armed Forces; the creation of the Military Consultative Council subordinated by the Political Consultative Committee, that was to include the defense ministers"[73]. It is worth to notice the fact that in the protocol of the reunion of the defense ministers of the Warsaw Pact member states, that took place in Moscow, in May 1966, it was settled, at the point 5, to keep the percentage of each army participation at the Unified Armed Forces common budget, as it follows: Albania – 3%; Bulgaria – 7%; Hungary and the German Democratic Republic – each contributing with 6%; Romania – 10%; Czechoslovakia – 13%; Poland – 13.5% and the Soviet Union – 41.5%[74].

It was some time until the meeting of the defense ministers' deputies that took place in Prague, on the 29th of February-the1st of March 1968. This break was used with success by the Soviet side in order to surpass the Romanian opposition, by avoiding that the rules of procedure be elaborated and by succeeding in materializing their own intentions through punctual actions, supported by the other minor allies within the Pact. Therefore, in Prague, the Soviet side openly opposed the Romanian delegation's proposal to bring into discussions the rules of procedure draft, advanced in July 1966. "At this proposal – as it was registered in the report made by the chief the Romanian General Staff and handed to Nicolae Ceauşescu – all the other chiefs of delegations and notably, General Sokolov and Marshal Iakubovski, stated that they were not mandated, they were not ready and there were not the appropriate circumstances in order to reply to the issues raised by the Romanian side"[75]. Actually, on that occasion, the Soviet side imposed the debate on the issues of creating the Military Council and rules of procedure of the Unified Commandment General Staff. The above mentioned report testified that "taking into account the way that the reunion proceedings evolved, as well as, the delivered discussions, one can come to the conclusion that the representatives of the other armies of the Warsaw Pact member states wished to solve, by sharing, the issues related to the Unified Commandment, respectively the issues of the Military Council, General Staff, Technical Committee and affirmed that all of them agreed to these issues. One can deduce that, for the first time, there were made efforts to solve officially the issue of creating the different bodies of the Unified Commandment, without approaching the essential topic, namely the elaboration of the new rules of procedure of the Unified Commandment"[76].

That tactics of backwardness, used by the Soviet side, reached the climax in 1968 when, on the 24th of May, Marshal Iakubovski delivered the rules of procedure drafts of the Unified Armed Forces, Military Council, and the joint anti-aircraft defense system to the Romanian Ministry of Armed Forces. It is necessary to underline that between 1955 and1968, there took place only nine sessions of the Political Consultative Committee which proves that the Soviet Union was not really pushed by the wish to consult periodically, according to the statuary provisions, its "allies" within the Warsaw Pact. Sticking to the same trend of "dissidence" within the Soviet bloc, initially at the beginning of the '60s, in the context of dissensions within the Warsaw Pact and COMECON, Romania promoted a policy of openness towards the Western countries, incomparably in a much more visible manner than the other satellite states of the Soviet Union, aspect which was well perceived by the Western democracies. The Romanian demarches in the field of foreign policy, successful at the beginning of 1967, have been finalized with the establishment of diplomatic relations with the Federal Republic of Germany, Romania being the only Eastern country, besides the Soviet Union, that succeeded in this approach, fact which provoked the serious angry of the Eastern Germany government. A natural follow-up of the evolutions in bilateral relations was the visit to Bucharest of the West German foreign affairs minister, the future federal chancellor, Willy Brandt[77].

Nicolae Ceauşescu was to make another defiant gesture during the extraordinary session of the Political Consultative Committee that took place in Moscow, on the 9th of June 1967, when it was assessed the Arab – Israeli conflict, also known as the "six day war". The Romanian delegation, led by Ceauşescu adopted a different

position from the other representatives, including Turkey, defended the Israeli cause and opposed to the slogan preferred by the communist state delegations, and particularly by the Soviet one, to destroy Israel, considered the only responsible with the breaking out of this conflict and denounced as an "aggressor". At the end of the session, the Romanian delegation was the only one to refuse signing the Moscow Declaration; the adopted declaration condemned the Israeli action and also promised to intensify the political, economic and military support to the Arab countries. Ceauşescu opposed the Soviets, considering that "if we adopt the declaration you proposed, the socialist countries will be isolated from the progressive movement of the West, including from the Western communist parties"[78]. The request to condemn Israel for being an aggressor, as long as, the Arab states waged war with the purpose of annihilating the Israeli state, ran counter the Bucharest regime position of recognizing each and every state right to a free existence[79].

The position adopted towards Israel and continuing to have diplomatic relations with this state after the "six day war" provided Romania with an extremely positive profile in the Western perception. Regarding the military hostilities that had been ceased, the Romanian point of view was presented in the government's declaration concerning the situation on the Middle East, publicly issued on the 11th of June 1967, which stressed that "the events proved that the use of force cannot constitute a solution to disputes between states..."[80].

Following this situation, on the occasion of the Romanian delegation's participation to the proceedings of the General Assembly of the United Nations, that took place in New York, in July 1967, during the meetings with the American State Secretary, Dean Rusk, and the US Vice President, Lyndon B. Johnson, concerning issues such as the Romanian support to opening an unofficial channel of negotiations between the US and North Vietnamese representatives, it was insured that the United States and implicitly the Western states would not oppose and even would support the Romanian minister of foreign affairs candidacy for the presidency of the General Assembly of the United Nations[81]. In September 1967, Corneliu Mănescu was elected with overwhelming majority president of the 22nd session of the General Assembly of the United Nations, being the first dignitary from a communist country and the only Romanian one, to have exercised this high rank function[82].

During May 1968, the French president, Charles de Gaulle arrived at Bucharest, while in Paris there were delivering large student and workers social movements, fact that increased the international visibility of the Bucharest regime, and also strengthened the Romanian "dissident" position within the Warsaw Pact.

It is significant for the study of this period that in the framework of the Soviet – Chinese split, strong trends of polycentrism, defined as the plurality of decision-making centers within the Soviet bloc, became more and more visible. Implicitly, the polycentrism contested the monolithic unity of the world communist system. As a process, the polycentrism depended on the affirmation of certain independent national communist parties without very close connections with Moscow. In Western Europe, the polycentrism was perceived as a synonymous of the independent position adopted towards the Soviet Union[83]. Although it had neither the potential nor China or Yugoslavia positions within the communist bloc, or France within the Western side, one can advance the idea that under certain configurations and circumstances, or after a series of enterprises in the foreign policy, military and economic fields, Romania acquired, during the assessed period and within the logics of the bipolar balance of power specific to the Cold War, certain valences that could be perceived as characteristics of the bi-polycentrism.

The historical perspective highlights the fact that, at the beginning of 1968, the counting review of the Bucharest regime foreign policy actions was a substantial one. The economic relations with the West were in full development, the Soviet projects within COMECON were not affecting Romania, the friendship relations with the People's Republic of China knew an increased acknowledgment, and the critical modalities of approaching the Soviet Union's policy were put forward gradually, in parallel with Romania's decreasing participation at the political and military activities within the Warsaw Pact.

NOTES:

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[24] *Ibidem*, p. 4
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La Roumanie, l'Organisation des Nations Unies et le conflit du Proche Orient (juin – juillet 1967)

Ion Calafeteanu

Les évolutions inquiétantes, qui avaient lieu dans la région du Proche Orient, surtout à partir de la moitié du mois de mai 1967, ont été suivies avec beaucoup d'attention par le gouvernement roumain. Mais un point de vue officiel – laissant de côté les commentaires de la presse, qui ne publiait que *ce qui* et *comment* lui permettait le gouvernement roumain –, n'a pas été exprimé avant la fin du mois.

Le 31 mai, à l'occasion d'une réunion avec les chefs de l'armée, N. Ceauşescu, le secrétaire général du Parti Communiste Roumain (PCR) et président du Conseil d'Etat, a défini la situation du Proche Orient comme étant « extrêmement grave ». Il a déclaré qu' « une guerre ou un conflit armé entre les états arabes et Israel ne servirait ni aux premiers, ni au dernier » et il a exprimé son espoir que « les problèmes litigieux allaient se résoudre à l'amiable entre les parties, qu'on parviendra à des accords rationnels et équitables, qui tiennent compte des droits légitimes des peuples concernés ».[1]

Lorsque, le 5 juin, les ostilités se sont déclanchées, la réaction du gouvernement roumain a été prompte. Le même jour, George Macovescu, le premier-adjoint du ministre des Affaires Etrangères, a invité au Ministère des Affaires Etrangères l'ambassadeur de la République Arabe Unie, à qui, au nom du gouvernement roumain, il a exprimé l'inquiétude à propos du commencement des ostilités. Macovescu a adressé un appel après du gouvernement égyptien « pour l'arrêt immédiat des ostilités » et pour résoudre paisiblement les différends entre les parties, en tenant compte des « intérêts légitimes » des peuples concernés. Un point de vue identique a été présenté, le même jour, au ministre de l'Israel à Bucarest.[2]

Les idées contenues dans l'allocution de N. Ceauşescu et l'appel au gouvernement égyptien et israëlien du 5 juin représent les premiers éléments qui définiront la position de la Roumanie concernant le problème compliqué du conflit de l'Orient Proche.

Selon le gouvernement roumain, l'attitude qu'on a adoptée envers les parties en conflit ne pouvait pas être considérée comme étant une attitude neutre et G. Macovescu montrait clairement cette chose dans les *Instructions* qu'il a envoyées le 7 juin à la Mission Permanente de la Roumanie auprès l'ONU. La position de la Roumanie envers ce conflit – disait-on dans ces *Instructions* – reflète la « conviction ferme » du gouvernement roumain que « dans les conditions actuelles » l'élément essentiel est la fin de la guerre pour trouver ultérieurement « les moyens adéquats » pour passer aux négociations et résoudre les différends.[3]

Avant même le déclanchement du conflit armé, la Mission Permanente de la Roumanie auprès l'ONU a suivi avec attention les débats qui avaient lieu dans le Conseil de Sécurité à propos des évolutions de l'Orient Proche et elle en a informé tous les jours le Ministère des Affaires Etrangères. Après 5 juin, on a demandé exprès de Bucarest, à la Mission Permanente, d'informer la Centrale « avec promptitude » sur les discussions des organismes ONU et du Secrétariat en ce qui concerne les mesures envisagées et de rendre compte des « discussions intenses » qui avaient lieu « dans les coulisses de l'ONU » à propos des modalités de résoudre le conflit et des tendances manifestées dans les prises de position des différents états ou groupes de pays.[4] Ce qui, en fait, la Mission avait déjà fait jusqu'alors. Mais, le Ministère des Affaires Etrangères l'avait sollicité pour souligner l'inquiétude du gouvernement roumain et, d'autre côté, le rôle croissant que Bucarest attribuait à l'ONU dans le processus de stopper les luttes et de résoudre le conflit.

Sur « l'atmosphère » à l'intérieur de l'ONU, au premier jour du conflit arabo-israëlien, la Mission Permanente avait déjà informé le Ministère des Affaires Etrangères, le 6 juin : dans le Conseil de Sécurité, au cours du 5 juin, l'atmosphère dominante a été pleine « d'insécurité et impuissance ». Par contre, dans les milieux diplomatiques de l'ONU il y avait la conviction que les grands puissances n'étaient pas dispos à déclancher un conflit majeur au Moyen Orient et qu'ils influenceraient dans ce sens-ci les parties impliquées dans la guerre. On a interprété de la même façon la déclaration du gouvernement soviétique du même jour, qui faisait appel au gouvernement israëlien « d'arrêter immédiatement et sans conditions les actions militaires » et de « retirer ses troupes à la ligne d'armistice ».[5]

L'évolution ultérieure des événements a montré que ces premières appréciations de la situation à l'intérieur de l'ONU ont été correctes.

Dès le début de la crise du Proche Orient on a pu observer – dans la presse, mais aussi dans les déclarations officielles – des prises de positions différentes entre la Roumanie et certains pays socialistes européens. Elles ont été évidentes au cours de la réunion du 9 juin, à Moscou, des états membres du Pacte de Varsovie. Mais peu d'observateurs politiques auraient pu anticiper une si grande divergence, poussée jusqu'au refus de signer la « Déclaration » finale de la réunion. Plus encore, de retour à Bucarest, de la délégation roumaine, on a publié le 10 juin *« La Déclaration du Comité Central du Parti Communiste Roumain concernant la situation du Proche Orient »* qui venait souligner l'abîme entre la position de la Roumanie et celle des pays socialistes signataires de la *Déclaration* de Moscou. C'était un événement très rare dans le block communiste, même si la Roumanie, à partir des premières années de la septième décennie du siècle dernier et surtout après la « Déclaration d'indépendance » du mois d'avril 1964, exprimait – en ce qui concerne certains problèmes mondiaux – des points de vue différents des autres pays socialistes et c'est pourquoi le geste de la Roumanie a eu un large écho international.

En essence, à Moscou, la délégation de la Roumanie, formée de N. Ceauşescu et le premier ministre Ion Gh. Maurer, a refusé de qualifier l'Israel en tant qu'agresseur et de rompre les relations diplomatiques avec celui-ci. Par conséquent, la délégation n'a pas signé « la Déclaration » finale de la réunion, qui avait un caractère fort antiisraëlien et était rédigée dans un style agressif. Après le retour de la délégation à Bucarest, on y a fait publier une *Déclaration* qui exprimait le point de vue roumain sur les événements du Proche Orient. La Déclaration se fait remarquée par le ton équilibré et l'attitude égale envers les parties du conflit. Elle exprimait « la profonde inquiétude » du peuple roumain face au déclanchement des ostilités et se prononçait pour la fin des ostilités et la retraite des troupes israëliennes hors des territoires occupés, mais qui ne qualifiait pas l'Israel comme un « agresseur ». En même temps, les peuples impliqués dans le conflit du Proche Orient étaient conseillés à s'entendre d'une façon amiable pour trouver les solutions adequates aux « intérêts des peuples respectifs, à la sécurité et à la consolidation de la paix ».[6]

Le lendemain même, « La Déclaration » du PCR et du gouvernement roumain a été difusée comme document du Conseil de Sécurité de l'ONU. C'était un fait inédite – selon un functionnaire international du Secrétariat de l'ONU -, parce que « pour la première fois on a fait publier un document de l'ONU qui contienne la déclaration d'un comité central d'un parti communiste, même si celui-là apparaît en tant que document commun du parti et du gouvernement ».[7]

Après que, grâce aux interventions répétées du Conseil de Sécurité, le 10 juin les opérations militaires sur tous les fronts ont arrêté, le 12 juin l'Union Soviétique a pris l'initiative de convoquer une session extraordinaire de l'Assemblée Générale, qui devait examiner « la situation du Proche Orient, la liquidation de l'agression et la retraite des troupes de l'agresseur hors des territoires conquis ».

L'opinion du Ministère des Affaires Etrangères envers la démarche soviétique était très claire : par ce geste, URSS se proposait, d'un côté, de rétablir son prestige qui avait été préjudicié dans les pays arabes suite à leur échec militaire et aux critiques des pays arabes concernant la position adopté par l'Union Soviétique pendant les confrontations militaires de la région et, d'autre côté, d'exercer des pressions sur l'Israel, dans l'esprit de la « Déclaration » du 9 juin, de Moscou. Mais le Ministère des Affaires Etrangères considérait que

la Roumanie devait répondre affirmativement a l'appel du gouvernement soviétique, parce que :

a) La Session aurait offert aux états membres de l'ONU l'opportunité de présenter leur position face au conflit du Proche Orient et des moyens de trouver une solution.

b) La délégation roumaine avait l'occasion de faire connaître la position du pays face à la situation de la région.

c) La Session aurait pu constituer un cadre favorable pour établir des contactes en vue de trouver des solutions qui puissent dépasser le moment actuel de tension.[8]

Mais dans les instructions envoyées le 14 juin à l'ambassadeur de la Roumanie auprès l'ONU, Gh. Diaconescu, on lui attirait l'attention sur le fait que, dans la réponse qu'il allait donner au secrétaire général de l'ONU, U Thant, au sujet de la convocation de la session extraordinaire de l'Assemblée Générale, il ne devait faire « aucune sorte d'appréciations et commentaires à propos du but poursuivi par la convocation de cette session ».[9]

L'ambassadeur Gh. Diaconescu, lui-même adepte de la convocation d'une session extraordinaire de l'Assemblée Générale, était quand même sceptique en ce qui concernait les résultats finaux (« l'Assemnblée Générale ne sera probablement pas en mesure de résoudre les problèmes du Proche Orient »). Il avertissait Bucarest que cette initiative « crée l'impression » que, en fait, on envisage seulement une discussion politique dans l'Assemblée Générale, où les principaux interlocuteurs étaient les Etats Unis et l'Israel, d'un côté, et les pays arabes, de l'autre, les derniers soutenus par URSS. Il attirait aussi l'attention sur le fait que par la convocation de la session extraordinaire on ne respectait pas la position de principe prise jusqu'alors par URSS au sujet de la compétence du Conseil de Sécurité dans les problèmes de la paix et de la sécurité internationales. D'ailleurs, au cadre des débats, les délégués occidentaux ont souligné expressément que la session extraordinaire a été convoquée sur la base de la Résolution 377 (V) « Unité – Paix », refusée jusqu'alors par l'Union Soviétique.

Les débats de la cinquième session extraordinaire de l'Assemblée Générale ont eu lieu entre le 17 juin – le 21 juillet 1967, la délégation roumaine étant dirigée par le premier ministre, I. Gh. Maurer. Celui-ci a présenté, le 23 juin, au cadre des débats généraux, la position de la Roumanie au sujet du conflit du Proche Orient. Nous n'y insistons pas sur la prise de position du premier ministre roumain. Mais nous soulignons qu'il s'agit de la plus complexe présentation du point de vue roumain à l'égard des problèmes du Proche Orient. Le premier Maurer a présenté un projet à 4 points qui, à l'opinion du gouvernement roumain, même si ne trouvait pas une solution miraculeuse des conflits du Proche Orient, il indiquait le chemin à suivre pour faire possible « l'adoptation de solutions rationnelles et durables ». Le premier point de ce projet proposait d'employer exclusivement des moyens paisibles pour résoudre les litiges ; le deuxième demandait d'exclure les imixtions étrangères dans les problèmes des pays de la région ; troisièmement, il s'agissait du respect des intérêts fondamentaux de chaque pays de la région, y compris de la population palestinienne refugiée ; quatrièmement, la méthode qui pouvait amener à une solution de paix, rationnelle et de long durée, c'était celle des négociations entre les pays directement concernés.[10]

Le résultat final de la session extraordinaire de l'Assemblée Générale de l'ONU n'a pas donné les résultats envisagées par l'URSS. Après la première semaine de débats, Corneliu Mănescu, le ministre des Affaires Etrangères de la Roumanie et le futur président de la XII-e session de l'Assemblée Générale de l'ONU (le premier président d'un pays socialiste, élu dans cette dignité), qui était présent à New York, avait déjà des appréciations critiques à l'adresse de la tactique employée par la délégation soviétique. Il considérait que l'URSS, à cause du désir de refaire son prestige dans les pays arabes, a essayé de les persuader de « la nécessité de soutenir une lutte politique victorieuse, qui puisse compenser la défaite militaire. En réalité – soulignait C. Mănescu – les débats ont commencés à montrer qu'il n'y avait pas de conditions propices pour un tel succès et que à cause de la tactique fausse inspirée par l'Union Soviétique il existait le risque d'ajouter à la défaite militaire un échec diplomatique.[11]

Ce qui s'est passé d'ailleurs. La Session extraordinaire n'a pas donné satisfaction à l'URSS et aux pays arabes, qui voulaient obtenir la condamnation de l'Israel et la retraite de ses troupes en dehors des territoires arabes occupés, mais sans insérer dans une résolution les demandes de l'Israel et de ses alliés, ce qui a conduit à l'idée que la session a doublé la défaite

militaire des pays arabes par une défaite diplomatique. Par contre, l'analyse faite par le Ministère des Affaires Etrangères sur les résultats finaux de la session extraordinaire faisait remarquer, en tant que fait positif que, dans le cadre des débats, « ont été mis en évidence les éléments principaux d'une solution par l'intermédiaire de l'ONU, qui doivent contenir des prévisions satisfaisant les demandes essentielles des deux parties impliquées : la retraite des troupes et la fin de l'état de béligérance.[12]

D'une manière générale, la délégation de la Roumanie à la session extraordinaire a fait des efforts dans cette direction-là. Elle a agi en vue de la réalisation d'un projet de résolution qui contienne la demande de retirer les troupes hors des territoires occupés et la demande de résoudre par des négociations les problèmes existants, avec la garantie de la sécurité des pays arabes et de l'Israel. Dans ce but, elle a essayé de faire un compromis entre le projet de résolution présenté par les pays non-alignés et celui des pays latino-américains. Mais, malgré tous les efforts, elle n'a pas pu réaliser ce désidérat (les délégations soviétiques et yugoslave étant convaincues que le projet de résolution des pays non-alignés obtiendra les votes nécessaires pour être aprouvé, ce qui ne s'est pas passé), de sorte que les deux projets se sont bloqués réciproquement.

Suite à l'échec des tentatives d'arriver à une solution de compromis, le 21 juillet 1967 on a adopter une résolution procédurale proposée par la Suède, l'Autriche et la Finlande, par laquelle la session extraordinaire de l'Assemblée Générale interrompait temporairement ses travaux et son président était autorisé à la reconvoquer quand et si c'était nécessaire. La délégation roumaine a voté en faveur de cette résolution, adoptée avec 62 votes pur, 26 contre et 27 obstantions.

Pendant les années suivantes, le gouvernement roumain a continué, en plan bilateral et international, y compris au cadre de l'ONU, de contribuer à défendre la situation du Proche Orient par l'établissement de rapports de collaboration et d'amitié avec tous les états de la région.

NOTES:

[1] *Scânteia*, le 1 juin 1967.
[2] I. Calafeteanu, Al. Cornescu-Coren, *La Roumanie et la crise du Proche Orient*, Les Editions Sempre, Bucarest, 2002, p. 39-40.
[3] Les Archives du MAE, la Problème 241/l'ONU, boite 4.
[4] *Loc. cit.*, Instructions, le 7 juin 1967.
[5] *Loc. cit.*, Information de la Mission Permanente de la Roumanie auprès l'ONU, 6 juin 1967.
[6] *Scânteia*, le 11 juin 1967.
[7] L'Archive du Ministère des Affaires Etrangères, Le Problème 241/l'ONU, le conflit arabo-israëlien, boîte 4, information de la Mission Permanente de la Roumanie auprès de Nations Unies du 15 juin 1967.
[8] *Loc. cit.*, la note de la Direction de l'Organisation Internationale du 13 juin 1967.
[9] *Loc. cit.*, information de Gh. Diaconescu, New York, le 14 juin 1967.
[10] Le Ministère des Affaires Etrangères, *La Roumanie et l'Organisation des Nations Unies*, Les Editions Enciclopedică, Bucarest, 1995, p. 104-111.
[11] L'Archive du Ministère des Affaires Etrangères, le Problème 241/l'ONU, boîte 5, information de C. Mănescu du 26 jkuin 1967.
[12] *Loc. cit.*, la note du MAE du 7 août 1967.

Serbia's Geostrategy – From Everything To Nothing

Sime Pirotici

This study starts from two basic premises. The first is that the Yugoslavian space has its specific geostrategic value and its variation in time has strongly influenced Yugoslavia's existence. This is why we shall divide the significant periods of time when this variation has been null, insignificant or has presented significant leaps. The second one is that in the entire aggregate of Yugoslavia's components, Serbia has had the decisive role and this is the reason why Yugoslavia's destiny has depended – to a great extent – on the attitude of the great international actors towards it. The present essay focuses on this matter.

Before the First World War

In the geography of the Balkan Peninsula, the Danube has played the role of the backbone. However, it does not separate two symmetrical spaces, but two contrastive spaces, from various points of view. While in the North of the river, there are only two peoples with a certain massiveness and compactness, the Romanians and the Hungarians, in the Southern space, on the contrary, there is an actual mosaic. Here, the peoples are smaller and more interlaced.

Serbia's territory is placed in the centre of this mosaic, which explains the fact that in the South-Danubian system it has played sometimes the role of a pivot, sometimes the role of separator between a North of western influence and a South of Byzantine influence. Therewith, as it occupied – with certain approximations – the whole space between the west bank of the Peninsula and the Danube, Serbia could turn into a potential barrier from the possible expansionistic tendencies that existed on the north-south direction. And this happened because – once more – its geography helped it in this respect. In deed, as the chain of the Dinaric Alps lines-up the western side of the Peninsula, the space between the mountains and the Danube narrows, creating a corridor that has always been **the main direction of penetration** into the peninsula. The Serbian state has functioned as an vent in this corridor.

In the Middle Ages and in modern times, two great powers have used – yet in an opposite way – this corridor: the Ottoman and Habsburg empires. Nothing more natural, as this direction presents three defining reference points: the Constantinople in the South, Vienna in the North and Belgrade in the middle of the distance between them.

At first, the Ottomans have pushed from south, and they had to destroy the feudal Serbian state (the battle of Kossovo, 1389), in order to shatter the vent and to go further. But Serbia's fall under the Turkish rule was not sufficient without the dominance of Belgrade. The ruling of this spot represented at the time Hungary's security for a century (1427 – 1521), and its fall under the Turkish control preceded its fall.

Following the decline of the Ottomans, the Austrians pushed from the north, and in their turn, they encountered the Serbian state, which re-emerged in the XIXth century, as a result of the same decline. Austria's way of solving out the problem of this vent was however more complicated because of its rivalry with Russia, which, basically, was trying to accomplish the same thing: to penetrate towards the south of the peninsula. The new superpower was an outstanding opponent for Austria because of two essential reasons. Firstly, because – as a Slavic and Orthodox country –, Russia could find a natural support within the south-Danubian space, and thus, by religion and Pan-Slavism, it could ideologically smooth the way of its expansion de facto. Secondly, because, as it targeted the

Constantinople, Russia, in favourable situations, could create a shortcut that could bring it into Serbia's back. This is why it was interested in the existence of a Serbian state, which, from Russia's point of view, was not at all disturbing, but quite the contrary. Russia hoped to suppress the vent that Austria wanted to maintain. This is why it supported the emergence of an independent Serbia with its capital at Belgrade (1878), thus building a anti-Habsburg barrier as efficient as the one that Russia itself encountered when a Romania with access to the sea had emerged (1878).

Austria-Hungary had only two alternatives left: Serbia's friendship or its destruction. It tried both, successively. For a while, it succeeded to attract Serbia into its sphere of influence, yet afterwards a series of events (a custom tax – war, the dynasty change in 1903) have led this relationship towards hostility. Then, after having annexed Bosnia-Herzegovina – a province that Serbia considered part of its national territory – in 1908, the two states were on the verge of war. Henceforward the Habsburgs could only find the Serbian vent in effect and – just like the Ottomans in the past – had no alternative but to destroy it.

This became more obvious after the two Balkan Wars (1912-1913), which had weakened Bulgaria, the client that Austria – Hungary had managed to co-opt in Serbia's back and with the help of which it had hoped to blackmail Serbia. On the contrary, the Serbian state, enlarged and consolidated, had the possibility of a more efficient opposition. The Balkan Wars had turned Serbia into the worst of Austria-Hungary's expectations: in the south of the Danube emerged an important national state, confident and dominant in its region. Moreover, the military victories and the elements of modernity inside the country (universal vote, freedom of the press, a moderate monarchy and the land reform for peasantry) had raised Serbia to the rank of a success model which the Southern Slavs looked up to, with more and more consideration. Serbia had been an isolated state so far, yet, after the Balkan Wars, Serbia established its objective: the access to the Adriatic Sea. Thus, Austria-Hungary's worst nightmare took shape, i. e. to see the peninsula cut in two by a state grown between the Danube and the sea. Any Mediterranean power hostile to Austria-Hungary obtained the possibility to make the junction with Belgrade and – using Serbia as a pivot – could organise a Balkan policy. The prospect that was just occurring was that of a Balkan region where the simple situation with only two great rivals turned into a more complicated one, with a growing number of players and a more and more complicated policy.

On the eve of the First World War Austria-Hungary had to confront a painful dilemma: to accept the occurrence of new competitors, but in this case its expansion would have become a simple illusion, or to try to solve simultaneously and radically all the problems – destroying the Serbian vent and eliminating the rival that controlled it.

Decisive period (1914-1919). Serbia receives an Yugoslavia

However, the First World War revealed unexpected aspects.

First of all, we saw that the Serbian state was too hard a nut for the Habsburg hammer. After several blows that were energetically rejected, the empire stopped in stupefaction and asked for help (1914). Bulgaria, its client in Serbia's back, came to its assistance. Caught in the thumbscrew, the latter seemed to break down when its territory was completely occupied and divided between its adversaries (1915).

Nevertheless, it was clear afterwards that the state had not disappeared along with its territory, and that it kept its crucial political and military institutions, as well as its capacity for conducting war. It continued to fight in exile conditions, with no interruptions, until it obtained the final victory and found again its lost territory.

This type of conduct, resistant and active, had a surprise effect at that time and determined the attitude of the great allies in the following period. The explanation consists in the fact that, in its modern genesis, the Serbian state had interlaced two types of features, the war-like features – which made it seem a kind of medieval military mark – and the features of a modern national state.[1]

A document dating from the beginning of 1916 clears up the attitude and the plans of the great western superpowers regarding the Balkan Mountains in general and Serbia in particular. The famous Sir Arthur Evans and Hugh Seton-

Watson make a clear, detailed statement[2] concerning these matters.

(We should note only that their expressed intentions occur in a moment when the victory was still far from inclining to either of the parties involved, Serbia seemed to have been fallen, and the territory of the future Yugoslavia was totally under the control of the Central Powers. There were not even signs that Austria-Hungary would disappear, but nonetheless in London and Paris the ways of stopping Germany's future expansion to the SE and the Middle East were already being investigated. One of the main ways was the emergence of a Yugoslavia after the war).

Sir Arthur approaches these matters systematically.

First of all, the importance of Dalmatia.

From the Entente's point of view, he points out, the control of the oriental coast of the Adriatic Sea (Dalmatia) had irrefutable benefits. An agreement between Italy and the Southern Slavs[3] is of equal interest for the parties and represents the "angular stone of any long-lasting peace within these territories and the *authentic guarantee* (o. u.) against Germany's possible domination, which would be equally fatal to all the interests of the Entente's great powers". History proves, he emphasises, that *controlling the coast without controlling the mountains behind is always precarious* (o. u.). This is the reason why he starts presenting the logic of creating a *Yugoslavian state*: a series of elements of the peninsula must be converged and given to someone that should not represent a danger. He clearly highlights these elements and the way they have been functioning throughout time from the geopolitical point of view. Then, after reminding how the Dalmatian pirates have functioned ever since the Roman antiquity and since the time of Queen Teuta, he concludes that "Dalmatia's control by powerful hands is a serious threat for all the Mediterranean powers, particularly for Italy and for ourselves".[4] Dalmatia's strategic points (harbours, gulfs, archipelago) impress him to such an extent that he concludes again: "It is of great importance to us, and particularly to Italy[5] that Dalmatia's control from the inside should be friendly. Which can be done by *a unified South-Slavic state*" (our underline) We find here a political realism that almost borders on cynicism: it is very clear that the Yugoslavian state should be born for the interest of the Entente's powers. Not at all for the sake of putting across the principle of nationalities.

Southern-Slavs' national spirit is not forgotten, but it is considered only with a view to being instrumented. The national problem takes a very modest place in the author's attention, much more modest than the communication networks. This fact is significant for Sir Arthur's interest in his recommendations to the British politicians. "A unified Yugoslavian state could prevent the Germanic powers from controlling the Mediterranean Sea" and would place a territory "that must be considered as one of the most important in future communications with the Orient" under the protection of the allies.

The issue of the communications with the Orient is crucial, too. Sir Arthur proceeds with one of those comparisons that prove his erudition. He exposes the detailed picture of the entire communication network that has unified Europe in the time of the Romans in order to demonstrate that the shortest communications between West and East passed through the north of the Adriatic Sea and through the present territory of the Southern Slavs. As compared to this configuration, the subsequent influence of Germanism has rendered the old route secondary and has moved the main communication road so that it should pass through Vienna and Budapest. By reaction, he proposed that the old Roman route should be reinforced. It would have united Great Britain, France and Northern Italy with the Levant. In addition, it would have had the advantage of being independent and shorter than the long main road through the Germanic space. But in order for this to be accomplished, it should pass through Liubliana, Zagreb and Belgrade. A new argument for establishing a Yugoslavian state. It is "essential for the British Empire" that this road should "pass through friendly hands".[6] The most important strategic point on this entire route is Belgrade because of its position – genuinely exceptional, which Sir Arthur characterises outstandingly. Belgrade has a single weak point, he observes, its location near the border. He was certainly thinking of the bombing of the town in 1914 when Austro-Hungarians had nothing better to do than firing their artillery from the opposite bank; likewise, also in 1914, Belgrade had passed from one hand to another, proving its vulnerability without a territory that should separate it from the border. Hence, the conclusion: the future Yugoslavian state should be given sufficient territory.

Let us notice in this context that the population, whatever it might be, is not asked in any way about these territorial changes that concerned it after all. Sir Arthur was not interested in details!

His exposé was not only a geographical, historical, geostrategic study a.s.o., but also a very solid **state project**, coldly elaborated pretty much the way a contemporary manager proposes an investment project for the set-up of an enterprise.

On the same occasion, Seton-Watson[7] asserted very decisively that the South-Slavic problem "pertains to the vital interests of the British Empire" and he was dazzled about the slowness of its realisation of this reality. Seton-Watson sees the problems in great perspectives. *"... the real reason of the aggression against Serbia* (of 1914, o. n.) *is a reason that pertains to Europe's 2000 year-old history"*.[8] Serbia had been in everybody's way, regardless of the direction of the expansion: in the way of the Crusades, in the way of the Turks, and, more recently, in reverse sense, in the way of the Germanic conquerors. "In both cases, Serbia had to be dissolved for the accomplishment of a great political plan". And further: "Today (in January 1916 – out note) we see what this plan is from our adversaries (the Germans, o.n.). Their political philosophers have been pursuing it, militarily and otherwise, for many year, in open theory or in an occult manner". The plan is a great Germanic state "from the North Sea to the Persian Gulf". Austria, Turkey and, to a certain point, Bulgaria, are only instruments for this policy. So that "it is our mission" (Great Britain's, o. n) to build a new policy. Obviously, we are allowed to say: << We are too incompetent or too lazy to build a counter-plan, which can only be that of building a barrier in the way of Prussia's domination over the Orient".

Next, we should ask ourselves, like Seton-Watson, "what does the establishment of a geographical barrier mean", i.e. a geostrategic barrier, against Germanism? The solution he proposes is clear: the entire expansion direction of the Germans must be scattered with independent national states where Germany's expansion should get stuck. Seton-Watson establishes the priority agenda, too. "The first among these states, the state that stands out more evidently (from the geostrategic point of view – o. n.) is the Southern-Slavic state, created in the manner we hope and calculate, and that, to our own vital interest, beyond sentimental matters, we shall have to create". We should fugitively note what states were going to be founded in order for the plan to succeed: "Bohemia in the centre of the Europe, Poland a little more to the north, and as an additional condition, a Hungarian independent state and an enlarged Romania.

All this manoeuvre was going to be made "on the ground of the principle of nationalities". And he concludes like before, always on the verge of cynicism: after the victory "we have in our hands the instruments for this (the planned anti-German barrier – o. n.): the democratic Slavic nations, opened to Central Europe's progress, the Poles, the Czechs and *particularly the Yugoslavians of the Adriatic Sea...*" (o. u.).

All these reveal without any doubt that the Western powers wanted to unify the Yugoslavian peoples as much as the Central Powers wanted to divide them.

In the same year, a great part of these ideas appeared also in *Le Programme Yougoslave*,[9] by which Dalmatians' emigration from Austria-Hungary was making a unionist propaganda in Western chanceries. Among other things, a geostrategic argumentation was put forth, which should have mutually interested France and Great Britain as far as the inclusion of Dalmatia into a Serbian state was concerned.

It was not difficult. There was only one problem: on what grounds this state should be founded. And a single answer: Serbia. At the end of the war its great allies determined it to give up its initial project – its own national state, possibly enlarged as a Great Serbia – for another South-Slavic state that was more convenient for London and Paris than for Belgrade. There was no need for great efforts, as at the end of the war a special state of mind was created. Yugoslavic ideology had been spreading and was advocating the idea that all Southern Slavs are but one people, only the names are different (Serbians, Croatians, Slovenians). The various south-Slavic provinces of the former Austria-Hungary were demanding the unification with Serbia, wishing to take some shelter from the Italian expansionism. On the other hand, the euphoria of the victory had raised the Serbs' huge ambitions and their desire of compensation for their immense sacrifices. Therefore, they sacrificed their national state in favour of a mini-empire that they exploited as such, therewith continuing to present it as a national state.

Between the World Wars

Although the Yugoslavian unification seems to be an extensive and spectacular event, in fact nothing was basically changed: Serbia is still conceived as a barrier. Yet, as this time it has to stop the formidable Germany, we can see that in order to correspond to the situation Serbia had been consolidated proportionally, receiving an entire Yugoslavia as a dowry, with a protection territory for Belgrade and Dalmatia with its ports that represented the access to the sea.

Moreover, western powers had found their harmony after having managed to push into the Serbian bulldog's backyard all the "suitcases" of the Balkan Mountains they were interested in. Once their plans accomplished, the old ideas continue to appear only as anxieties, related, of course, to a resumption of the Germanic expansion in the Balkan Mountains.[10] There was nothing left for them but to support Belgrade even if whimpers were heard from the inside. Croatians submitted complaints after complaints (to the Society of Nations and to the great capitals) denouncing Serbian centralism and hegemony, and their political parties, Slovenians' and Bosnians', suggested Yugoslavia's reorganisation in a federative form. However, as at that time the superpowers considered that a federative state is weaker than a centralist one, they preferred to cover their ears to their discontents and claims. Serbia received a mandate in blank under the transparent excuse that, undoubtedly, "the flexible and intelligent Serbian genius will know how to find the happy modalities susceptible of conciliating the desires and all the legitimate claims".[11] This meant that Serbia should solve the national problems of Yugoslavia in its own manner.

However, during the first inter-war decade, the enemies of the western powers soon discovered that it was profitable to see the matters exactly in the opposite manner and began to erode the Serbian barrier, digging-up into the national problem. They avoided direct blows either from lack of power – as Hungary and Bulgaria did – or out of fear of international risks and implications, as Italy did. They preferred to act at the basis of the barrier with a strategy that more involved the peripheries of the Yugoslavian system rather than Serbia itself. Italy was just about to reach a compromise with the latter if Belgrade would have accepted Dalmatia's separation. Nevertheless, the intransigence encountered here determined Mussolini to look for cracks to slip his dynamite in Macedonia and Croatia. Through a hegemonic and plundering policy that revolted the provinces, Belgrade was helping him to find them.

During the first inter-war decade, due to the Italian pressure upon its Yugoslavian empire, Serbia renounced its tradition, being confronted for the first time with an attempt of lateral coercion. Yet it returned to matters that were familiar during the second decade of the period, when, after the completion of the Anschluss (1938), an aggressive Germany showed up at its northern border. This almost completed its encirclement.

Those were the days of its great geostrategic importance. Obviously, its insecurity had been continuously growing until it equalled the importance of the positions it held.

The Second World War Period

As important as it may seem, the Second World War has brought nothing new in principle. Serbia and the entire Yugoslavia around it have had the same role of vent on the north-south direction. In a changed conjuncture, Germany has resumed its expansion to the south of the peninsula, yet, like Austria-Hungary in the past, it first looked for a way of opening the vent without having to force its way militarily. During his negotiations with Prince Paul, Hitler was tempted to guarantee Yugoslavia's territorial integrity in exchange for a permissive vent (March 1941). Hitler made his way by military force only when Serbia's ego outburst abruptly annulled the agreed arrangements, which jeopardised his plans.

The Yugoslavian barrier fell with a rapidity which proved that the multinational Yugoslavian state was actually much more fragile than the Serbian national state would have been. Attacked

in circle, forced to disperse its forces almost along all its borders and with no possibility of gathering its forces to the shelter of Bosnia-Herzegovina's central massif, the Yugoslavian state was easily defeated and soon disappeared. Distraught by national problems, Yugoslavian armies had nothing of the strength of the Serbian ones two decades before.

Nevertheless, when everybody thought that the Serbian barrier had been crushed, much like in the previous war it found its own, costly way of resisting on the map of the war.Yugoslavia's annihilation, its division between the winners and the founding of puppet-states, the Croatian and the Serbian states, had entangled the Gordian Knot to such an extent, that an extremely bloody civil war broke out, combining all possible contradictions: ethnical, religious, ideological. Out of this stir, a liberation movement was born, fighting against occupation troops ("Tito's partisans"), with a combative efficiency that kept on growing. The partisans rapidly exploited Bosnia's massif, which Yugoslavian armies had neglected, and started the country's liberation. The number of German troops that they managed to block during the war was significant.[12]

The Communist Approach

After the war, something fundamental happens: the relation between Yugoslavia and Serbia is overturned.

Due to the partisans that had progressively become communists, Yugoslavia put herself together once more. Communists' internationalism, accepting all ethnic groups, was very well received by the population, following the years of bloody nationalism. Moreover, their political program aiming to reorganising the state into a federation (Jajice, 1943), thus complying with non-Serbian peoples' main request in the time of the first Yugoslavia. Yugoslavia could consider itself to be on the side of victory also due to the partisans. Much like the end of the first war, after numerous sacrifices, the end brought a great prestige in the international arena. However – also because of the partisans – unlike other situations, this prestige was now more a Yugoslavian than a Serbian one, even though the Serbs claimed that they were the ones who had bestowed most sacrifices and the most numerous heroes.

As compared to 1918, in 1945 the system is radically changed: what used to be the Yugoslavian periphery becomes the strong point, in detriment of the Serbian force nucleus. The second Yugoslavia represents the emancipation of the empire and the beginning of Serbia's decline. Taking over the Yugoslavic idea in their own manner, the communists have emphasised the systemic principle in detriment of the parts, which on federation level translated into the principle: "a weak Serbia, a strong Yugoslavia". The constitutional organisation and the inner borders of the republics were established on this principle. Consequently, while after the First World War Serbia had taken over a Yugoslavia, after the Second World War, Yugoslavia takes over and tames a Serbia

The Cold War. Geostrategic oscillation: Serbian decline, Yugoslavian Peak

Serbia's geostrategic decline was considered a minor fact and did not disturb anyone at the end of the war. The old vent of the north-south direction had become useless and went out of history.

Now a crevasse had been created on the east-west axis, which subordinated all other problems. Nevertheless, the inter-war decades had allowed the outlining of the idea that the side pressures (then Italy) increase Yugoslavia's geostrategic importance rather than Serbia's. This geostrategic modification suddenly became very obvious when the East-West confrontation placed Yugoslavia right on the great border.

As a country pampered by Stalin, it initially placed itself zealously on the eastern side of the border and provided Stalin with various services. Among other things, it accepted to be the dispatcher of assistance to the Greek communists, in a way that seemed to remind the old north-south direction. However, the Belgrade-Moscow relationship deteriorated quite rapidly when Stalin had to observe that Tito had his own projects regarding the foreign policy and he was ready to accomplish them even against Moscow if necessary.

Just like after the first war, victory created an euphoric effect and a surplus of confidence in the

country's own forces, which reflected into an ambitious foreign policy. Tito's partisans occupied the north of the Adriatic Sea, pursuing Slovenia's growth, and Trieste was kept for Italy only after U.S.A. sent an ultimatum to Belgrade. In fact, by diminishing Serbia's domestic policy, Tito was taking over the latter's nationalism in the foreign policy. An older and more ambitious Yugoslavic project dating from the inter-war period was taken over by Tito in a new form. It was about a grand Yugoslavia, which would have spread from the Adriatic to the Black Sea, thus including Bulgaria. Tito thought that Bulgaria – once again weakened by defeat -, would consent, particularly that this time a federative state was suggested. Macedonia would not have been a problem between Serbia and Bulgaria any more, since it would have become a domestic affair of the state. The problem of Albania – although it was a non-Slavic country – was to be solved much the same way, by including it in the Yugoslavian federation. Only Greece was going to be omitted in the territory south of the Danube, but he hoped to annex Aegean Macedonia from the latter, and this is the reason why he kept on helping the Greek communists on his behalf, although Stalin had abandoned them.

This way Tito's federative Yugoslavia was preparing to assume geostrategic functions, which royal Serbia – mainly concerned to preserve its hegemony – preferred to abandon.

Stalin was completely against these projects, preferring to have several controllable states in the Balkan Mountains, rather than one ambitious, uncontrollable state. Consequently, Soviet-Yugoslavian relationships reached the maximum tension. Yet, it was proven that, regardless of the means, none of the parties had resources to persuade or force the other. In exchange, each of them had resources to cause a loss to the adversary. Gathering the communist states against Yugoslavia, Stalin isolated it and destroyed the project of a Balkan federation. On the other hand, Tito forced him to accept the first doctrinal heresy in the communist camp and the first breech in the geostrategic mechanism. Considering the disproportion between the parties and the international stake of the game, we can assert that the final outcome was a fine victory of Belgrade.

But it was not only a victory of Serbia, but one of Yugoslavia, too. Its geostrategic importance was making for the peak.

The immediate consequence was that Tito made Yugoslavia slide one step to the West, then he stopped it right on the zipper between the two sides. Once this was done, it became increasingly obvious that the second Yugoslavia was becoming an vent on the east-west direction, just as Serbia had been before, on the north-south axis.

The gained position had to be exploited, too. Very soon Yugoslavia established relationships with an Occident exhausted by defeats from the Soviets and glad to obtain a victory that it had spent nothing to get. This is why the West preferred to do it now. The result was that the West opened a door to Yugoslavia, through which capital never ceased to roll in various forms. At the same time, as it occurred in a time when it was inconceivable, the Titoist dissidence brought Yugoslavia a prestige and an international support that it benefited by in its foreign policy.

Forced by Stalin to lead an extra-Balkan foreign policy, Tito has led an original policy on the global arena. After turning Yugoslavia into an oasis of neutrality on the frontier between East and West, he began to theorise its example, turning it into a model of export. In a world burdened by the pressure of polarisation, he managed to find partners willing to escape the vice – as he did – without paying the price of the isolation. The Conference of Bandung created the movement of the non-aligned and turned him into a leader of global prestige.

Those were Yugoslavia's golden days. Under the pressure of Yugoslavia's international success, Serbia seemed to be melted into the former's melting pot and its individual role had lost its past importance.

Even before Bandung, the West had understood that it could no longer wait; Yugoslavia was not a push-through the enemy front. But the West began to be interested in maintaining this dissidence in its enemy's flank, much the same way that the soviet enemy would become interested to maintain a communist Cuba in the USA's back. As far as both superpowers were concerned, this was of no big use. Forced into a defensive position, both superpowers managed to put the heresy at their door into quarantine and get used to its existence. In offensive position, each of them quickly understood it could not develop anything starting from the bridgehead they believed for a moment they had created. Yet, in the same time, they could not afford to abandon it, so that they continued to support it. Consequently, during the Cold War, the West left the channels that allowed

the subsistence of the Yugoslavian economy open, as the Soviets were watching the subsistence of the Cuban economy.

Very soon, after Stalin's death, the Soviets accepted the situation in Yugoslavia, which wanted to show the world that it had emancipated from the aggressive dogmatism from the past. As Tito turned to be a non-oscillating communist in the end, Yugoslavia's position in principle made them a favour, too: tolerating the Titoist experiment proved their liberal position at no costs. However, from the military point of view, the loss was significant, as Yugoslavia's non-alignment took away their possibility of locating military bases at the Adriatic Sea, and therefore their chance of piercing like a wedge between Italy and Greece. The Mediterranean NATO disposition was able to remain dominant all the time.

Thus, during several decades, Yugoslavia calmly collected the usufruct of its new geostrategic value.

The Final Stage: Pandora's Box

1989 was a crossroad. The end of an old and the beginning of a new chapter in history. The balance of the problem this time showed that the Southern-Slavic territory had been taken advantage of by two sets of geostrategic criteria. The first, old and traditional, had derived from the north-south axis and had forged the history of Serbia and of the first Yugoslavia. The second one had derived from the east-west axis and had forged the faith of the second Yugoslavia. Up until 1989, some kind of a relay had functioned between Serbia and the two Yugoslavias, and, when one of them missed the wind in its sails, in fact it deviated it to the other's direction.

Still, at the end of the Cold War, for the first time in the XXth century, Yugoslavia was not on an expansion direction or on a border between two enemies. It could no longer feed from power balances or equivocal force relations. For the first time in its history, Yugoslavia was not threatened anymore by Byzantines, Turks, Austrians, Germans or Russians. Finally secured, we could expect it to flourish. Nevertheless, it collapsed right in that moment. It was precisely the confrontation that Yugoslavia was prepared for, and the pressures and the outside support of this and that scarcely did it good, holding up its walls.

In the new world after the Cold War, it had to discover a new set of criteria which could render it a value for the West or for the world in general. And this set of criteria existed. It has been proven that the USA and other superpowers wanted to maintain Yugoslavia out of fear that its disappearance might destabilise a traditionally vulnerable area. Still standing up, Yugoslavia containerised old Evils that the West wanted to get rid off and that – just like an appendix – isolated them from Europe. Once the container broken, there was fear that it would pour out xenophobic nationalism, religious intolerance, ethnic aggressions, etc.

The West has opted almost unanimously for a strategy synthesised by two ideas. Firstly, maintaining the Yugoslavian container (yet without mixing within it the acceptance of a passive and permissive policy in the relationship with Belgrade, the capital of the federation). It was the third time, after 1918 and 1945, when the West (and now first of all the USA), considered that Yugoslavia's existence was necessary. Secondly, this policy had to be doubled by a more active one, which should make a preventive prophylaxis in the area. Yet, once the strategy was chosen, we should not draw the conclusion that the West had made great efforts to implement it. First of all because at the beginning of the '90-s, USA in particular was drawn by other horizons and problems (particularly in the Gulf), secondly because the prestige accumulated from winning the Cold War made it believe that the simple statement of its desire will be sufficient resource for determining the regional actors. And it was not at all wrong.

As far as maintaining the container is concerned, this has been noticed especially on the occasion of James Baker's visit to Belgrade (the 21st of June, 1991). It was only a one-day detour from the route of the American state secretary, who did nothing more than to express in principle USA's support for Yugoslavia's existence. Yet, that was enough for Slobodan Miloshevitch, who, understanding that he could not expect an outside intervention, he launched the military actions against Slovenia, the prelude of the long inter-Yugoslavian wars. As far as the second idea – the regional prophylaxis – is concerned, it was obvious on the occasion of the embargo against Yugoslavia, which the regional states respected, despite their losses.

This strategy was abandoned and replaced when the succeeding states – Slovenia, Croatia, Bosnia-Herzegovina, then FYROM (Macedonia – began to receive international recognition. For the first time after the Firs World War, the world had to consider a Southeastern Europe without Yugoslavia.[13]

Therefore, the Yugoslavians consciously failed to meet the last set of criteria that guaranteed their existance – stablishing the South-Danubian mosaic. Serbia had the decisive role in this drawback, as it prefered to reject the only project (put forth by Slovenia and Croatia) that could maintain Yugoslavia.

Actually, in its last years of existence (after 1989), the second Yugoslavia gradually began to resemble the first. Just like then, the external environment supported Belgrade (although only until June 1991).[14] The differences of perspective between Serbia and other inner nations have increased. These were exerting a pressure from the inside for a looser form (confederation) which Serbia rejected as it was interested only in consolidating the centralisation.[15] In all cases it was an effect of the nationalist policies. To a great extent, Yugoslavia represented – for Slovenia and Croatia – just a convenient shelter at the end of every great war. But at the end of the Cold War, the atmosphere of security determined them to seek their interest outside Yugoslavia.

This was the case of Serbia, too. Belgrade proved that the last geopolitical role it had received – regional stability and Evils containerisation – was not fit for it. History had educated Serbia for combative roles, and it was impossible for Serbia to assume a managerial role. Engaging, together with the other republics, in a race of founding national states, it could only accomplish the opposite effect and destabilised the area. The wars that broke out broke also Pandora's box and all the intolerance – which Europe wanted to get rid off – spread out.

The principle of the national state attains a late and last triumph which extends over that of the European integration. For a moment, the occurrence of the new states reminded of the Europe of Versailles, dominated by suspicions, rivalries and national hatred; they also emerged from Pandora's box. For the West, the problem consists in managing to avoid that the disappearance of the "Europe of Yalta" should create spaces for the revival of the "Europe of Versailles".[16] The answer consists in the same integration therapy that proved successful for over half a century and that has to go down in the Balkan Mountains[17] *without avoiding Serbia.*

NOTES:

[1] Its existence in the South-Danubian corridor made it resemble those medieval bellicose states (initially military marks or knight-orders) founded in vulnerable regions with a view to managing valleys, mountains, passes and key positions at the boarder with an enemy. The warlike character was the more inevitable as the state had re-organised itself following anti-Ottoman insurrections of the people that had succeeded in waves for several decades. The starting point was zero (1804) – if we do not consider the myths. Serbian society was lacking elites, as the Turkish rule had prevented the emergence of the bourgeoisie. Elites had been formed through liberation fights and had a war-character. Barely delineated, institutions and elites had found themselves in the situation of having to administer the South-Danubian corridor from the military and political point of view, which maintained the resemblance with a mark for a long time.

On the other hand, the entire process pertained to the realities of the modern world, so that the final outcome was a national state where the above-mentioned features were inserted in order to offer it a special personality.

[2] Sir Arthur Evans' exposition and the debates that accompanied it took place on the 10th of February 1916, at the Royal Geographical Society in London (see Sir Arthur Evans, *Les Slaves de l'Adriatique et la route continentale de Constantinople*, London, 1916).

[3] At that moment the only independent Southern Slavs were the Serbians, the Montenegrins and the Bulgarians. Montenegro was the only one with an access to the Adriatic Sea, but it was not taken into account. Therefore Sir Arthur Evans refers to something that was merely about to become reality.

[4] *Ibidem*, p. 14.

[5] On that date, the danger is perceived only in Germany. Italy is on the same military side, including Serbia too. That was a way of approaching the matters.

[6] *Ibidem.*

[7] *Seton-Watson's dissertation* takes place following Sir Arthur Evans' expose and it is put forth with a view to consolidating and completing the latter's ideas (see Sir Arthur Evans, *Les Slaves de l'Adriatique et la route continentale de Constantinople*, London, 1916).

[8] *Ibidem*, p. 33.
[9] *Le Programme Yougoslave*, Edition du Foyer, Plon-Nourrit et C, Paris, 1916.
[10] See René Martel, *La Slovènie et les problèmes politiques contemporaines*, Paris, Librairie Felix Alcan. According to these fears, Germany could insert itself as a wedge between the Northern Slavs (Czechs) and the Southern Slavs (Yugoslavians and first of all Slovenians). The old Berlin-Bagdad line could reappear under a new form: Munchen, Vienna, Budapest, Bucharest, Constanța, Constantinople. Slovenians block two roads for the Germans: towards the Adriatic Sea and towards the Orient. The lethal danger for Slovenia comes from Trieste, perceived as the "German national bridge" to the Adriatic. Germany could be interested in resuming the idea of an expansion in the Balkan Mountains if it settles in Carinthia, which might be of interest for Germany, as Carinthia aggregates an important railroad node, connected to the German railroad network. The operation of this node was so good during the war, that it explains the disaster endured by the Italians at Caporetto. Fallen into the hands of the Germans, this strategic position would be so important, that it would offer them an offensive attitude. This is why the Anschluss-ul with Austria must not be accomplished. Yet Germany continues to have a powerful influence in Slovenia through an old and solid propaganda which Yugoslavia has not the means nor the time to prevent. Its basis is wide: All clerks (5000 in 1912) are Germans, there are many Pan-Germanic associations that possess capital and ramifications a.s.o.

As far as the internal situation is concerned, and particularly as regards to the political parties, they reveal disturbing aspects, such as the demand for organising the Serbian state following the model of Switzerland or U.S.A. Or worst, the demand of sharing only the foreign policy, the army and the navy. All the rest should remain independent. This is the demand of many Slovenians that remonstrate that they pay the greatest taxes in the state and they want these sacrifices to be beneficial to their own country. There is also a national justification that Slovenians resort to in order to support a substantial separation: they are afraid for their own language, different from the Serbo-Croatian, but minuscular and therefore threatened.
[11] *Ibidem*.
[12] We prefer not to present numbers, as the figures have been disputed. It was believed that the Yugoslavian historiography exaggerated them in order to increase Yugoslavia's contribution to Germany's defeat. Yet, small figures are questionable, too.
[13] This is not literally correct. A Yugoslavian state continued to exist, reduced at Serbia and Montenegro. But from the geostrategic point of view, it is a different state.
[14] The USA and the European Community believed for a while that a unitary Yugoslavian state was the best arrangement in the Balkan Mountains, and, since Slobodan Miloshevitch seemed to follow this direction, he received international support.

In May 1991, a delegation of the European Community led by its president, Jacques Delors, visited Belgrade and proposed to the Prime-Minister Ante Markovitch a financial help to maintain Yugoslavia. On June 20, 1991, for the European Security and Co-operation Conference (ESCE) ruled out the maintenance of Yugoslavia's territorial integrity. The next day, June the 21st, James Baker visited Belgrade, where he asserted his approval for the same proposal and asked Slovenia and Croatia to renounce their declaration of independence. On the 23rd of June, the foreign secretaries of the European Community rejected unanimously the international recognition of Slovenia's and Croatia's independence in case they separated unilaterally.
[15] Serbia's centralist tendencies came from the revival of the nationalist policy.

Yugoslavia's constitutional arrangements had created two autonomous provinces within the republic of Serbia, Kossovo and Voyevodina. Serbia considers them as inalienable parts of the national Serbian state and invokes historical rights. Yet, there are national problems in both provinces. Voyevodina is multi-ethnical (Serbs, Hungarians, Romanians, Germans), while in Kossovo there are two ethnic groups. The Albanian one has overwhelmingly grown after the war (approximately 90%) versus the Serbian group. The evolution of the constitutional state of these two provinces within the federation had evolved, in the sense of giving satisfaction to the minorities, i. e. from the status of autonomous province within the republic of Serbia to the status of republic, which should put them in line with the other republics. Serbia denounced this evolution as being a way through which its national territory is taken away, even if this is made in a democratic manner. Consequently, it revoked the last regulation, bringing back the provinces to their previous status. The ethnical tensions reached alarming quotas in Kossovo.

Besides, Serbia was dissatisfied as regards the borders of the republics that did not correspond to those of the Great Serbia, which it considered its national borders.
[16] Zbigniew Brzezinski, Marea tablă de șah. Supremația americană și imperativele sale geostrategice, Univers enciclopedic, Bucharest, 1999, p. 101.
[17] *Ibidem*, p. 99.

Primary Sources of the European Community Law: Institutive Treaties of the European Communities

Bucur Constantin Emil

During the centuries, Europe has not represented only a simple geographic space, but also a continent connected, through strong reminiscences, to its historic roots, which have always gone deep. Europe has been and still remains a conglomerate of cultures that have left in history their wishes of unification. The integrator concept was neither an original nor a spontaneous idea, which has belonged wholly to the 20th century, but an utopia of the European philosophy, as proven by the careful study of numerous projects carried on during history[1]. The idea of the unification of the European continent is lost in time. Thus, since the early thinkers of the Middle Age, like Pierre Dubois and Abbey Saint-Pierre, to Kant and Auguste Comte, very many personalities have considered the idea of an European organization that was shaped in the people's mentality, though the elements proper to its development have delayed to appear[2].

We have to notice that the first half of the 20th century was based on the above-mentioned coordinates, recording new projects, like those of Richard Coudenhove-Kalergi and Aristides Briand, whose fundamental idea was the cohesion of a continent, too long time divided[3]. The manner in which the 20th century had started announced sanguinary conflicts that would not be solved but in two world wars, which shook the humanity at a 21-year distance one from another.

At the end of WW2, a good part of the European economy was under ruins, and millions of people had remained homeless. The anti-fascist coalition, molded during the war, was dissolving due to the tendencies of the Soviet Union to extend its influence in the Eastern Europe. The year 1947 would be the year of the Marshall plan, launched by the United States of America, of economic reconstruction of the continent. This plan was offered to all the European States, but it was accepted only by the states of the Western Europe, the Soviet Union perceiving it as a form of undermining its recently founded hegemony in the eastern part of the continent. In view to manage the funds offered by the American government, the Organization of European Economic Cooperation was set up, later on turned into the Organization for Economic Cooperation and Development[4]. We may say that the European idea finds, paradoxically, a good moment to be developed, at the end of the world war, when Europe starts to be divided between East and West. In 1948, the Custom Union of Benelux is formed, defined as a new model of transfrontalier cooperation, among its three members. Some time later, in the same year, by signing the Treaty from Brussels, Belgium, Holland, Luxembourg, Great Britain and France put the basis of a military alliance, initially aimed at Germany. The next year was the witness of setting up the European Council, which reunited the states with democratic regime in Europe. It is about the signatories of the Treaty from Brussels, next to the northern countries, Ireland, Italy, Iceland, Greece and others[5]. In this context, we may say that the element that attracted the change of the old mentalities in favour of accepting new concepts and attitudes at national level is, as some specialists claim, the enormous wish of the Western European countries to remake their gravely affected economy after WW2[6].

For the first time, the concept of French-German reconciliation and of setting up some "United States of Europe" was advanced by the former British prime minister, Winston Churchill, in a speech held in Zurich, on September 19, 1946[7]. This political personality had been aware of the fact that only an united Europe could pass over the century-old rivalries and enmities of the nations, in order to face a much bigger danger than the others. He would say: "... This noble continent, containing wholly the most prosperous

and the best cultivated regions of land, enjoys a temperate and equitable climate, it is the house of all the great races of the occidental world. It is the foundation of Christian belief and ethnicity. It is the origin of most of the cultures, arts, philosophy and science, both in antiquity and in the modern times. If Europe had been united in sharing its common heritage, it would have not existed limits of happiness, prosperity and glory that the three or four hundred million of inhabitants would have enjoyed. Still, the nationalist quarrels started from Europe, initiated by the Teutonic tribes, which we saw even in this 20th century, and in our own life, breaking peace and damaging he perspectives of the whole humanity" [8]. Despite these, the idea of the European integration is due to Jean Monnet who, as chief of the National Planning Organization from the post-war France, proposed for the production of steel and coal of Germany and his country to be managed commonly by a body having supra-national character.

The initiative of Jean Monnet was taken over by the French minister of Foreign Affairs, Robert Schuman, and was put down in an official statement on behalf of the French government. This statement was made public on May 9, 1950 and has remained in the history of the European integration as the Schuman Statement. This one mentioned the putting in common, according to the model anticipated by Monnet, of these two raw materials belonging to the big rivals during the world war[9]. The Europe of the 6 was born, through the Treaty instituting the European Community of Coal and Steel, signed in Paris, on April 18, 1951[10]. This is, in our opinion, the moment of birth of not only the above-mentioned community, but also of the whole concept of the European Communities. In this sense, I make an argument by the very idea of putting in common the industries claiming a possible war, which represents probably the most revolutionary plan in the sphere of the international relations that the specialists achieved in the 20th century. Secondly, we must notice that no French citizen would have imagined during the war that, five years after its end, their Foreign Minister would have been a German minority from Aslatian region.

The set up of C.E.C.O. had as main purpose, as Schuman declared, to make that no conflict between France and Germany "... become not only unthinkable, but also impossible, from the material point of view" [11]. The founding of this organization was followed by the setting up of two Communities, by signing the treaties from Rome, on March 25, 1957. Together, the three Communities represented the basis of the further institutional developments at European level, which peaked with the Treaty on the European Union, sealed on February 7, 1992 and entered in force one year later[12].

In order to realize what the European Communities represents, it is absolutely necessary to know certain aspects related to their nature, to their legal personality and to their legal order.

Regarded as a whole and from the perspective of the institutive Treaties, the European Communities are, in the vision of some doctrinaires, a real juridical hybrid among what represents a confederation and a federation in the international public law. In their actual stage, the Communities have exceeded the level of a confederation, but they have not reached the one of a federation, because: "... they do not have the general competence or the power to determine the distribution of the competencies among them and their member states" [13]. Other specialists think that these Communities are somewhere at the middle of the road between a private international organization and a supra-national one. Not in the least, we consider that the constitutive Treaties only created a private international organization that holds a real common public power, separated from the one of their signatories[14].

In this context, the Court of Justice of the European Communities recorded the distinct juridical personality of each of the three European Communities, based on the principle of their recognition by the member states, freely, by the force of their sovereign rights[15]. Therefore, we can see that these Communities are legal persons of public law, by studying the art. 6 of the C.E.C.O. Treaty, 210 of the Treaty instituting C.E.E. and art. 184 of the Treaty instituting C.E.E.A.[16]; and, if we take into account the specialty doctrine retaining the criterion of juridical force of the community norms, we notice that the institutive Treaties are part of the strongest category, the one of primary sources.

As regards the legal personality in the community juridical order, the institutive Treaties foresee obligations and rights for Communities, with the intention of assuring their specificity. These have juridical links both with the member states and with natural and legal persons. Also,

the international juridical personality can be seen more in case of the Treaties instituting C.E. and Euroatom[17].

When we talk about the juridical order of the European Communities, we must mention that the Court from Luxembourg pronounced in this matter in a very famous case: Algemene Transporten Expeditie Onderneming van Gend en Loos v. Nederlandese Administratie der Belastingen (Dutch administration), through the voice of Attorney general Roemer. He mentioned that, from the point of view of the international law of contracts and general practice of the states, the institutive Treaties represented a legal innovation and it would have not been fair for them to be regarded only from the perspective of the internal law[18]. Therefore, the juridical order of the Communities seems to be a new invention that assimilates elements from the classic international law and from the federal one. It is based on two principles: direct and immediate applicability of the community law in the juridical order of the member states and the principle of preeminence of the community law compared to the national law of the member states. This new juridical community order presents two important features: autonomy, which is related to the concept of institutional autonomy. The second feature is present in form of the community juridical order, in the national law of the member states. Not in the least, the juridical order of the European Communities is made up of two categories of juridical norms; the ones with value of fundamental law, meaning the institutive Treaties, the amending ones and those made by community institutions that have value of ordinary law[19].

We conclude by saying that the European Communities represents an innovating construction, both in the juridical domain and in the institutional domain, their particularities being an efficient blend between old and new, without any of them to exclude the other one.

By signing the Treaty instituting the European Committee of Coal and Steel, on April 18, 1951, the series of treaties that will set up be basis of the European Union is open. The feature of this Community comes from the very provisions of the treaty following "a universal federalist vocation having a sectorial feature" [20]. In other words, the intention was to set up a market free from any quantitative restrictions and customs taxes that should be limited only to the two materials mentioned in the title of the treaty. The Community, whose Treaty entered in force on July 25, 1952, was intended to function on a limited period of time, of 50 years, and, according to the Preamble, it would assure the premises of a community "...larger and deeper among the peoples a long time in opposition, due to sanguinary divisions; and to put the basis for the institutions that will give meaning to a destiny from now on shared" [21].

In the context of the cold war, the efforts of integration at European level, at least in the western side of the continent, continued to be felt. Still, not always they led to success. There existed failures in this process, due to the reticence of one of the political factors on that date. Some of these failures were the one of the set up of the Defense Political Community, next to the lack of initiative of the European Political Community[22]. The failure of C.E.A. caused a change of optics as regards the process of European reconstruction. Thus, between June 1-6, 1955, the Messina Conference took place, which, by the statement of the participants, expressed their political wish to pass to a new stage within the community construction. The resolution considered that only the economic domain was viable for developing community institutions and aimed at a common policy in the domains of electric power and transports[23]. In the conditions of a strong divergence between the domains that had to be reunited under a common management, a commission of specialists was set up, managed by the Belgian P. H. Spaak, who made a report. This document mentioned the difficulties of a sectorial approach, except for the atomic power, and emphasized the instruments or means of making the Unique Market[24]. We must observe that the whole political effervescence from Europe on this project drew the attention of the dignitaries living across the ocean. In one of the telegrams sent to the State Department of the United States, the state secretary, John Foster Dulles, detailed his preoccupation on the opposition of the Great Britain at these projects and considered benefic the Europeans' interest on the development of the nuclear power sector[25].

The negotiations between the governments involved in erecting the community edifice ended on March 25, 1997, by signing in Rome two distinct treaties: the Treaty Instituting the European Economic Community and the Treaty Instituting the European Community of Atomic

Power. These two treaties entered in force on January 1, 1958. If C.E.C.O. and C.E.E.A. had a sectorial character, discussing limited topics, C.E.E. was a frame treaty that would allow it to become preponderant within the three Communities.

Coming back to the Treaty Instituting C.E.C.O., this one mentioned, under art. 2, the objectives of the Communities, meaning the establishment of a common market, the economic increase and the elevation of the living level[26]. The purposes of C.E.C.O., according to the next article, would be achieved by granting equal access to the production sources, the improvement of the working and living conditions of the workers, the fixing of some prices at the lowest level possibly, the stimulation of the international changes, the increase of the capacity and the promotion of a policy of rational exploitation of resources. Art. 4 stipulated, in exchange, the activities incompatible to the New Common Market, among which, the import and export taxes, the quantitative restrictions on the products' movement, the practices that discriminated the producers or consumers, the subsidies granted by the states and any kind of taxes[27].

The institutional system of C.E.C.O. was specified in the 2nd Title, art. 7 of the Treaty, entitled: "Institutions of the Community". The main bodies of the Communities were: a High Authority made up of 6 personalities invested with the agreement of their national governments which they did not represent, though. This had huge legislative and executive powers, assisted by a Consultative Committee of Socio-Economic representation. There was also a Special Council of Ministers, made up of minister representing the interests of the member states, whose objective was to synchronize their position with the one of the Community. A Parliamentary Assembly, similar to a national parliament played the role of exercising a so much democratic role as possible. Still, its components were extremely limited. Beside these, also functioned a Court of Justice, which had as purpose to watch the compliance of the treaty[28].

Articles 78, 78a and 78b referred to the manner of making the Community's budget. What surprises is that the financing of the Community is done through a tax directly flown by the companies having activity in the domain of coal and steel, into the account of the High Authority, to confer this one a surplus of political independence[29]. Finally, article 100 specifies that the government of France is the depository of the Treaty, which is made in one language, and the adhering instruments.

As regards the Treaty Instituting the European Economic Community, this shows that the Community's central objective was "... to establish a unique market and an economic and monetary union", based on a customs union and "to promote a harmonious and balanced development of the economic activities in the whole Community, a durable increase, without inflation, which should comply with the environment, a high degree of convergence of the economic performances, a high level of the labor force and social protection, the improvement of the living level and life quality, and, not in the least, the economic and social cohesion at the level of the member states[30]".

In order to turn into reality these noble ideals proposed in art. 3 of the Treaty, there are no less than 20 general principles governing the Community, among them, there are: to eliminate the customs barriers (par. a), a commune commercial policy (par. b), putting national legislation closer (par. h), association with other nations at the objectives of the Community, therefore the open character of the treaty (par. r), strengthening the economic and social cohesion (par. j), and so on[31]. Also, article 4 proves that, institutionally, the C.E.E. Treaty complies with the scheme offered by C.E.C.O., but there are several differences compared to the Paris Treaty, the first one consisting in the fact that this one was a treaty with sectorial character and C.E.E. is a frame treaty. Another aspect is related to the period of validity of the two international juridical instruments, because C.E.C.O., according to art. 97, is valid for 50 years and the European Economic Community enjoys, according to art. 240, an unlimited period of existence.

The 3rd part of the Treaty instituting C.E.E. discusses about the community policies, aspect that we cannot find in the other two treaties. As regards the four fundamental freedoms, they can be found in the 3rd part of the Treaty, as well. The dispositions regarding the free circulation of persons, services and capitals can be found in the 3rd Title, art. 48-73H. Other titles aim at transports, economic and currency policy, culture, public health, agriculture, industry,

consumers protection and environment[32]. The 5th Part, chapter 1, from the Treaty presents the dispositions regarding the C.E.E. institutions. As we have mentioned before, these do not differ a lot from those of C.E.C.O. Thus, the Parliament is "... made up of representatives of the peoples of the states reunited in the Community exercise the powers that are given to them in this treaty" [33]. This is a relatively restrained power, among its few competences being the capacity to sanction the Commission with motion of censure[34]. In case of the Commission, it is interesting to see that, though with less power than the High Authority, being allowed to act in a large socio-economic area, it will exceed the force of the High Authority, in time[35].

In its clauses, the treaty institutes an Account Court, which main task is to examine "the whole incomes and expenses of the Community" and aims at complying with the legality within the financial flows from inside. It assists the Parliament and Council in exercising their control function regarding the budgetary execution[36]. Among the provisions of the 6th part of the Treaty, one is specifying the place of the community juridical personality in the national juridical order of the member states, stipulating the following: "The Community owns the largest juridical capacity recognized to the juridical persons by the national legislation; particularly, it can get and alienate real estates and other assets and to stand in justice. In this purpose, the Community is represented by the Commission"[37].

The Treaty instituting the European Community of the Atomic Power wished to organize a Common Marked in the domain of using civil nuclear power. Institutionally, the scheme of the other two treaties was reproduced. An Economic and Social Committee was created to work for C.E.E., and an Agency was created to represent the policies related to the radioactive materials. The Commission had a large authority, because any company that manipulated such materials had to communicate any action made, according to the treaty[38].

The tasks of this Community were to establish uniform safety standards to protect the healthy of the workers and civil population; to assure the equitable and equal access to the sources of raw materials; to allow the scientific development in the domain and to encourage it; to create a cooperation network in the domain with other states and international organizations in order to use nuclear power peacefully; to be sure that the fissionable materials are not misappropriated to be used in other unspecified purposes, etc[39]. In article 52, par. B, an Agency was created to take care of the special fissionable materials, which supply was to be done through a Common Marked, where all the Community's members had access. Article 53 mentioned the fact that the Agency was subordinated to the Community Commission, whereas article 54 offered juridical personality to that Agency. In the same 6th chapter, called "Stocks", article 57 stipulated the rights that the Agency had and article 60 specified the obligation to be permanently informed on the operations with nuclear materials[40].

As regards the 7th chapter from the 2nd Title, called "Safety", it mentioned the obligation of the Commission to keep strict records of the materials with high risk of safety and its possibility to make inspections. Exception made the materials intended to the military industry and classified scientific researches[41]. We also notice that in this Community, a primordial role in managing the problems related to the atomic power belongs to the Commission. This assertion can only confirm the similarities, at institutional level, that the three treaties share. What is new compared to the previous treaties are the dispositions regarding research, public health and security. It is surprising the presence of article 192 in the 5th Title ("General Provisions"), which clauses create a real antecedent for what would become the principle of direct applicability of the community law and its priority to the internal juridical order of the states. We dare assert that art. 193 of the Treaty is on the same line[42].

The Treaty was made in 4 languages: French, English, Dutch and German and will be kept by the Italian Government, in its archives, the same as the Treaty Instituting C.E.E. This document has a few annexes and protocols, such as Protocol on the Court of Justice of the European Community of Atomic Power.

The primary sources of the European community law are the three Treaties that institute the Communities, next to amending treaties and composite treaties, which extend the first ones. Beside the above-mentioned categories, there are the annexes and protocols attached to the treaties, having a value of fundamental law. Therefore, the most important protocol for C.E.E. and C.E.E.A. is the Statute of

the European Investment Bank, plus the protocols regarding the community privileges and immunities, and the Court of Justice of the Communities[43].

The amending treaties extend the institutive treaties. This category of primary sources is made up of treaties, various documents of the community institutions referring to the procedures of simplifying the revision and from the documents that hold an exceptional juridical nature – decisions. The following documents are important: Treaty instituting a unique Council and a unique Commission for Communities, the unique Protocol regarding immunity and privileges, Budgetary Treaties, which increased the duties of the European Parliament and the Decision dated April 21, 1970, which replaced the financial contributions with own resources of the Communities, decision based on art. 269 from the Treaty Instituting C.E. and art. 173 from the Treaty Instituting C.E.E.A. [44] Therefore, we can say that the system of financing the Communities, after these changes, became an important feature of them, being different from the systems of the other international organizations, using stipends supplied by the member states. At the above-mentioned documents, the documents of new members' adhering to the European Communities are added, during the extension process.

Beside the amending Treaties, there is also the category of the three composite Treaties. It is about the Unique European Act, entered in force on July 1, 1987, the Treaty on the European Union from Maastricht, sealed on February 7, 1992 and the Treaty from Amsterdam, signed on October 2, 1997. These Treaties are considered to be primary sources of the community law, having a composite feature[45].

A.U.E. improved the provisions of the institutive Treaties, in its attempt to pass from the Common Market to the Unique Market[46]. A.U.E. offered instruments of achieving this wish and reasserted the political cooperation between the members of the Communities, by simplifying the decisional process. For example, it was discussed the set up of the Court of First Instance beside C.J.C.E. in order to diminish the latter's duties. The achievement of the objectives proposed in A.U.E. was foreseen to be executed in stages. Not in the least, A.U.E. increased the Community's competence by extending the provisions of art. 118A from the Treaty instituting C.E.E. [47]

The Treaty from Maastricht brought some significant changes, among which the intention to institute a unique currency and economic and monetary union, the latter finding its origins in the constitutive Treaties. The elements of innovation of this treaty are related to the larger extension of the competence of the European Parliament and of the community institutions. The Treaty did not grant juridical personality to the E.U., but built, at institutional level, a structure in form of three pillars, the first reserved to the community evolutions and economic and monetary union, the second aimed at external policy and common security and the third one was intended to justice and internal affairs[48]. Maastricht also launched two new concepts, subsidiarity and European citizenship. If the first one referred to the distribution of tasks among Community and States, the second one specified the rights of the citizens of this new political entity, in art. 8B and 8C of the Treaty on the E.U. [49]

As regards the Treaty from Amsterdam, this one has three parts. The first one contains the amendments brought to the Treaty from Maastricht and institutive Treaties, the second part eliminated the null orders of the previous community Treaties and abrogates the Merging Treaty from Brussels, and the third part renumbers the articles of the document signed in Amsterdam, in order to eliminate the juxtapositions[50].

The European community law has launched other types of sources, such as derivative and complementary sources, beside the primary ones, but the primary sources are more important than the others.

The European communities are characterized by the fact that they are associations of integrated economic type, because they represent the result of the member states' putting in common, peacefully and freely, of their economic capacities, having as initial purpose the development in this domain. They are regional international organizations, with close and supra-national character, offering, at the same time, to other European states the possibility to adhere. The communities have an institutional structure that is proper and original to them, with specific community institutions and body[51]. Beside the above-mentioned particularities, the autonomy of the instituting Treaties is added. This autonomy is associated,

as we mentioned, to the concept of institutional autonomy that the Communities have.

The Treaty for merging the executives of the three Communities, according to art. 32, did not unify the three previous treaties, but only the community institutions[52]. In this context, we must specify that the relations between the three institutive Treaties are managed by art. 232 of the Treaty instituting C.E.E, which shows that its orders do not amend the ones of C.E.C.O. and do not depart from those of the Treaty instituting C.E.E.A.[53] There is also a reverse process, which was very well specified by C.J.C.E. as regards the non-application of the provisions within the two sectorial treaties compared to the frame treaty. Other exceptions from this rule may be also seen, when there are gaps in the special Treaties, gaps that can be replaces by applying the dispositions of the Treaty instituting C.E.E. The only body that may specify how far the autonomy of the institutive Treaties can go is the Court of Justice, which, by its jurisprudential construction "promotes a bigger harmony in interpreting the dispositions of the three Treaties in the light of one of them"[54].

The community treaties represent, first of all, official documents concluded at international level and subject to jurisprudence of the international public law. From the point of view of their structure, they follow the type of all the documents sealed in the classic international law. What is truly interesting is seen in the clear similarities between the three treaties. Their structure contains four categories of clauses: Preamble and preliminary clauses, institutional clauses, material clauses and final clauses.

The Preamble is a constant of the three institutive Treaties, and it contains the ideals that made the chiefs of state and government of the founding countries to agree upon their achievement. If we analyze all the three Preambles, we can see that they contain socio-economic objectives, which, though they belong to each Community, are very similar. We offer an example as regards the perception of the political leaders on the common effort to set right the old continent. Thus, the first paragraph of the Preamble of the Treaty Instituting C.E.C.O. says: "Considering that the world's peace can be saved only by creative efforts according to the dangers threatening it[55]", ideal specified in the Treaty instituting C.E.E.A., under the following form: "Persuaded that only a common effort assumed without any delay can offer the perspective of the proper achievement with those capacities of other countries"[56].

The preliminary orders can be found, also, in art. 2 and 3 of the Treaty instituting C.E.C.O. and C.E.E.A., as well as in art. 1 and 2 from the Treaty instituting C.E.E. Within these orders, there are principles with universal feature that exercise the same juridical power like the other provisions of the Treaties. Thus, to justify the principle of the direct effect of the community law, the Court of Justice used the Preamble of the Treaty instituting C.E.E. in the case Van Gend en Loos[57]. This certifies once more the essential of the provisions stipulated in the preamble of any treaty and of the preliminary dispositions.

The institutional clauses represent the dispositions that guarantee the efficiency of the institutions at community level, using the stabile scheme. These clauses are found in the Treaties, generally called "Institutions of the Community" as it is the case of C.E.C.O. and C.E.E. or "Provisions governing the institutions", like C.E.E.A. They pursue to delimit the organization, functions and powers of the institutions, their manner of financing and their external relations. The material clauses refer to the social and economic regime of the Communities and differ from one treaty to another. The Treaty instituting C.E.C.O. "contains a complete and detailed coding... in the sector of coal and steel, meaning a real legislation, leaving to the High Authority only an execution mission". In parallel, the Treaty instituting C.E.E. preoccupied only to configure the objectives in view to make the Common Market, appreciating its provisions[58]. The last of the treaties[59] was only combining the juridical techniques used in the documents previously drawn up.

The authority of the constitutive Treaties of the Communities is the most important in the hierarchy of the community juridical order. The Court of Justice specified the principle of their priority to the other community and national sources, mainly, by the decision given in the case Costa v. E.N.E.L., where he explained the following: "...the executory force of the community law can only vary from one state to another in favour of the internal legislation, without endangering the objectives of the Treaty C.E.E. aimed by art. 5-2 and not to provoke a discrimination forbidden by art. 7"[60]. This priority governed by art. 7 of the Treaty

instituting the E.C. is protected by other legal provisions among which art. 35 of the Treaty instituting C.E.C.O.[61]

The preeminence of the institutive Treaties is unanimously admitted and is achieved at the level of several stages. The Treaty instituting C.E.E.A. stipulates a preventive control similar to the one specified by art. 238 from the Treaty instituting E.C., which allows to the Council, Commission and member states to require negative endorsement regarding the international agreements concluded by the Community's institutions[62]. Art. 234 of the European Community makes us consider the fact that the institutive Treaties hold a bigger juridical force compared to the documents previously sealed by the members of the Communities with third states[63].

As regards the procedure of reviewing the treaties, there are three possibilities: ordinary review, international review and community review.

The ordinary review was mentioned in art. 96, 236 and 204 from the Treaties instituting C.E.C.O., C.E.E. and Euroatom. The procedure granted to the states or to the Commission the initiative in these cases. A project aiming at the revision of the Treaties had to receive the agreement of the Council of Ministers, after having been consulted the Parliament[64], as well, afterwards the inter-governmental negotiations regarding the review, followed. As regards the international review, this technique is extremely rare and improbably to be used with real success, because the constitutive Treaties keep international law norms, according "... to which the agreement of all the parties of a treaty is enough to review it"[65]. Still, the most used remains the community review. Art. 76 and 85 of the Treaty instituting C.E.E.A. order this procedure. The former shows the manner of reviewing the chapter 6, entitled "Special Provisions", which is pretty complicated. Thus, the Council, based on the unanimity and at the proposal of the Commission, after consulting the European Parliament, can amend the chapter[66]. The latter, belonging to the chapter "Safety" mentions as having the legislative initiative of revision beside the Commission and any of the member states, in its final, being identical to art. 76[67].

The three institutive Treaties differ as regards the length of their validity. Art. 97 of C.E.C.O. specifies that the document signed in Paris is valid for 50 years[68]. The other two treaties are concluded on an unlimited period of time, considering that they have an irreversible character[69]. If we analyze this topic from the perspective of the evolution of the community construction, we notice that the Treaty on the European Union has no procedure of its denouncing and there was not mentioned the problem of sanctioning any state, by excluding it from the Union[70].

As regards the sphere inside which the constitutive Treaties are applied, we shall give example art. 227 of the Treaty instituting C.E.E. This mentions, under paragraph 1 a series of nations to whom the document applies[71]. The second paragraph refers to the overseas French departments to which the following are applicable: freedom of merchandise circulation, freedom of services and chapters related to institutions, agriculture and safeguarding measures, under art. 109H, 109I and 226[72]. The 4th paragraph specifies that "The dispositions of this treaty apply to the European territories whose external representation was assumed by a member state", here entering the British territory of Gibraltar[73]. As exception, the 5th paragraph from art. 227 stipulates that the Treaty does not apply to the Faeroe Islands, zones of sovereignty of the United Kingdom and Northern Ireland from Cyprus, Anglo-Normandy isles and Man Isle, but with a certain deviation and to the Aaland Isles, only if the Finnish government agrees and in conformity with the 2nd Protocol from the Treaty of Finland's Adhesion at Communities[74].

By extension, the Treaty instituting C.E.E.A. applies to the European and extra-continental territories of the member states of the Community, such as New Dutch Guinea, but not to Surinam and/or Dutch Antilles. These territories are, from the juridical point of view, under the statute of association at the overseas countries and territories[75].

From the above-mentioned, we may conclude that the institutive Treaties apply to the whole European territory of the member states, except for the localities Campione d'Italia, Livigno, Busingen and Helgoland isle; the first two localities in Italy, the others in Germany. A few exceptions are added to these[76]. Generally, when we refer to the sphere of applicability of the authority of the institutive Treaties, a series of

Protocols and Conventions establishing the juridical statute that some territories benefit from at the periphery of the Communities, should be taken into account. In many cases, it is necessary the opinion of a legal advisor or of a specialist competent in the domain.

The second aspect that we wish to approach is related to the contents of the three original Treaties. Along this work, we have also referred to this aspect, but we consider that it is the moment to underline some elements.

By signing the Treaty instituting C.E.C.O., four principles that stood at the basis of the community edifice were born: superiority and independence of the community institutions, the collaboration between these and equality between states. The superiority of the Communities' institutions in comparison to the ones existing at national level comes from the modality used for their set up, by the free agreement of the parties and not as a consequence of the violence or military occupation. As regards their independence, this reflects onto three essential aspects in the good functioning of the institutions: financial domain, executive's responsibility in front of the legislative and investing the officers according to the common agreement of the governments of the member states. The collaboration between the institutions o the European Communities represented a central desire in the philosophy of the founders. The institutional structure contained a High Authority whose purpose was to achieve the organizations' objectives, the Council of Ministers defended the wishes of the member states, the Assembly or Parliament, which was the institution of democratic control later on and the Court of Justice that supervised the compliance of the Treaties. Collaboration existed among these four institutions, not subordination[77].

The equality among the states participant at the Communities was an essential element in view to set them up, because the old mentalities had to be replaced to prove the viability of the new process of European reconstruction. This principle wanted not to disfavor anybody and succeeded in finding the place in the Community, today being at its foundation. Perhaps the most important article of C.E.C.O. remains article 4, which specifies the activities incompatible with the treaty: taxes for export and import or taxes equivalent to them, as well as quantitative restrictions imposed to the merchandise circulation; discriminatory measures and practices between producers and consumers; the actions that hindered the consumer's free choice of the manufacturer; subsidies or bonuses granted by the state; restrictive practices that aimed at dividing or exploiting markets and so on[78].

The Treaty instituting C.E.E. mentioned the 4 fundamental freedoms and delimited the frame within which the community institutions would carry on their activity. The objective of this document was to set up a commune market, which was not defined. If we study, carefully, the decisions of C.J.C.E. in cases Van Gend en Loos and Costa, we shall discover that this community institution confirms those asserted by the Treaty C.E.E., such as a new juridical order was set up through its agency, order that is proper to the Communities and integrated to the juridical system of the member states. This is set up in an autonomous and specific source that no national law could be opposed to it[79].

The Treaty instituting C.E.E.A. contains provisions intended to encourage the scientific research and the progress of the civil atomic power; to assure the security of all those who take part in the manipulation of the fissionable materials and to set up a unique market in this domain[80]. We shall stop in this case at the 7th chapter, the 2nd Title of Euroatom which refers to the security of this domain of preoccupation. Art. 77 suggests the manner in which the Commission regulates the supply with dangerous materials and assures that these are not intended to be used in other ways. The next article imposes the declaration of all the nuclear operations made by the Commission, which may request, according to art. 80, the redistribution to other centers of any surplus of special materials. Art. 81 empowers the Commission to make inspections in the territory after a previous consulting with the aimed state, and art. 83 will fix the sanctions for the deeds that are incompatible with this chapter. Not in the least, art. 85 foresees the procedure of amending the chapter according to which, upon the request of a state or of a Commission, by the unanimous decision of the Council and at the previous proposal of the executive body, after the Parliament is consulted, it was possible to examine the state's request[81].

Since the beginning of the first ideas regarding a large process of economic and political development on long term, the founding

treaties of the European Communities have represented the base of the European construction. They are the new mentality of the political classes after WW2, mentality aiming at accepting the collaboration in exchange of rivalry. These treaties have been, by their institutional structure to whom they have offered juridical personality, the real pillars of the European Union. The constitutive Treaties mean the basis on which all the other Community treaties, either amending or composite, have erected.

It seems necessary to signal the fact that we follow the unanimous opinion expressed by the doctrinaires of the domain, reasserted by the decisions of the Court of Justice of Communities, according to which these Communities have built an own specific and original juridical order of public law. Also, these organizations represent an innovation from the point of view of the classic international law, being practically an embryo between the international and the supra-national organizations. Therefore, the Treaties sealed in Rome meant a withdrawal of the last principle in the damage of the integration concept, initially economical and later on political. The institutive Treaties have been based mainly on the economical side of the European cooperation, because the then political leaders considered that, through it, the obstacles and reticence could be removed from the way of political integration. Though, generally, the three institutive juridical instruments have a structure with multiple similitude, we must specify that each of them represents self-standing entities, having its own particularities. This can be seen from the very fact that today, the European Community of Coal and Steel has ceased its existence, its duties being taken over by the other two treaties.

Not in the latest, we must specify the fact that this research made by a non-specialist in the legal domain, risks to contain inadvertence for which we assume our responsibility. Finally, we wish to reassert our trust according to which the institutive Treaties are the essence of the whole community construction, which has peaked when the Treaty on the European Union entered in force.

NOTES:

[1] We wish to show that there is no intellectual who respects oneself who has not wondered about Europe. Among them, we notice: Hesiod, Homer, Herodot, Aristotle, Montesquieu, Voltaire, Rousseau, Kant, Schiller, Saint-Simona, Novalis, Comte, Victor Hugo, Lamartine, Mazzinii, Tosltoi, Kierkegaard, A. Briand and Nietzche, to remind only a few, the list being longer.

[2] Iordan Gheorghe Barbulescu, *European Union – Broadening and Expansion. 1st Book. From the European Communities to the European Union*, Trei Publishing House, Bucharest, 2001, pages 42-43

[3] *Ibidem*, pages 43-45

[4] Iordan Gheorghe Barbulescu, *European Union – Broadening and Expansion. 1st Book. From the European Communities to the European Union*, Trei Publishing House, Bucharest, 2001, pages 42-43

[5] *Ibidem*, page 226

[6] Eric Hobsbawm, *The Century of Extremes*, Lider publishing house, Bucharest, 1994, translated by Anca Irina Ionescu, pages 302-303

[7] A.G. Harrzvan and J. Van der Harst, *Documents on European Union*, MacMillan Press Ltd., Houndmills, Basingstoke Hampshire..., 1997, pages 38-41. The leader of the conservatory opposition expressed like this: "...We must build a kind of United States of Europe".

[8] *Ibidem*, page 38

[9] *Ibidem*, pages 61-63

[10] The official title of the Treaty is: "Treaty instituting the European Community of Coal and Steel", by convention, the further references will specify the C.E.C.O. Treaty or the Treaty instituting C.E.C.O.

[11] A.G. Harryvan and J. Van der Harst, *quoted work*, page 61

[12] Augustin Fuerea, *European Community Law. General Part*, All Beck publishing house, Bucharest, 2003, page 8

[13] *Ibidem*, page 31

[14] Cornelia Lefter, "*Institutional Community Law*", Economic publishing house, Bucharest, 2001, page 16

[15] Augustin Fuerea, *quoted work*, page 33

[16] Article 6 of C.E.C.O. www.infoeuropa.ro http://europa.eu.int/abc/obj/treaties/en/entoc291.htm and article 184 of C.E.E.A www.infoeuropa.ro http://europa.eu.int/abc/obj/treaties/en/entoc385.htm

[17] Augustin Fuerea, *quoted work*, page 34

[18] Paul Craig and Grainne de Burca, *Eu Law*, Oxford University Press, Oxford, New York, Athens, 1998, pages 166-167. The exact expression of Roemer was: "...a far-reaching legal innovation". See Cornelia Lefer, *quoted work*, pages 17-19.
[19] Augustin Fuerea, *quoted work*, pages 44-45
[20] Irina Moroianu Zlatescu and Radu C. Demetrescu, *Institutional European Law and Community Policies*, f. 1, "Calistrat Hogas" Publishing House, 2001, page 58
[21] The 5th paragraph of the C.E.C.O. Preamble. www.infoeuropa.ro, http://europa.eu.int/abc/obj/treaties/entr30a.htm#11.
[22] Iordan Gheorghe Bărbulescu, *quoted work*, pages 53-57
[23] *Ibidem*, page 64
[24] *Ibidem*, page 64
[25] Foreign Relations of United States, 1955-1957, 4th volume, *Europe*, United States Government Printing Office, Washington, 1996, pages 369-371
[26] www.infoeuropa.ro; http://europa.eu.int/abc/obj/treaties/entoc291.htm
[27] *Ibidem*.
[28] Iordan Gheorghe Bărbulescu, *quoted work*, page 53
[29] Irina Moroianu Zlătescu and Radu C. Demetrescu, *quoted work*, page 60
[30] *Basic Documents of the European Community and Union,* Polirom, Iași, 1999, page 29; art. 2 of the Treaty Institution EC
[31] *Ibidem*, pages 30-31
[32] *Ibidem*, pages 38-106
[33] Article 137 of C.E.E.; www.infoeuropa.ro; http://europa.eu.int/abc/obj/treaties/entoc055.htm
[34] *Basic Documents of the European Community and Union*, Polirom, Iasi, 1999, pages 108-110
[35] Iordan Gheorghe Barbulescu, *quoted work*, page 59
[36] *Basic Documents of the European Community and Union*, Polirom, Iasi, 1999, pages 121-123; see art. 188C from the treaty
[37] *Ibidem*, page 139; art. 211 from the Treaty Instituting C.E.E.
[38] Irina Moroianu Zlatescu and Radu C. Demetrescu, *quoted work*, pages 66-67
[39] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc381.htm; art. 2 from the Treaty instituting C.E.E.A.
[40] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc388.htm; art. 52-66 from the Treaty instituting C.E.E.A.
[41] *Ibidem*, art. 8, from the Treaty C.E.E.A.
[42] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc385.htm;
[43] Roxana Munteanu, *European Law*, Oscar Print, Bucharest, 1996, pages 117-199
[44] Augustin Fuerea, *quoted work*, pages 49-50
[45] G, Isaac, *Droit communautaire general,* 8th edition, Armand Colin, Paris, 1999, page 121.; *Apud.* Augustin Fuerea, *quoted work*, page 151
[46] A space without frontier
[47] Augustin Fuerea, *quoted work*, pages 8-10
[48] Iordan Gheorghe Bărbulescu, *quoted work*, pages 195-204
[49] Augustin Fuerea, *quoted work*, pages 13-14
[50] Octavian Manolache, *Community Law*, All Publishing House, Bucharest, 1996, page 93
[51] Dumitru Mazilu, *Community Law and European Institutions*, Lumina Lex Publishing House, Bucharest, 2001, pages 63-68; see the opinion expressed by Augustin Fuerea in the work *European Community Law. General Part*
[52] Augustin Fuerea, *quoted work*, page 52; his opinion is in concordance with the one of the occidental doctrinaires Paul Craig and Grainne de Burca in the work *EU Law*, Oxford University Press, Oxford, New York, Athens, 1998
[53] Alan Campbell and Denis Thompson, *Common Market Law: Texts and Commentaries,* Stevens & Sons, London, 1962, pages 301-302; see also the *Basic Documents of the European Community and Union,* Polirom Iasi, 1999, page 145
[54] Augustin Fueera, *quoted work*, page 52
[55] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entr30a.htm;
[56] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entr39a.htm;
[57] Paul Craig and Grainne de Burca, *quoted work*, page 167
[58] Augustin Fuerea *quoted work*, page 54
[59] Treaty instituting C.E.E.A.

[60] Cornelia Lefter, *quoted work*, page 63
[61] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc292.htm;
[62] *Basic Documents of the European Community and Union,* Polirom, Iasi, 1999, pages 143-144
[63] *Ibidem*, page 145
[64] Augustin Fuerea, *quoted work*, page 57
[65] According to M. Deliege-Seguaris, *Revision des Traites europeennes en dehors des procedures prevues*, CDE, 1980, page 539, *Apud.* Auguting Fuerea, quotred work, page 58
[66] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc382.htm;
[67] *Ibidem.*
[68] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc294.htm; see also Irina Moroianu Zlatescu and Radu C. Demetrescu, *quoted work*, page 68
[69] Art. 240 of the Treaty instituting C.E.E. and art. 208 of the Treaty instituting C.E.E.A.
[70] C.J.C.E., July 15, 1964, Costa v. E.N.E.L., case 6/64 Rec. 1160, *Apud.* Augustin Fuerea, *quoted work*, page 59
[71] The member states of the Union: Belgium, Denmark, Republic of Greece, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Germany, to which it was accepted without the revision of a treaty the integration of the territories of the former Democratic Republic of Germany, and so on.
[72] *The Basic Documents of the European Community and Union*, Polirom, Iasi, 1999, page 142
[73] *Ibidem*, page 143
[74] *Idem.*
[75] See Annexes of the Teraty instituting C.E.E.A.: "Protocol on the application of the Treaty instituting C.E.E.A. at the non-European parts of the Dutch kingdom"
[76] Augustin Fuerea, *quoted work*, page 61. See also the page 64, which specifies that Monaco and San Marino are integrated to the customs territory of the Community, based on art. 234 from the Treaty C.E.E. and for Andorra, there is a customs union with the Community. The Spanish territories from Africa – Ceuta and Melilla are not applied to the Treaty.
[77] *Ibidem*, pages 66-68
[78] www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc291.htm;
[79] Paul Craig and Graine de Burca, *quoted work*, pages 155-169; see also Renaud Dehousse, *The European Court of Justice,* MacMillan Press Ltd., Houndmills, Basingstoke, Hampshire and London, 1998, pages 37-40
[80] The 1st and 2nd Titles of the Euroatom Treaty, articles 92-100; www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc381.htm; and www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc382.htm;
[81] The 2nd Tile of the Euroatom Treaty; www.infoeuropa.ro; http://europa/eu.int/abc/obj/treaties/en/entoc382.htm;

Preemptive Action, From the International Law Perspective

Mădălina Virginia Antonescu

1. The importance and the necessity of such an approach

In the legal context of the beginning of XXI Century, when the challenges that international legal order must deal with, are proliferating, forcing a profound transformation of the main actors of the international relations – the states[1] –, the importance of preserving the respect of international law is justified more than ever.

The states must enforce their commitments that they assumed through international agreements, in principal the legal value of UN Charter, so that pseudo- principles[2] from the international life claimed by great powers to have a certain legal fundament, do not succeed in affecting directly or indirectly the international legal order and all the relations established between states in conformity with their multilateral agreements signed and ratified by them[3]. On the other hand, sovereignty of a state, moreover if this is a great power, doesn't have to be submitted to different interpretations presented as derived from international documents[4] with imperative and universal value whose legal character nobody is putting in question. UN Charter, for example, as a basic legal pillar of the entire structure of international law, cannot be used in order to provide distorted interpretations or to justify interstate wars or conflicts. Any abuse in interpretation of its articles – specially of art. 51 referring to the individual right of legitimate defense, must be avoided and UN specialized organs as the International Court of Justice must interfere in this matter and provide the correct interpretation of the UN Charter articles, any time when a state, irrespective of its political or military power, intend to use or is using it in order to justify a war or a conflict with another state.

In the case of UN Charter, **the dimension of the abuse** in invoking its articles in situations that do not justify an unilateral extension of their use by a certain state, **is considerably augmented**, because this state is putting the whole international community before a fulfilled fact. Universal dimension of UN Charter and the imperative, sacred value of specific rights inscribed in it, imposes that all relativization of its principles of law must prepare the states which has violated or neglected them to face the reaction of whole international community and to engage its international responsibility.

On the other way, by using abusively the disposals from the UN Charter, **a great power** is putting the rest of the states before a dangerous precedent: if a great power is assuming the liberty of unilateral and distorted interpretation and use of UN Charter articles, then, the whole value of UN Charter will become a relativized document, even in what is concerning the sacrality of imperative law. In this situation, **the other major powers** will be forced, in order to defend their interests, to adopt the same type of distorted interpretation of UN Charter disposals, even with the price of directly augmenting the risk of international insecurity. The third direct consequence of this fact will be that the **middle and little states** will consider that no protection will be offered anymore to them by respecting the classical interpretation of UN Charter disposals and will be forced to use the same distorted manner of interpretation of the art.51/UN Charter in particular, for defending, at their turn, their national interests. That will have important negative consequences for the whole international legal order, because it is based on the classical interpretation of UN Charter: all the legal texts from this document must be interpreted in the light of maintaining peace and international security and ensuring the respect of imperative law incorporated, partially, in the UN Charter.

Another element contributing to this negative situation will be the lack of any official position of the International Court of Justice that has as mission, to be the guardant of the respect of UN Charter disposals and to eliminate the wrong or misguided interpretations made by states, in favor of the objective to keep unaltered the legal content of UN Charter. Any tolerated distort in the interpretation of the UN Charter will produce a **domino effect** for the international legal order: all the international documents based on the UN Charter and starting from its legal principles will be affected and their correct juridical interpretation will be distorted, in order to justify war and violence or satisfaction of particular political interests.

At the beginning of XXI Century, the need for order, stability and peace is more than ever, because states need to adapt their structure to deal with global challenges ; they might consider it is better to transfer certain attributes to superior levels of authority, like they do in the European Union, or they must find another way to reduce the global menaces of a world marked by rising of new actors, particularly of terrorist networks that have a negative influence for the international peace, security and the values of the interstate world.

But any type of adaptation in the structure, functions, objectives of the state, any national strategy, any action of a state **must not deviate from the genuine essence of the principles of international law** that is respect of sovereignty and of international peace and security. Some would say that there are principles applicable only in the relations between states, that only for the states, as civilized actors of the international life, can be put the question of preserving the respect of principles and juridical norms. For the relations between states and non-states actors, particularly those which provoke serious perturbations in the international relations, menacing the national being of the state itself, by massive attacks that are not respecting the classical rules of a war, these principles and norms aren't anymore applicable. Moreover, any collaboration between a state and such an actor will have as direct consequence the punishment of both the state and the terrorist network which received support from it, because **the international community**, in the age of globalization, has **two new and concrete obligations**: to eliminate the non-state actors that are provoking international insecurity and that are destroying the interstate world and its values-against this actors, the principles of international law have no relevance-, and secondly, to punish the state which is proved to be allied of this non-state actors, that means, against its own world, principles and values that it should be presumed to respect. In this context will appear the political qualification of "**rogue state**", that is seen by the eye of international community, as a state that participate or support the actions of the terrorist networks, endangering the international legal order and the international peace and security. This state became thus, a factor of instability and its behavior against international law must be revealed and sanctioned by international community. A rogue state must, in theory, provoke a reaction of the whole international community against it, but under the auspices of UN Charter and using only UN legal mechanisms and its disposals in a correct interpretation-avoiding abuse of collective right of the international community, in this situation, to defend itself-.

2. International law: a legal order based on the elimination of violence and war from international relations

War between states has been expressly prohibited by the Briand- Kellogg pact, and also by the London Convention on the definition of aggression. These two international agreements had a vital importance in declaring the war, as modality of settling the conflicts between states, as an illegal action and to prohibit its use in the interstate relations.

But, in the age of globalization, when new actors are threatening international community, its juridical norms and principles, is the international law maintaining its importance?[5] One should say that new times need new means of collective defense, that terrorist networks phenomenon of proliferation and their actions need a new type of war, capable to eliminate the danger of affecting the existing rules of international order. Such an atypical war-because it is led by entire international community against this type of actors- need an

appropriate legal framework, and it would have a **defensive character**, because its purpose is to defend the legal order of states based on UN Charter principles, to insure the preservation of international peace and security.

But, the atypical character of this war between states and terrorist networks has also, **a preventive character**, as the radical variant of response to these attacks. Preventive character is considered an appropriate mean to led new wars, because the protection that states own to their guiding principles of law inscribed in UN Charter must be permanent and not exclusively limited to the use of classical UN mechanisms.

In confronting with the imperative need of finding the most appropriate way to respond to this threat, the international community is loosing its coherence; that is why it choose to adopt flexible means through which its legal principles must be defended either through a classical meaning of protection – only when a military attack is imminent or has been produced –, either through non- conventional means- prevention that a threat materialize into an attack.

Preventive action would then signify that states would have the right to answer through means that are not necessary proportional with the attack – means that can be more destructive than the attack of the terrorist network; that they would have this right not only in situations of concrete attacks but also, in situations of simple existence of a threat; not only against a terrorist network but also, against the supporter state.

Secondly, it means that any state is free to act in preventive defense any time where it considers that it is menaced by terrorists. For this perspective, this state will not give preeminence to international principles of law, but it will firstly and mainly **defend its territory and its population** – that means it will exert its most important and traditional function –. Preservation of legal norms will appear, in this hypothesis, **as an abstract problem**, that the state which is considering itself as victim of a non- materialized terrorist threat has not the time or the means to defend. International principles of law are becoming, in this vision, abstract goods of the **whole international community**, that need to be defended **by the whole international community**, the victim- state considering that it is not disposing of the appropriate legal and material means to do this job of universal guardant, and even that it is risking to be accused of hegemonic claims.

But **an individual action**, based on its legal right to defend individually – or together with the states whishing freely to join it, in an original form of military coalition without concrete political or juridical responsibility – an aspect that must to be analyzed by International Court of Justice, in order to assure the compatibility between the legal functioning and the limits of action of these coalitions ad-hoc and the disposals of UN Charter –, is considered by this state **as appropriate** to respond to terrorist threats, as a personal business, without engaging the international community nor the abstract dimension of defending the principles of international law broken by terrorists.

But this threat is not a concrete attack, that is why, the state will appeal to an unilateral extensive interpretation of the UN Charter in order to legitimize its military "answer". Because, in the majoritary acceptations, the preemptive action is implying a dominant component of **military means**, not economic or diplomatic sanctions taken against the terrorist or the supporter –state.

Thus, a global risk is emerging: to create an international environment based on a **new, generalized Cold War**, in which any state is attending to be the next victim of preemptive action and then, it is forced to act the first; the dilemma of security is augmenting, because other states will attend to be hit and will feel as being encouraged to strike without attend to be the object of an attack; this will lead not to a regression of the international legal and political environment but even to its **destruction, to a global state of chaos and terror**, to a lack of credibility for the international law as a subtle weapon of a disappeared, golden age based on the preeminence of law.

Preemptive action could represent the determinant factor to initiate a new age of interstate wars, a reiteration of the dark age that dominated the history with the concept of force preeminence and unlimited violence. Preemptive action is, for international community, another warning signal that the contemporary international law and the multilateral, sophisticated organizations are necessary to be maintained, in order to regulate the relations between nations, their existence being necessary, at the beginning of the third millennium, more than ever.

3. UN Charter: a basic legal framework of universal importance for establishing and keeping international peace and security

One of the fundamental reasons for which UN has been created by states is to maintain international peace and security, a general purpose containing several others distinct goals, such as: to take effective collective measures for the prevention and removal of threats to the peace; to take collective measures for the suppression of acts of aggression or other breaches of the peace. Another UN goal is to bring about by peaceful means, and in conformity wit the principles of justice and international law, adjustment and settlement of international disputes or situations which might lead to a breach of the peace – see art. 1, Chapter I/ UN Charter.

All the member states must thus, be in all types of their actions – political, military, economic or diplomatic actions – compatible with these express dispositions of art. 1.

International community is right in taking collective measures in several situations mentioned expressly by the art.1/ UN Charter. The problem is to exactly define the legal nature of the preemptive action in order to know what type of legal response international community must adopt, so that the international legal principles be respected.

Is preemptive action a threat to international peace, in the sense of art. 1/ UN Charter? If so, if it is proved that this type of action **has concrete, irreversible, definitive and negative** influence over the imperative character of international principles of law, then, international community can take collective measures to prevent the preemptive action to be taken by one or another state and to prohibit this kind of action on international field. **This measure of express prohibition of the preemptive action through an international treaty or convention** signed by the states interested to preserve by legal means the present status of international order – that is not based on the use of preemptive action-, would be a postmodern type of reaction of the international community at the beginning of XXI century, as the Briand–Kellogg Pact/1928 [6] or the London Convention/1933 prohibiting the war or defining the aggression were representing at their time.

The lack of a legal response from the international community is consisting in several causes: first, international community, within the framework of UN Charter, needs to define what is a preemptive action and why it has a negative impact on the imperative law, for the international relations between states, and also, for preservation of UN purposes.

Secondly, international community must give **two types of responses: the creation of a legal document, incriminating the preemptive action as illegal from the perspective of international law; the creation of legal international mechanisms**, within UN or as an independent organization, as a functional complement of the legal convention above-mentioned on the preemptive action, that represents a concrete and legal organism competent **to identify and to combat** the preemptive actions taken by states under the aegis of international organizations or directly by a group of states gathered in some ad-hoc coalition or by an individual state.

Preemptive action can be taken by **originary subjects of international law**, as the states, or by **secondary subjects of international law**, as international organizations – in principal, by military alliances, as NATO, if the type of preemptive action that is envisaged to be taken has a determinant **military** component. If preemptive action is putting the stability of international community under question, how can be qualified then **the terrorist actions of transnational or infranational groups or networks**, that are non-state actors, whose actions are not respecting the international laws and principles and that are not pursuing a previous or a strict "ceremony" of declaring war or any official way of force deployment? Are these actions "preemptive actions", in order to protect the network against a military attack of a state, to dissuade a state reaction of self-defense, or because they are unexpected by the victim-state, they are non-conventional and their purpose is to punish the interstate world? This purpose would be a **general** one, in comparison with the case when a **state** is initiating a preemptive action, creating thus a determinate situation, not a

general one: the enemy is a determinate state, not an entire world or system. But we can notice equally in the case of an initiatory state, an ideological element: the classification of states in "civilized states" and "rogue states"; the justificatory character of the attack of the initiatory state, as defending a democratic way of living against tyranny and terrorism.

Another distinct aspect of this problem is that, because the lack of any legal regime of the preemptive action, international community do not know what measure is appropriate to be taken in order to eliminate the negative effects of this, or to discourage the initiatory state from tacking it, or what concrete mechanisms of defense should be implemented in order that states be dissuaded to adopt such an action. The **international responsibility of the initiator** of this action should be the exclusion from international community or suspension of its rights of vote in some essential organs of international organizations; the obligation to respect international principles of law, to repair the damage if it is proved one, to pay a financial compensation for the damages produced in the affected states. It is better that preemptive action should be let under the exclusive responsibility of the international community within the mechanisms offered by UN, or it is better to create a special international organism or commission with legal attributions in the field of combating the preemptive action under all its forms and by all its initiators?

4. Legal qualifications of the "preemptive action", in the light of existing international regulations

Preemptive action hasn't, at present, any legal specific international convention that treat about its legal regime. No international organization has not yet took the initiative to analyze form the international law perspective the preemptive action and its effects on international principles of law ; no international convention or treaty has been signed to bilateral or international level, within international organizations or outside their framework, in order that preemptive action should dispose of a determinate legal regime; at present, preemptive action is not officially prohibited, nor permitted from the perspective of international law, **by some legal instrument**.

But, if no new and special instrument on the international legal order is taking position on this problem, the **existing** international instruments can be used in order to give solutions to this problems.

So, in the perspective of the Briand- Kellogg Pact'1928, preemptive action could be qualified as war, started by a state /a group of states/ an international organization with military dimension, against another state. The elements of novelty in the case of preemptive action, are: the purpose of this action of war are not offensive, but defensive. But, in this perspective, it can be retained the idea that an **abusive defense** that is not justified by concrete and visible attack from a state, but only is based on a suspicion of attack or on the hypothesis of an imminent attack, is transforming into **an offensive type of action**, and this means starting war. Another element of novelty is that the preemptive action can be started **individually or collectively**- by a group of states gathered into ad-hoc coalition, against not only another state- the conventional aspect of the war- but against a terrorist network- the non-conventional aspect of the war. This can be interpreted as an action of some states to pressure international community to accept this precedent, as being compatible with the international law. It is an isolate action of the ad- hoc coalition or of some group of states, that is **not found on a true legal base, but is using an artificial, forced interpretation of the existing legal instruments**, in order to justify their action. Use of non- official, non- consecrated interpretation of the UN Charter – situation aggravated by the lack of a clear position of International Court of Justice, as legal defender of UN Charter and guardant of a monopoly of official interpretation of UN Charter, is generating legal abuses and violations of international law, as in the situation of preemptive action as justified by a "legitimate right of self- defense".

5. Analyzing the main elements of the preemptive action

Preemptive action has a strong element of intentionality; it is never started by mistake, but, on a contrary, is based on strong political determinations of the initiator state; it is often a central point of a nation-state security strategy.

Preemptive action can have **attempt,** because of a double element of its nature: the action is one projected in the future, has an element of prevention- the attack from another part is not happened yet-; in the mean time, it has a concrete element of present; the action is materially taken against another subject. A state has possibility to intend to take a preemptive action but, for various reasons, to be interrupted from taking it- inclusively by the reaction of the international community. The **attempt** to use a preemptive action against another state, must also be sanctioned by specific future means, by the international community.

The preemptive action, due to the lack of a legal statute has **a flexible content**: as involved subjects of law, it is supposing the curious position of the **initiatory state, that it is perceiving itself as a victim state and, in mean time, cumulating the position of an aggressor.** In the other side, the state against which is started the preemptive action, is a state that is considered the **presumptive aggressor**, but that cumulates, in the mean time, **the position of a victim state,** because it suffer concretely an armed attack from the first state. The abuse is then appearing from the existence of a individual self-perception and from a pseudo-legal qualification from the initiatory state, as victim- state. Secondly, due to the lack of a determinate legal regime for the preemptive action, the initiatory state is not seen as obliged to respect any limitations to this action: such as the principles of proportionality and necessity.

Thirdly, it can be noticed **another paradox**: **the initiatory state,** as self-perceived victim of an attack that was not been produced yet against it, **is not a concrete victim,** but an imaginary victim. It cannot prove in international justice- before the International Court of Justice, for example, or within another international organizations –, that it was a real victim, that it has suffered a real violation of its territorial integrity, of its sovereignty, of any right consecrated by UN Charter or by other international documents. In mean time, starting a preemptive action, **the initiatory state is transforming itself into a concrete aggressor-** because it was not been attacked –and thus, it is under the prohibition of the international existing documents that prohibits war under all forms. In this situation, it can risk to support the consequences for its attack and engage the international responsibility.

The other state is finding itself in the inverse situation: it is a real victim, because it suffers the real damages produced by a real attack- the preemptive character of this attack is not an argument to refuse the reality of such an attack-; **meantime, this state is perceived as an aggressor by the initiatory state** of the preemptive action, despite the fact that it has not launched a real attack against the initiatory state. So, all the content of preemptive action is based on a dislocation of political positions of the two states, on an inversion between real victim and real aggressor, aggravated because of the lack of international legal regime which should clarify the preemptive action legal nature. This key – situation is **a typical one, involving two states**; in another scenarios, it can involve **non-state actors,** which presence is not capable to force international community to adopt a legal international regime clarifying equally the implications and the role of these new actors in the preemptive action. On a side, international organizations, as UN, cannot interfere to prohibit or to limit the resort to such preemptive action, because it has no specific legal instrument to invoke, nor sufficient political will or institutional coherence to use in a firm way the existing legal instruments.

On the other side, terrorist networks, as non-state actors, are seen as partners of the state against which is projected a preemptive action, **state which has no possibility to defend its legal innocence before international community**[7] – innocence because the initiatory state is based on an **unilateral suspicion** that this "rogue state" has relation with terrorist networks, but has no proves; secondly, legal innocence is presumed even in international community, or, we can notice **another abusive element of the**

preemptive action: the disappearance of innocence presumption for the " rogue state" ; moreover, one can notice **the emergence of a strong and illegal, unilateral presumption of culpability for the state which will suffer the effects of this action.**

The whole engine of a preemptive action is not conform with international law, because it is based on a suspicion, individual or assumed by an ad- hoc coalition, and not on a real armed attack from the part of the "rogue state".

Secondly, from the perspective of UN Charter, there are no **"rogue states"**, but only an international community formed by states loving peace and adhering to UN principles and documents. If "rogue states" would be admitted in the international community, then legally, this community that UN keeps homogenous and coherent in a legal ensemble of imperative law based on the respect of sovereignty, will be divided. What state has the legal capacity to proclaim another state, which is equal and sovereign as well, for the international law perspective, as being a "rogue state"? Has UN organs the capacity to make such differences between states, in order to give legal support to preemptive action? Obvious, no such competence is admitted for any state or international organization, because it would be opposed to coordinator nature of international law, that is centered on sovereignty and legal equality between all states, irrespective of their internal political organization. Declaring a " rogue state", would means to isolate this state from international community, to consider it as not belonging to UN organization, to **exclude** it from UN organization- that signifies to take a very important sanction against a state which has not attacked, only on a base of suspicion, an attitude of direct infringement of the principle of international cooperation, mutual trust and friendship between states-, to consider it as a "second hand state", that is not anymore covered by international law protection. This attitude will create a form of barbarian scission on the legal field, a hierarchy between states, with direct consequences on international law. That is why no legal fundament can be find on international law in order to justify preemptive action. No organ or state has competence to declare another state as "rogue state" and to intent against it a preemptive action: the imperative law is opposing to any such scission between states, either if it is taken unilaterally or by a coalition of states, or by any international organization.

We can notice the strong phenomenon of politization of the preemptive action, which has not been discussed by the international community from the perspective of international law, but from **realist** premises of force preemption.

International law, whose general purposes are consecrated so well by UN Charter, is destined to maintain international peace and security and to eliminate all source of violence, war and instability that could endanger the cooperation and the friendship between nations.

Preemptive action is fighting against a whole way of living, against UN way of living, against a model of state behavior based on mutual trust and on institutionalized mechanisms of preserving and defending this interstate trust and the elimination of violence from international relations.

6. The legal limits of the art.51/ UN Charter as right to collective self- defense

If an UN member state is object of an armed attack, art. 51/ UN Charter will provide the legal support for an **exceptional** use of collective self-defense, on which base the states- inclusively an ad-hoc coalition can be formed in order to exert this right. It is necessary to mention that **any exercise of a collective right of self- defense**[8] **– within or outside the UN organization, because the coalition is formed by states that are UN members-, must be compatible with UN Charter**; must contribute to the fulfillment of UN goals mentioned in art. 1; must respect all the principles of international law and the fundamental rights of the states consecrated in international documents; must respect the principles of proportionality and of necessity; must respect the monopoly of Security Council to decide on taking measures for maintaining international peace and security; must report any measures taken until the intervention in the issue of the Security Council; must not affect in any way- inclusively by initiating controversial preemptive actions – the authority and responsibility of Security Council under the UN

Charter, organ that has the right to interfere in the issue **at any time** and to take necessary actions in order to fulfill its main objectives: maintaining the international peace and security.

Even if a group of state decide to act against the state which attacked a UN member state, Security Council can intervene at any time, from the moment of creation of this coalition, before the creation of this coalition, during its activity, and after its disappearance.

The logic of art. 51 is to permit such a collective exercise of the right of self- defense as a spontaneous type of manifestation of solidarity within the UN organization, a sort of art. 5/ Treaty of Washington, which legitimates the member states to help the attacked state by insuring to it a collective type of defense. The main idea is the same, but in the case of art. 51/ UN Charter, this is an **extraordinary** way of solving the situation, **not an obligation** to act, but a subjective appreciation of the states wishing to help the affected state, **a possibility to choose this type of action**.

From the perspective of the **affected state**, this has, on the base of art. 51/ UN Charter, two options:

- to exercise its individual right to self-defense
- to form a coalition of states and to exercise a collective type of right of self- defense

But the art. 51/ UN Charter is clear: Security Council can interfere at any time and can take necessary actions in order to maintain or to restore the international peace and security- inclusively in the case when the coalition of states has taken an illegal action as preemptive action, Security Council can interfere and stop it, in order to restore international peace and security-.

Secondly, the exercise of collective right of self- defense is **limited in time**: the coalition of states can exert this type of right only until the Security Council decides to intervene and to take measures necessary to maintain international peace and security. All dispositions of art. 51 are reflecting **the preeminence of Security Council in the two options of the right of self- defense exercise by the affected state**. The idea is that any state, even an UN member affected by an armed attack must not respond to the attack or to defend itself in a way of contravening to the art. 1 and 2 / UN Charter, mainly by creating international instability and war.

Coalition of states pursuing the exercise of a collective self- defense right – as manifestation of the UN members solidarity, is, in conformity to art. 51/ UN Charter, **subordinated to the Security Council**, even from the moment of the creation of the coalition or of the formation of a group of states wishing to defend the attacked states.

But in both variants of exercise of the self-defense right- individually or collectively-, authority and responsibility of Security Council must be respected and the coalition or the affected state **must respect the legal limitation to the exercise of this right** imposed by art. 51/ UN Charter, **because any exercise outside the legal framework of art. 51 is an illegal exercise of the right of self- defense**. Both cases of exercise of the self- defense right are conceived as reactions to an armed attack against an UN member state. On a contrary, if it is no attack, but only a suspicion to be attacked, the right to self-defense cannot be exercised; moreover, the possibility to exercise this right outside the UN framework, in this situation, is meaning to be contrary to UN disposals- illegal exercise of self-defense right.

On the other side, if the threat is coming from the part of a non-state actor- a transnational terrorist network-, **the legal framework of art. 51 must be extended in the sense that Security Council is considering itself competent to have principal authority and responsibility to take necessary measures in order to eliminate the transnational threat;** actions should be taken, in the situation when a non- state actors is involved, only within the UN framework, that is an adaptable and flexible one, in order to insure the protection of the states in XXI Century without encroachment from the part of the states, of their legal international obligations. Security Council, on the logic of art. 51 must have, inclusively in the situation of an non- conventional attack from a non- state actor against an UN member state, the competence to adopt necessary measures to maintain international peace and security. But the initial presumption of the art. 51 must be mentioned, in order to avoid abuses: **it must exist a real attack**, even an imminent possibility of attack from a transnational network, an attack non- contested by international community, and susceptible to be produced immediately, not a suspicion of being attacked, and not a discretionary appreciation that a potential link

might exist between some state and a terrorist network which is preparing to attack.

Thirdly, it remains another important problem to be clarified: is the so- called **right of necessity** preeminent with respect to other state fundamental rights?

Can **the right of necessity** been invoked by a state attacked or suspecting that it will suffer an attack from a state or from a terrorist network, in order to justify a preemptive action?

Academics[9] are considering that the right of necessity is an expression of the political will of the most strong state, in the name of its predominate interest; the question is if it can be conceived a **fundamental right of this kind**, materialized in a concrete legal possibility for a state to cause an unjust damage to another state in order to insure its own preservation. The question is put in conventional terms- involving two states- and it is rising a question of hierarchy between the two state rights. It doesn't refer to the possibility that a state invoke a right of necessity **materialized in a preemptive action**, in order to cause to another state, on the base of its presumed relation with a terrorist network- in occurrence, Afghanistan/2001-2002, Iraq- 2003- an unjust damage, in order to insure its right to existence. This is because we consider that the **immediate legal roots of the self- defense right are placed in the fundamental right of existence**, and this right is considered by the doctrine of international law as **preeminent** in comparison with other fundamental rights. Thus, in this vision, the **right of necessity would be an earlier extension of the right to existence**, that justify an attack against another state, even producing an unjust damage.

For the contemporary international law, based on the UN package of consecrated fundamental rights of the UN member states, **the right of necessity is not recognized as such,** and this is why, this type of right was transferred on the political field, under the concrete and contemporary form of a preemptive action. In order to insure its existence and to preserve the national being, a great power is considered in right to cause to another state an unjust damage. This right to necessity is thus, a political expression of a relation of force, in which **the strong state is not necessary attacked**, but it is deciding to act against another state, in order to insure its preservation as state[10]. The action is causing an unjust damage to the second state, that would be necessary, in the vision of the strong state, and for this reason, acceptable for the international law- that is a dangerous interpretation.

The similarity with the case of preemptive action is that no attack has been produced against the state which invokes the right of self-defense[11] or the so- called right of necessity. Both cases involves a subjective, discretionary, unilateral appreciation by the state which invokes the rights above-mentioned; in both cases, these rights are favorizing the strong state and are susceptible to generate abuses with respect of the rights of the second state; both cases are creating a situation of international insecurity, they are susceptible to create endless disputes between states, opening the gate to an international state of anarchy. Both rights are invoking by the strong state as being **"absolute rights"**, and for this reasons, not respecting the similar rights of other states.

On the other hand, while the right of self-defense is consecrated as such by the art. 51/ Un Charter, the so- called right of necessity has only a **political** existence, because the necessity is an element of fact, not a distinct right; moreover, it cannot act against the idea of justice. Nevertheless, **necessity** can justify a right, in the absence of other instruments, to use the force in order to defend against an **unjust aggression**[12] – the idea of legitimate defense –, but the right of self- defense is **limited**, is not an absolute right; it is limited **by the right of existence that all other states have**. The right of necessity is not consecrated as such in the UN Charter, but has a certain contemporary application in the right of self – defense. Necessity, if no other legal instruments exist- in occurrence, the right of self-defense stipulated by art. 51/ UN Charter, with all legal limitations-, is projected to defend a state against an unjust aggression; when the aggression was not been produced, no such right can exists, not even on political field. For the contemporary international law, the use of force is conceived **only under the UN aegis,** only in order to maintain international peace and security, only if it is compatible with *ius cogens*; wars, from the perspective of international law, containing a conventional or non- conventional dimension, are prohibited, because the whole essence of international law is directed to the elimination of war and violence from the international life. Even if conflicts appear in international relations,

presenting a non- conventional component, as a non- state actor, a terrorist attack, the necessity that these conflicts be **solved under the aegis of UN Security Council,** using its mechanisms and respecting its principles, the need for a real reform in UN and for disposals regulating the new competences of UN organs in non-conventional wars are imposing more than ever.

7. Legal limits of the individual right to self-defense specified in art.51/UN Charter

Article 51/ UN Charter has a special importance from the perspective of introducing legal limits to an already taken preemptive action. Irrespective of which is the initiatory entity- a state, a group of states, an international organization, a non-state actor-, the legal limits stipulated in the UN Charter can be used in the case when a preemptive action has been already taken or has produced its effects. But here is appearing another legal problem: is in right a state to invoke art. 51/ UN Charter, that means the individual right of self- defense, in order to defend itself from an enemy? [13]

Art. 51/ UN Charter is offering to it this option, but with **specific legal limits**: it must be under an armed attack ; this attack must be real, must have been produced – it is not permitted to invoke this right as consequence of an attack which has not the military dimension, to an attack which has not yet been produced; moreover, it is not permitted to respond by invoking art.51/ UN Charter if it is only a suspicion of being attacked- ; the attack must occur against an UN member, **against a state**[14] – not an international organization, a non- state actor, or a state which is not member of UN organization, nor against movements of national liberation-.

This is the first package of limitative measures stipulated by art. 51/ UN Charter.

The second package is centered on the moment when the right of self-defense is exerted by the state: it is a limitation **in time** that the article is mentioning expressly: the right of self – defense, irrespective if it is exerted individually by the attacked state or by the coalition of a state- can be exerted with respect of UN Charter and especially, of the first package of restrictions stipulated by art. 51/ UN Charter, **until the Security Council has taken the measures necessary to maintain international peace and security**. This specific limitation of the right of self- defense, exerted individually or collectively, shows **the importance that Security Council has**, in its quality of having the monopoly within UN framework in deciding and implementing the measures for maintaining the international peace and security, as one of the principal goals of UN organization, stipulated in art. 1 of the Charter.

Another important element of discretionary appreciation, that is not given in the charge of the attacked state, **but of the Security Council**, is appearing: the element of **necessity**. Only the Security Council can judge if an international measure to be taken by UN organization- and not by attacked state- is necessary to preserve the stability of the present international system. But, we consider that, *a fortiori*, Security Council has, on the base of this disposal of art. 51/ Un Charter, the possibility to make its appreciations on the measure/measures taken by the attacked state or by the coalition of states in the name of self-defense right, the competence to judge if this measure is necessary or not; practically, it is a legal instrument at the disposal of Security Council to be used in order **to avoid an unilateral and abusive use of self-defense right, that is exactly the case of a preemptive action**[15]. Also, from the perspective of art. 24/ UN Charter, Security Council has the primary authority and responsibility for the maintenance of international security and peace, and not the UN members acting alone or in ad- hoc coalitions- nor within UN organization, neither outside the UN organization-.

The base which was invoked for a preemptive action was, after the events of 11 September 2001, the right of a state to self-defense. In this case, it was been operated unilaterally an extension of the article 51/ UN Charter – conceived to be applied exclusively in the relations between states-, to the case when a state is attacked by a terrorist network. The problem is, in this new type of non- conventional war, with an enemy without face, that is not a state, and moreover, if the network is a transnational one, delocalized, who give the competence to the attacked states to decide to attack, at his turn, in self- defense, another state; what are the criteria used to established such the target-state; are these criteria legal or only

reflects a political, temporary, and unilateral interest of a hegemony or a great power of the international system; are these political criteria transformed in legal ones by the will of all states or by the international community and are they opposing to the art. 51/ UN Charter? These are many issues that needs appropriate answers, inclusively through the creation of an international convention or organism competent to respond to this challenge.

When the attacked state is exerting its right of self- defense, it must also, respect the **legal principles of proportionality and of necessity**; moreover, its response against the state which has attacked, must be in conformity with the principal goals of UN organization exposed in art. 1/ UN Charter; the state invoking the right of self- defense must behave as an UN member, must accomplish its legal obligations stipulated for each UN member in the UN Charter, before, during and after the effective exercise of its right if self- defense. Concretely, it must:

- to respect the general obligation to behave as a UN member, as respecting all packages of legal obligations that it has, as UN member, as contributor to the fulfillment of UN goals
- to contribute to maintaining the international peace and security
- participating with other states to collective measures for the prevention and removal of threats to the peace
- participating with others UN members to collective measures for the suppression of acts of aggression or other breaches of the peace
- participating at bringing about by peaceful means and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace
- has the obligation to develop friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen universal peace
- participating to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion

The idea **is that unilateral actions for these goals can be discouraged** because there are involving a large, unilateral and subjective type of interpretation, that can contravene to the reality, to discourage a desire of the states to behave alone, with a risk to make abstraction of the existing rules of law and of other UN members. The disposals of art. 1/UN Charter can be interpreted, also, as **giving preeminence by the UN Charter to collective types of measures, under the aegis of UN organization, in particular, to Security Council,** in order to discourage isolated actions of a state, moreover when it suffer an armed attack.

Art. 1/ UN Charter is stipulating inclusively **collective measures for the prevention** of threats to peace, that is creating a whole legal framework for materializing this type of UN objective and dissuade the states to act individually in order to prevent threats to peace.

Prevention[16] **become thus, a multilateral and legal instrument**, and its goal is orientating to impeach that international system of states, international principles of law be encroached by any threats to peace, to avoid that preemptive actions should materialize as threats to this international peace. On a contrary, **preemptive action** is a **political, unilateral and illegal instrument** used by a state and justified as having as goal to prevent an attack **Prevention is a concept specified in UN Charter**, involving the community of UN members as active factors of maintaining international security and peace. In the vision of art. 5/ UN Charter, Security Council is expressly designated as the competent authority to take preventive or enforcement types of actions; another measure attached to these types of actions under the UN organization aegis is the **suspension** of the member state from the exercise of rights and privileges of membership, pronounced by General Assembly, upon the recommendation of Security Council; but is not compulsory to be taken as complement to the preventive action already taken by Security Council against this state.

The measure decided by General Assembly is not irreversible, because not the rights and privilege of UN membership are suspended, but only their exercise; secondly, the member state in cause **must accomplish its obligations as UN**

member, even if a preventive action or the suspension of its rights and privileges were been taken against it. Article 5 / UN Charter is treating about the **preventive action**, a measure to be taken within the UN framework, **exclusively by the Security Council,** and as an example of **UN multilateralism**, to be exerted only in a institutionalized form and respecting the art. 2 and 5/ UN Charter. Precisely art. 2, paragr.5 prohibits to all members of the organization to give assistance to any state against which **UN** is taking preventive action.

Moreover, we can observe that preventive action is a specific measure taken only by Security Council on the base of art.5/ UN Charter, against a state- not against another actors as terrorist transnational networks-, **the appearance and the proliferation of these new types of actors imposing an extensive interpretation of the art 5, in the sense to extend the competence of Security Council to adopt preventive actions against non-state actors**, in order to avoid that some states, using this legal gap, take in their name preventive actions against transnational networks of terrorists, and indirectly to some states suspected by having relation with terrorists.

On the other hand, we must notice that UN Charter is establishing **a rule for the UN member states, that are obliged to act collectively in order to accomplish UN goals; individual action** is, on this perspective, **an exception from the rule**; in this sense, we can interpret the right of self- defense stipulated in the art. 51/ UN Charter as an exception from this rule, and the exceptions are, according a principle of law, of strict interpretation and application. Thus, treating the right of self- defense from art. 51/ UN Charter as an exorbitant right, that can occur only in some strict, limited situations, the spirit of UN Charter and its disposals are oriented **to the general obligation of the states to act as a UN members**, within the organization, and not alone, in order to avoid discretionary or abusive resort to art. 51, as in the case of preemptive action.

8. Preemptive action- an active violation of the UN consecrated rights of states

Fundamental rights of the states are representing for the contemporary international law an **essential component**; these rights are **intrinsic to any state; their sacred, inalienable, intangible and indivisible** juridical content is revealing the legal root of **equality** between states: all the states have the benefice of these rights, irrespective of their territorial dimension or military capacity or of other factors, and no state can renounce to these rights. The great importance of the fundamental rights for the international legal order is revealed by the **consequence** of the any type of violation of these rights, that is **putting in danger the existence of the state itself**. On the other hand, all international rules of law must be compatible with these fundamental rights, must not neglect or undermine their legal content[17]. States have the specific obligation to respect fundamental rights in the relations between them, otherwise they would engage international responsibility for any encroachment of it.

We cannot consider that a state has an absolute fundamental right while other state would dispose only by a relativized right; in both cases, it is the same right, with the same legal content; **international law cannot permit the existence of a discrimination between fundamental rights**; the discrimination exists when it is proclaimed unilaterally or by a group of states that their fundamental rights are more fundamental than the similar rights of other states. This hierarchy is a political one, established in a way contrary to the genuine spirit of the international law, whose nature is, we must reiterate, a coordinator one, based on the full legal equality between all states, and not on discriminations on juridical field.

In this context, it is essential to admit that the most important fundamental right, **the right to existence**, as a primordial right of any state, that is conditioning the existence of any other fundamental right, is recognized in international law to any state, in a same way. There is not admitted that one state or group of state could beneficiate of their right to existence in an absolute way, while other similar fundamental right to existence of other state should be relativized *de facto* or *de iure*. Moreover, a state cannot invoke its fundamental right to existence in an abusive way and for purposes other that its own and imminent survival – for example, the

goal of an aggression, or to occupy militarily a territory -. If this state/group of states are not suffering an imminent attack, in the sense of art. 51/ UN Charter, if they do not suffer any attack, but, moreover, they wish to attack preemptively, then their right to existence is unaltered, is not put in question and cannot be legally invoked.

Other fundamental right of essential importance for international law, on which base is centered the whole international law, **is the fundamental right to sovereignty and independency**[18], that a state must defend from any attempt or armed attack from other states; moreover, international law is formed of a vast normative body oriented to protect sovereignty at its full value, otherwise, its abandon would mean the domination of the strong states over the weak states and would create a situation of illegality, of tension and unstopped conflicts on international plan that would, at its turn, restart the regressive process of the international community in the ante- UN historical status.

On the base of this fundamental right, **a state cannot invoke its right to protect its sovereignty if it has not suffered a concrete armed attack or if it is not the object of an imminent attack**[19]. Preemptive action is an illegal act, from this perspective, as well, because it is contrary to the right of sovereignty and of territorial integrity of the state which will suffer the preemptive attack: this would mean **to consider an artificial extension of the right to sovereignty of the first state**, that is not recognized on international law and to consider that the similar right to sovereignty of the second state will not be so fundamental, that this right would, for various political reasons, be susceptible to suffer a violation. Or, for the international law, **any type of violation, in occurrence, provoked by a preemptive action, will be sanctioned by the international community on the base of existing legal international instruments and will engage the international responsibility of the states which has committed it.**

Another determinant factor of peaceful coexistence of the states, of friendship relations, of international peace and security **is the fundamental right of a state to territorial integrity and inviolability of its frontiers,** territory representing one of the essential elements for the existence of a state. In international law, the territory of any state is considered as **intangible, indivisible and inalienable**, it cannot be the object of a military occupation or of any act of force, in no context and for no reason. In this perspective, if a preemptive action is started against another state, the military occupation which would result from this action will be null and void, so as the advantages obtained through military force on the territory of this state. Initiating a preemptive action against a state, would mean **to encroach the fundamental right of existence of this state, that is the pre-condition for the existence of other fundamental rights**: this would create a **domino effect** for the whole package of fundamental rights of the state attacked through a preemptive action, and will produce, for the initiatory state, a general encroachment of its imperative and international obligations.

Cooperation between states for maintaining international peace and security is possible only if in the international relations the states would respect the **legal equality**[20] between them, as **a direct consequence of their sovereignty**. Preemptive action is affecting thus, **the base of the international law**, that is sovereign equality between states, because this type of action take as premise a political classification between "civilized states" and "rogue states", despite the fact that all states are participants to international legal order, that they all have the benefice of fundamental rights and the international obligations. For the international law, qualifications as "rogue states" are not permitted, because their content is a political one, reflecting often a temporary interest of a strong state/ a group of great powers to qualify in such a manner an sovereign state. The presence of the "rogue states" in the international law[21] would hit directly in the coordinator nature of this law, that is based on sovereign equality between all states. Preemptive action is producing thus, an unilateral political appreciation that the states would not be all equal or sovereign, that states would be "good" or "bad". The political appreciation has direct effect on the international legal order, because of the mutual influences between the two fields.

But the most important thing for a state which is acting on international filed is to exert its fundamental right **with good-faith** and to assume its international obligation with the same attitude. For the international legal order, *pacta sunt servanda* represents an unanimous

recognized principle of *ius cogens*, that limits the possibility for the state which has initiated a preemptive action, to invoke its right to self-defense or any fundamental right in order to justify its attack. *Pacta sunt servanda* obliges the initiatory state to respect the correct interpretation of the fundamental rights, to not surpass the legal content of these rights, reflected in international documents, to not try unilateral and abusive interpretation that would endanger international peace and security or other goals stipulated in the UN Charter and especially, *ius cogens*[22]. We can say that *pacta sunt servanda* has a special mission to protect the entire body of *ius cogens*, to be its guardant, to oblige the states to respect *ius cogens* **in the form of their legal consecration in the main international documents**, despite the fact that this is a principle of *ius cogens*, itself, a component of this imperative body of law.

A simple application of the *pacta sunt servanda* principle would be sufficient for imposing to any state which intent to hit another state with a preemptive action, to renounce to this action, and to return to the correct interpretation of the right of self- defense, that would guarantee, in consequence, the respect of all fundamental rights for all states.

9. Preemptive action and the necessity to combat international terrorism

International terrorism was been invoked by those who wished to justify the preemptive action in a manner that would be somehow compatible with international law, as a law whose essential goal is to eliminate violence in the relations between states[23].

This **global menace**, representing a real challenge for the capacity of states to respond, is materializing in various forms and modalities of operations, hitting states and civilians, contributing to an international instability and insecurity environment on national and international field. **Transnational networks** are becoming the main enemies for the states, as classical actors, which have no success in intending to eliminate this threat by appealing to conventional means. That is way, states are forced to change, inclusively the military dimension; in this context, preemptive action would appear to some states as the appropriate tool for eliminating the terrorists and for punishing the host-states.

Despite the fact that it is no universal legal definition on international terrorism, many legal instruments have tried to regulate this phenomenon and to proclaim a general obligation for the states to cooperate in order to combat it. After 11 September 2001, international terrorism has been perceived as a concrete and global threat for all international community, but, in mean time, it was a moment in which states were tempted to adopt non- conventional responses, even with the risk of relativizing the international law. Despite the fact that the tragic moment of 11 September has re-orientated the history[24] and had a powerful impact upon the relations between states, this must not put in question the international law, nor be used in order to endanger the sacrality of imperative body of international law.

If, from the perspective of international law, a state is not allowed to attack another state, nor by conventional attack, neither by preemptive action, international terrorism must be combated and eliminated, in order to permit to nations to live in an international environment of security and peace.

But, in this matter, the most important idea is that a state cannot start alone, based on unilateral appreciations on the real situation, a struggle against **international** terrorism. **All states must cooperate** [25] in order to find appropriate ways to combat this threat; because no state, either great power, superpower, either little or middle states, is not exempted from terrorist attacks.

The idea of preemptive action is that a state, on the base of an exacerbated right of self-defense can hit **another state** establishing a relation with the terrorists which have previously hit the territory of the first state, **and also, the terrorist network**. But the **transnational** character of terrorist networks can lead the state which is a victim of the terrorist attack to consider that is has a "global right to self – defense" and for thus, to pursue the terrorist network wherever is on the globe, even with the risk to encroach the sovereignty and territorial integrity of other states.

A new threat, even global or transnational, must not provoke a type of state reaction that neglect international law. Because, even when a state is combating international terrorism, it cannot realize this task with encroachment of international obligations assumed on international field as a part of the community of states. This is a civilized behavior for any state, to respect international law and similar rights that other states have on international legal order. Otherwise, the state which neglects international law by taking a preemptive action would be nothing else that a "rogue state", from the legal point of view.

It is essential for the respect of international law, that states use multilateral instruments[26] already existent in the international legal order, in order to deal with the transnational threat; for this, it is important that states cooperate under the aegis of UN organization, and that the legal competences of the Security Council should be enforced, as a part of a general institutional reform of UN[27] at the beginning of XXI century. Enforcing the legal competences of the Security Council and of the General Assembly in order to deal with international terrorism, is a necessity that must be accompanied by the obligation to not- contravene to *ius cogens*[28]. This would reflect the will of all states to make their contribution to the development of UN organs competences, on the base of *ius cogens*. In this perspective, preemptive action will appear as an isolate type of illegal reaction that is contrary to *ius cogens* and that is proving that, for international legal order, unilateral solutions creating abuses and direct dangers for *ius cogens* must be avoided.

As a fundamental international obligation, all states must participate **to maintain international peace and security**, and, as a **specific UN goal**, this effort must be a collective one, must be a multilateral instrument[29] suggesting a collaboration under the aegis of UN, not some isolate actions that would have negative consequences on existing body of international law. It is a question of political will but, moreover, a question of assuming the fulfillment of international obligations with good- faith – *pacta sunt servanda*-, and not to invent disproportionate, discriminatory and illegal responses to global threats, but to use correctly the existent legal instruments and to adopt appropriate institutional reforms of UN that would help to use these legal instruments in conformity with *ius cogens*.

NOTES:

[1] Some authors are considering that the struggle against terrorism will be for a long time the framework for recomposing the global system, in a hierarchical type of multilateralism dominated by US, or in an anarchical type of fragmentation of international relations whose main manifestation is international terrorism. See Mario Telo- "L'Europe et la gouvernance du monde après le 11 Septembre", in *Studia Diplomatica*, vol. LVII, nr. 1/2004, p. 41. However, it is accepted that the end of Cold War has brought about a multilevel of change affecting the nature of security both on international as on national fields. See Matteo Stocchetti- "Military Integration and National Sovereignty in Western Europe", *The International Spectator*, vol. XXXI, no. 3/ 1996, p. 77. No state does look to represent at the beginning of XXI century, a real threat, until 2015 and even beyond this date; the most probable risks are coming from non-state actors, of divers types, as very dangerous and proliferating entities. See also, Gerard Chaliand- "Conflicts and menaces at the beginning of Third millennium", in *Beaumarchais Center for International Research*, Arnaud Blin, Gerard Chaliand, Francois Géré coord., "Powers and Influences", trad. Narcisa Serbanescu, Ed. Corint, Bucharest, 2001, p. 26

[2] As the so- called principle of preemptive defense, that has no legal recognition in international documents, and that is violating the existing instruments of international law.

[3] UN Charter; The Paris Charter for a New Europe; The Millennium Declaration/ UNGA 2000; the Declaration on inadmissibility of intervention in the internal affairs of the states and the protection of sovereignty and independency// UNGA, 21 December 1965, Resolution 2 131/ XX; ; the Declaration regarding the enforcement of international security/ UNGA Resolution 2 734/ XXV, 16 December 1970; the Declaration regarding the strict respect of prohibition of threat with the force or of its use in the international relations/ UNGA 2 160 / XXI, 30 December 1966; The Declaration on the principles concerning friendship relations and cooperation between states / UNGA, 24 October 1970, Resolution 2 625/ XXV

[4] Sovereignty is not absolute, neither limited: it doesn't signifies absolutism but sovereign and independent exercise of power in an international determinant environment; the historical changes of this environment

doesn't affect sovereignty but is developing it; on the other side, sovereignty is not limited or relative, because it is not exerted outside the law but in conformity with legal framework ; it is not about neglecting international law but about registering within this international law. See Elena Florea- *Independency and sovereignty. Contemporary political concepts*, Ed. Politică, Bucharest, 1977, p. 48-49

[5] Some authors are considering that at the beginning of XXI Century, the Westphalian order is in a state of crisis, its principles are contested, the non- intervention in the internal affairs of other states has been abandoned in favor of a concept of humanitarian intervention at universal level and also, the indivisible character of sovereignty has been denied by globalist authors. See Henry Kissinger- "Does America need a Foreign Policy? Toward a Diplomacy for the 21st Century", trad. Andreea Nastase, Ed. Incitatus, 2002, p.11. Mary Kaldor- "New and Old Wars. Organized violence in global era", trad. Mihnea Columbeanu, Ed. Antet, s. a., s. l., p. 13. This is,certainly, a political vision trying to imposing itself over the legal international field perspective, and to relativize the main principles of law that still maintains sovereign equality between states and respect for the *ius cogens*.

[6] Grigore Geamanu- *Public International Law*, vol. I, Ed. Ştiinţifică şi Pedagogică, Bucharest, p. 223-224.

[7] That presumption is in close connection with the international obligation of all states to act with good-faith in all their legal acts on international field; moreover, states have the obligation to regulate international disputes on the base of sovereign equality of the states and in conformity with the purposes and principles of United Nations, as the UNGA Declaration of 1970 is stipulating. See Grigore Geamanu- *Public International Law*, vol. I, Ed. Didactică şi Pedagogică, Bucharest, 1981, p. 229-230. Respecting *pacta sunt servanda,* as well as the principles of cooperation in the international relations, is a legal guarantee that states must fulfill their international obligations in the spirit of UN principles and that **the bad- faith of any action taken** by a state- inclusively if it is a state presumed "to intend to attack" the initiatory state of a preemptive action, **is an element that must be proved, not presumed.** Practically, through preemptive action, it is trying to introduce in international law the presumption of bad- faith, that is directly contrary to the international principle of *pacta sunt servanda*, as *ius cogens*. Or, a principle of *ius cogens* cannot be put in question by the so- called presumption of bad- faith on which is based the preemptive action.

[8] Academics are considering that it is not a "collective right of self- defense", but a "collective defense", if two or more states organize their defense against the attack of a third state ; the action on the part of the state which is attacked, but only assists the attacked state against its aggressor, is not exactly "self- defense". See Hans Kelsen- "The Law of the United Nations. A Critical Analysis of its Fundamental Problems"; London Institute of World Affairs, London, Stevens and Sons Limited, 1951, p. 792. Collective defense can be organized before an aggression, or after the moment when a state had been attacked. In the case of preemptive action, it cannot be conceivable that a collective defense be organized before an armed attack, in order to strike a state on the base of a simple suspicion.

[9] Louis Le Fur- "La théorie du droit naturel depuis le XVII siècle et la doctrine moderne", in *Recueil des Cours*, III, 1927, tome 18, Académie de Droit International, Hachette, Paris, 1928, p. 429.

[10] Idem, p. 429-435.

[11] In the military doctrine of China, it is not need to invoke a right of self- defense that, in the future will suffer an attack- the preemptive side of the new doctrine-, but it is an offensive perspective on the nature of the strike: it is a notion of "**active defense**" that is present in the Chinese military doctrine before the moment of 11 September 2001 that has represented the moment of appearance of the preemptive action doctrine by the American superpower. China see in the local wars of Kosovo and Persian Gulf War the dimension of preemptive strike, that can be used "while the enemy is assembling its forces", an approach commented by Pentagon Report as "an effective method to offset or negate the advantages possessed by a more advanced military foe". Preemptive strike requires a mobile, flexible, smaller and technologically advanced military force, a reform of the Chinese army; in Pentagon Report it is depicted this vision of "gaining the initiative by striking first", as "winning victory with one strike, the most direct means available to Beijing to convince the enemy to desist without having to defeat his military forces, or to make political decisions in line with Chinese objectives". See Pentagon's Annual report on the Military Power of China; Report to the Congress, Pursuant to the FY2000 National Defense Authorization Act; June 23, 2000, Part II- Developments in Chinese Doctrine and Force Structure, point A- Developments in Chinese Military Doctrine, http://www.newsmax.com/articles/archives.

[12] The XXIX UNGA session has approved the definition of the armed aggression, in conventional terms – that is, in relation between two states; from this perspective, preemptive action is a new type of aggression, because the UNGA definition is depicting some elements of its nature, avant la lettre: "the use of armed force by a state against the sovereignty, territorial integrity or political independency of another state, or in any other manner incompatible with UN Charter, in the sense of present definition". See UNGA Document A/C.6/L 993, 19 November 1974. Preemptive action is thus, an act consisting in invasion or in attacking the territory of a state by the armed forces of another state; in this case, it is a classical type of aggression, but differently justified- in the

name of an exacerbated and global right of self- defense and without any previous action form the part of the second state. See Ludovic Takacs, Martian Niciu- *Public International Law*, Ed. Didactică şi Pedagogică, Bucharest, 1976, p. 50-52. Moreover, the UN Document is clearly affirming that: no reason, of any nature, political, economical, military or of other nature cannot justify an aggression".

[13] The problem is put in the National Security Strategy of the United States of America, under several forms: "our best defense is a good offense", the exercise of individual right of self- defense by "acting preemptively against terrorist organizations" – a wording directly referring to non- conventional type of war, against non- state actors. But in another part of this strategy, direct assertions referring to terrorist and also, to states, as targets of the preemptive action, are expressly made – for example, in Part V of the Strategy – "Prevent Our Enemies from Threatening Us, Our Allies, and Our Friends With Weapons of Mass Destruction", In the Discourse of President Bush, West Point, NY, 1 June 2002. The inclusion of states as future targets of a preemptive action that has no real legal fundament, is contrary to *ius cogens*. http://www.whitehouse.gov/nsc/print/nssall.html

[14] The Report of the UN High –Level Panel and the Use of Force is considering that the existence of a mere threat to security is not sufficient to legitimate an armed reaction. The attack has to be imminent. On the other side, the acquisition of weapons of mass destruction by one state, while constituting a threat to security, does not give another state the right to react in self- defense. The Report rejects expressly the preemptive doctrine, specifying that the art. 51/ UN Charter must not be neither rewritten, nor re- interpreted. Other UN organs, like International Court of Justice or International Law Commission have avoided to take position on this problem involving the use of force and self- defense or on the legality of anticipatory self- defense. See Natalino Ronzitti- "The Report of the UN High- Level Panel and the Use of Force", in The International Spectator, 1/ 2003, p. 92-93.

[15] In its Resolution 1373/2001, Council of Security is reaffirming that acts of international terrorism are threats to international peace and security, reaffirming also the right of individual or collective self- defense. But it does not entrained this right to overthrown of political regime from another country, nor does it legitimate the use of force against states deemed unfriendly in order to deny them weapon systems already deployed by other sovereign states or to enforce compliance with treaty obligations. Doctrine is right in asserting that, at the moment, there is no cosmopolitan body of respectable legal opinion which could be invoked to support so broad conception of self- defense. Tactical preemption – invading a neutral country in time of war in the belief that the opponent is likely to do so at some later point – has been deemed illegal once the UN Charter was been adopted. It was unsuccessfully invoked by the Nuremberg defendants in relation to the German invasion of Norway in 1940. See Tom Farer- "The Bush Doctrine and the UN Charter Frame", *The International Spectator*, 3/2002, p. 92.

[16] Some authors are using the concept of "**preventive defense**", that is a strategy conceived to offer to United States the historical opportunity to foster peace through different methods: isolationism, after the World War I; a leading role in creating United Nations after the World War I and promoting a post-war program of reconciliation and reconstruction in both Europe and Japan; countering the spread of nuclear, chemical, biological weapons; dismantling existing nuclear arsenals; maintaining extensive contacts with the defense establishments of allies as a part of an overall policy of maintaining overseas presence in time of peace – as different strategies that cannot be confounded with the preemptive doctrine. See William J. Perry – "Defense in an Age of Hope", Foreign Affairs, Nov. December 1996, p. 64-67

[17] Nicolae Ecobescu, Victor Duculescu- *Fundamental Rights and Obligations of the States*, Ed. Politică, Bucharest, 1976, p. 7-9

[18] This principles excludes any type of discrimination and inequality- inclusively, in our times, of preemptive strikes directed to the sovereignty of another state-, in rights and in obligations, in the relations between states. See Gheorghe Moca- *State sovereignty and contemporary international law*, Ed. Ştiinţifică, Bucharest, 1970, p. 90. Preemptive action is also, contrary with the principle of non- intervention, because of its illegal and violent character directed to another state. See Grigore Geamanu- *Public International Law*, vol. I, Ed. Didactică şi Pedagogică, Bucharest, 1981, p. 211.

[19] The Report of the High – Level Panel on Threats, Challenges and Change", submitted to UN Secretary General Kofi Annan on 1 December 2004 reconfirms the traditional interpretation of the use of force and of its exceptions; the Report accredits the thesis by which self- defense can also be exercised when an attack is imminent; the concept of imminence is interpreted in the traditional sense, and not in the extended sense of the preemptive action. The report is not clarifying if the armed attack must come from a state or be carried out by a non- state actor as terrorist network; some members of EU are in favor of this second interpretation. See Natalino Ronzitti – "The Report of the UN High –Level Panel and the Use of Force", in The International Spectator, 1/ 2005, p. 92-97.

[20] If all nations and states have the supreme authority in the internal life and are independent, then, none of them can be subordinated to the other ; they are all equal entities, finding themselves in relations of coordination, not of subordination. See Elena Florea- *op. cit.*, p. 34.

[21] "Rogue states" are defined in the National Security Strategy of the United States of America/ 2002, as non respecting international law ; but this is an unilateral interpretation, reflecting a political temporary interest, because, as UN members, all states are equally, part of international community and are obliged to fulfill with their international obligations, otherwise **the UN competent organs** would take against them the sanction of expelling or suspending its rights of vote, depending of the situation. In no case the preemptive action from the part of one state would be the legal and the most appropriate measure to sanction its "rogue character".

[22] The effect of imperative law is to impeach the creation of contrary customary law with regional or bilateral character- as in the case of preemptive action. See Ion Diaconu- *Treaty of Public International Law*, vol. I, Lumina Lex, Bucharest, 2002, p. 360.

[23] At present, states have not anymore the right to take individually measures of constraint based on force in the relations between them, with the exception of their right to self- defense. Contemporary international law has replaced the law of the conqueror with the international responsibility of states for aggression. Aggressor state- that in the case of a preemptive action is an initiatory state – must suffer all legal consequences resulting from its responsibility for its acts. See Ludovic Tackacs, Martian Niciu- *Public International Law*, Ed. Didactică şi Pedagogică, Bucharest, 1976, p. 52.

[24] Constantin Gheorghe Balaban- "The Problem of the Terrorism in International Law", in *Impact strategic*, nr. 2/2004, p. 115

[25] This cooperation must imperatively be based on the international principles of peaceful settling of international disputes; states do not have to use preemptive action one against other in order to defend their existence and sovereignty, but to enforce the level of international cooperation and in deploying, within the UN framework, a collective struggle against the terrorist networks. See Grigore Geamanu *op. cit.*, vol. I, p. 225; Martian Niciu- *UN role in promoting the international law principles in relations between states*, Ed. Politică, 1973, p. 33; Ion Diaconu- *Treaty of Public International Law*, vol. I, Lumina Lex, Bucharest, 2002, p. 315-319.

[26] Multilateral intervention currently appears to be a more legitimate form of coercive diplomacy than unilateral intervention; the argument is that the support of the international community provides the intervening coalition with a mandate to defend interests which are widely shared within the community itself. See Matteo M. Stocchetti- "Military Intervention and National Sovereignty in Western Europe", in *The International Spectator*, vol. XXXI, no. 3, July- September 1996, p. 74.

[27] This question was been expressed also as a concern for US to find appropriate tools for reconciliation of the growing need for global collective action with the inadequacies of UN as principal instrument of collective action, the need to reinvent UN in a way of insuring a real multilateral governance of global affairs. See Samuel R. Berger- "A Foreign Policy for the Global Age", in *Foreign Affairs, November-* December 2000, p. 37.

[28] UN reform cannot abolish the principles of international law or modifying it, because this would put in question the theoretic bases of the UN organization and would estrange it from its initial and constituent purposes. See Victor Duculescu- *Institutions of Public Law and International Relations in Dynamic*, Lumina Lex, Bucharest, 2002, p. 436-437.

[29] Some American officials have argued that there are no multilateral institutions capable of responding to 9-11- type of crisis, US southing to combine unilateralism with multilateralism, making maximum efforts to understand others interests and involving them to maximum degree. See "United States – China Relations and Regional Security after September 11", by Yu Bin; foreword by Ralph A. Cossa and Wu Xinbo; Issues and Insights, no. 2-2002, Pacific Forum CSIS, Honolulu, Hawaii, April 2002.

Организация Черноморского экономического сотрудничества как фактор стабильного регионального развития в условиях интеграционных процессов в Европе

Виктор Борисович Кириллов

Конец XX – начало XXI вв. стали временем радикальных перемен как в судьбах Европы, так и отдельных регионов его составляющих, в частности Черноморского региона. Особенностью современной историко-политической ситуации в Европе является действие двух, казалось бы, разнонаправленных процессов. С одной стороны, налицо проявление сильных дезинтеграционных тенденций, приводящих к распаду целых государств (СФРЮ, СССР) и возникновению новых, усиление национализма и стремление к более яркой национальной самоидентификации (Испания, Бельгия, Франция, Италия), с другой – возможно еще более ярко выраженные и стремительно набирающие темп интеграционные процессы в политической, экономической, культурной и научно-образовательной сферах.

Следует предположить, что одновременное действие этих двух, на первый взгляд, разновекторных процессов свидетельствует о начавшемся переходе к складыванию новой политической реальности, новой системе международных отношений и, в конечном счете, к новой исторической эпохе в жизни континента, радикально отличной от той, которая сложилась после Вестфальского мира 1648 года. Если прежняя основывалась на абсолютном признании правосубъектности в области международных отношений нации-государства, то нынешняя исходит из того, что существование и всестороннее самоопределение национального государства препятствует в конечном счете поступательному развитию в социально-экономической и политической области Европы как целого, как единого нового субъекта мировой политики.

Проявление слишком сильной национально-государственной самоидентификации воспринимается политической и управленческой элитой единой Европы как нечто архаическое, консервативное, возвращающее европейские народы в эпохи острых военных, социально-политических потрясений и экономических кризисов. Мир, экономическое благодействие, права человека — вот те три главных составляющих, которые, в итоге, являются побудительным мотивом и целью расширения Европейского Союза. Абсолютно все действия, направленные на создание единого политического, экономического, культурного и даже образовательного пространства имеют во главе угла именно эту триаду, подчинены цели обеспечения так называемого устойчивого развития.

Однако процесс становления новой исторической реальности есть процесс в высшей степени сложный и противоречивый.

Возникновение нового — это, как правило, отрицание старого. Новое качество получается в результате борьбы и разрешения неизбежно появляющихся противоречий между становящимся и уходящим.

Будущее новой системы, особенно если она претендует на то, чтобы быть всеобъемлющей и устойчивой, зависит от того, сколь высока степень остроты возникающих в ходе становления новой реальности противоречий.

Думается, что процесс, который был начат в 1949 г. в результате создания ЕОУС и прошел через этапы, ознаменовавшиеся подписанием Римского (1957 г.) и Маастрихского (1992 г.) договоров, объединил государства и народы, которые имели гораздо больше исторических предпосылок для политического, экономического и культурного единения, нежели значительная часть государств ЦВЕ, примкнувших к этому процессу позднее в результате глобальных трансформаций, произошедших в конце 80-х–начале 90-х годов.

Иными словами, тот субстрат, из которого изначально возник Евросоюз, был в гораздо большей степени однороден, чем дополнивший его впоследствии ареал. На наш взгляд, нынешнее пространство расширения гораздо более гетерогенно как внутри самого себя, так и во вне. Тем более, что ближайшей периферией зон расширения является ряд государств СНГ, в том числе и Россия, являющаяся центром интеграционного взаимодействия на постсоветском пространстве и сама, наряду со своим ближайшим окружением, активно взаимодействующая с Евросоюзом.

Следует подчеркнуть, что неспособность к реформированию, неготовность к интеграции ряда государств даже в условиях существования институциональных рамок и механизмов расширения, могут не только затормозить этот процесс, но и чреваты серьезными конфликтами как на региональном, так и субрегиональном уровне. Пример тому – югославская драма и те негативные последствия, которые оказали распад СФРЮ и внешнее вооруженное вмешательство не только на сами Балканы, но и на всю Европу.

Несомненно, что нынешний этап интеграции и расширения в регионе ЦВЕ является гораздо более сложным и потенциально конфликтогенным. Следовательно, необходимо не только совершенствовать прежние механизмы и институты, но искать новые подходы и организационные рамки расширения и углубления интеграции как в политической, так и в экономической сферах.

В этом смысле идея «Европы регионов» является, возможно, наиболее продуктивной, обеспечивающей стабильное и неконфликтное расширение. Создание региональных экономических интеграционных образований не только в Европе, но и на других континентах признается в настоящее время наиболее перспективным способом преодоления политических, социальных и культурных противоречий на пути развития интеграционных процессов — пример тому — НАФТА, МЕРКОСУР, а в регионе ЦВЕ– Вишеград.

Следует отметить, что современная новейшая история, политический процесс, особенно в Европе и Северной Америке, приобретают ярко выраженный экономический характер. Сама область политических, национальных и культурно-религиозных отношений как бы маргинализируется, вытесняется на периферию современной истории. Иметь такие проблемы с соседями, а тем более открыто поднимать их и обсуждать на межгосударственном уровне с точки зрения современной европейской политической элиты есть верный признак нецивилизованности и еще более верный путь оказаться в стане так называемых «государств-изгоев». Официальное подтверждение со стороны того или иного государства о том, что оно не имеет политических проблем с соседями есть первое условие начала обсуждения проблем интеграции с ЕС и НАТО. Более того, уходит в прошлое классическое понимание и преподавание дипломатии и международных отношений как инструментов обеспечения политических интересов и регулирования политических отношений.

Курсы экономической дипломатии, в частности энергетической политики, современных международных экономических отношений занимают ведущую роль в подготовке специалистов-международников и дипломатов в Европе. В подобной ситуации основной акцент

делается на вопросах развития экономического сотрудничества. Перенесение акцента с чисто политических отношений на вопросы нахождения общих экономических интересов и взаимовыгодного экономического сотрудничества, несомненно, является инструментом преодоления особо острых политических противоречий и их снятия. Это особенно важно для таких исторически нестабильных, но геостратегически значимых регионов, как ЦВЕ в целом, Балканы и прилежащий к ним черноморско-средиземноморский регион в частности.

Роль своего рода «стабилизатора» экономической и политической ситуации в регионе в значительной мере отводится Организации Черноморского экономического сотрудничества.

Организация Черноморского экономического сотрудничества (ОЧЭС) была создана в 1992 году. В Декларации, принятой 25 июня 1992 года на учредительной конференции в Стамбуле главами государств и правительств 11 стран региона отмечалось, что создание ОЧЭС «отражает решимость народов континента положить начало новой эре мира и безопасности на основе принципов, закрепленных в Хельсинском заключительном Акте и последующих документах СБСЕ (в настоящее время ОБСЕ), и в частности в Парижской Хартии для Новой Европы».

В настоящее время участниками ЧЭС являются 12 стран: Азербайджан, Албания, Армения, Болгария, Греция, Грузия, Молдавия, Россия, Румыния, Турция, Украина, Сербия и Черногория как продолжатель Югославии. Наблюдателями ЧЭС являются Австрия, Германия, Египет, Израиль, Италия, Польша, Словакия, Франция, Тунис и Конференция Европейской энергетической хартии. Македония, Узбекистан и Иран обратились с просьбой о предоставлении им полноправного членства в Организации.

Общие принципы, положенные в основу стратегического направления деятельности и цели, определяются главами государств и правительств стран-участниц на регулярных встречах. Кроме учредительной Стамбульской (25 июня 1992 г.) встречи также состоялись в Бухаресте (30 июня 1995 г.), в Москве (25 октября 1996 г.), в Ялте (5 мая 1998 г.), в Стамбуле (17 ноября 1999 г. и 25 июня 2002 г.).

В Декларации, подписанной по итогам Московского саммита была отражена согласованная позиция черноморских государств в отношении стратегии развития ЧЭС в контексте интеграционных процессов в Европе и сопредельных регионах, а также принципиальное политическое решение о трансформации ЧЭС в регионально-экономическую организацию. Особо подчеркивалось, что «экономическое сотрудничество и партнерство рассматривается как фундамент прочной региональной стабильности и как механизм снижения политических рисков и предотвращения дестабилизации».

Было заявлено, что главной целью деятельности ОЧЭС является конструктивное и плодотворное сотрудничество в интересах превращения Черного моря в зону мира, стабильности и экономического процветания. Вместе с тем в качестве регионов приоритетной активности (кроме собственно Черноморского) назывались Закавказье, Балканы и Средиземноморье.

В Декларации Ялтинского саммита особо подчеркивалось, что «в XXI веке роль Черноморского региона как с точки зрения мировой политики, так и с точки зрения глобальной экономики существенно возрастет благодаря его стратегическому расположению и значительному экономическому потенциалу». Особое значение придавалось «подготовке почвы для интеграции с единой Европой XXI в.» и сотрудничеству с Еврокомиссией, ОБСЕ, ЕЭК, ООН, ЮНИДО, а также ведущими региональными организациями: Центрально-европейской инициативой (ЦЕИ), Руаймондским процессом укрепления стабильности и добрососедства в Юго-Восточной Европе, Инициативой по

сотрудничеству в Юго-Восточной Европе (СЕКИ). Несколько позднее на совещании Совета министров ЧЭС в Салониках 27 октября 1999г. был принят отдельный документ — «Вклад ЧЭС в реализацию Пакта стабильности для Юго-Восточной Европы».

В ходе Ялтинской встречи 5 июня 1998 г. был подписан Устав ЧЭС, заложивший правовую основу для превращения ЧЭС в полноформатную международную организацию.

Устав вступил в силу 1 мая 1999 года, после ратификации десятью странами-участницами. 8 октября 1999 года на 54-й сессии ГА ООН ЧЭС предоставлен статус наблюдателя при ГА ООН.

С момента создания Организации раз в полгода проводятся встречи министров иностранных дел (с октября 1999 года– заседания Совета министров иностранных дел) с целью анализа результатов сотрудничества и постановки новых задач. Проведены 23 встречи. Первое заседание СМИД ЧЭС состоялось 27 октября 1999 г. в Салониках (Греция), третье–20 октября 2000 г. в Бухаресте, четвертое–27 апреля 2001 г. в Москве, десятое–30 апреля 2004 г. в Баку, одиннадцатое–в Стамбуле 25 июня 2004 года.

В период председательства министр иностранных дел соответствующей страны осуществляет общую координацию деятельности ЧЭС. Председателем ЧЭС с 1 ноября 2000 г. по 1 мая 2001 г. являлся мининдел России И.С.Иванов. Главным итогом российского председательства в ЧЭС стало принятие «Экономической повестки дня ЧЭС на будущее» — документа, определяющего стратегические направления деятельности ЧЭС на перспективу.

С 1 мая по 1 ноября 2004 г. в ЧЭС председательствует Грузия.

В рамках ЧЭС сформированы и функционируют 14 рабочих групп.

Организационное обеспечение работы ЧЭС возложено на Постоянный Международный Секретариат, расположенный в Стамбуле. В мае 2000 г. Генеральным секретарем ЧЭС на трехлетний срок избран представитель Грузии В.К.Чечелашвили (до мая 2003 г.; срок пребывания в должности продлен до мая 2006 г.). Ранее эту должность занимали представители России (1994-1997) и Болгарии (1997-2000). На 10-м СМИД принято принципиальное решение о необходимости расширения Секретариата ЧЭС за счет введения дополнительной должности замгенсека. Россия выдвинула на этот пост свою кандидатуру — Посла по особым поручениям А.Ю.Урнова.

Деятельность ЧЭС все больше ориентируется на конкретные региональные проекты. Один из наиболее крупных – создание транспортного кольца вокруг Черного моря с выходом на трансъевропейской магистрали. Другой, не менее важный, — формирование регионального энергетического рынка и создание Черноморского электроэнергетического кольца. В 2003 г. учрежден Фонд развития проектов ЧЭС для финансирования предпроектных исследований.

Вопросами финансирования региональных проектов занимается функционирующий в Салониках (Греция) с 21 июня 1999г. Черноморский банк торговли и развития (ЧБТР). Президентом Банка сейчас является представитель Турции; представители России, Румынии и Украины занимают посты вице-президентов, представитель Греции – пост Генерального секретаря ЧБТР.

В феврале 1993 г. создана по инициативе России и Турции Парламентская Ассамблея ЧЭС (ПАЧЭС). Главой постоянной делегации Федерального Собрания России в ПАЧЭС сейчас является Заместитель Председателя Государственной Думы А.Н.Чилингаров. С декабря 2003 г. по июнь 2004 г. председателем ПАЧЭС является президент Совета Федерации С.М.Миронов. С июня до ноября 2004 г. в ПАЧЭС председательствует Турция.

С 1992 г. действует Деловой совет ЧЭС — международная неправительственная

организация, объединяющая предпринимателей стран ЧЭС. Генеральным секретарем Делового совета ЧЭС с июня 2001 г. является представитель Греции К.Масманидис.

Одно из важных направлений деятельности ЧЭС — научное сотрудничество. Этими вопросами в значительной степени занимается находящийся в Афинах Международный центр черноморских исследований (МЦЧИ). Генеральным директором Центра является представитель Греции Я.Папаниколау.

В марте 1995 г. на конференции в МИД России учрежден Российский национальный комитет по ЧЭС (РНКЧЭС) — орган координации участия в ЧЭС российских предпринимательских и академических структур. РНКЧЭС представляет интересы российских предпринимательских структур и регионов в Деловом совете ЧЭС.

В соответствии с Постановлением Правительства Российской Федерации от 26 апреля 1997 г. № 500 «Об обеспечении участия Российской Федерации в Черноморском экономическом сотрудничестве» МИД России является головным федеральным органом исполнительной власти, обеспечивающим координацию деятельности федеральных органов исполнительной власти и органов исполнительной власти субъектов Российской Федерации, связанной с участием России в Черноморском экономическом сотрудничестве.

Парламентская поддержка деятельности ЧЭС, направленной на развитие многостороннего экономического, политико-правового и социально-культурного сотрудничества, осуществляется Парламентской Ассамблеей ЧЭС (ПАЧЭС).

Характер решений, принимаемых Ассамблеей, в Регламенте не оговорен, но предполагается, что они являются рекомендательными. Парламентская Ассамблея ЧЭС состоит из 70 депутатов, назначаемых национальными парламентами на срок не менее одного года. Квоты стран-участниц определены с учетом численности населения и составляют не менее 4 парламентариев: у России–12 депутатов, по 9 депутатов имеют Украина и Турция, 7–Румыния, 6–Греция, по 5–Грузия, Азербайджан и Болгария, по 4–Албания, Армения, Молдавия.

Председательство в ПАЧЭС сроком на 6 месяцев осуществляется по ротации. С июня 2004 г. по ноябрь 2004 г. в ПАЧЭС председательствует Турция. Сессии Ассамблеи проводятся два раза в год — весной и осенью.

На сессиях ГА ПАЧЭС и встречах парламентариев рассматривался ряд актуальных аспектов развития ЧЭС, в том числе вопросы создания зоны свободной торговли ЧЭС, упрощения портовых, таможенных и иных пограничных формальностей, налаживания взаимодействия правоохранительных органов стран-участниц и др. Парламентской Ассамблеей ЧЭС одобрены соответствующие резолюции по этой проблематике.

Последние сессии состоялись: 22-я в декабре 2003 г. в Бухаресте, 23-я в Санкт-Петербурге (1-3 июня 2004 г.). В ходе 23-й сессии, на которой председательствовал Председатель Совета Федерации С.М.Миронов, основными пунктами повестки дня было обсуждение роли ПАЧЭС в развитии межрегионального сотрудничества, вопросы повышения устойчивости развития туристической индустрии и др.

Руководящий орган ПАЧЭС — Бюро ПАЧЭС. В его состав входят президент, четыре вице-президента и казначей. Международный секретариат ПАЧЭС расположен в Стамбуле. В ходе 19-й пленарной сессии Генеральной Ассамблеи в ноябре 2002 г. генеральным секретарем ПАЧЭС был избран А.Ф.Кудрявцев (Россия), работавший до этого первым заместителем генсекретаря. Ассамблея имеет три специализированных комитета: по экономическим, торговым, научно-техническим и экологическим вопросам, по правовым и политическим вопросам и по

вопросам культуры, образования и социальной деятельности.

Основные направления деятельности ЧЭС определяются принятой на 4-м заседании СМИД ОЧЭС (Москва, 27.04.2001 г.) «Экономической повесткой дня на будущее».

В качестве приоритетных сфер сотрудничества определены энергетика (создание регионального энергетического рынка), транспорт (подразумевается развитие транспортных систем стран-участниц и подключение стран ЧЭС к трансъевропейским сетям, соединяющим Европу и Центральную Азию), телекоммуникации, охрана окружающей среды, наука и техника, а также инновационная деятельность и информационно-коммуникационные технологии (разработка Региональной инновационной политики и Региональной информационной системы), сельское хозяйство, образование, туризм, малое и среднее предпринимательство, обмен статистическими данными.

Отмечено, что важнейшим направлением сотрудничества является создание благоприятных условий для роста внутрирегиональной и внутриотраслевой торговли и инвестиций, с конечной целью создания зоны свободной торговли ЧЭС, а в дальнейшем и регионального фондового рынка. Достижение этих целей возможно путем согласования норм, касающихся порядка пересечения границ, таможенного контроля, инвестирования, банковских и финансовых операций.

Не принимая непосредственного участия в мероприятиях по поддержанию мира и урегулированию конфликтных ситуаций, Организация ЧЭС намерена способствовать обеспечению безопасности в регионе посредством применения «мягких» мер, а именно посредством сотрудничества в области борьбы с организованной преступностью, незаконным оборотом наркотиков и оружия, коррупцией и отмыванием денег. В частности, в развитие данного направления и в соответствии с поручением саммита ЧЭС (июнь 2002 г., Стамбул) в марте с.г. сформирована специальная экспертная группа из представителей МИДов стран ЧЭС при Международном центре черноморских исследований (МЦЧИ) для изучения вопроса о возможных мерах содействия безопасности и стабильности в регионе.

Большое значение в «Экономповестке» придается расширению взаимодействия ЧЭС с ЕС, финансовыми организациями. Ведется работа по налаживанию практического взаимодействия с ООН и ее специализированными учреждениями, Всемирным банком, ОЭСР и МЕРКОСУР, другими региональными организациями и инициативами. В ближайшие планы входит также развитие взаимодействия ЧЭС с ОБСЕ, ЕБРР, ЕИБ, СГБМ и Советом министров Северных стран.

С целью дальнейшей конкретизации «Экономповестки» и развития как уже существующих, так и новых механизмов сотрудничества каждое государство-участник ЧЭС разработало соответствующий национальный рабочий план по реализации этого документа.

Практическое осуществление намеченных в «Экономповестке» целей происходит в рамках 14 Рабочих групп, координаторами в которых являются следующие страны:

1. Рабочая группа по транспорту — Азербайджан
2. Рабочая группа по энергетике — Азербайджан
3. Рабочая группа по связи — Турция
4. Рабочая группа по чрезвычайным ситуациям — Украина
5. Рабочая группа по сотрудничеству в области науки и технологии — Украина
6. Рабочая группа по охране окружающей среды — Турция
7. Рабочая группа по сотрудничеству в борьбе с оргпреступностью — Румыния
8. Рабочая группа по сельскому хозяйству и агропромышленности — Грузия
9. Рабочая группа по здравоохранению и фармацевтике — Россия (Минздрав России)

10. Рабочая группа по сотрудничеству в области туризма — координатор не определен
11. Рабочая группа по торговле и экономическому развитию — Россия (Минэкономразвития и торговли)
12. Рабочая группа по банковской деятельности и финансам — Украина
13. Рабочая группа по обмену статистическими данными и экономической информацией — координатор не определен
14. Рабочая группа по малым и средним предприятиям — Греция

Руководящий комитет по проекту «Черноморского энергокольца» — координатор не определен.

Рабочая группа по транспорту

Рассматривает перспективы развития и стыковки действующих в регионе ЧЭС транспортных сетей с трансконтинентальными сетями Европа – Кавказ – Азия. Уделяет особое внимание следующим проектам:

1.Пан-Европейский коридор № 7 (в части Дунай–Дон–Волга).

2.Пан-Европейский коридор № 8 Восток-Запад (в части Адриатическое море–Черное море–Центральная Азия).

3.Пан-Европейский коридор № 9 Север-Юг (в части Балтийское море–Центральная Россия–Азов и Черное море).

В рамках группы в настоящее время согласована единая позиция стран ЧЭС для 3-й Общеевропейской конференции по транспорту, которая признала Черноморский бассейн общеевропейской транспортной зоной.

В Сочи в 2001 г. на встрече министров транспорта были приняты два документа: Совместное заявление и План действий ЧЭС в области транспорта, определяющий взаимодействие стран региона в развитии транспортной инфраструктуры, в гармонизации законодательства в области транспорта, защите окружающей среды, исследовательской деятельности, менеджменте и информационной поддержке, включая создание сети региональных логистических центров для интермодальных транспортных операций.

В ходе заседаний Рабочей группы ЧЭС по транспорту в 2003/2004 гг. рассмотрены проекты транспортного кольца Причерноморья и проект соглашения об упрощении визовых процедур для профессиональных водителей стран-членов ЧЭС.

Рабочая группа по энергетике

Основной задачей РГ является анализ структуры регионального энергетического рынка, а также вопросы транспортировки, распределения и сбыта энергоносителей.

На заседании РГ 5-6 сентября 2002 г. в Стамбуле обсуждены вопросы взаимодействия стран ЧЭС в области электроэнергетики, перспективы реализации концепции объединения энергетических систем в Черноморском регионе. Позитивно отмечена синхронная работа энергетических систем России, Молдавии и Украины. Вместе с тем представляется очевидной необратимость процесса по переходу некоторых стран ЧЭС (Болгария, Румыния, Турция) на стандарты и нормы Союза по координации передачи электроэнергии (UCTE), что может привести к технологической изоляции России и прекращению ее доступа на рынки Балкан и Западной Европы.

На заседании РГ 26-27 февраля 2003 г. основными темами обсуждения стали вопросы синхронизации электросетей стран ЧЭС, адаптации к существующим европейским стандартам передачи электроэнергии и либерализации рынка электроэнергии. Предполагается, что эти вопросы станут доминирующими в ближайшем будущем.

В сентябре 2003 г. в Баку в ходе встречи министров энергетики стран ЧЭС принята Декларация о сотрудничестве в области энергетики в регионе ЧЭС. На заседаниях РГ в марте и июне 2004 г. елось согласование основных стратегических задач по ее реализации, в первую очередь в области создания единого энергетического пространства ЧЭС.

Рабочая группа по связи

Деятельность РГ направлена на расширение сотрудничества стран ЧЭС в области телекоммуникаций.

На заседании РГ 29 февраля – 1 марта 2000 г. в Кишиневе был принят «План действий по развитию связи и телекоммуникаций в регионе Черного моря», в который включены основные направления сотрудничества стран-членов ЧЭС по созданию высокоэффективных телекоммуникационных систем. Главная задача – преодолеть отставание развития сетей связи отдельных стран ЧЭС и объединить телекоммуникационную инфраструктуру региона с трансъевропейской сетью путем реализации высокотехнологичных проектов.

На заседаниях РГ ЧЭС по связи (1-2 октября 2002 г. и 29-30 января 2004 г.) рассматривались вопросы, связанные с процессом приватизации госпредприятий связи в странах ЧЭС и созданием рыночных условий в телекоммуникационном секторе в регионе.

Рабочая группа по чрезвычайным ситуациям

Создана после подписания Соглашения о сотрудничестве стран ЧЭС по вопросам предупреждения и ликвидации чрезвычайных ситуаций природного и техногенного характера (апрель 1998 г., Сочи).

В марте 1999 г. прошло первое заседание РГ, на котором были обсуждены организационные вопросы и ряд конкретных проектов по сотрудничеству стран-участниц в области чрезвычайных ситуаций, в т.ч. и российская инициатива по созданию Международного спасательного центра стран ЧЭС на базе национального российского спасательного центра.

На очередном заседании РГ 5-6 марта 2003 г. завершено согласование дополнительного протокола к Соглашению (о создании сети офицеров связи), который должен быть подписан на встрече министров по чрезвычайным ситуациям в ноябре 2004 г.

Рабочая группа по сотрудничеству в области науки и технологий

На заседании РГ в Буштени (Румыния, декабрь 1999 г.) рассмотрены предложения по налаживанию сотрудничества научных организаций стран ЧЭС, взаимодействию РГ, Международного центра черноморских исследований (МЦЧИ) и Постоянного академического комитета ЧЭС. С учетом последствий землетрясений в Греции и Турции особое внимание уделяется проблеме прогнозирования, мониторинга и предотвращения природных и техногенных катастроф в регионе ЧЭС.

Российская делегация проинформировала РГ о создании в Краснодаре (на базе Кубанского госуниверситета) информационно-аналитического центра ЧЭС, представила ряд проектов в области сейсмологии и подготовки научных кадров.

На встрече министров образования ЧЭС в апреле 2004 г. прозвучало предложение включить в сферу компетенции этой РГ и вопросы сотрудничества в сфере образования. Однако вопрос был отложен. Минобразования РФ исходит в этом вопросе из того, что страна-координатор Украина не присоединилась к Болонской декларации, определяющей основные принципы развития образования в Европе, хотя большинство членов ЧЭС видит причерноморское сотрудничество в сфере образования преимущественно в рамках общеевропейского образовательного процесса.

Рабочая группа по охране окружающей среды

Основные направления деятельности РГ определяет бухарестская Конвенция по защите Черного моря от загрязнений от 22 апреля 1992 г. Данная Конвенция создает законодательную базу для проведения совместных мероприятий в области природоохранной деятельности и работы по экологическим программам, которые были разработаны в рамках деятельности РГ по защите окружающей среды в сотрудничестве с КЕС, специализированными организациями ООН, МБРР и другими.

РГ руководствуется также Черноморской экологической программой, которая была принята 31 октября 1996 г. шестью государствами-участницами ЧЭС (Болгария, Грузия, Румыния, Россия, Турция и Украина). Программа ориентирована на реализацию стратегического Плана мероприятий по защите Черного моря.

На заседании РГ в сентябре 1998 г. одобрена инициатива Румынии по разработке Бухарестом рамочных условий для информационного обмена по гармонизации национальных систем мониторинга водных пространств.

23-24 сентября 1999 г. в Салониках состоялась конференция министров охраны окружающей среды стран-членов ЧЭС. На конференции в качестве приоритетных были признаны следующие задачи:

- создание скоординированных систем мониторинга состояния атмосферы, водных объектов и почв;
- внедрение «чистых» технологий промышленного производства;
- обязательное проведение оценки воздействия на окружающую среду при реализации любых проектов.

Рабочая группа по сотрудничеству в борьбе с преступностью, в особенности в ее организованных формах

В октябре 1998 г. в Греции на третьей встрече министров внутренних дел подписано Межправительственное соглашение о сотрудничестве стран ЧЭС в борьбе с преступностью, особенно в ее организованных формах. Соглашением охвачены вопросы сотрудничества в борьбе с терроризмом и организованной преступностью, незаконной транспортировкой и распространением наркотиков, контрабандой оружия, включая биологическое, химическое и радиологическое оружие, перевозкой и распространением взрывчатых веществ, ядерных и радиоактивных материалов, преступлениями экономического характера, незаконной миграцией и торговлей людьми, преступлениями против личности, коррупцией, отмыванием денег и подделкой денежных знаков, экологическими преступлениями и др.

На пятой встрече министров внутренних дел 15 марта 2002 г. в Киеве восемь стран ЧЭС (кроме России, Азербайджана и Греции) подписали разработанный РГ Дополнительный протокол о создании сети офицеров по связи ЧЭС. На этой же министерской встрече РГ дано поручение разработать проект Дополнительного протокола по борьбе с терроризмом. С декабря 2002 г. в рамках РГ ведется проработка подготовленного МВД России проекта такого протокола.

Рабочая группа по сельскому хозяйству и агропромышленности

В рамках РГ предполагается подготовка проектов и программ сотрудничества, включающих кооперацию между малыми и средними предприятиями, экспортирующими сельскохозяйственную продукцию. Ожидается, что ЧБТР окажет должное внимание данным программам на начальных стадиях.

В ходе заседания рабочей группы (Стамбул, 26-27 сентября 2002 г.) был рассмотрен ход реализации инициативы «Проект ЧЭС по развитию внутри- и межрегиональной торговли сельхозпродукцией».

Рабочая группа по здравоохранению и фармацевтике

В сфере внимания группы, как предполагается, должен находиться широкий круг вопросов, главные из которых – совместная борьба против инфекционных заболеваний и наркотической зависимости, организация медицинского обслуживания в чрезвычайных ситуациях, проведение научных исследований и учебных программ в области здравоохранения, организация медицинского страхования.

Рабочая группа по сотрудничеству в области туризма

Создана для координации сотрудничества черноморских стран в области туризма по линии государственных и неправительственных организаций.

На заседании в июне 1999 г. в Стамбуле был принят План действий ЧЭС по развитию туризма, детализировано предложение о разработке и проведении совместных обучающих программ и семинаров в области туризма, обсуждалась роль туризма в привлечении иностранных инвестиций.

Итогом встречи министров туризма в сентябре 2002 г. в Тиране стало принятие Декларации по туризму и Плана действий в сфере туризма в регионе ЧЭС.

Рабочая группа по торговле и экономическому развитию

В ведении РГ находятся вопросы развития и либерализации торговли, а также поддержки малых и средних предприятий, привлечения инвестиций.

На заседаниях РГ в качестве основных направлений сотрудничества по расширению интеграционных процессов в регионе рассматриваются: развитие внутрирегиональной торговли; вступление в ВТО еще не присоединившихся к ней государств-участниц ЧЭС; создание зоны свободной торговли ЧЭС. В качестве мер, способных повлиять на расширение внутрирегиональной торговли, рассматриваются вопросы развития торговли в приграничных районах, создания свободных промышленных и торговых зон, облегчения передвижения коммерческих грузов и физических лиц через границы, смягчения визового режима для осуществления деловых поездок.

В январе 1999 г. в Стамбуле на заседании РГ было принято решение о создании Центра торговли и инвестиций ЧЭС, а входе встречи 23–24 сентября 2002 г. в Стамбуле было решено, что каждая из стран представит в Секретариат ЧЭС перечень и образцы документов, необходимых для ведения внешней торговли, а также направит до конца 2002 года информацию по нетарифным барьерам в регионе ЧЭС.

Рабочая группа по банковской деятельности и финансам

В рамках РГ особое внимание уделяется следующим направлениям взаимодействия:

- сотрудничеству между банками и финансовыми институтами в регионе ЧЭС, включая проведение деловых встреч и учебных программ;
- активизации деятельности ЧБТР в регионе и за его пределами;
- поощрению взаимных инвестиций и развитию регионального рынка капитала.
- На заседании РГ в Афинах в сентябре 1999 г. одобрен проект документа «Модальности взаимодействия ЧБТР и ЧЭС», определяющего общие принципы их сотрудничества.

Рабочая группа по обмену статистическими данными и экономической информацией

Участниками обсуждаются проблемы, отраженные в публикациях «Социальные и экономические показатели стран ЧЭС» и «Внешняя торговля Турции со странами ЧЭС». Государства-участники приняли решение о создании Координационного Центра ЧЭС по обмену статистическими данными и экономической информацией на базе турецкого государственного Института статистики (Анкара).

Рабочая группа по малым и средним предприятиям

В соответствии с выработанным проектом мандата данной группы в сферу ее компетенции будут входить выработка рекомендаций и обмен информацией по проблематике МСП, разработка проектов сотрудничества в рамках ЧЭС. Решено выработать меры по устранению в регионе ЧЭС барьеров в торговле с точки зрения МСП, налаживать обмен опытом в вопросах практической поддержки МСП.

Руководящий комитет по проекту «Черноморского энергокольца»

На встрече стран-участниц ЧЭС на высоком уровне (июнь 1995 г., Бухарест) Россия внесла предложение об объединении электроэнергетических сетей в регионе. Соответствующий проект создания «Черноморского электроэнергетического кольца» был представлен РАО «ЕЭС России» на заседании РГ по энергетике и одобрен в Меморандуме, подписанном странами ЧЭС в апреле 1996 г.

Проект «кольца» поддержан на совещании министров энергетики стран ЧЭС в апреле 1998 г., где были подписаны новый меморандум о сотрудничестве в области электроэнергетической промышленности и техническое задание на разработку ТЭО проекта (Азербайджан в этом совещании не участвовал).

В феврале 2000 г. ТЭО проекта «энергокольца» было вынесено на рассмотрение Черноморского банка торговли и развития, но было отклонено. Эксперты банка утверждали, что ЧБТР финансирует проекты, способные быстро погасить выданные финансовые средства, тогда как проект «энергокольца» носит стратегический характер.

На заседании Рабочей группы по энергетике в сентябре 2002 г. получила позитивную оценку синхронная работа энергосистем России, Украины и Молдавии. Вместе с тем, выявилась необратимость процессов по переходу некоторых стран ЧЭС (Болгария, Румыния, Турция) на стандарты и нормы Союза по координации передачи электроэнергии (UCTE).

В ходе последующих заседаний рабочей группы (в сентябре 2003 г. и марте 2004 г.) рядом стран отмечалось, что реализация проекта в том виде, в котором он планировался, невозможна. По мнению РАО «ЕЭС России», целесообразным представляется продвижение отдельных сегментов проекта будущего кольца:

- Россия–Грузия–Турция–Греция;
- Молдавская ГРЭС–Болгария–Греция–Албания;
- Возможное совмещение линии газопровода «Голубой поток» с линией прокладки подводного кабеля Россия – Турция.

С российской стороны последовательно проводится линия на то, что членство ряда стран в ИСТЕ (к которому Россия также стремится) не исключает идеи создания «Черноморского энергокольца».

12 лет деятельности ОЧЭС продемонстрировали возможности Черноморского региона к конструктивному и взаимовыгодному сотрудничеству. Более того, поскольку государства, его составляющие, относятся к различным интеграционным группировкам политико-экономического и военного характера (СНГ, ЕС, НАТО) или пока не входят ни в одну из них, развитие подобного сотрудничества создает реальные предпосылки для неконфликтного снятия противоречий между этими объединениями, что объективно способствует укреплению региональной и европейской безопасности, расширению процесса интеграции.

В Заявлении СМИД государств–глав ЧЭС по итогам последнего его заседания в Стамбуле 25 июня 2004 года отмечалось, что за время существования «ЧЭС продемонстрировала свою приверженность преобразованию региона ЧЭС в район безопасности, стабильности, партнерства и процветания» и исполнена решимости сосредоточить свои усилия на этом направлении «в русле более масштабных мер с целью ликвидации всех форм вражды, конфликтов, насилия, кризисов, нарушения

прав человека и, в особенности, международного терроризма».

Особо была также отмечена приверженность государств-участников принципам Платформы сотрудничества ЕС–ЧЭС с учетом уникальности опыта Евросоюза. Совещание выразило стремление к тому, «чтобы сделать ЧЭС группой сотрудничающих государств, объединенных общими идеалами и осознанием их совпадающих интересов... во имя будущего как в регионе ЧЭС, так и за его пределами».

Вместе с тем следует признать, что далеко не все так безоблачно. В последнее время в работе самой Организации назревают определенные кризисные моменты, что, в частности, признается и самими участниками ЧЭС. Так, выступая в Стамбуле 25 июня 2004 года, замминистра иностранных дел В.И.Калюжный отметил, что «ОЧЭС, призванная содействовать развитию сотрудничества стран Черноморского региона, несколько подрастеряла интеграционной энергии и нуждается в новых импульсах как со стороны самих стран-членов, так и в организационном плане». Этому, по нашему мнению, есть ряд причин. Одна из них заключается в том, что ЕС активно завершает очередной этап расширения (вопрос о приеме Румынии и Болгарии должен быть рассмотрен в 2007 году, все более настойчиво стучится в дверь Евросоюза Турция). В то же время интеграционные процессы, особенно в экономической сфере, набирают темп в рамках СНГ, более активную роль в них стремится играть Россия.

Ряд республик Закавказья рассматривается Западом в лице НАТО–ЕС и транснациональными корпорациями сферой жизненных, в первую очередь военно-политических и экономических интересов (наличие крупных газонефтяных запасов в Азербайджане, близость этого региона как к России, так и странам Среднего Востока).

Данные тенденции приводят к тому, что непосредственные интеграционные интересы стран-членов ОЧЭС как участников данного объединения, расходятся с интересами тех суперрегиональных организаций, членами которых они также являются. Возникает противоречие между «частным» и «общим», которое зачастую решается не в пользу «частного», т.е. не в пользу углубления именно Черноморской интеграции.

Хотелось бы в заключении более остановиться на тех вызовах, с которыми в настоящее время сталкивается ОЧЭС и которые непосредственно угрожают черноморской интеграции.

К первой группе вызовов относятся проблемы политико-институционального характера. В ОЧЭС четко обозначилось стремление к единоличному лидерству Турции. В Стамбуле, как уже отмечалось, родилась сама Организация, там же находится ее штаб-квартира. В настоящее время Турция настаивает на том, чтобы пост первого замсекретаря Организации был закреплен за ней на постоянной основе. Против этого резонно возражают Россия, Греция и Украина, которые, наряду с Турцией, являются главными инвесторами Организации. Очевидно, что Турция таким образом стремится стать лидером регионального объединения, получив тем самым дополнительные очки в борьбе за вступление в Евросоюз и самоутверждение в роли региональной «сверхдержавы».

Достаточно острым является вопрос о приеме новых членов. Так, Греция решительно противится приему в члены Организации Македонии. Долгое время Албания тормозила прием в ОЧЭС Сербии и Черногории в качестве правопреемницы Югославии. Лишь благодаря усилиям России и Украины эта проблема была разблокирована и Сербия и Черногория принята в ОЧЭС в апреле 2004 года. В настоящее время рассматривается вопрос о приеме в ряды Организации Македонии. Из-за противоречий между Турцией и Грецией не решается вопрос о статусе наблюдателя для Кипра.

Вторая группа противоречий носит на первый взгляд чисто экономический

характер, хотя, в сущности, эти проблемы приобретают и глобальный политический характер.

Одна из важнейших среди них связана с маршрутами транспортировки российской, казахстанской и, в первую очередь, азербайджанской нефти из соответствующего региона в ЕС, Турцию и балканские страны (100–200 млн. тонн в год).

Определение маршрутов транспортировки нефти прикаспийских стран на мировые рынки уже стало объектом острой конкуренции как между отдельными государствами (Турция, Иран, США, страны ЕС, Болгария), так и между крупными компаниями.

Для транспортировки «ранней» нефти Азербайджана (5–7 млн. тонн в год) используются два маршрута — через территорию России (Новороссийск) и через территорию Грузии (Супса). Под транспортировку нефти Казахстана в настоящее время задействован нефтепровод Атырау–Самара. В 2002 г. в Новороссийске началась загрузка танкеров нефтью с нефтепровода Каспийского нефтепроводного консорциума (КТК).

Основной маршрут для транспортировки «большой» нефти Азербайджана в Средиземноморье предполагает ее доставку до турецкого порта Джейхан. Нефтяные терминалы Джейхана, оснащенные современным оборудованием и использовавшиеся для перекачки в Средиземноморье иракской нефти, в настоящее время простаивают. Джейхан может обеспечить обработку и перевалку до 120 млн. тонн нефти в год и обслуживать супертанкеры водоизмещением до 300 тыс. тонн.

В настоящее время США предпринимают активные усилия, чтобы интернационализировать проблему добычи и транспортировки нефти Каспийского региона. США, которые уже достаточно глубоко внедрились в Каспийский регион, стремятся обеспечить контроль над доступом к энергоресурсам и их транспортировки, используя для этого активное дипломатическое воздействие на Астану и Баку, а также возможности Международного энергетического агентства (МЭА), где они играют ключевую роль. В этой связи обращает на себя внимание подписанная в октябре 1998 г. в столице Турции каспийскими странами СНГ, Турцией и США Анкарская декларация, являющаяся политическим документом, основная цель которого — поддержка альтернативных новороссийскому проекту путей транспортировки нефти Каспия.

Логическим продолжением упомянутой Декларации стала подписанная 18 ноября 1999 г. в ходе саммита ОБСЕ в Стамбуле, подготовленного и проведенного при активном участии дипломатии США, Стамбульская декларация. Данная декларация была подписана руководителями Азербайджана, Грузии, Казахстана, Туркменистана и Турции и юридически закрепила поддержку проекта Основного экспортного нефтепровода (ОЭТ) по маршруту Баку–Тбилиси–Джейхан (БТД), а также привлечение к данному проекту нефтяных ресурсов Казахстана и Туркменистана.

Анализ внешней энергетической политики ЕС и Каспии показываебт, что Евросоюз также стремится инициировать своеобразный Энергетический диалог с транзитными странами СНГ. Предлагается формирование постоянного переговорного механизма со странами Черноморско-Каспийского региона. В этой связи в 2004 году в Брюсселе по инициативе руководства Еврокомиссии и Европарламента намечена Конференция «ЕС и страны Каспийского бассейна — партнеры по безопасности энергетических поставок». В ней предполагается участие глав государств, правительств, а также парламентов Армении, Азербайджана, Грузии, Казахстана, Туркменистана, Украины, Узбекистана, Молдавии, Турции и России.

3 февраля 2004 года в Баку состоялось подписание пакета соглашений о выделении кредитов на строительство нефтепровода Баку–Тбилиси–Джейхан на общую сумму 2,6 млрд. долл. США. В церемонии приняли

участие президент Азербайджана Ильхам Алиев, министры энергетики Грузии, Турции и США. Пакет включает 27 документов. Соглашения подписаны между кредиторами, тремя транзитными странами, по территории которых будет проложен нефтепровод, и трубопроводной компанией Baku–Tbilisi–Ceyhan Co (BTC Co.), которая была создана в 2003 г. для реализации проекта. Акционерами BTC Co. являются крупнейшие западные нефтяные корпорации, в том числе BP (30% акций).

Согласно официальным данным сооружение нефтепровода Баку–Джейхан оценивается в 2,95 млрд. долл. США, однако независимые экспертные оценки увеличивают сумму проекта до 3,7 млрд. долл. США.

В кредитовании крупнейшего регионального проекта принимают участие Европейский банк реконструкции и развития и Международная финансовая корпорация, которые выделяют по 250 млн. долл. США, синдикат, включающий 15 влиятельных коммерческих банков мира, согласившийся предоставить 1,2 млрд. долл. США, и 4 компании-акционера строительства нефтепровода (BP, Statoil, ConocoPhillips и Total), которые предоставляют суммарно 800 млн. долл. США. Кроме того, участниками соглашения станут 10 международных кредитных организаций, которые выступят в качестве гарантов для коммерческих банков при приобретении материалов, техники и оборудования для строительства магистрали. Завершение строительства нефтепровода BTC намечено на конец 2004 г.

Одним из активно используемых Турцией аргументов в пользу маршрута на Джейхан и нецелесообразности наращивания мощностей по транспортировке нефти на новороссийском направлении является, как утверждает Анкара, ограниченная пропускная способность Черноморских проливов. В этих условиях важное значение для России приобретают проекты интеграции нефтепроводов «Дружба» и «Андрия», завершение строительства Балтийской трубопроводной системы, а также поддержка проекта нефтепровода по территории Болгарии и Греции (Бургас–Александруполис) в обход Проливов. Кроме того, рассматриваются также проекты Констанца (Румыния)–Триест (Италия), Бургас–Влера (Албания).

Достаточно проблематичным остается вопрос о создании Черноморского электроэнергетического кольца. Несмотря на достигнутые договоренности о разработке ТЭО, ряд стран, в первую очередь Турция и Болгария, заявили, что для них приоритетом является присоединение к европейской сети СТЕ и идея ОЭС ЧЭС не актуальна. Россия же последовательно проводит линию на то, что членство в СТЕ, к которому она также стремится, не противоречит и не исключает создания «энергокольца».

Реализация ряда транспортных проектов таких, например, как ТРАСЕКА, может нанести России значительный экономический ущерб и ухудшить ее геостратегические позиции в Евразии. ТРАСЕКА (Transport Corridor Europe–Caucasus–Asia) — проект, который создается при организационно-техническом и финансовом содействии ЕС, направленном на формирование новых транспортных направлений для пропуска мощных и устойчивых грузопотоков из АТР в Среднюю Азию, Персидский залив в Западную Европу, минуя транспортную систему России, и, в первую очередь, Транссибирскую железнодорожную магистраль. В реализации этого проекта участвует ряд государств СНГ и Европы, одновременно являющиеся членами ОЧЭС.

В сентябре 1998 г. в Баку под эгидой ЕС в рамках ТРАСЕКА прошла международная конференция «Возрождение древнего Шелкового пути Европа–Кавказ–Азия». Главным ее итогом стало подписание «Основного многостороннего соглашения о международном транспорте по развитию коридора Европа–Кавказ–Азия». В соглашении участвовало 12 государств: Азербайджан, Армения, Болгария, Грузия,

Казахстан, Киргизия, Молдавия, Румыния, Таджикистан, Турция, Узбекистан, Украина. Совершенно очевидно, что такое глобальное несовпадение интересов России и остальных членов ОЧЭС не может негативно не отразиться на перспективах реализации транспортных проектов в рамках ОЧЭС.

В свою очередь, Россия начала реализацию ряда меридиональных транспортных проектов и в 2000 году подписала с Индией и Ираном «Соглашение о международном транспортном коридоре «Север–Юг», которое вступило в силу в 2002 г.

Наконец, последней крупной проблемой, тормозящей деятельность ОЧЭС является нерегулярность финансовых взносов в Черноморский банк торговли и развития со стороны ряда участников (за исключением России, Турции, Украины и Греции), что препятствует обеспечению реализации уже начатых проектов в различных областях сотрудничества.

Несмотря на те сложности и противоречия, с которыми сталкивается в своей деятельности ОЧЭС, она, на наш взгляд, имеет хорошие перспективы для осуществления намеченных ранее задач. Данное региональное объединение, несомненно, жизнеспособно, доказательством чему является его 12-летняя деятельность, проходившая на фоне достаточно сложной геополитической ситуации как в самом регионе, так и в соседних с ним ареалах. Укрепление черноморской интеграции должно в будущем явиться фактором активизации и диверсификации отношений России и ЕС, облегчить другим государствам-участникам более полную интеграцию с Евросоюзом и, таким образом, содействовать созданию новой европейской архитектуры.

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Solidarity – Equity Dialectic in the European Union

Valeriu Frunzaru

The European social politics mainly geared to the field of employment, as well as the lack of European funds destined to the European citizen, involves the existence of European structural funds focused on the less developed countries and regions respectively. This type of social and economic assistance stresses, on one hand the idea of European solidarity and, on the other hand, it maintains a high level of suzerainty of the Member States.

The struggle for the community funds reminds us about the dialectical relationship between solidarity and equity at the level of national state. The struggle for European structural funds, the regional development and the project policy supports the idea that citizen's place within national social policies is taken over at the European Union level by the less developed regions (communities) or countries.

Given that the European social funds are destined to the regions in difficulty, we can say that the rich class – poor class relation at the level of national state was replaced at the EU level by the rich country (region) – poor country (region) relation. Someone contributing more than they benefit creates tensions between the rich countries and the poor countries. The solidarity between the European countries and regions is questioned.

To support this hypothesis, we bring the issue of the existence of structural funds distributed following a complex, according to some people's opinion, too complex methodology, for the assistance of the underdeveloped regions or the conversion of declining industrial regions.

An important role in this mechanism play the project policy, a type of focused support of regions, but which advantages such regions having know-how and minimal local resources.

During the European Union evolution, an important role in the struggle for diminishing the economical and social gaps played the European Social Funds. As early as the Preamble to the Treaty of Rome signed on 25 March 1957, the Members States undertook to consolidate the unity of their economies and to ensure their even development by diminishing the gap between the various regions. In this way it was decided to create a European Social Fund and an European Investment Bank. In time, the steps made for achieving the Single European Market and the Community integration of new members, led to the creation of four Structural Funds and a Cohesion Fund. The Structural Funds are: European Social Fund (ESF), European Agricultural Guidance and Guarantee Fund (EAGGF), European Regional Development Fund (ERDF) and Financial Instrument for Fisheries Guidance (FIFG).

An important role in the field of European solidarity plays the European Social Found, whose goal stated in the Rome Treaty is to improve the workers' employment opportunities and raise their living standards". So, ESF was geared to supporting the professional training, re-qualifying the work force, and later on to reintegrating the young people in the labor market. European Social Fund is the major instrument of the European social politics. The human resource development and the integration of the unemployed are the main measures for resolving the issue of poverty.

In the context of a high level of unemployment, this fund tries to facilitate the access to the labor market, which involves higher living standards and the possibility of social inclusion.

The evolution of ESF is an argument both in terms of solidarity at the EU level, and of the struggle for the redistribution of resources within the Community. From the very beginning, ESF showed signs of weakness as far as the resources and the development strategy were concerned. In the first ten years as from its establishment, it only had F 2.1 billion for the assistance of 1.43 millions of workers, i.e. 15% of the unemployed. The eligibility criteria were set by each Member State, not by the Commission, which encouraged the national states to use these funds to take over some

costs of their own national politics. Moreover, the resources spent for encouraging the geographical and professional mobility stimulated the emigration for professional reasons, especially from Italy to France and Germany.

The larger gap between the regions of the Community determined the ESF officials and the Commission to pay a closer attention to the underdeveloped regions, thus paving the way for the regional development policies initiated in the '70.

In 1971 the Council established to increase the budget, gear it to the underdeveloped sectors and regions and authorize the Commission to set the eligibility criteria. The Funds were destined to the regions in difficulty for the assistance of the unemployed (after 1976 mainly for the assistance of the young people unemployed), the old or disabled people. Although between 1972 and 1976 the Social Funds increased five times, being the second largest funds, after those allocated to agriculture, and 90% were allocated to professional training and other education-related projects, the unemployment level was very high at late '70. The economic depression due to the oil crisis put the European Economic Community in difficulty, determining the development of new structural funds destined to the depressed areas and the resumption of the economical reintegration through the Single European Act (SEA), and in terms of social politics to the implementation of "Delors Packages". The perspective of full accomplishment of the single market and the monetary union, with their implications, led to doubling the Structural Funds and to a better distribution of resources to the less prosperous areas and to the labor market. If between 1994 -1999 ERDF held 47% of the entire Structural Founds, between 2002 – 2006 this will rise at over 50%, thus proving the importance that the regional developing politic will have in the EU future.

Even if the Structural Funds and the national social politics have similar social effects, having as a last goal the individual, the logics and mechanisms are different. If the benefits of the national social policy are due to the quality of tax payer or citizen, the beneficiaries of the Structural Funds are the eligible functional actors. However, the territorialization of the structural founds can lead to the idea of a social citizenship given by the quality of member of the respective region or country.

With the explicit purpose of reducing the regional disparities there was created the European Regional Developing Fund. Although as early as the Paris Treaty there was highlighted the existence of some gaps that can create imbalances or tensions between different areas, this fund was created only in 1975. Now the stress is mainly laid on: the areas highly industrialized for environmental purposes and the quality of life (e.g. London, Ruhr), the naturals regions artificially separated by political frontiers disconnected from supply sources and from sales markets (e.g. Basque Country, Belgian Walloon) and the areas most exposed to unemployment and poverty. We observe that from this type of funds enjoy both the poor countries of the Union, and the rich ones. This fact reminds us about the solidarity issue in the case of national welfare state. In the universal welfare state, the middle class is motivated to contribute to the common budget because it also enjoys the effects of the social redistribution. Instead, the residual pattern is criticized because it creates a breaking off between the rich class and the poor class, as the rich are not willing to give money for the poor. In this sense, Great Britain, at the end of its transition after adhesion, found itself in the position of contributing with very large amounts, and that was unacceptable from the point of view of the Thatcher's government. Hence the struggle for the limitation of contributions on one hand, and the effort to enjoy as much as possible from ERDF, on the other hand.

The European Guidance and Guarantee Fund (EGGF) finds itself in a similar position. This fund supports the programs of improving the production conditions and the marketing in agriculture. EGGF has to support the Common Agricultural Policy, which proposed in the Rome Treaty (art. 39) to improve the productivity, ensure equitable living standards for producers, stabilize the exchange rate, guaranty the supply security and reasonable prices for buyers. Returning to the situation of Great Britain, a country with a low food production, it was dissatisfied with the ratio of funds it donated for the Common Agricultural Policy in relation to the corresponding gains.

Under the pressure of the poor countries of the Union, a Cohesion Fund was created in 1993, having as goal to finance the projects in the field of environment and trans-European networks associated to transport infrastructures. Bringing

up the problem of accomplishing the economic and monetary unity aroused fears by the poorer countries of the Union, mainly Spain, that they would not be able to deal with single market accomplishment. The pressures and even the threat that they would not sign the Treaty on European Unit led to the creation of this fund, in spite of the opposition of Germany, the Union most important contributor.

EU has been suffering from regional disparity, and for resolving this problem an important role play the regional development. In EU, the per capita income differences are twice as much in USA[1]. At Alentejo, in Portugal, these revenues amount to 40% of the European average, while in Hamburg it is 195%. Between 1991 and 1993 the unemployment in the south of Spain was three times higher then the European average (9,4%), while in Luxemburg or in some parts of Bavaria it was 2,5%. The difference is very big between the rural zones in Greece, south of Italy, south of Spain or Portugal and the areas of the large European cities like Paris, London, or Hamburg. There are disparities inside each country, between the north and the south of Italy, Spain or Portugal, between the west and the east of Germany or Austria, between the area of Paris and the overseas departments of France. The unemployment exceeds 20% in the south of Spain, south of Italy, in the former East Germany or in some zones of Finland. The Domestic Gross Product (GDP) per capita is under 12 100 Euro in Greece, Portugal, south of Italy, east of Germany and most of the former communist countries that are candidates to the adhesion find themselves in a worse situation. The lack or the failure of some development policies of these regions will maintain, or even will increase the absence of a high competitiveness necessary to a common market. Moreover, these regions can lose their young citizens, who will be tempted to migrate to the richer and better paid regions. This will lead to the existence of ever poorer regions and an older population, will increase the gap between the rich and poor regions, and, implicitly, will increase the pressure on the Structural or Cohesion Funds. The perspective of the candidate countries joining the European Union makes the problem of regional disparities even more serious. 41 out of the 53 regions of the former communist countries who applied to join the EU have a GDP per capita under 50% from the average of the 15 Member States. Bulgaria and Romania, witch will join EU later, have the lowest levels of GDP. Table I shows very clearly the disparity inside EU, and the large gap between the Member States and the candidate countries.

GDP per capita in Central European candidate countries and in the EU15 in 1998 relative to EU average.

Table 1

	Central European candidate countries				European Union			
	The 10 highest		The 10 lowest		The 10 highest		The 10 lowest	
1	Praha (CZ)	114	Yuzhen Tsentralen (BG)	22	Inner London (UK)	243	Ipeiros (EL)	42
2	Bratislavský (SK)	99	Nord-Est (RO)	22	Hamburg (D)	186	Réunion (F)	50
3	Közép Magyarország (HU)	72	Severoiztochen (BG)	22	Luxembourg (L)	176	Extermadura (E)	50
4	Slovenija (SI)	69	Severen Tsentralen (BG)	22	Bruxelles-Capitale (B)	169	Guadeloupe (F)	52
5	Jihozápad (CZ)	57	Yugozapaden (BG)	22	Wien (A)	163	Acores (P)	52
6	Ostravsko (CZ)	57	Severozapaden (BG)	23	Oberbayren (D)	161	Dytiki Ellada (EL)	53
7	Nyugat-Dunántúl (HU)	54	Yugoiztochen (BG)	24	Darmstadt (D)	154	Peloponnisos (EL)	53
8	Jihovýchod (CZ)	53	Sud (RO)	25	Ile de France (F)	152	Guyane (F)	53
9	Severozápad (CZ)	53	Nord-Vest (RO)	26	Bremen (D)	144	Anatoliki Makedonia, Thraki (EL)	55
10	Mazowieckie	53	Lubelskie (PL)	26	Utrecht	142	Ionia Nisia (EL)	56

Source: Eurostat (2001)

It's very easy to see that the adhesions to EU of the former communist countries from the central Europe will aggravate the situation of regional disparities. The economical gap between the developed areas of Germany, England or France, on one hand, and almost the entire Bulgaria and Romania on the other hand is so large, that without a consistent support from UE this gap will be very difficult to decrease. In this context, the issue of redistributing the EU funds will be brought up in the sense that the "poor" Member States will have to receive less, and the "rich" Member States will have to give more to the states that will adhere in the near future. The southern countries that adhered in the '80 made pressures to receive as much as possible from the common funds (including through the creation of the Cohesion Fund). The adhesion of Finland and Swedish in 1995 meant the occurrence of some specific problems marked by the inclusion of the Objective No. VI, having as a goal to assist the very little populated artic zones.

Unlike the classical point of view about the concept of "region", according to the European Parliament, "development region means a territory that forms, from the geographical point of view, a net unity or a similar assembly of territories in which there is a continuity, in which the population has some common elements and wants to keep the specificity so resulted, and to develop it in order to stimulate the cultural, social and economic progress"[2].

The regions are divided according to Nomenclature of Territorial Units for Statistics (NUTS) in five levels. The level I regions are the largest and the most important and are used as base for some programs and strategies. The NUTS II regions lie at the basis of the European policies for regional development. The medium size of these regions is about 13 000 km2 and 2 millions inhabitants. In Germany there are 40 NUTS II regions and across the European Union, after 1995, the number of such regions exceeded 2000[3].

It is very important that there are regions (countries) mainly beneficiaries from the resource of the Community. Between 1975 and 1988, 93% of the entire subsidies were destined to seven countries: Italy (32.5%), Great Britain (20,9%), France, Greece, Spain, Portugal, and Ireland[4]. After 1988 the funds were rather destined to the new Members States: Greece, Spain, and Portugal. The „poor" countries argued that, in order to remain competitive in the Single European Market, it was necessary to increase the support through Structural Founds. Spain, together with other UE „poor" countries (Portugal, Greece and Ireland) asserted it would refuse, by means of its veto right, to the Monetary and Economical Unity, unless two requirements were met: passing the budgetary efforts to the rich countries and increasing the sum of funds allocated to the poor countries. Although Germany opposed this proposal, the Commission, led by Jacques Delors, accepted the budgetary proposals and the creation of a new fund (the Cohesion Fund) with temporary status, which would not have consequences upon the budget[5].

Table 2

Country	% population 1996	% area	% contributions 1996	% benefits 2000
Spain	10,54	15,82	6,5	23,47
Italy	15,41	9,44	12,2	15,52
Germanin	21,94	11,18	30	15,34
Greece	2,81	14,12	1,5	11,42
Portugal	2,67	2,88	1,5	10,37
Great Britain	15,74	7,58	10,8	8,52
France	15,61	17,05	17,6	7,96
Ireland	0,96	2,16	0,9	1,68
Holland	4,15	1,29	5,8	1,44
Swedish	2,37	12,88	2,9	1,04
Finland	1,37	10,60	1,5	1
Belgium	2,73	0,96	3,8	1
Austria	2,16	2,63	2,9	0,8
Denmark	1,4	1,35	1,9	0,41
Luxemburg	0,11	0,08	0,2	0,04

Source: Monografii „Politici Europene" Series, *Politici de dezvoltare regională*, Edited by European Romania Institute, p. 15.

We observe that Spain receives, besides the contribution, approximately 17% of the entire budget, Greece – 10% and Portugal – 9%. At the other extreme, Germany and France receive approximately 15%, respective 10% of the budget less than they contribute.

For every inhabitant, Greece receives 286,2 euro, Portugal – 274,31, Spain – 157,10, Ireland – 123,22, while Denmark benefits only from 20,43, Holland – 24,41, Belgium – 25,79 and Austria – 26,17[6].

We can talk about a transfer of resources from the rich countries or regions to the poor countries or regions. The absence of these transfers would lead to a larger gap between the various countries and regions of the Community, and to more strained relations inside Europe, jeopardizing the European Union construction. The solidarity, at least at the level of political relations, is a sine qua non condition for creating a strong European Union, with a single market, a single currency and a common foreign and security policy.

The Structural Funds are allocated on the basis of projects that must meet a complex system of conditions, which can be an impediment for the poorly developed regions that do no not have enough social and humane resources and know-how in order to have access to these funds.

In this sense, the following are the principles based on which the Structural Funds[7] are allocated:

1. Partnership – it supposes a close cooperation between the Commission and the national and local authorities in all the stages of the projects;
2. Planning and internal coherence – the projects must be included in a wider program, so that the synergic effect is bigger than the sum of individual results;
3. Additionally – the projects supported by the Structural Funds are complementary to the national or local projects, and not substitutive;
4. Focusing – the resources are focused on the clearly set target groups and areas. This is helpful for a better evaluation and at a more efficient management;
5. Efficiency – maximization of the effects with a certain amount of resources. For this purposes, the monitoring is ensured both during the project, and after financing;
6. Subsidiarity – depending on the project, the responsibility for the action should be delegated to the closest authorities;
7. Co-finance – in order to reduce the finance risk and increasing the degree of responsibility, EU will contribute only with a part of the resources necessary for the project;
8. Durability – the action of the project must also continue after the end of the financing by the EU

In order to focus the resources to the less prosperous regions, the Commission led by Jacques Delors identified five Objectives, to which the 6th was added: adhesion of Finland and Swedish. In the second reform produced at Berlin in 1999, when the "Agenda 200 for a Stronger and a Wider Union" was established, the number of Objectives was reduced to three:

1. Structural adjustment of the regions in difficulty (it corresponds to the former Objective No. I);
2. Social and economical reconversion for the regions having structural difficulties (it corresponds to the former Objective No. II);
3. Support of the active policies in the labor market, especially through the education, training and professional reconversion systems in accordance with the social and economical changes;

Creating jobs is the main challenge of the Structural Funds, and in general of the EU policy, both at present and in the future.

The resources are allocated after the elaboration by each state of the National Plans, which contain a social and economical and an environmental analysis of the entire country, but also of the regions or subregions), the adopted strategies and foreseen effects. The Commission has the responsibility to adopt the list of eligible regions and to set the estimative allocations for each Member State. Also, the Commission guides the planning process and the community initiatives.

WE observe that in this complex methodology, the analysis unit is not the citizen, but the depressed areas, the infrastructure of some countries, the economic units, the declining economic branches, population categories such as he workers having the citizenship of another

Member State, unemployed people, women or disabled persons. The solidarity – equity rapport is no longer achieved in the poor citizens – rich citizens relation, but between the European rich regions and poor regions. Integrating new members will mean a new distribution of resources. The Member States in the south of UE lost from the resources upon the 1995 extension and they will lose even more due the eastwards extension, probably from 2004.

Conclusions

The economical gaps between the European regions are important sources of tensions, so also obstacles for the building of a strong entity, competitive in global society and cohesive from the social and economic point of view. The history of the European structural policies show us that the poor class – rich class rapport at the level of national state was replaced by the poor country (region) – rich country (region) rapport at the level of the European Union. Moreover, what was called the trans-class alliance between the capital and the work force on a certain geographical region create an economic and social gap between the European regions, which represents an additional argument for the supporting the regions in difficulty. The support granted by the richer countries (regions) to the poorer countries (regions) will be for the policy at the European Union level, which for the national welfare state represents the transfer from the rich citizen to the poor citizen.

The European Union must conciliate three aspects: economic efficiency, creation of new jobs and social cohesion. Controlling the unemployment is the first challenge for the European social policies. The creation of new jobs through the development of the little and medium industry and especially of a high technology industry, with high added value, is the UE strategy for the future. The economic competition inside and outside Europe has and will have an important role in the building of Europe.

If the unity of Europe had as premises the tensions between Germany and France, respectively, between the Occidental Europe and the Soviet Union, today the major factor of cohesion is the globalization. In front of EU, besides USA and Japan, new economic powers rise, such as Russia and China. A larger and united Europe will deal with this competition much more easily. But these desiderata are opposed by the economic and geo-political interests, many times different, of the national

The social inclusion meets the need of membership and participation in the European construction. The large gaps between the European regions and the citizens excluded from the construction of the unity are threat against the EU stability and competition capability. That's way I believe that it's impossible to concept a Europe without an important social dimension.

Integrating new members will mean new regions in difficulty which must be consistently supported, considering the large economic gap between the Member States and the candidate states.

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[1] *Politiques sociales européens. Entre intégration et fragmentation*, Stephan Leibfried şi Paul Pierson (coord), Editura L'Harmattan, Paris, 1998, p. 139.

[2] Monografii „Politici Europene" Series, *Politici de dezvoltare regională*, Edited by European Institut from Romania, p. 11.

[3] *Ibidem*, p. 11.

[4] *Politiques sociales européens. Entre intégration et fragmentation*, Stephan Leibfried & Paul Pierson (coord), Printed by L'Harmattan, Paris, 1998, p. 139.
[5] In 1996 the Cohesion Funds was distributed as folows: Spain – 54,9%, Portugal – 18%, Grece – 17,9% and Irland – 9,1%. European Union Guide, Dick Leonard, Edited by Teora, 2001, p. 123.
[6] Monografii „Politici Europene" Series, *Politici de dezvoltare regională*, Edited by European Romania Institute, p. 16.
[7] Idem, pp.16 – 18.
[8] Apud *Politiques sociales européens. Entre intégration et fragmentation*, Stephan Leibfried & Paul Pierson (coord), Edited by L'Harmattan, Paris, 1998, p. 361.

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REALISM VERSUS REALITY

The United States' Foreign Policy – the liberal controversy of realism –

Victor Popa

At the beginning of the 21st century, America has the opportunity and the responsibility to influence the new global configuration, for at least two reasons: firstly, considering its status as the sole superpower remaining after the Cold War, it induces a shaping of the historical process; secondly, its structure and substance seem to be a successful option for what tomorrow's world tends to become. Although American values may be universally valid, it is not necessary that they be universally and completely applicable to all times and all places. In addition, there exists the concerning possibility that the liberalism promoted by the United States may become irrelevant for many trends that affect and eventually transform global order. This country now finds itself in a world for which it has not been trained enough through its historical experience, a world of international relations which, according to Raymond Aron, still holds on to many characteristics that the United States have attempted to avoid[1].

The US relations with the world have been particularly and decisively influenced by the most characteristic phenomenon on the American political scene, that is the lag between the political ideal and the political reality. This lag is present under a shape "that is not valid for any of the other great states of the world."[2]

America's mode of action on the world scene unavoidably bears the influences of the above mentioned lag, since, *ab initio*, "the idea of state as an entity that has the authority to legitimise is still unknown to American thought and consequently, the European concept of *raison d'Etat* is still regarded as the complete and untrustworthy opposite of the American tradition which implies liberalism, constitutionalism, and natural rights."[3] In foreign policy equations, such a moral element is inserted, and, according to it, the foreign policy objectives must reflect not only the national security interests and the economic interests of certain key national groups, but also the values and principles that define American identity.

The development of a global strategy that may extend into the unforeseeable future will have to detach itself from the debate on an abstract topic, the predominance of values over interests, of idealism (seen as an expression of liberalism) over realism. According to Henry Kissinger, the challenge of the American foreign policy is given by the unification of the two tendencies, taking into consideration both the traditions of exceptionalism that have helped define American democracy as well as the specific conditions these traditions apply under.

The bringing together of these two world visions is a bold attempt in the case of the American foreign policy. Firstly, the actions undertaken by the United States overseas must face a domestic exigency: they should be in accordance with the moral and political values which form the bedrock of the American nation[4], values that render its liberal and progressive essence. But at the time when the founding principles were stated, the project of a liberal foreign policy was irrelevant for the European practices since it was derived form the concept of *raison d'Etat*. Therefore, the principles of the American foreign policy have easily become subject to international relations theoreticians who have tried to prove their lack of conformity to the various paradigms of the international system. Last century has especially been the witness of a theoretical confrontation between the two dominant worldviews, realism and liberalism, a confrontation mainly fuelled by the interpretations provided for the different foreign, political actions of the United States. Not even at present has the dispute been concluded, but transferred onto the co-ordinates valid at the beginning of this century, and the American

foreign policy continues to provide the common framework for analysis.

An important turning point for the American foreign policy is 9/11 that has accelerated the formation of a common position, easy to attain at wartime. At the same time, it has shown that exercising a type of soft power in the world (consistently recommended by the supporters of realism) does not guarantee the United States' keeping a safe distance from the new threats.

The *National Security Strategy* document, dated September 2002, revealed the United States' predilection for adopting an attitude that Kissinger has deemed necessary not only in order to share the psychological burden of leadership, but also in order to shape an international order that would be compatible with freedom and democracy. Once the implementation of the new strategy has begun after 9/11, but especially once that war in Iraq has broken out, the way in which America has chosen to act on the international scene has drawn the attention (and even more so the discontent) of the international community.

In accordance with the foreign policy analysis put forth by F.S. Northedge[5], the actions of the United States must first and foremost prove that the policy to be implemented is based on a realistic assessment of the global situation. Secondly, they must make clear whether the aforementioned policy is in conformity with the international trend or whether it tries to speculate a temporary and/or accidental coincidence. The results of these undertakings will show whether the American foreign policy at the beginning of the 21st century represents a liberal 'American perspective' on the world or whether we are dealing with a traditional approach to international relations, from the point of view of a 'diluted realism'[6].

At least until 9/11, international affairs were dominated by the belief that the end of the Cold War had determined the transformation of this domain from a competitive arena into one of cooperation. Thus the idea that war and conflict are inevitable in an anarchic world became obsolete. The disappearance of USSR caused the concept of power balance to lose relevance on a global stage. In this context, the theoreticians of the new realism (for example Stephen Walt and John Mearsheimer) have been searching for a replacement for the balance of power in the shape of a more encompassing concept. The subsequent conceptualizations also had a predictive value as far as the US foreign policy was concerned.

S. Walt argues that once power has been thrown off balance towards the end of the last century, the United States have had to adopt a behaviour that would favour the maintaining of this status quo. In this sense, it is important for the American foreign policy to maintain a restrained international behaviour and to acquire international legitimacy by promoting values, which are perceived as just by the international community[7]. Such and attitude is favoured by at least two interrelated elements: firstly, the high status attained by the United States in the military, economic, technological and cultural field; and secondly, although tensions do exist, the major European and Asian powers have approved American intervention in the world. The two above-mentioned elements are intertwined in the balance of the threat theory, a substitute for the balance of power theory. States do not necessarily react relating themselves to the most powerful state, but to the state that may turn out to be the most powerful. The United States have become at the beginning of this century the most powerful state by far but they are not yet a significant threat for the other great powers. However the increasing of the American offensive powers will cause the other states to attempt to balance it. The balance of threat together with the collective goods theory explain the absence of an anti-American reaction after the Cold War. In conclusion, the United States have to diminish their offensive capabilities in order to keep the world outside the balance and, at the same time, must not turn the export of democracy into the core of their foreign policy. The author eventually admits that such a policy of conscious self-restraint (an intermediate position between isolationism and crusade-like involvement) is not an American virtue.

Although in the new post Cold War context, the United states have had a relatively prudent behaviour, the 9/11 attacks could not be prevented. The threat no longer came from a state or a coalition but from a war tactics caused by severe economic, social and political misbalances. No longer was American power threatened but culture and lifestyle. Terrorism is a disruption of the political code and rules of war. In M. Walzer's[8] opinion it is a method taught by tyrants to soldiers, by soldiers to modern revolutionaries (and now taken over by Islamic

fundamentalists) and it turns out to be a threat that no country can be expected to live with. Can such a threat be contained?

A short time after the official release of the NSS document in the context of the new Iraqi crisis, the two exponential representatives of the new American realism, S. Walt and J. Mearsheimer have signed a protest-article as a reaction to the new American foreign policy. The article appeared in Foreign Policy and was entitled 'An Unnecessary War'. Their opinion was that the incipient war was gratuitous since Saddam Hussein was a power-thirsty tyrant that could be deterred using classic strategies of dissuasion and containment[9]. However, are such strategies still productive in a war against terrorism?

Even during the aforementioned conflict, R. Aron underlined the fact that containment can represent a belittling of the will comparable to the diminishing process that the United States are guilty of and that led to the breaking out of the Second World War. The fact that the United States got involved in the First World War in the name of a grand but vague Wilsonian ideology only contours the image of America as a salvation-nation. As a result of their global scale involvement, the Americans will come to notice that the world system they had just deeply anchored themselves in presents the same, if not worse, flaws as the international European system that they had rejected and refused for more than a century. In Aron's opinion, the withdrawal caused by the Americans' becoming aware of this fact was a major mistake. The United States have sinned not by their will for power but by not being aware of the role destiny had attributed to them and thus they historically bear the responsibility for triggering the next world conflict[10].

Once part of the inter-state system dominated by relations foreign to American political principles, the United States will exhibit on the one hand the vanity to rule, characteristic of a great power and on the other hand, the refusal to preserve the rank it has obtained. In Aron's opinion, the interpretation of the containment doctrine as a must after 1947 has turned out to be unreasonable. Containing communism was a strategy with a relatively well-defined purpose that was not mistaken for security or even power. This containment became the United States' effective conduct in the first twenty-five years after the Second World War. It faced the criticism first coming from the thinkers pertaining to the international relations realist trend (for example Morgenthau, Lippmann) on the basis of the traditional European philosophical principles. Surrendering the priority of their national interest in order to defend liberalism seemed to be a global project the United States did not have enough resources for.

As previously mentioned, at the beginning of the 21st century, S. Walt was trying to set a line of conduct for the United States, meant to avoid a reaction on the part of other states. However the 9/11 attacks were not initiated by another state. A short time before, Kissinger, a historian by definition, associated four types of power relation systems to a world of states. And with the exception of one all had been encountered along European history. [11] Taking into account his diplomatic expertise, he suggested a differentiating behaviour for the United States, according to the specificity of each system taken as such. But not even this kind of conduct could have prevented the 9/11 attacks. The exclusively realist approach to international relations at the end of the 21st century becomes irrelevant. Kissinger's undertaking leaves unanswered at least three questions regarding international order: Is there any connection between the different international systems and the political regimes in the area? Can we find common interaction patterns among states from different systems? What kind of conduct must the liberal democracies adopt towards countries pertaining to the other systems? Kissinger classifies states according to the power relations holding among them and this classification can provide at a certain moment useful rules for the diplomatic conduct. From the point of view of an international relations theory, the premises for realism (the state as main actor and the state of anarchy in international relations) remain unchanged.

Realism comes back into focus at the beginning of the current century, due to the sudden destruction of the idea of the end of history and in spite of the fact that it has found itself in a certain state of decline during the last decades of the past century, as a result of the emergence of other parallel international relations trends. The reality of the past years has proven that so far it is premature to generalise the 'end of

history' theory, at least as far as international relations are concerned. Furthermore, at the beginning of the 21st century there have appeared theories, which claim that realism will provide the best explanations for the international policies of the next century. Subsequently, John Mearsheimer tries to convince his readers that offensive realism (which will be dealt with further on) 'is a rich theory that considerably elucidates the international system functioning.'[12]

Even if liberal democracy remains the only viable form of political organization, it is not necessary that it be accepted rapidly and unconditionally everywhere. Adverse reactions to the conquering regime's proselytism have strengthened at the beginning of this century the belief that anarchy remains the main ordering principle of international order, just as realism had predicted more than half a century before.

A reactionary and critical tendency, realism is shaped at the beginning of this century through the rejection of idealism as a means of approaching international relations. This idealism was materialized in the League of Nations and the formal prohibition of war. Classical realism is based on a series of arguments that do not suggest any preoccupation with a normative political theory in international relations. Thus, the state is the main actor on the global scene, its behaviour being dictated by its own interest, and the interest of each actor is the maintaining of a global anarchic security by means of the balance of power.[13] For the partisans of the realist paradigm, world affairs are predestined to violence and any attempt to order and legalize them is counter-productive.

The centricity of the state, essential for realism, has been questioned by the emergence of non-state actors. The failures of the American policy in Vietnam have led to severe both moral and analytical criticism of this power policy. Realism has met the latest challenges by trying to professionalize the international relations theory by turning it into an autonomous discipline and by seeking its own laws and research methods. Neorealism, mainly associated with Kenneth Waltz, imprints a scientific mark on the theory of international affairs. Moreover, the Walzian model will put forth the hegemony of realism as *the* theory in international relations. The core that organizes this model is international anarchy, which changes from a descriptive element into an ordering and explicative principle in the field of international relations. The respective domain gains its independence and its fundamental principle is the maintaining of the balance of power, a principle without correspondent in domestic policy. The states' foreign policy fuels this mechanism that in turn determines the external conduct of states. According to Waltz's theory, the international system functions in the same way as the market system and the government of states becomes insignificant. Therefore, the passing from the classical realism to neorealism 'represents the permanent closing of international affairs before the foreign policy variable.'[14]

The success of the Walzian theory, closely related to the success of modern analytical theories of realism is due to its simplicity. The first stated tenant refers to the anarchic character of international relations, which excludes moral judgements and analogies between people and states as far as autonomy is concerned. This autonomy isolates them from any external morality and political interference. In an analysis of the binomial realism – international relations Stefano Guzzini, considers realist theorizing as a failed attempt to transfer the principles of the international European society to the new context of the 20th century[15]. The transformation of realism in an empirical science has led to the loss of its specific perspective on politics as a practical ability. Waltz sets aside one of the major purposes of realism that is the connection between the historical practice and the world vision, of politics and research. For the Walzian theory, international violence is not a human phenomenon, but a social one that has to be explained through its specific anarchic environment. Waltz deduces the necessity of theorizing realism from the qualitative difference between domestic and international politics, a difference caused by the leap from international sovereignty to international anarchy. The theory fails because international anarchy does not decide on conflict or co-operation[16], and this failure was sealed by the end of the Cold War.

Although it may remain the main trend of analysis for international relations, realism begins to approach liberal theories. On the one hand, John Mearsheimer, a representative of the 'offensive' realist trend, continues the line of Walzian argumentation and ignores the domestic policy of states. On the other hand, Stephen Walt,

considered to be a 'defensive' realist, replaces the balance of power theory with that of the balance of thereat and introduces certain nuances in the material descriptions of power[17]. James Mayall, an international relations professor at Cambridge University, pleads for the re-thinking of realism outside the power policy principle. In his opinion, the international relations framework has been designed without reference to progressive ideas and it is precisely these progressive ideas that form the basis of democratic policies, the democratic countries' policy being equivalent to the competition between alternative perspectives with regards to the future[18]. Designing alternative perspectives within the realm of international relations calls for a thorough reference to political theory, especially to the liberal one.

Of course, this panoramic presentation does not exhaust all theories relevant for the international relations field. However, it goes to prove that the American foreign policy is forced to act out in a scenario of international affairs determined by two major co-ordinates: on the one hand, the optimistic liberal vision, and on the other the pessimistic realist vision. According to the first vision, the states are the main actors of international politics, their internal features vary and the consequent results deeply affect the conduct of states and the power calculation play a modest part in explaining the respective conducts. The scepticism of the second vision also stems from three main elements. The states are the main actors of world policy. But attention must be focused on the great powers, their conduct being influenced by the external environment and not by their internal characteristics. The states' rationale is dominated by the calculation referring to power, which leads to their continual competition.

Relevant for the first half of the 21st century, Paul Hirst's prognosis may be a starting point for the analysis of the predictive valences of realism. From the perspective of a 'modified realism', the author claims that the change in the liberalism-economic context will make the states act like in the past. However, on the medium term 'a world that lives in the international system on the basis of the integrating liberalism created after 1945 and still dominated by the Great Powers, the United States coming first, in unison with the international institutions that they finance and via these institutions, this world is the most likely to be the international system of the first half of the century.' [19]

It is interesting that realism does not yet find an appropriate theory that could, paradoxically enough, reflect reality. *Offensive realism*, that, as its author John Mearsheimer underlines, is a realist theory of international politics which contests the optimism prevailing the relations between the great powers and anticipates the future on the basis of two important tenants: the great powers are looking to maximize the part of the global power that is duly theirs and the multi-polar systems, that exhibit hegemonic potential, manifest a special predisposition for war[20]. Offensive realism is a theory with descriptive but mainly prescriptive valences and it focuses on China's ability to balance the global world power in the long run. A year from its appearance, the 9/11 attacks took place and they could not be accounted for within Mearsheimer's theoretical framework. Even the American author admits that offensive realism simplifies reality and it is an 'undetermined theory'[21] because it does not take into consideration individuals, domestic politics, ideology etc. And it is precisely these combinations with loose variables that have gained importance in the post 9/11 world. Subsequently asked about the relevance of his theory, Mearsheimer stated that realism does not have much to say as far as terrorism is concerned because it does not deal with transnational actors, but the realist logic of states' conduct will have an important impact on the fight against terrorism[22].

Therefore, I have tried to show, up to this point, how realism, a mode of thinking resuscitated at the beginning of the new century meets the provocation of being inadequate to reality by turning itself into an a-historical and a-moral theory. It is useless to analyse the start of the century international American undertakings from the perspective of the balance of power (or more refined of the balance of threat) in a world whose reality refuses to be balanced. History provides and will provide further lessons but will not offer viable solutions. It teaches you not to repeat other people's mistakes, but not how to avoid mistakes. And in the realm of international relations, political theory can offer proper solutions but not by accepting its concepts unconditionally. The "state of nature", an ideal construction meant to explain people associating into political communities, cannot become an

ordering principle for international relations. The evolution of realism as a causal theory has been a great disappointment, but the lessons history can offer remain an indispensable element for the understanding of world policy.

Trying to find answers to Northedge's questions regarding the viability of a foreign policy, I have discovered that realism is not ready for predictions referring to the next half century. The war against terrorism goes beyond the logic of the Cold War. But is liberalism ready to offer a viable world project? The United States have engaged in a global world against terrorism, in the name of certain liberal values and they are rather frequently accused of imperial realism. In this sense, even during the Cold War, R. Aron noted that the traditional crusade spirit is degrading itself into a realism as the one aforementioned. Accepting the collaboration with authoritarian states makes the imperial dimension of the American foreign policy become stronger than the ideological one. The idea resurfaces at the beginning of the 21st century, at the same time as the American actions following 9/11. The controversies caused by the American involvement in Iraq are the most edifying example. Was Mearsheimer right when he claimed that although the rhetoric of the United States' policy is liberal, the basis is *Realpolitik*[23]?

The historical failure of the interwar liberal theory has given rise to the reaction of realist thinkers, a reaction built mainly around the critique addressed to the foreign American interwar policy. The theses of realism claimed that morality cannot triumph in international relations and the only ethical conduct for a state is the rational one based on its own interest. 'National interest' becomes a central thesis for realist thinking, but in the case of America, the nature of this duty has been very confusing. National interest asserts itself as an objective reality and still it wants to have a moral status. However a morality centered on the idea of nation is unacceptable for most Americans. Consequently, 'American national interest is often defined in terms of values and democratic institutions.' [24]

Realist critique has stated that the idealist dream of a warless world is not a viable course of action in nations' politics and realist authors (H. Morgenthau, G. Kennan, E. Carr) have revealed the divergence in point of national interests and competitive impulses within the international system. However, there exist a few elements of internationalist liberal thought that are worth re-examining. The first derives from the existence of certain substantial moral norms that the citizens of a majority of nations have established by consensus. The second is the fact that nations take care of their reputation, being unwilling to be labelled as 'immoral' by the international system. The third is the fact that public opinion sometimes forces statesmen to follow international moral norms. And the fourth is that the system of the state has certain characteristics pertaining to the international community[25].

The transformations that occurred during the last decades of the 20th century as a result of the globalization processes have determined the increase of the interdependence in the international arena and have brought back on scene the role of morals in foreign policy decision-making. At the same time there appeared elements of an international community as well as a significant amount of international moral norms that have transcultural roots and that have been officially assimilated by the most important world governments. The liberal belief in the possibility that foreign policy be influenced by moral factors is again under scrutiny. R. McElroy suggests a case study that would prove the relevance of moral norms in foreign policy decision-making. The American author analyses four foreign policy decisions made by America in the 20th century in order to show that there are cases in which the means of individual conscience, domestic policies and pressures exerted on the international reputation have led to the making of some significant foreign policy decisions in the vein of international morals. The decision to assist the USSR with food supplies in 1921, R. Nixon's decision to radically change US position with respect to the chemical and biological war in 1969, the American decision to negotiate a treaty regarding the pass-over of the Panama Canal and the surrounding area to the Republic of Panama are practical examples of the international moral norms being interpreted as specific behavioural recommendations. On the other hand, the Dresda bombing during the Second World War goes to show how power and security interests can act in favour of the breaking of international norms.

When a state's military and economic security is really endangered by the observance of an

international moral norm, the existence of such a norm will not determine its observance. McElroy notes that in such a situation the policy of a state reaches the 'pole of necessity'. In the other, more frequent, cases when the state's military and economic security is not compromised, the policy finds itself at the 'pole of options'. The American author concludes that 'in those numerous cases that involve an international moral norm and that are closer to the pole of options, conscience, domestic policy, and pressures exerted on the international reputation may give rise to a norm-observing conduct.' [26]

Choosing entails the appearance of favourable occasions for morality to guide the important decisions made in foreign policy, in significant ways. This validity can be extended to any type of international norm. I have chosen the above-mentioned example in order to extrapolate to the current American foreign policy. The attack on Iraq in accordance with the doctrine presented in The National Security Strategy has caused violent reactions regarding the United States' failure to observe the international moral, but especially judicial, norms. The failure of the American undertaking would probably determine the refreshment of the realist critique just as it happened after 1945. But we have analyzed the usefulness of realism at present; it provides lessons in history that have to be taken into consideration so as not to repeat past mistakes. The American foreign policy has reached once more the pole of necessity, but the events of 9/11 contour solely the aspect that McElroy was referring to: security.

Consequently, the strategy 'Iraq next' has imposed itself in American political debates. It is a strategy supported by foreign policy principles gathered under the title of 'hard-power wilsonianism', which justifies the United States' unilateral self-defensive action. This type of wilsonianism focuses on democracy and the universal connection between self-governing and human dignity. It is considered an inspirational doctrine meant to mobilize the American nation by means of an exceptionalist idea and it is not a prudent choice but a good approach at wartime. [27]

At the beginning of the 21st century the necessity derives from the absence of a political project on a global scale. Far from pleading for a global governing project, the project in question should extrapolate the concept of society to a global extent.

When putting into practice the principles of the social contract in the terms of international relations, one should not stop at the initial hypothetical premise – the state of nature. Thinking of international relations in terms of a balance keeps international political theory far from any progressive project. Waltz himself predicted that 'the balance of power can exist only because some countries consciously turn it into their political objective or because of the quasi-autonomous reactions of some states in response to other states' attempts to dominate them.' [28] As I have shown throughout the study, the United States do not normally accept this perspective on international relations. When they come to the pole of options, it is expected that the United States will induce a progressive shaping of the historical process because, as McElroy noticed, 'the constitutional structure of the USA approximates the type of liberal-republican society as foreseen by Kant and the internationalists.' [29]

Of course the existence of a global vision derived from progressive and liberal ideas, relevant for the present is considered a chimera more or less. However, liberalism has the ability to provide premises for a political theory applicable to international relations.

Such a political theory is presented in John Rawls' paper *The Law of Peoples with The Idea of Public Reason Revised*[30]. The American author discusses international relations hypothetically and a-historically. Construed along the lines of political liberalism, Rawls' theory is based on two grounds. Firstly, the great disasters in the history of mankind spring from political injustice. And, secondly, once the most acute forms of political injustice are eliminated and replaced by just or at least decent social policies and fundamentally fair institutions are established, then these disasters will eventually disappear. Rawls uses in his theory one of the transformation principles of the international relations field – the analogy with domestic societies. Peace among democracies derives from the internal structure of democratic societies that are nor tempted to go to war if not to defend themselves or to intervene in the case of profoundly unjust societies in order to defend human rights. And the interest of the study in the foreign policy principles of a liberal people is given by the dominant trait that these principles

must exhibit: they must be reasonable from a decent liberal point of view.

J. Rawls puts forth a new type of stability, different from the one ensured by the balance of powers: "stability for the right reasons"*. It can be attained solely if the peoples follow a process similar to the domestic one, that is they pursue reasonable interests. Thus, the idea of liberal and democratic peace gains shape. It is a peace sustained by two pillars (that the American author builds in a way adverse to realism): social and political institutions can be changed by people, and societies dominated by the gentle mores of the commercial spirit tend to form peaceful citizens. Employing the Aronian concept of 'satisfied nations' (referring to Western nations) as well as the finality inferred by the French philosopher, Rawls reaches the conclusion that democratic peace is not compatible with current democracies. Peace by satisfaction will last only if it will become common to all societies.

The Rawlsian theory proves its validity through its non-ideal aspects, which analyze the way in which liberal societies must treat outlaw states. At the beginning of the chapter we have analyzed H. Kissinger's historical and regional classification of states based on the relations of power holding among them. J. Rawls puts forth a theory that classifies states from the point of view of their political ability to tolerate and live together with other states that do not fully share the same values. Although it is based on the Western principles of liberalism and democracy, the Rawlsian theory is not exclusive. There may exist differently structured societies that could still exhibit a coherent domestic and international conduct. American foreign policy has abandoned lately the prejudice of imposing a sole viable model and the National Security Strategy document reflects this exact aspect.

The "genus proximus" of the American national security document and of the Rawlsian theory is given by ways to handle those societies that do not adhere to reasonable international principles or are too burdened by unfavourable conditions that do not allow for individuals' potential to develop. As the latest Gulf conflict has proven, the means of approaching outlaw states are the most controversial because they are intrinsically connected to the concept of sovereignty. At the same time Rawls warns of the danger of the inadequate exploitation of the changes within the concepts of revision, self-defense, intervention and self-determination. The above-mentioned principles depend less on the normativity existing at a certain moment and more on wisdom and predictions. Thus it is the duty of statesmen to convince the public of the importance of these principles. The analysis of the American foreign policy from the perspective of the past and the present proves that the fundamental nature of rejecting any kind of authoritarianism is a regulating element decisive as far as foreign policy decisions are concerned.

More than in the case of any other people, one can say that American statesmen pay great heed to the morality of their actions and the citizens are extremely sensitive to the deviations of foreign policy from traditional values. Therefore, the American society is situated in the proximity of the Rawlsian liberal society, a society within which international relations are based on reasonable principles and actions. And the analysis of the National Security Strategy document shows that, once the pole of necessity has been overcome, American foreign policy has greater chances to become an essentially liberal foreign policy.

Traditionally speaking, the United States' actions on the world scene are shaped as a liberal controversy of realism. R. Aron, a theoretician of realist international relations, reached the conclusion that 'American diplomacy has been successful in Europe not because of the containment of communism, but because it favoured human liberties and economic progress.'[31]

The great traumas of humanity, fascism and communism were successful in the last century because the extent and the depth of human consciousness were limited and superficial at the time. At the beginning of the 21st century, terrorism seeks again to 'reunite the resentments in order to build a block of the ones excluded from modernization'[32]. The antidote for this allergic phenomenon does not, under any circumstances, emerge from the realist paradigm.

NOTES :

[1] Aron, Raymond, *Republique imperiale. Les Etats-Unis dans le monde 1945-1972*, Calmann-Levy, Paris, p. 27.
[2] Huntington, Samuel, *American Politics: The Promise of Disharmony*, The Belknap Press of Harvard University Press, 1981 translated by Mihail Radu Solcan, *Viața politică americană*, Editura Humanitas, București, 1994, p. 13.
[3] Idem, p. 56.
[4] Huntington, Samuel, stated that the Americans form a "political nation" due to the fact that American identity is not organis in natureand is not the outcome of a process of historical evolution involving common ancestors, common experiences, a common ethnic basis, a common culture or religion. The political ideas of freedom, equality, fundamental rights, an authority derived from the consentment of the governed have constituted the basis of nation identity in the case of America
[5] Northedge, F.S., 'The Nature of Foreign Policy', in *The Foreign Policies of Powers*, The Free Press, New York, 1975, p. 37-39.
[6] In this sense, in the document *National Security Strategy*, President G.W. Bush uses the expression 'a balance of power that favors human freedom' by correlating principles and values with power to dilute the effects of American hegemony (J.L. GADDIS, 'A Grand Strategy of Transformation', Foreign Policy, nov./dec. 2002)
[7] Walt, Stephen, 'Keeping the World <<Off-Balance>>: Self-Restraint and U.S. Foreign Policy', http://ksgnotes1.harvard.edu.
[8] Waltzer, Michael, *Just and Unjust Wars. A Moral Argument with Historical Illustrations*, Basic Books, New York, 1977, p.85.
[9] Mearsheimer, John & Walt, Stephan, "An Unnecessary War", http://www.foreignpolicy.com
[10] Aron, Raymond, *op. cit.*, p. 29.
[11] Kissinger, Henry, *Does America Need a Foreign Policy? Toward a Diplomacy for the 21st century*, Simon & Schuster, New York, 2001, translated by Andreea Năstase *Are America nevoie de o politică externă? Către diplomația secolului XXI*, Editura Incitatus, 2002, p. 14-15.
[12] Mearsheimer, John, "The Tragedy of Great Power Politics", www.NORTON@co.20001 *Tragedia politicii de forță*, translated by Andreea Nastase, Editura ANTET XX PRESS, Bucuresti, 2003, p.13.
[13] Brown, Chris, "International Theory and the Ethics of Redistribution", Southampton University, http://www.bsis.be
[14] Idem.
[15] Guzzini, Stefano, *Realism și relații internaționale*, traducere de Diana Istrățescu, Institutul European, Iași, 2000, p. 349.
[16] Idem, p. 351
[17] Motoc, Iulia, *Teoria relațiilor internaționale: sursele filosofiei morale și a dreptului*, Editura Paideia, București, 2001, p. 134-135.
[18] Mayall, James, *World Politics*, Blackwell Publishers Ltd., 2000, translated by Andreea Năstase *Politica mondială. Evoluția și limitele ei*, , Editura Antet, București, 2002, p. 110.
[19] Hirst, Paul, *War and Power in the 21st century*, Blackwell Publishers Ltd, 2001, translated by Nicolae Nastase, *Război și putere în secolul 21*, Editura Antet, 2003, p. 126.
[20] Mearsheimer, op. cit., p. 4.
[21] Idem, p. 13.
[22] Kreisler, Harry, *"Through the Realist Lens", conversation with John Mearsheimer*, 8 aprilie 2002, www.globetrotter.berkeley.edu
[23] Kreisler, op. cit.
[24] McElroy, Robert, *Morality and American Foreign Policy (The Role of Ethics in International Affairs)* Princeton Univ. Press, 1992, translated by Costică Brădățan, *Moralitatea în politica externă americană. Rolul eticii în relațiile internaționale*, , Editura Paideia, București, 1998, p. 40.
[25] Idem, p. 41.
[26] Idem, p. 218.
[27] Its alternative, the strategy 'Al-Quaeda first', sees the war against terrorism as a problem to be dealt with by strengthening the international legislation and pleading for tolerance, non-intervention and reaction to security issues. The deriving foreign policy, named 'soft-power wilsonianism' is not considered a good policy at wartime but being applicable as a peace-building perspective. (Eisenhower, David, "Editor as Column", in *Orbis. A journal of World Affairs*, vol. 47, nr. 1, 2003)

[28] Waltz, Kenneth, *Man, the State and War: A Theoretical Analysis*, Columbia University Press, 1954, *Omul, statul şi războiul*, traducere de Mihaela Sadonschi, Institutul European Iaşi, 2001, p. 211.
[29] McElroy, Robert, *op. cit.*, p. 71.
[30] Rawls, John, *The Idea of Public Reason Revised*, Harvard Univ. Press, 1999
* "Stability for the right reasons describes a situation in which, over the course of time, citizens acquire a sense of justice that inclines them not only to accept but to act upon the principles of justice." Rawls, op. cit., p. 45.
[31] Aron, Raymond, op. cit., p. 171.
[32] See the speech delivered bz Dominique de Villepin, the French foreign affairs minister on January 17, 2004 at the *Euro-Mediteranean Forum "Science, Development, Peace"*, published in the magazine 22, nr. 726, 3-9 February 2004.

Norms on Organization and Conducting War

Dumitru Mazilu

The Law of War is also defined as a set of customary and conventional norms on the organization and development of military actions. In this respect, *the Law of War is meant to reduce to the minimum* the damages and the negative effects that armed conflicts bring about.

From earliest ages, there were elaborated certain rules on declaring war, conduct towards prisoners, the utilization of war capture, putting an end to hostilities and concluding an armistice etc. Thus, for instance, "Manu's Laws" from the XII-XI centuries B.Ch., contained a set of norms on the methods of conducting war and on the individuals these wars were waged against. By means of these rules it was forbidden to use bows with poisoned arrows or to attack defenseless persons. Peace treaties signed between Sparta and Athens in 446-445 and 421 B.Ch., included stipulations with regard to arbitrage and mediation used for finding a solution to conflicts regarding frontiers, trade etc. between the two parties. Regulations on finding solutions to litigation by peaceful means are to be found in the Roman Law. Thus, the Roman Senate and a certain Sacerdotal College (The Fecials' Collegc) were conferred important competencies in the regulation of certain conflicts.

Later on, during Middle Age, Church had an appreciable influence in the elaboration of certain norms on methods of conducting wars. In 1139 the Concilium from Lateran prohibited the use of bows and arrows. In Spain, during the reign of King Alfons (1256-1263), the Code of the seven parties *(Codigo de las siete partidas)* has been elaborated. There were also issued rules concerning the wounded, war prisoners and the civil population. As for solving conflicts, we may find important norms in the 1162 litigation between France and Prussia, which was submitted to an arbitrary court, made up of arbiters from both countries. The mediation is mentioned in the Treaty signed between Carol VI, king of France, and different Swiss cantons.

Following the Westfal Peace (1648) that put an end to religious wars, the *principle of necessity* is elaborated. It does not recognize in belligerents an unlimited liberty as to the means of using force. This principle asserts the obligation of ending hostilities in the moment that victory is gained over the enemy, and rejects the conception – widely spread those days and in earlier times – of complete annihilation. Some *humanitarian* principles enhance simultaneously, such as those promoting the circumcision of forms of violence in wartime by avoiding needless severity.

Historical analysis let us notice that during the evolution from the Law of War to the Law of Peace it has been registered important progress with the elaboration of international documents. Thus, in 1856, the Declaration of Paris prohibited corsairs to rob merchant ships in time of war, while by the 1854 *Geneva Convention* humanitarian norms are promulgated with regard to wounded campaign soldiers. Jean Henri Dunant and G. Moynier, both of Swiss origin, had an extremely important role in the elaboration of this convention. They insisted upon the necessity of settling some adequate rules on the sick and the wounded, and sanitary service within campaign armies. The positive attitude of the Swiss government regarding this subject was reflected in the conditions created for the convocation of the 1864 Geneva Conference, with a view to the adoption of the above-mentioned Convention[1].

Later on, by the 1868 *Declaration of St. Petersburg* it has been forbidden the use, in time of war, projectiles of less than 400 gr., which are explosive or charged with fulminating or inflammable substances, on account of the abidance to certain humanitarian demands

during the proceedings of military operations. The Declaration of St. Petersburg sanctions, at the same time, that "the only legitimate end that States may have in war be to weaken the military strength of the enemy". The laws of war do not recognize in belligerents an unlimited liberty as to the means of injuring the enemy, thus aggravating uselessly the sufferings of people taken out from battle, by making their death unavoidable. The most notable provisions with regard to the initiation of military hostilities, war by land, by sea or by air as well as regulations concerning the cessation of "the state of war are set down in the 1899[2] and 1907[3] Conventions of Hague, the Protocol of Geneva signed on the 17th of June 1925[4], the 27th of July, 1929 Conventions of Geneva[5], in the Protocol of London, made up on the 6th of November 1936[6], the 12th of August,[7] 1949 Conventions of Geneva as well as in the Convention and Protocol of Hague signed on the 14th of May 1954[8].

The analysis of the Law of War viewed as a set of norms on starting hostilities as well as their proceedings on land, by sea and air constituted the object of several studies, research[9] and ample scientific syntheses[10] which underlined the role that these regulations played in restraining the best possible the ominous effects of war[11]. There is no doubt that the multiplication of rules on organizing and conducting war has a particular significance in presenting not only the theatre of war but also the responsibilities of those guilty of not having abided to the rules and norms of war.

a. Norms on initiation of war

According to the laws and customs of war, hostilities may get started by means of: war declarations; proclamation or manifesto; ultimatum or by committing an armed attack.

From earliest times it has been claimed that a public notice was needed for starting hostilities. Moreover, it has been stressed that the absence of such a notice was an act of injustice that ran counter to the rules and customs of a just war. In his work, *On Duties,* Cicero showed that "the laws of war were given prominence within the fetial law of the Roman people. Therefore, it proves that *just is only the war initiated* only after having presented its revendications[12], following a notice or declaration"[13]. According to Titus Livius' opinion, war should be waged "openly on grounds of a previous declaration"[14]. He believed in the significance of the solemnity this act would imply[15].

The notice made on starting hostilities is "fair and advisable to occur"[16] in order to offer, this way, one more try to escape war[17]. In demonstrating in details the necessity and importance of war declarations, Hugo Grotius showed that "natural law does not require any notice for the circumstance in which someone *defends against aggression* or has in view to punish the one who is guilty, indeed"[18]. Thucydides – promoting the same point of view – claimed that in such situation it was needed to act "at once and using all power"[19], while Dion Hrisostom, in *Speech to the inhabitants of Nicomedia,* showed that most wars were started without any previous notice, making reference to Plato's thesis that stated that a war initiated to reject an aggression *was not declared by a representative but by nature itself*[20].

As known, in practice, wars have often started without any express declaration made in this respect. It has been considered that, if not found any solution to the litigation by means of negotiations it became possible to resort to war without any previous declaration, especially in situations when diplomatic relations were broken. There are several authors that claim the need to declare war in such situations as well[21]. According to the *(Hague) Convention on starting hostilities*[22], in law it is statuted that "contracting forces recognize that hostilities between states *should not start without a previous and fair warning,* which should appear either under the form of a motivated declaration of war or an ultimatum with a conditional declaration of war" (art. 1). It is specified that state of war "will have to be notified, without delay, to neuter Powers and it will not have any impact on them only after the receipt of a notification that may be made even telegraphically". Nevertheless, the Convention statutes that neuter States "could not invoke absence of notification if proved, beyond any doubt, that in fact, they knew about the state of war" (art.2). On the grounds of the Convention, *the ultimatum* – in order to tantamount a declaration of war – has to qualify, that is, to indicate precisely that if required conditions are not met there will be recourse to war.

In the light of the UN Charter, starting military hostilities regardless the way it is done – should it be by means of a declaration, proclamation or ultimatum –, means recourse to force or threat by force, while the Charter of the World Organization forbids such actions.

Notice made on the initiation of war is not needed any longer, provided it is the case of a war of self-defence. In this situation, counteracting the aggressor has to be prompt and efficient, the victim-state having the difficult mission of rejecting aggression – firmly condemned by the norms of international law.

Nowadays, on account of the evolution of military technique – preventing war *by surprise* represents a requirement of greatest importance. The most certain way to attain this major goal is putting an end to arms race, achieving general and total disarmament as well as ridding society of warfare.

b. War on land

Over years, war on land was submitted to certain rules and customs on account of the specific features of armed conflict the type.

The promotion of certain norms with regard to conducting war on land aims to settle practical modalities limits of operations implied by conflict on land. In elaborating and adopting norms in this field, state representatives made this option starting from the premises that "while searching means for peace maintenance and the prevention of armed conflicts between nations, it is, however, important to consider the situation in which resort to weapons were the consequence of incidents that could not have been avoided"[23]. In the conception of the participating states in the (Hague) Convention on the laws and customs of wars on land[24], the promulgation of clear norms in this field serves "the interests of humanity and the constantly progressive demands of civilization" (al. 2 preamble). Therefore, the revision of general laws and rules of war states were estimated as being necessary "either in order to define them with more accuracy or to trace certain limits to them in order to reduce of their severity as much as possible" (al. 3 preamble)[25]. In the past, it has been considered that the end justified the means with gaining victory. In Homer's vision, enemy has to be damaged "openly by means of sly tricks"[26]. It is the same vision with Plutarh[27], Agesilaus[28] and Virgil. For instance, the habit of poisoning arrows and, thus, doubling the causes of death is mentioned by Ovid related to Geta, by Lucan with Parthians, by Silius with Africans. Furthermore, Titus Livius when making reference to different violent means used in war, he showed that everything done against enemies "is justified by the Law of War"[29]. Concomitantly, opposing opinions developed gaining more and more ground. Thus, for example, Cicero thought that it should be done away with "all pretence and concealment"[30] while Josephus showed that law ought attend even to "war prisoners, keeping them safe from harm and violence"[31]. Limiting violent means used in war constituted the object of several international debates[32] and some works of speciality[33]. It was approached more thoroughly within the 1874 Conference of Brussels and within the 1899 Debates of Hague, which ended in the adoption of a new general regulation concerning wars on land[34]. The New Convention – 1907 – developing the provisions of texts adopted in 1899, aimed to "lessen the sufferings of war as far as military necessities allow it", by elaborating general norms on the relations between belligerents and their relation with populations" (al. 5 preamble). The concrete aspects of war on land were settled by the Regulation concerning laws and customs of war on land[35], its stipulations constituting the substance of the 1907 Hague Convention. This regulation stipulates the statute and obligations of belligerents to use only certain methods of conducting war (cap. I), specifies principles of conduct with regard to war prisoners (cap. II)[36], the sick and the wounded (cap. III), defines military occupation and settles the rules on exercising military authority upon occupied territories (section III).

The efforts of nations to restrain the means of waging war found an eloquent expression in the regulations adopted in Geneva 17 June 1925 by *Protocol on Prohibiting Asphyxiating and Deleterious Gases or any Other Bacteriological Weapons*[37].

c. Norms on Maritime War

Maritime war has been submitted to regulations recognizing the necessity of more effectively ensuring the equitable application of law to the international relations of maritime Powers in time of war[38] by pointing out methods of conducting armed conflict at sea. In the elaboration of rules on maritime war it is also to be noticed, as with norms regulating war on land, the tendency of not allowing the use of all possible means to produce damages to the adverse party[39]. By the *1856 Declaration of Paris,* important laws are settled on the protection of vessels and neuter goods and there are also stipulated regulations by which the conditions and character of maritime blockade is specified with particular regard to the protection of neuter merchandise ships.

The most ample provisions on maritime war were adopted in 1907[40], on the occasion of the second Hague Conference. It specified the status of enemy merchant ships at the outbreak of hostilities[41], issued norms on turning merchandise ships into men-of-war[42], on placing contact submarine mines[43] and norms relative to bombardment by naval forces in time of war[44]. By the Convention said, there have been settled certain restrictions in exercising to the right to capture during time of war at sea[45]. Thus, for instance, "vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo" (art.3). Due to previous experience, it has been statuted that "they cease to be exempt as soon as they take any part whatever in hostilities" (al. 2 art. 3). Moreover, "The Contracting Powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance" (al.3 art.3). Furthermore, "vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture" (art.4).

There are also restrictions regarding the crews of enemy merchant ships as citizens of a neutral State. In conformity with Hague Convention, "when an enemy merchant ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war" (art.5). The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts (al.2 art.5). Moreover, the captain, officers, and members of the crew, when nationals of the enemy State, "are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war" (art.6).

Further important restrictive specifications – on conducting maritime war – are in the *Convention on bombardment by naval forces in time of war.* Thus "naval forces are prohibited to bombard undefended harbors, cities, towns, villages, dwellings or buildings" (art. I). A locality "may not be bombed only for the reason that in front of the given harbor there are placed some automatic contact submarine mines" (al.2 art 1). Should there be a reasonable presumption that military necessities are sufficiently important to justify such bombardment, the commander should have regard to the danger thus caused to the civilian population" (al.3 art.2)[46]. In this respect it is clearly statuted the obligation of the commander to take "all necessary steps to spare, if possible, buildings dedicated to religion, art, science and charitable purposes, hospitals and places where the sick and the wounded are gathered on the condition that they are not being utilized at the time, directly or indirectly, for defence" (al.1 art. 5). The commander of an attacking naval force, save in cases when military necessities do not allow it, shall, before commence bombardment make every due effort to "give notice thereof to the local authorities" (art.6). The only circumstance exempting the commander from acting so, should be referred to as express military requirements.

It becomes plain that elaborated and enabled laws in this field attain to avoid violent confrontation, if it can be done, or at least to restrain its harmful effects.

d. Norms on aerial warfare

Aerial warfare was subject to several international debates, especially in the 1899 and 1907 Hague Conferences. However, norms adopted by these two conferences prohibiting aerial bombardment have not rallied the necessary support of the States. Later on, in 1922[47], there had been elaborated certain rules in the field and, however, they were not ratified. Along with the regulations issued in the above-mentioned Hague Conferences, laws traced in 1922-1923, state the methods of conducting air war and stipulate the requirement that aerial warfare meet the general conditions settled for war on land and war by sea.

With aerial warfare direct attack against non-combatants, the entry of a belligerent military aircraft within the jurisdiction of a neutral state as well as making use of it to set up an air base for military operations is strictly forbidden. Belligerent military aircraft are prohibited to attack enemy merchandise vessels. Furthermore, flying ambulances enjoy particular protection against all attack[48]. "Flying ambulances, used exclusively to evacuate the sick and the wounded, as well as to transport the personnel of sanitary service and their materials, will not be attacked but be paid due respect by belligerents provided flights will conform height, hours and routs agreed upon by all belligerents concerned" (art.36). The elaborated laws statute that these aircraft must bear, in a visible manner, the distinctive sign[49] or other sign or means that make possible recognition "agreed upon by belligerents, either at the beginning or during hostilities" (art. 36). Flying ambulances must obey all challenge to land on grounds of the adopted regulations. "In the event of such a required landing, the aircraft and the passengers on board may continue their flight after a possible control" (al.4 art.36). If an enemy aircraft falls into the hands of a belligerent, should it be a forced landing on the adversary's territory or on a land occupied by it "the wounded, the sick and the staff on board may be made prisoners of war" (al.5 art.36). Sanitary personnel will be entitled to protection and respect in all circumstances" (art.24). Sanitary aircraft are forbidden to enter the jurisdiction of enemy states except it has been agreed so. (al.3 art.36). However they may enter, land or alight in the jurisdiction of a neutral State, in case of emergency or to stop over, provided a previous notification has been made on it and the "submission to all challenge to land or alight" (al. 1 art. 37). Flying ambulances are safe provided flights conform height, hours and routs consented upon by Contracting Parties and the neuter Powers concerned" (art. 37)[50]. Meanwhile, neuter States may ? very well condition or restrict the entry or landing of these aircraft on their territory. Such possible conditionings or restrictions "will be, equally, applied to all Contracting Parties" (al.2 art.37).

Rules on prohibiting aerial bombardment against civilian population are of particular importance. Thus, aerial bombardment for the purpose of terrorizing the civilian population, injuring non-combatants and destroying or damaging private property is prohibited.

e. Norms on using outer space for peaceful purposes

Technical and scientific development, mankind entering outer space as well as starting activities of exploration and exploitation in the extra atmospheric space determined the elaboration of certain norms regarding the utilization of this space in the common interest of humanity and on peace preservation and consolidation in cosmic space[51]. Thus, in 1958, the UN General Assembly set up the Committee for the Peaceful Uses of Outer Space with a juridical Sub-Committee in its subordination, dealing with the legal implications of using cosmic space and the its consequences on aerial, maritime and terrestrial space. The main outcome of the activity undertaken by these UN legal bodies is the adoption of the Declaration on the legal principles ruling the activities of States with regard to the use and exploration of the outer space[52]. Its provisions served as grounds for

the elaboration of the Treaty regarding the principles ruling the States' activities in the exploration and the use of outer space, here included the Moon and all celestial bodies[53]. The treaty sanctions the obligation of the contracting parties to develop activities of exploring and using cosmic space in the interest of peace preservation and international security as well as the promotion of worldwide cooperation and understanding (art. III). States forming part assume the obligation of not placing on the circumterrestrial orbit any object bearing nuclear weapons or any other arms of large-scale destruction, of not installing such weapons on celestial bodies and, not at the least, sending such arms out into space. The Treaty sanctions the prohibition of setting up bases, military settlements and defence works on the Moon or other heavenly bodies; it also forbids to carry on military operations or to make any experiments implying weapons of any sort (art. IV). The Treaty allows military personnel to make scientific research or for other peaceful purposes. Moreover, it permits the use of equipment or installations of any kind, necessary for the peaceful exploration of the Moon and other celestial bodies (art. IV). By the agreement ruling the activities of States on the Moon and the other heavenly bodies it is forbidden the resort to force or threat by force on celestial bodies or against the Earth, crews or any other spatial object. Express prohibition regarding only nuclear weapons led to the conclusion that this space had the conditions of an atom-free zone where military operations with no aggressive character were allowed, thus generating the facilitation of army race in the outer space. The only appropriate interpretation given to the regulation stipulated in the Treaty is that all military operation is forbidden in the cosmic space and on celestial bodies, while their exploration and use should be made exclusively for peaceful purposes.

f. Norms on armistice and the cessation of the state of war

Armistice and the cessation of the state of war made the subject of some customary norms, first, and then, of international regulations – mainly of the Regulation on the laws and customs of war, annexed to the 1907 Hague Convention. On the grounds of these regulations, armistice represents an agreement between belligerent forces regarding the temporary cessation of hostilities. Such a thing is possible to occur in military purposes, should they be momentary or partial, and then it is the case of delaying hostilities. It may very well concern the ensemble of belligerent armed force, thus including the entire war theatre in the event of a general armistice. Moreover, it might concern only a part of the front and of the armed forces, its purposes being no military but political ones – and here it is the case of a partial armistice. According both to customary laws and written regulations, armistice violation is forbidden. Should there be any important infringement made by one of the parties involved, the other party has the right to denounce the armistice and to resume hostilities with no preliminary warning[54]. Therefore, the convention of armistice includes engagements the observance of which constitutes an obligation for each party and they have a major significance in the prospective evolution of tensional relations as well as in peace maintenance.

The cessation of the state of war occurs by signing a peace treaty[55], which is preceded by negotiations, while in certain cases – like the one between Russia and Turkey at San Stefano (3rd of March 1878) by peace preliminaries. It has been considered, and certain authors still consider, that the subjugation of the defeated State constitutes another means of putting an end to the state of war, that is to say that it may be attained by its elimination as a State and its very subjugation (debellatio). Nowadays, both in law[56] and in doctrine[57] as well, such a method for terminating war is considered to be illicit.

In the past, it would happen the cessation of hostilities in fact, as it was the case with the 1716 war between Sweden and Poland, the 1720 war between Spain and France, and so many others.

In our days, the licit termination of the state of war should occur by signing a peace treaty, which has as major effect the resettlement of the state of peace between former belligerents. It implies a guarantee of all the rights and

obligations, during the time of peace, given to all States forming part of the belligerent parties. The cessation of the state of war implies the liberation and repatriation of war prisoners[58], damages of war are to be repaired[59], treaties[60] are revalidated and offenders against the laws of war are liable to be punished, as it happened since World War II.

In the absence of a peace treaty, the termination of war may occur by means of unilateral agreements. It was the case of the declarations adopted by India, Egypt, Pakistan, U.S.A., Great Britain and France with regard to putting an end to war with Germany; the 1955 Decree of the supreme Soviet U.S.S.R. on the cessation of state of war between U.S.S.R. and Germany or by common declarations, such as the 1956 Declaration between the U.S.S.R and Japan on concluding peace between the two contracting parties.

NOTES :

[1] As well known, by means of the 1864 Convention of Geneva Red Cross was founded.

[2] The Convention relative to Laws and Customs of War on Land; The Convention for the Adaptation to Maritime War of the Principles of the Convention of Geneva (August 22, 1864; Declaration on Launching Projectiles and Explosives from Balloons or other new similar methods, on the Use of Projectiles the Object of which is the Diffusion of Asphyxiating or Deleterious Gases and a Declaration on the Use of Bullets which expand or Flatten Easily in the Human Body.

[3] The Convention on Starting Hostilities; The Convention on norms and rules regarding wars on land; The Convention on the rights and obligation of neuter powers and the persons belonging to them as far as wars on land are concerned; The Convention on the statute of enemy commercial ships when starting hostilities; The Convention on turning commercial vessels into warships; The Convention on the instalment of contact submarine mines; The Convention on the bombardment by naval forces in time of war; The Convention on for the Adaptation to Maritime War of the Principles of 1864 Convention of Geneva; The Convention relative to certain restrictions on the exercise of the right of capture in maritime war; The Convention on creating an International Court of maritime spoils; The Convention on the rights and obligations of neuter powers in maritime wars.

[4] It concerns the prohibition of using during wartime asphyxiating and deleterious gases or any other bacteriological weapons.

[5] The Convention on improving medical attendance given to wounded and ill people in army campaigns; The Convention on the behaviour towards war prisoners.

[6] It concerns the use of submarines against commercial vessels. All these settlements were worked out and adopted after World War I, in the light of an ample debate and confrontation of opinions on the grounds of the terrifying experience that this world conflagration implied.

[7] The Convention on improving medical attendance given to wounded and ill people in army campaigns; The Convention on improving the treatment of wounded, ill and shipwrecked people belonging to the maritime armed forces; The Convention on the treatment of war prisoners; The Convention on Civil persons' protection in wartime.

[8] It concerns cultural values in case of armed conflicts. These regulations were elaborated and adopted after World War II. They represent the development and clarifications of already existing rules and norms on war initiation, conducting and termination, on the grounds of events occurring during the above mentioned unprecedented armed conflict.

[9] See A. Nussbaum, *A Concise History of the Law of Nations,* New York 1954; P. Guggenheim, *Traité de droit international public,* t. II, Geneva, 1954; Ch. Rousseau, *Droit international public approfondi,* Paris, 1958, p. 317 and next; M.A. Marin, *The Evolution and Present Status of the Laws of War,* in R.C., 1957, II, 92, p. 647 and next.

[10] See Grigore Geamănu, *cit. work,* vol. II, p. 361–425; Ionel Cloşcă, *Armed Conflicts and Ways of Finding Solutions to Them,* Edit. Militară, Bucharest, 1982; Oppenheim – Lauterpacht, *International Law,* vol. II, 7th Edition, London, 1955, p. 231 and next; H. Standke, K. Krumbiegel, *Der Krieg im Völkerrecht,* Berlin, 1961; G.J. Weber, *Effect of War on Contracts,* 1948; Mc. Nair, *Legal Effects of War,* London, 1948; O.V. Bogdanov *Iadernoe orujie i mejdunarodnoe pravo,* Moskva, 1961; Sergiu Verona, *Arms and Disarmament,* Bucharest, Edit. Politică, 1970; J.M. Spaight, *Air Power and War Rights,* Washington, 1947.

[11] See H. Coursier, *L'évolution du droit international humanitaire,* in R.C., 1960,I, 99, p. 409 and next.

[12] The appearance of revendications was a *repetitio rerum* through which it was aimed to avoid war or in any case, criticised people should be given a justified cause for conflict. It was a complicated procedure and it would occur under a solemn form (see G. Dumitriu, *Sur la nature juridique de la clarigatio,* Bucharest, 1943).
[13] Cicero, *On Duties,* p. 56 (underl. en.).
[14] Titus Livius, *From the Foundation of Rome,* vol. IV, Edit. Stiințifică, Bucharest, 1962, p. 21.
[15] *Ibidem.*
[16] See Mariana, XXVII, 13; see Hugo Grotius as well, *cit. work,* p. 637.
[17] *Ibidem.*
[18] Hugo Grotius, *cit. work,* p. 637 (underl. ns.).
[19] Tucidide, *The Peloponesiac War,* Edit. Stiințifică, Bucharest, 1966, p. 340.
[20] Cf. Hugo Grotius, *cit. work,* p. 637 (underl. en.).
[21] See Oppenheim - Lauterpacht, *cit. work,* vol. II, p. 29.
[22] The Convention was adopted at Hague on the 18th of October 1907. Romania become a part of it on the 1st of March 1912 by ratification (Decree nr. 442/1 February 1912, in M.of.nr. 272/11 March 1912).
[23] These the opening words of the *Convention of laws and rules of war and land,* adopted at Hague on the 18th of October 1907.
[24] Romania become part of it by ratification on the 1st of March 1912 (Decree nr. 442 issued in 1912).
[25] Until convention was adopted it has been considered that any means for waging war was permitted *(licere in bello, quae ad finem sunt necessaria)* (see in this respect Hugo Grotius, *cit. work,* p.642 and next).
[26] Homer, *Iliada,* XV, 106.
[27] Plutarh, *Hist. Bell. Mith.*
[28] Agesilaus, asserted that in war "deceiving enemies is right and lawful" (cf. Hugo Grotius, *cit. work,* p.611).
[29] Titus Livius, *cit. work,* p.559 and next.
[30] Cicero, *On Duties.*
[31] Josephus, *Contra Appionem,* II, 29, 212.
[32] See the Declaration of the 1899 Conference of Hague; art.171 of the 1919 Peace Treaty of Versailles; art.5 of 1922 Treaty of Washington etc.
[33] P. Guggeinheim, *cit. work,* p.390 and next; Kunz, Gaskrieg und Völkerrecht, 1927.
[34] Convention of laws and rules concerning warsony land, adopted at Hague on the 29 July 1899.
[35] Regulation, adopted on the 18th of October 1907.
[36] An ample settlement on this important issue was made on the 12th of August 1949 by adopting the *Geneva Convention on the treatment of war prisoners.* Romania became part of it on the 1st June 1954 by ratification (B.of. nr. 25/21 May 1954).
[37] This Protocol is valid from the 8th of February 1928. Romania became part of it by ratification on the 23th of August 1929 (Decree nr. 3050 on the 16th of September 1929, in M.of. nr. 218 issued on the 1st of October 1929).
[38] Maritime war aims to defeat the maritime fleet of the enemy; destroy fortifications, naval and military installations on the enemy coast; interrupt communications with the shore of the enemy State, and support by all means military operations on land etc.
[39] For instance, by the rules stipulated in *Consolato del Mare,* issued in the XIVth, it has been made distinction between enemy vessels or enemy private propriety and neutral vessels and goods. The pillage of enemy merchant ships has been considered illicit.
[40] *Convention for the Adaptation to Maritime War of the Principle of the Geneva Convention,* adopted at Hague on the 18th of October 1907 replaces the 1899 Convention. Romania adhered on the 1st of March 1912 by ratification (Decree nr. 442 on February the 1st 1912 in M.of.nr. 272 issued on 11th of March 1912). For the application of the Convention, Romania issued a special norm published in M.of.nr. 35 on the 17th on May 1913, modified and republished in M.of.nr. 111 issued on the 16th of May 1934.
[41] See *Convention Relative to the Status of Enemy Ships at the Outbreak of Hostilities,* adopted at Hague on the 18th of October 1907. Romania became part of it on the 1st of March 1912, by ratification (Decree nr. 442/1912).
[42] See Convention on turning merchandise ships into man-of-war, adopted at Hague on the 18th of October 1907. Romania adhered on the 1st of March 1912, by ratification (Decree nr. 442/1912).
[43] See Convention on placing contact submarine mines, adopted at Hague on the 18th of October 1907. Romania adhered on the 1st of March 1912, by ratification (Decree nr. 442/1912).
[44] See Convention on Bombardment by Naval Forces in Time of War, adopted at Hague on the 18th of October 1907. Romania adhered on the 1st of March 1912, by ratification (Decree nr. 442/1912).
[45] See Convention on Certain Restrictions in Exercising the Right to capture in War at Sea, adopted at Hague on the 18th of October 1907. Romania adhered on the 1st of March 1912, by ratification (Decree nr. 442/1912).
[46] On grounds of the operative regulations, the commander of a naval force may, following a previous warning, destroy by means of guns "earth works, military or naval establishments, deposits of arms or materials of

war, the enemy's or their own fleet devices as well as enemy vessels being in port" provided "there is no other choice and that local authorities did not proceeded to the given destruction in due time" (al. 1, art.2). On grounds of the laws and customs of war, in such circumstances, the commander "is exempt from liability for involuntary damage that could be done by bombardment" (al.2, art.2).

[47] At the Conference of Washington regarding the armament limitation.

[48] These norms were stipulated in the Geneva Convention (adopted on the 12th of August 1949) for the relief of the wounded and the sick in campaign armed forces. This Convention replaces the 1864, 1906 and 1929 Conventions. It entered into force on the 29th of October 1950. Romania adhered to it on the 1st of June 1954, by ratification (B.of. nr. 25 issued on 21st of May 1954).

[49] The heraldic sign of the red cross on a white background is preserved as an emblem and the distinctive sign of armies' sanitary service (see art.38).

[50] These regulations take into account the request of guaranteeing maximum protection to sanitary aircraft. The settlement and abidance to norms agreed upon are of relevant importance for the protection of neuter States' security.

[51] See R. Quardi, *Droit International cosmique,* in R.C., 1959, III, p. 513 and next; Modesto Seara Vesquez, *Cosmic International Law,* Droit, 1965, p. 23 and next; S. Grove, *Space Law, its Challenges and Prospects,* Leyden, 1977, p. 33 and next; Al. Bolintineanu, *Opinions on the Legal Regime of the Cosmic Space in the Light of the General Principles of International Law,* in Legal Studies, Editura Academiei, Bucharest, 1959, p. 537 and next; Marţian Niciu, *The Conquest of Outer Space and the Progress of Humanity,* Edit. Dacia, Cluj-Napoca, 1978, p. 27 and next.

[52] See resolution nr. 1962 (1963).

[53] It was adopted on the 27th of January 1967 and entered into force on the 10th of October. Romania ratified the Treaty by Decree nr. 74 on the 2nd of February 1948.

[54] See art. 40 in the Annex to Convention IV, adopted at Hague in 1907.

[55] See Oppenheim-Lauterpacht, *cit. work,* vol. II, p. 600 and next.

[56] Annexation is forbidden by Contemporary International Law, which did away with the "right of the winner", so much debated in earlier ages.

[57] See H. Weehberg, *Krieg und Eroberung im Wandel des Völkerrechts,* Frankfurt am Main, Berlin, 1953, p. 90 and next. Professor Tunkin demonstrates that this method of ending the state of war has an illicit character, as a consequence to the abolishment of the right of the States to war (see G.I. Tunkin, *Mejdunarodnoe pravo, luridiceskaia literature,* Moscow, 1982, p. 526 and next).

[58] See the *1949 Geneva Convention on the prisoners of war.*

[59] Clause the appears in the 1947 Peace Treaties, concluded by the allied forces with Italy, Finland, Romania, Bulgaria and Hungary.

[60] Clause that is included, in an express manner, in most peace treaties signed between belligerents. The effects of such clauses are extremely important for the resettlement of the ensemble of rights and obligations of States in time of peace.

The Events in Kosova Leading to its Formal Independence from Serbia and Former Yugoslavia

Hajredin Kuci

1. Formal Acts of Kosova's Bodies

1.1. *The Constitutional Declaration (2 July 1990)*

The decomposition of SFRY, and the prevailing of new circumstances within the territory space of the former Yugoslavia were the most convenient political moments for the articulation and realization of historic and legitimate aspirations of Kosova Albanians.

On 2 July 1990, on the plateau of the Kosova Parliament Building, 111 delegates of the Parliament of Kosova approved and publicly proclaimed the "Constitutional Declaration on Kosova as an Independent and Equal unit within the Yugoslav federation or Confederation[1].

With this Constitutional Declaration, the will of the majority population was taken into consideration. The Republic of Kosova first of all realized the historic intentions and aspirations of the Albanian population for freedom and independence, and its democratic determination to live independently and with its own laws and political organizations.

The Constitution Declaration advanced the position of Kosova from an autonomous unit to an independent and equal unit with the other federal units of the former Yugoslavia.

The text of the Declaration is very short, and apart from its short preamble, it contains six articles. The first part of the Declaration confirmed, "Through an authentic constitutional will, the population of Kosova, and its Parliament, expressed an act of political self-determination within Yugoslavia". Under a second Article, on the basis of authentic democratic principle on respecting the will of the people and human and national communities, the Parliament of Kosova expected an inclusion of this constructive act in the Constitution of Yugoslavia, and its recognition by the Yugoslav and international democratic opinion. This Article of the Declaration marks an advancement for the position of the Albanian people, as a majority population, among the largest in former Yugoslavia, from a nationality position to that of a nation equal to the other nations in former Yugoslavia.

The revocation or annulment of the decision of the Parliament of Kosova to give its consent to the constitutional amendments in the Constitution of SR Serbia in 1989 was made under Article Four of the Declaration, emphasizing that the Parliament and state bodies in Kosova will base their relations in constitutional regulation of Yugoslavia to the final legal implementation of this Declaration, on the Constitution of SFRY of 1974. The Declaration derogated ipso jure all the acts, which linked legally Kosova to Serbia according to the legal ex posterior, derogate lex prior. Under Article 5, the Parliament of Kosova expressed its disagreement with the Serbian name of Kosova and Metohija and its determination to communicate publicly only by the name Kosova. And, finally, Article 6 of the Declaration stated that the Declaration was put into effect on the day of its approval.

This Declaration was adopted at a time when Yugoslavia still existed, and none of the federal units had expressed their will for separation from Yugoslavia. As a result, the position of Kosova, according to the Declaration was envisaged within the Yugoslav Federation. The procedure of voting was not entirely valid; as it had been made on the stairs of the Parliament Building, as the Serbian regime did not allow Albanian delegates enter the Parliament hall. Yet, it sent out an unexpectedly strong symbolic signal for the future relations between Kosova and Serbia.

1.2. *The Constitution of the Republic of Kosova (7 September 1990)*

In view of putting into life the Constitutional Declaration of 2 July, 1990, the Parliament of Kosova approved and proclaimed the Constitution of the Republic of Kosova, with all the required documents, in the city of Ka9anik, on 7 September 1990, and passed the Law on Political Association of Citizens, Law on Elections, and other required decisions for the momentary work of the Parliament of Kosova in its relations with the Parliament of SFRY.

The Constitution of the Republic of Kosova represents a historic act in which the Albanian people realized their historic aspirations which they had been deprived of and discriminated for five decades in the past by Serbian and Yugoslavia regimes. The approval of the Constitution marked the realization of their legitimate requests that began to be articulated on the political request to constitute Kosova a republic with equal rights to the other republics in the former Yugoslavia.

Unlike the Constitution of SAP Kosova of 1974, the Constitution of the Republic of Kosova of 7 September 1990 contained quite a short text (introduction and nine chapters) that defined an organization of Kosova as politically and constitutionally completely independent from Serbia. Using positive and constitutional solutions and the experience of democratic states in Europe and the world, the Constitution of the Republic of Kosova constituted a form of state regulation based on the sovereignty of peoples and citizens, freedom of organization and political action of citizens, plurality of forms of property, free market economy, and legislature as basis of its constitutional and political system.

The general provisions of the First Chapter determine the Republic of Kosova as a democratic state of the Albanian nation and of members of other nations and national minorities of Serbs, Turks, Moslems, Montenegrins, Croats, Romas and others living in Kosova. The Republic of Kosova was conceived as a parliamentary Republic. A direct election of the President by the electoral body does not renege this character. There have been cases when the head a of Parliamentary Republic was elected by the people. Such was the case with the German Republic, Austrian Republic, etc.

Article 75 guarantees the freedom of expressing one's national origin, alongside with freedom of expression of one's national culture and the use of language and its scripture. Besides, the question of minorities is treated in Article 68. It sees to it that from the elementary to the superior education conditions are ensured to guarantee education in one's mother tongue, or in Albanian, Serbo-Croatian and Turkish languages respectively. Article 67, Paragraph 3 points out: "In the publicly financed schools, education is free of charge". The Constitution of the Republic of Kosova recognizes for the national minorities the right to use national symbols, based on conditions and manner arranged by the law.

The adoption of the Resolution for the Republic of Kosova as an Independent and Sovereign State brought about a new constitutional situation that requested adequate changes and supplements to the Constitution of the Republic of Kosova of 7 September 1990. In this, the Parliament of Kosova passed Amendment I and Amendment II-VI on 19 October 1991, which made due provisions of the Constitution of the Republic of Kosova.

Since these amendments define new constitutional solutions, Amendment I proclaims the Republic of Kosova as a sovereign and independent state. With this definition, Article 2 of the Constitution of the Republic of Kosova was changed. Just prior, it had envisaged Kosova to be within the Yugoslav community. Amendment II applied the institution of the President of the Republic as an individual head of state, with all the competencies defined by the Constitution for a collective Presidency of Kosova. Amendment III determines the functions of the President of the Republic.

Amendment IV defines the conditions and procedures for electing the President of the Republic in free and direct elections with secret votes. (Amendment IV, Article 1). Amendments V and VI are mainly of technical character as they define a special constitutional law that would be passed for the implementation of Amendments II and VI. The main goal of these amendments was to declare Kosova a sovereign and independent state, and to change the leadership of Kosova from Presidencies to President, individual leadership.

The Constitutional Declaration of Kosova, of 2 July 1990 and the Constitution of the Republic of Kosova have expressed the will of the Albanian people in Yugoslavia and were out of any ideological influence of the Communist Party.

1.3. *The Referendum on Independence (26-30 September, 1991)*

In the territory of the former Yugoslavia, as a consequence of political discussions on the definition of the Federation, the process of its disintegration began and was carried out through the proclamation of independence of the federal units that passed declarations on their sovereignty, through referendums.

Being included in these democratic processes, the Parliament of Kosova in September 1991 passed a decision to organize a national referendum on the Republic of Kosova as an Independent and Sovereign state. This referendum was held in Kosova between the 26th and 30th of September 1991, and the great majority of people (over 99% of eligible voters voted at this referendum) opted for Kosova as a sovereign and independent state.

The National Referendum on Kosova as an Independent and Sovereign state presents an act of democratic and political self-determination of the Albanian people with the view of defining the constitutional and political status of Kosova after the dissolution of the former Yugoslavia.

Supporting the concept of the Republic of Kosova as an independent and sovereign state, the Albanian people opted, in a democratic way, in favor of full freedom, independence and sovereignty from Serbia.149 Accordingly, it may be concluded that this Referendum presented a legitimate political act of the Albanian people, who together with other peoples of former Yugoslavia was incorporated into the new democratic processes, that every people, including Albanians, should be given an opportunity to realize their right to self-determination.

Based on the results of the Referendum, the Parliament of Kosova proclaimed the Resolution of the Republic of Kosova as an Independent and Sovereign state on 18 October 1991. This Resolution confirmed the positive declaration of the Albanian people for full sovereignty and independence of Kosova. The approval of this Resolution was a logical consequence to the process of dissolution of the Yugoslav Federation, and creation of new states on its soil. Other republics, such as Slovenia, Croatia, Bosnia-Herzegovina and Macedonia previously approved similar resolutions.

This option has become all the more an indivisible part of national conscience of the Albanian population, which attached all its political will to the full sovereignty, and independence of Kosova.

On December 1991, the Government of Kosova in exile, headed by the Prime Minister Bujar Bukoshi, handed over to the EC its request for an international recognition of Kosova as an independent and sovereign state. Yet, the political will of the Albanians of Kosova, expressed by the Referendum on a sovereign and independent state, has so far been recognized only by Albania.

1.4. *Parliamentary and Presidential Elections (May 24th 1992, and March 22nd 1998)*

With the approval of constitutional amendments to the Constitution of the Republic of Kosova (October 1991), a constitutional basis for organizing the first free and multiparty democratic elections for the Parliament and the President of the Republic, had been established.

The old one-party Parliament of Kosova announced on 2 May 1992 the multiparty, general and presidential elections, to be held on 24 May 1992. In these elections the people of Kosova had for the first time the opportunity to vote freely themselves for the election of the main bodies of the Republic of Kosova. The voting attendance was massive.

At these elections, in conformity with the Constitution and Law on Elections, 100 deputies were elected for the Parliament of Kosova and the President of the Republic. In conformity with the Law on Elections, political parties proposed their candidates to the Parliament of Kosova, as well as other political movements, civic associations, and other subjects as anticipated by the law. As this law combined the majority and proportional principles, out of 130 deputies of the Parliament of Kosova, 100 of them were elected directly, while other 30 were elected later on the principle of proportional representation of political parties that won a certain percentage of the votes, including an adequate representation of the political parties that gathered national minorities living in the Republic of Kosova. The President of the Republic was also elected in a democratic way, by secret balloting.

The Democratic League of Kosova (LDK) won 76.4% of the votes and got 96 seats, and the Parliamentary Party of Kosova (PPK) got 4.86 % with 13 seats. Other successful parties were the Peasants' Party of Kosova (7 seats), and the Albanian Christian Democratic Party (7 seats). In the Presidential election, Ibrahim Rugova, the popular and charismatic leader of the LDK, won by an overwhelming majority.

In the voting process, together with Albanians participated also Turks, Muslims, etc. Serbs did not participate as they considered the voting illegal. The Parliament made a single attempt, on 24 June 1992, to meet, but was not barred by the Serb forces. After that day, the Parliament worked through Parliamentary Commissions, which was more or less an improvisation rather than an effective work.

Until May of 1998 elections were postponed several times between 1996 and 1998, three times for the Parliament (which had a four-year term), and twice for the President, whose term was five years.152 On December 24, 1997, when the mandate of the shadow Parliament and Presidenty were about to expire once again, Rugova announced new elections on 22 March 1998. Despite the elections of 1992, when all political factors of Kosova had supported the elections, for the 1998 elections the electorate was divided.

After the events in the Drenica region, when an armed conflict in Kosova began, the new factor in Kosova, the Kosova Liberation Army (KLA – UCK) was categorically against the elections. In a statement published in "Koha Ditore", the KLA said that the elections should be put off "because of a state of emergency in Kosova and a state of war in Drenica". The KLA also announced that it would not recognize elections "until the country was liberated", and accused Rugova of "causing a discord among Kosova Albanians.153 In addition, the PPK, and some minor parties refused to participate in the elections for the same reason. Because of the situation of war, the elections could not be held in the Drenica region, in the municipalities of Skenderaj, Gllogoc, and Klina respectively. In other parts of Kosova the majority of people of Kosova participated in the elections.

The elections for the Parliament and President of Kosova (May 1992 and March 1998) did not have a big impact on building of the institutions of Kosova, but judging by the number of people participating, they were a sort of a reiteration of the referendum on sovereignty and independence of Kosova.154 The results of the March 1998 elections were similar to the 1992 elections. The fate of the institutions was similar as well, that is their creation remained in half.

2. The parallel life in Kosova and Serbia's response to it

Following the abolition of the Kosova autonomy in 1989, Albanians refused to accept the legitimacy of Serbian rule, proclaimed Kosova as an Independent Republic, and strongly advocated for a peaceful strategy to resolve the Albanian-Serbian conflict.155 Since the early 1990s, the Albanians were able to make decisions over a wide range of political, economic, social and cultural issues without interferences from Serbia.

Albanians of Kosova refused to participate in Serbian and Yugoslav political life. They systematically boycotted the Yugoslav and Serbian elections since 1991, considering them as events happening in a foreign country.

Organizing a parallel Albanian society, their own political institutions, educational and health-care systems, cultural, and sports associations, this emerged as a hallmark of the Kosovar Albanians peaceful resistance to the Serbian rule. Kosova Albanians responded in 1991 by forming a shadow government, completed with a President, Parliament and a tax system. The Government of Kosova, though, had no army or police, which it could deploy, that is, it was not a government in effective control of its territory and population[2]. An "interim" coalition government was formed on 19 October 1991, comprised of six ministers. All but one of the ministers lived abroad. The Prime Minister, and at the same time Foreign Minister, was Bujar Bukoshi (a physician, urology specialist and former LDK Secretary). The Health Minister was the only minister who lived and functioned in Kosova. The shadow Government played an important role by collecting "taxes" abroad. All Kosovars in the Diaspora were supposed to contribute 3 percent of their income to the funds of the Republic of Kosova. This helped to finance political activity, education and health care system.

a) Education

According to the 1974 Yugoslav Constitution, as an autonomous province, Kosova had full decision-making authority over all levels of education: primary, secondary and higher education. Classes in the province's primary schools were held in Albanian, Serbian and Turkish. Lectures in the University were held both in Albanian and Serbian. At the beginning of the 1991/92, the Serbian forces prevented Kosova Albanian teachers and students from entering their school's premises. In early January, the majority of the Albanian language secondary schools started their second term (semester) in private homes. The Prishtina University soon followed on 26 November 1991.

The parallel Albanian-language education system in Kosova served a total of 266.413 primary school pupils, 58.700 secondary school students, and 16.000 university students, an undertaking on a scale that has no parallel. The work of these educational institutions was carried out according to a curriculum approved by the Kosova bodies. During this time a big number of books were published based on new developments in science and with free of the imposed Communist ideology of the former period.

On 1 September 1996, Rugova and Milosevic signed an agreement for a normalization of the education process in Kosova/o in a meeting mediated by San Eggidio, a Rome-based church organization. This agreement – the so-called Rome Agreement – anticipated a return of the Albanian students and teachers to their premises. This agreement was never realized, and was used by the Serbian regime for political purposes. The Agreement did not deal with the curriculum, recognition of diplomas, a division of school premises or institutions in different languages, but meant to only temporarily resolve their financial situation.

Rugova used the Agreement to point out that he was being officially recognized, because Milosevic was dealing with him. But the document (signed separately in Prishtina and Belgrade respectively) carried for Milosevic his official title (President of Serbia), and for Rugova only his name. The 3+ 3 Implementation Commission met several times, but failed to register any progress. This was mostly because the Serb side interpreted it as a recognition of the Serbian education system, whereas the Kosovar side understood it as allowing Kosova's students to come back to all the school premises without preconditions.

b) Health Care

In July and August 1990, the health care system in Kosova came under Serbian "emergency measures" that rapidly led to a large-scale firing of the Albanian workers. The boycott of the Serbian health care system by Albanians was almost as comprehensive as that of the educational system.

The main institution within the parallel health system was the humanitarian organization of Mother Teresa. (The institution was named after the world-renown Catholic nun who, before her death, was the most famous ethnic Albanian in the world. Mother Teresa was born in Skopje. She was the winner of the Nobel Prize for Peace).

Albanians of Kosova were proud of their parallel health care system and, given the adverse conditions, they managed to set up an impressive net of health care institutions.159 The parallel systems of education and health service set up by Kosova Albanians were clearly not satisfactory entirely based on modem standards.

The Radio and Television station of Prishtina (RTP) was taken over by the Serbian authorities on 5 July 1990. RTP still had some Albanian language programming, but it was only a translation of what the Serb desk officers produced, therefore Albanians generally choose not to watch it. The Albanians of Kosova usually watched the Satellite TV. It was so because as an Albanian TV program via satellite was set up. It was paid equally by the Albanian state TV and Kosova's shadow government, and it offered information, debates, round tables, talk shows, children's programs, and music. In Kosova were also published several daily and weekly newspapers, all on private funding.

Most jobs were in the service sector or commerce, with international contractors, or involved in the black-market sales of cigarettes and alcohol. Kosova had some 18.000 registered small firms. Business could not break down some of the barriers between Serbs and Albanians, as it was believed.

Internationally, despite the fact that Kosova had not been recognized, collectively or individually as a state, with the exception of Albania, it had created a solid representative capacity in international relations. Kosova had 11 offices. Only the Office of the Republic of Kosova in Tirana - Albania had a diplomatic status. On 20 December 1996, an Office of Kosova in Istanbul-Turkey was, opened. On the international side, the first international office in Kosova was the United States Information Office (USIS), opened on 5 June 1995.162 Also, meetings of the leader of Kosova, Ibrahim Rugova, and other figures with representatives of many countries, like the US President, those of Great Britain, France, Germany, Turkey, and international organizations such as UN, EU, etc. were in the function of internationalizing the Kosova issue.

The creation of new states is a matter of fact, and not a legal issue. With its appearance, a new state became subject to international law. States can exist without international recognition. The existence of the Turkish Republic of Cyprus, during its 27 years, despite the fact that only Turkey recognized it, proves practically that a state can exist without international recognition.

The Republic of Kosova functioned as well, under occupation, bearing the following main characteristics:

- the majority of the population of Kosova did not participate in the political and legal life of Serbia - Yugoslavia;
- Albanian political parties developed their own activity as part of the political life of the Republic of Kosova under circumstances of a foreign occupation;
- the institutions of the Republic of Kosova, according to its own Constitution, functioned, partially inside of Kosova/o and partially in exile;
- the issue as to when the institutions of Kosova could function within its territory and with full competence was an issue of the balance of forces. And, theoretically it is known that the balance of forces can change.

THE OUTBURST OF THE CONFLICT IN KOSOVA – CAUSES AND CONSEQUENCES

1. The Appearance of UCK (The Kosova Liberation Army – KLA)

In the 1990s, Kosova passed from an autonomous Province to a classical-type colony. The outburst of the conflict in Kosova was a consequence of three developments:

- First, the Serb-Yugoslav government showed little indication that it was seeking a genuine compromise with the Albanian population;
- Second, growing sectors of the Albanian population became disenchanted with the peaceful approach of their leaders;
- Third, the international community had been increasingly perceived in Kosova as unwilling to promote a peaceful solution to the crisis[3].

The Albanian desire to break free from Serbia was not an aspiration born in the context of Yugoslavia's breakdown. The roots of Serbian-Albanian mistrust ran deep. Since 1912 when Kosova was occupied by Serbia after the Balkan Wars the Albanians had been striving to escape from the Serbian rule.

Rugova held hope that the conflict could be resolved by negotiations with the Serbs. He urged his fellow Albanians not to give Serbia a pretext for carrying out a campaign of ethnic cleansing. The pent-up frustration of close to a decade of waiting without any hint of light at the end of the tunnel, and the precedents for achieving political goals by military means set up by Slovenia, Croatia, Bosnia and Republika Serpska, played into the hands of hotheads who were prepared to fight for an independent Kosova.

Peaceful policy of Kosovar Albanian leadership, save the verbal support, did not have any other support to change this situation. Under these circumstances and Serbian occupation, the majority of the Kosovar Albanians did not see any perspective, especially the youth. Albanian willingness to compromise on selected non-political issues like returning their children to schools has foundered on Serbian intransigence. The collapse of the Rome agreement on education had a profoundly negative effect on the prospects for a situation in Kosova.

Over the last years, Milosevic never offered the Kosovar Albanians anything more than that status quo[4]. After so many years of repression people in general, naturally take encouragement from violent actions. Kosovar Albanians in the most cynical prevision of their formerly peaceful stance will learn the political value of counting the dead-if nothing else[5].

The Kosovar Albanians had been under siege for a long time. Serbs always treated them as second-class citizens, and they lived under effective police control throughout the 1990s. Denied equal access to education, health – care, and employment, Kosova Albanians have been subject to human rights abuses.

The west allowed Milosevic considerable latitude in his repression of Kosova, Milosevic believed the West would sacrifice Kosova to keep him engaged with Bosnian peace efforts. If little international effort had been spent on resolving the Kosova dispute in this decade, it was because there was no urgent need. It takes two sides to make a proper war, and Kosovar Albanians did not engage in pursuing a disciplined strategy of nonviolence. Kosova was perceived as a problem of human rights, not of political rights or territorial status.

When the relations between two peoples are pressed, the humanitarian rights of one part, we can not accept as a case of brutal behavior of the state, but an issue of the pressure on political will of the people for independence and equality. The essence of Kosova's problem has been the pressure of the Serbian regime on the political will of Kosovar Albanians for freedom and independence. Nobody can feel that he has full humanitarian rights if, for his own fate, someone else can decide.

Unfortunately, the individual recognition of the FRY (Serbia and Montenegro) after the Dayton Peace Accords established a very bad precedent by legalizing to a certain extent, the use of force and ethnic cleansing as a means for achieving political goals. Since then, the Kosova people and its leadership showed signs of serious disillusionment regarding their peaceful policy way as a means to achieving the independent statehood.

Former president of the US, George Bush, warned the Serbian leadership in December 1992, that the United States would use force if Serbia were to extend the war into Kosova. Bush's message reportedly said that: "in the event of conflict in Kosova caused by Serbian action the United States will be prepared to employ military force against the Serbs in Kosova and in Serbia proper[6]. This threat is the repeated also by the Clinton administration. For domestic purposes, Kosovar politicians often misrepresented the US government's strong stance on human rights as support for Kosova's independence.

The explosive situation in Kosova was the concern of many analysts. Thus, a Turkish analyst in one reaction expressed that peace in Kosova was fragile and that it is being held by threats of large – scale bombing of Serbia itself and the presence of American troops in Macedonia. Without these threats, the author points out: "Lord Owen might well have had to negotiate over yet another genocide"[7].

It is ironic that the Dayton accord of 1995, which produced the uneasy peace in Bosnia, was probably the signal event in the formation of an armed insurgency in Kosova. The leadership in the capital city of Prishtina, watched in disbelief as the fate of Kosova was never raised in Dayton, and as other Yugoslav groups that had mounted armed rebellions achieved recognition and even independence. The most serious Plan for solution of Kosova problem, until 1998, was the France-German plan. Despite of many benefits for Yugoslavia if they accept this plan, Yugoslav foreign minister Milan Milutinovic rejected the project.

The gulf between Kosovar Albanians and Serbs is huge. In 1997 there had been three meetings between Albanians and Serbs, in New York (7-9 April), in Vienna (18-20 April) and Ulqin-Montenegro (23-25 June) but without any success. The crisis in Kosova erupted suddenly, but not unexpectedly. Years of international attention on the Balkans, endless discussion of "preventive diplomacy" and early warning mechanisms, may have come to nothing.

For many years the UCK was almost mythical. Its name was used at the trials of Albanians. Since evidence in these trials was often dubious, so were the references to the UCK. The first public appearance was dramatic and carefully staged; three armed men in camouflaged uniforms and black baklavas arrived suddenly at a funeral of an Albanian killed in a gunfight with Serbian police. "We are the Kosova Liberation Army, the true representatives of Kosova's struggle", they declared to enthusiastic shouts from the crowd of 15.000. The Albanian movement had "officially" gone violent. That episode, from 28 November 1997, is taken as the first direct confrontation of an armed Albanian group. Otherwise the first notable action was the ambush of a Serbian police vehicle in may 1993.

Within the political subject of Kosovar Albanians there were different stances about the appearance of KLA. Indeed as late as the end of January 1998 Rugova said that there were

indications that UCK was an organization run by Serbian secret service, and suggested that the service might be preparing wide operations likely to cause "unprecedented bloodshed in Kosova". PPK chairman Adem Demaci stole the show from Rugova by acknowledging the existence of the UCK well in advance of the three latest acts of violence. In December 1997 he said: "There is no doubt that the UCK exists. The UCK's emergence proves that the people are prepared to pay the highest price for their freedom".

They (KLA) were first concentrated into the Drenica region near Skenderaj. This was done, most probably, due to the geographic configuration of the terrain, but as well due to the widespread support of the region's population for KLA.

The KLA managed within a short time to create a free security zone and banned the entry of the Serbian forces in that area.

Against this reality, Serbia did not remain indifferent and attacked the region on 4-5 March 1998 with heavy artillery and more than 87 Kosova Albanians were killed and massacred, including women, children and elderly. This attack was directed especially against the Jashari family from the village of Prekaz, whereby its 27 members were killed and massacred including among them Adem Jashari. This name would later become a symbol of the resistance against the Serbian occupying regime and a hero for the Kosova Albanians. Adem Jashari in January 1999 was declared an honorable Commander of the KLA.

Despite of public appearance of KLA in November 1997, the direct confrontation with Serbian forces, and at the same time the beginning of an armed conflict in Kosova was considered in February and beginning of March 1998, respectively after the attack and massacres in Prekaz. The powder keg, whose explosion had so often been predicted during the past decade, appeared finally to be igniting. According to the chairman of the Political Affairs Committee of the Albanian Parliament, Sabri Godo, this marked the end of the peaceful policy in Kosova.

After this attack the police claimed to have destroyed the UCK leadership. But in reality it had only fostered massively increased support, both in terms of recruits and cash, sympathies for this resistance to the Serbian regime and for the fact that its actions were the first ones after which the international community took seriously the Kosova issue. Within a very short period of time, the KLA gained a wide support among the Kosova Albanians and nobody denied the necessary need for its existence.

The appearance into the scene of the KLA raised the hopes among the Albanians for the liberation of Kosova from the occupying force of the Serbian regime. Yet, there were two groups in Kosova that were divided on this issue. The first one thought that it should exist in parallel to Rugova's peaceful policy, while the second group was of the opinion that it should be the only force, both political and military. The KLA was reinforced by Albanians returning from jobs in Western Europe and locally by young Albanian men who had known nothing but Serbian oppression and felt that they had nothing to lose.

In times of tension, such as in February and March 1998, Albanians from all states close the ranks and forgot any difference that they may have had. Albanians in Albania were mobilized under a slogan: "One nation, one stance", as well as Albanians in Macedonia, Montenegro, Diaspora, etc. Albanian diplomacy of those days was offensive as well. There was no historical precedent for this present level of the homogenization of Albanian people.

The current institutions of Kosova, President, Parliament, Government, etc. did not recognize formally KLA as their defense force. But the people of Kosova fully supported the KLA.

The first meeting of foreign officials with the members of the KLA was the "accidental" meeting of the American ambassador, Holbrook in Junik. This meeting was an inspiration for young Albanians to become members of the KLA because of feelings that they had the support of the US.

For a short time the KLA became a very important factor in Kosova, the most important for bringing a solution to the Kosova crisis. And, in the Conference of Rambouillet-France that is what they had been.

The KLA was a result of permanent violence of Serbian forces against the Kosovars, also a result of a long-time unsuccessful peaceful policy, and over all a will of the Kosovars, especially the youth. The dream of living free and independent from Serbia despite the sacrifices. "We learned that violence works. It is the only way in this part of the World to achieve what you want and get the attention of the international community.

INTERNATIONAL COMMUNITY REACTIONS OVER KOSOVA CRISIS 1991-MARCH, 1999

1. *Reactions of the International Community 1991-1998*

Impact of the dissolution of the former Yugoslav federation and the collapse of communism opened possibilities and new hopes for the aspirations of the occupied nations in the former communist world, including Kosova. The impact was twofold: the situation in Kosova has contributed on two directions:

- dissolution of the former Yugoslavia and
- influence on itself (Kosova) as a result of this dissolution.

There cannot be a single factor that can be considered responsible for the Kosova crisis in the last decade but most of the observers agree that Milosevic carries the main responsibility for the interference of the state of Serbia into this crisis. Dr. Jones Perry describes Milosevic as a "man who has been in the heart of the most of problems" in the region. And, as a person who "has been a part of many things which produced difficulties"[8]. In a way, this is proven by the Serb Information Center, saying, "Milosevic's instinct was authoritarian and his actions were strong and oppressive" which led to the radicalization of the Albanian population in Kosova.

Reactions from the international community regarding the Kosova crisis have continuously taken place from the beginning of the nineties but differed in form and intensity. Albeit the Kosova issue entered the international arena after the Cold War and until 1998, as a result of the violation of human rights, there was no improvement of this dimension or of the Kosova issue in general. Kosova was understood as a problem of human rights and not as a problem of the political rights and the territorial status. This was a wrong approach of the international community that took insufficient steps and measures: by discouraging the Kosovar side for the resolution of the crisis in a peaceful way and by encouraging the Serb side for the repression of the (realistic) requests of the Kosovar Albanians.

1.1. *Reaction of the EU*

The EU stance was the most important at the time of dissolution of the former Yugoslavia and for the resolution of Kosova crisis in general. Unfortunately, the disregard for the crisis and the belittling of the prominence of this crisis and the denial of our rights could be seen since the beginning. Kosova representatives were not invited by the European Union in the Conference for Yugoslavia convened at Hague by Lord Carrington in September 1991. In December 1991, when the EU offered the recognition of the independence of the republics in the former Yugoslavia, the request of Kosova for independence was rejected[9].

The EU got involved first and directly on the interpretation of the principle of self-determination and it may be said that this principle has been interpreted differently for each former communist country separately. According to the official stance of the EU, the right for self-determination, "expression of the free will" is entitled to only those who have lived in republics within the federation. Those people that lacked such a status were deprived from such a right for the "expression of the free will", which means the right for being a state. This stance of the EU was sanctioned in the Opinions of the Commission for Arbitrage, a body which was a part of Hague Conference for Yugoslavia, known as Badinter's Commission (established in September 1991 and underlined in the Principles of the Recognition of the New States in Eastern Europe and in Soviet Union on 16 December 1991).

The EU declaration like "Declaration on Yugoslavia" approved on 16 December 1991 refused the request of the Kosovar Albanians for independence. This Declaration asked all the former states of the former Yugoslavia to recognize each other and to respect the rights of the minorities within their borders, by guaranteeing them autonomy (special status) in territories where the minorities are the majority[10]. In this way the EU recognized the earlier set criteria in the communist constitutions. In reality, this was said in the first meeting of the Badinter's Commission held in November 1991: "Constitutions are the only competent facts". Starting from these facts, the request of the Kosovar Albanians for self-determination was rejected. This act had a huge impact on the

orientation of the international community regarding the crisis in Kosova and has heavily damaged the legal and political status of Kosova four years in a row, with present consequences today. Thus, communist criteria were recognized in a democratic age

In April 1996, the EU member countries decided to recognize Yugoslavia, and by this they decided to ignore the principle of autonomy for the Kosovar Albanians, which earlier was the core policy of the EU upon the recognition of the new states.

At that time, the EU had silently accepted that the improving of the relations between Yugoslavia and the international community would influence, *inter alias,* on the constructive approach of Yugoslavia for guaranteeing autonomy for Kosova.194 It seems again that gaining co-operative approach from Milosevic regarding Bosnia's crisis was a priority, even by making any eventual concession regarding Kosova.

The most serious plan that came from the EU till 1998 for the peaceful resolution of the Kosova crisis was the French-German plan revealed in September 1997. Albeit, many benefits were predicted in this plan for Yugoslavia-Serbia, the Yugoslav Foreign Minister Milan Milutinovic rejected the project[11].

In 1997, three Albanian-Serb meetings took place, in New York (7 -9 April) in Vienna (18-20 April) and Ulqin, Montenegro (23-25 June), but without giving any result. As long as the situation was not improving, the abyss between Albanian and Serbs was deepening.

1.2. *US Reactions*

Both the Albanian and Serbian sides have closely watched and analyzed all the diplomatic activities of the US in relations to the Balkans by commenting and reading them very often as favorable and decisive acts.

The most serious reaction was the one in the beginning of the nineties coming from the US President, George W. Bush Senior, who warned the Serbian leadership in December 1992 that the US would use force if Serbia escalates the armed conflict in Kosova. The message from President Bush according to reporters was like this: "in case the conflict in Kosova is provoked by activities of Serbia, the US will be ready to use military force against the Serbs in Kosova and Serbia proper".

A similar threat was repeated by President Clinton's administration during his first mandate. For the sake of internal use, the Kosovar politicians have misinterpreted very often this strong determination of the American Government for human rights as support for the independence of Kosova.

The US has kept the "external wall" of sanctions, by excluding former Yugoslavia from financial institutions, but till massacre in Drenica (March 1998) happened, the US did not take any step of direct pressure for resolving the Kosova problem.

Parallel with threats, sanctions were put by the international community on Serbia in order to make pressure on it to resolve the Kosova issue. Russia has rejected these additional sanctions against Belgrade but the EU, the US, Canada and Japan did this individually. These sanctions did not reduce the attacks of Serbia over Kosova.

These sanctions can be described as inefficient also due to the fact of the lack of unity amongst the international community. There is a general belief that even if the entire international community had imposed full sanctions on Yugoslavia, they would have not been sufficient to resolve the conflict.

The official position of Washington and Western Europe was to increase the status of Kosova within the FRY by protecting the human rights of the Albanians according to the principles of the OSCE and the UN Charters. After the massacre in Drenica, the US had asked something amid autonomy and republic of Kosova within the FRY.

Some personalities from the American administration played a special role regarding Kosova crisis. Therefore, the US Secretary of State Ms. Madeline Albright and the deputy secretary Strobe Talbot had been very open in criticizing Serbia, especially Milosevic since the beginning of the violence. Ms. Albright accused Milosevic and said that he would pay the price for this, underlining: "we will not stay and look at Milosevic do the same thing he has done in Bosnia not a very long time ago"[12].

She believed that the only thing that Milosevic understands is the determined and strong action of the international community.[13]

Mr. Talbot went even further by ordering Serbia to stop the brutal violence consisting of elements of ethnic cleansing, murders and massive expulsion, warning him: "Belgrade will

be held fully responsible for bringing to question the existence as well as endangering of its own country".

It is worthy of mention that in 1996, Washington opened a Representative Office in Prishtina which helped the articulation of the requests as well as the close monitoring of the situation in Kosova and it was a signal for the level of the interest at that time.

2. *The Role of the Contact Group and UN SC*

The focus of this will be the role of the Contact Group of the UN SC, the EU and the USA. In this phase, these important factors carried out much more co-coordinated and collective activities. This is very unlikely compared to the period before 1998, but also shows the seriousness of the problem to all and also brought the stances of all factors closer and in this way the Kosova issue was discussed more seriously than before that time. As it has been previously mentioned, the first meeting of the Contact Group focused on the Kosova issue (consisting of France, Germany, Italy, Russia, Great Britain and USA) had been held in September 1997 at the request of Great Britain.

After the clashes and the massacre in Prekaz the pressure on the international community to take action increased. A suitable mechanism was the Contact Group, set up in 1994 for Bosnia, which was reactivated on 9 March 1998 by issuing a declaration asking, amongst other things, the Yugoslav authorities to withdraw the special police from Kosova within ten days and to allow the presence of the international organizations and start the dialogue immediately to support the mission of Felipe Gonzales, a special envoy of the OSCE to Kosova. It also asked the Yugoslav authorities to respect the agreement for education. It also took some measures against Serbia. It put an embargo on weapons and banned the issuance of visas for some senior Serbian officials.

There were differences among the Contact Group: on one side the US and Great Britain supported these measures and on the other side, France, Russia and Italy were against these measures. But they all agreed for the OSCE mission in Kosova and in north Albania and Macedonia. 232 If one analyzes the Declaration of the Contact Group, an increase of support for the status of Kosova within the Yugoslav Federation and admission that this implied full self-administration will be seen. The Contact Group supported neither the independence nor the status quo.

2.2.1 *UN SC Resolution 1160*

The UN SC approved Resolution 1160 on 31 March 1998 referring to the issue of Kosova. This was the second resolution that the UN SC discussed for Kosova. The first time it discussed the Kosova issue was in 1993 when it asked for unconditional return of the OSCE monitoring mission in Kosova, Sandjack and Vojvodina. This resolution based on the stances of the Contact Group (France, Britain, Germany, Italy, Russia and the USA) extracted from the meeting on 9 and 25 March 1998 and from the OSCE Permanent Council in its meeting held on 11 March 1998 in Vienna. The main points of reference were an embargo on weapons and unconditional dialogue. The brutal interference of the Serb police was condemned and the role of Mr. Felipe Gonzales was supported.

This resolution asked the FRY to immediately take steps in order to achieve a political solution for the problem of Kosova through dialogue (Article 1 of the Resolution). It also asked for the return of the long-term OSCE mission and the return of the EU-OSCE special representative, Mr. Felipe Gonzales (Article 7 of the Resolution). It also asked for the withdrawal of the special police units and the cessation of actions of police forces against the civilian population (Article 17, Paragraph B I of the Resolution). It also asked for the presence of international organizations, representatives of the Contact Group and other Embassies in Kosova (Article 16, Paragraph c). It also authorized the office of the Prosecutor of the International Tribunal to act in accordance with the Resolution 827 (1993) on 25 May 1993 and to begin the collection of the information on violence in Kosova, which could be under its jurisdiction. Also the resolution underlined the obligations of the FRY authorities to co-operate with the Tribunal (Article 17 of Resolution).

This resolution guaranteed the FRY authorities that in case of the evident progress in resolving the serious political issues and the human rights in Kosova, its position would

improve and its relations would be normalized as well as its participation in the international institutions. (Article 18 of the Resolution).

But at the same time, it warned the FRY that in case of failure of constructive progress towards the peaceful resolution of the situation in Kosova, additional measures would be taken into consideration. (Article 19 of the Resolution)

The UN SC Resolution 1160 had more political effect than practical. The Serbs commented the main point of the resolution regarding the weapons embargo in this way. One anonymous Serb diplomat in an interview with the Belgrade-based daily Nasa Borba said, "We have enough weapons to fight in Kosova" adding, "...this is the same as banning Saudi Arabia from importing oil"

On 29 April, the Contact Group held a meeting in Rome. It proposed additional measures as a result of the implementation of Resolution 1160 and set the deadline of 9 May 1998 for the creation of the elementary conditions for dialogue. Also, the Albanians were asked to distance themselves from violence.

In the UN SC another ineffective meeting was held because Russia and China especially, were against the interference. China treated the Kosova problem as an internal affair of Serbia. In the meeting held on 24 March 1998, the stances of the Contact Group split: the US and Great Britain supported additional measures and the others were insisting that progress was taking place.

Signing again the agreement for education on 23 March 1998 and the elections in Kosova on 22 March 1998, which were not impeded by Serbia, were considered as wrong political steps of the Kosovar Albanians. These activities directly influenced the decrease of the international community's focus, because they took place on the eve of meetings of the Contact Group (25 March) and the UN SC on 31 March 1998. The Albanian politicians in Kosova made efforts to meet the requests of the international community, by setting up teams for negotiation (23 March 1998), but without including the key factor of that time, the KLA. On 10 April 1998, Albanians offered their program, supporting the dialogue under international mediation.

On the other hand, the Serb side made obstructions regarding the requests for interference of the international community. On 23 April 1998, a referendum for the non-presence of the international mediation whilst resolving the issue of Kosova, was organized in Serbia. 94.7 % of voters were against the international interference. The aim of Serbian officials, who were also supported by the citizens in Serbia, was to declare Kosova as an internal affair and to resolve the problem by itself. Serbia improvised some internal negotiations' teams, which were completely ignored by the Albanians. It can be concluded that the obligations from the UN SC Resolution 1160 were not completed at all by the Serb regime and at the same time spiral of violence continued.

In response, Serbia conducted activities for opening of the Albanian Institute in Prishtina, promising other actions step by step. It also offered dialogue that Albanians called farce.

At that time, different officials warned, "The time of action is now, before large scale violence makes impossible any peaceful agreement. We have lost the chance to prevent the war in Bosnia and we have paid the price in Bosnia. If we leave the sides to agree, then this means that the formula of violence is accepted", said Morton Abramovitz, a member of the Executive Committee of the Balkans Institute. The statement also said that the escalation of the Serb violence in Kosova would threaten the peace in the region. This is the largest violence in Kosova after the Second World War. This violence must end by finding a solution for Kosova. This means that the USA and NATO should get involved in the crisis.

In the meantime, in the summer months of 1998, war activities in Kosova were increasing, and on the other hand it looked that the international community was pausing. The engagement of the US representative, Christopher Hill, who was one of the members of the team of Richard Holbrook during the Dayton Peace Accords, and the US Ambassador to FYROM, presented the most serious engagement. Later on the representative of the EU, Petrich joined him.

"Kosova is the most difficult issue, the most difficult I have ever seen. I have not seen this even in Bosnia", said at that time Ambassador Hill, describing his duty as the US representative for Kosova at the beginning of September 1998. Ambassador Holbrook joined several times Ambassador Hill in his mission. They managed to organize a meeting between the Kosova delegation chaired by Mr. Rugova and Milosevic in Belgrade.

Despite statements for the continuation of talks, nothing was achieved in this meeting. The meeting was held without international mediation, which was in contradiction to the program of the

Albanians. This was the reason why some members of the Negotiation Team resigned. This meeting failed in all aspects and deepened the barriers between the decision-making factors among the Kosovar Albanians. It also harmed the authority of Rugova amongst the Albanian population because he allowed such a meeting, which obviously failed, leaving enigmas behind.

During the summer of 1998 in Kosova, a large-scale offensive of the Serb forces against the Albanian population, especially in those parts where the KLA was present took place. The attacks occurred in order to eliminate the KLA but the civilians suffered the most. Around 2 000 civilian casualties and large structural damage was reported. Surprisingly, there was not any significant activity of the international community apart from the ordinary meetings that had become routine in Kosova. Dilemmas can make someone think that it was a test of survival for the KLA or an intention to harm its positions to the extent that it does not present a force in Kosova's future discussions.

The obligations from the 1160 Resolution of SC hadn't been respect by the Serbian regime. As the spiral of conflict in Kosova continued, the process of increasing internal intervention in the crisis also gained momentum.

2.2.2. UN SC Resolution 1199

The most intense activity of the international community at that time was UN SC Resolution 1199 (in 1998)242. This resolution, same as the one in March 1998, was mainly based on the stance of the Contact Group's meetings on 12 June 1998 and 8 July 1998[14]. Resolution 1160 did not manage to change the situation in Kosova. On the contrary, the situation grew tenser.

This resolution paid a high attention to the humanitarian situation and the position of the displaced people whom at that time had reached 250 000.

Resolution 1199 called all sides to give up hostilities and to agree on a cease-fire (Point I of the resolution). It also repeated the request for unconditional dialogue and involvement of the international community (point 3). It exposed new obligations against the former Yugoslavia as a follow up measure proposed in Resolution 1160 (1998) in order to implement the concrete steps for achieving political solutions for the situation in Kosova as the Declaration of the Contact Group predicted on 12 June 1998.

This resolution experienced the same fate as the previous one, i.e. it had no political or legal effect. This happened because the international community did not announce any real threat in case of non-compliance with the obligations. Only such a threat could have obliged Milosevic's apparatus to accept the measures for the solution of the conflict in Kosova proposed by the international community.

NOTES

[1] Constitutional Declaration of Kosova/o of 2 July 1990, is published in "Official Gazete" of Kosova/o No.1 0-22/90.

[2] Michael Salla, Kosovo/a, Non-violence and the break-up of Yugoslavia, "Security Dialogue", Vol.26, N.4, Dec.1995

[3] Januz Bugajski, "Close to the edge in Kosovo", *The Washington Quarterly*, Summer 1998, Vol.21, N.3

[4] Tihomir Loza, "A Milosevic All Seasons", *Transitions*, Vol.5, N.10, Oct.1998

[5] Anthony Borden, "Contoring Independence", *Transitions*, Vol.5, N.7, July 1998

[6] David Binder, "Bush warns serbs now to widen war", *The New York Times,* Dec.28, 1998

[7] Hasan Unal, "Trop de Zele", *The National Interest,* N.43, Spring 1996

[8] British Foreign Office Report on Kosova, 2000, QC 5-6

[9] EC Declaration Concerning the Conditions for Recognition of New States. The Extraordinary EPC Ministerial Meeting, Brussels, 16 December,1991

[10] "Declaration on Yugoslavia", an extraordinary meeting of Commission, Brussels, EPS Press Release P 129/91, 16 December 1991

[11] Gary Dempsey, "Kosova Crossfire". *Mediterranean Quarterly.* Vol. 9. No.3. Summer, 1998, p.l00

[12] Reuters, 7 march 1998

[13] The New York Times, 8 march 1998 203 Reuters, 18 march 1998

[14] Approved in 3930 meeting on 23 September 1998 published in the International Community and Kosova *op. cit.*, p. 44.

European Economic Interest Grouping (EEIG): A legal instrument specific to the European Union for transnational interprofessional cooperation between economic operators

Hans-Juergen Zahorka and *Loreta Robertina Gherman*[1]

General aspects

The European Economic Interest Grouping (EEIG), a new – and rather unknown – legal form for a company has been conceived after the example of the French company form called G.i.e. (groupement d´intérêt économique). Well known examples of G.i.e. in France are or were the aircraft producer Airbus Industries in Toulouse, the space company Arianéspace and the credit card organization „Carte bleue". G.i.e. are a common legal instrument in France with more than 10.000 foundations.

Long before the institution of a European Single Market, both the European Commission in Brussels and the European Parliament realized the need of a specific legal instrument to help transnational and inter-professional co-operation between economic operators, particularly small and medium-sized enterprises (SME). The first proposals dealing with this subject came from the European Parliament at the beginning of the "70s, but an EU-wide agreement was reached only in the middle of the "80s, in the framework of the then beginning EU Single Market legislation.

From the beginning of Romania's membership in the European Union, the EEIG will also be at disposition of Romanian companies, self-employed, but also of universities or research institutions, associations and all those who want to cooperate in a Europe-wide framework. The GEIE is a new company form – a true European one – for Romanian enterprises, and as it is accepted only very slowly in the 12 new EU Member States since 1.5.2004 (there has been just one EEIG registrated on 2.3.2006, in Lithuania), it is justified that Romanian possible EEIG partners are confronted already now. Romanian business has many links to the European Union, to Italy, France, Germany, Austria, to other Central and Eastern European countries, and it is absolutely necessary that Romanian companies etc. already think now how the effect of the European Single Market can be transformed into a positive automatism, as cooperation in business and generally in Europe means more success than sitting in Romania and waiting for clients.

Legal basis

Legal basis for the EEIG is the EC Regulation No. 2137/85, which has been published in the Official Journal of the European Communities L 199, 31st July, 1985. The version in Romanian language[2] can be downloaded from the databases of the European Institute from Romania under www.ier.ro. no. Celex 31985R2137.

The implementation of some provisions was deferred to the EU member states; each state passed implementation laws which rule certain matters relating to groupings and set up the necessary rules for the registration of groupings. Romania has, until now, not yet passed an implementation law. Some EU Member States adopted these implementation laws late (like Italy, Luxemburg, or Austria; Cyprus has today not yet a law neither, and in Liechtenstein, in the European Economic Area, was also late for years). But it makes sense for business, if Romania would adopt an implementation law in time, when becoming a member of the EU.

For instance, the German legislation adopted the EWIV-Ausführungsgesetz (EEIG Implementation Law) from 14th April, 1988, which has been published on 22nd April, 1988 in the Bundesgesetzblatt I (German Official Journal). According to the German

implementation law groupings could be registered in Germany after the 1st July, 1989.
EEIG thus are harmonized as they refer to one single law, the EC Regulation, which is equal for all EU member countries (and valid as well in the European Free Trade Agreement (EFTA) member states of the European Economic Area (EEA) of Norway, Iceland and Liechtenstein).
Less harmonized is the name: every EU language has its own expression for an European Economic Interest Grouping and its abbreviation EEIG, for example in:

- French Groupement européen d'intérêt économique – G.e.i.e.
- German Europäische wirtschaftliche Interessenvereinigung – EWIV
- Italian Gruppo europeo di interesse economico – G.e.i.e.
- Dutch Europees economisch samenwerkingverband – EESV
- Spanish Agrupacion europeo de intéres económico – AEIE [3]

EU company law experts as well as entrepreneurs consider it as a certain deficit that this legal form has a different name or abbreviation in every EU official language – however, many see this with a smile, fitting well to a multi-lingual European Union.

The exact estimate of the amount of EEIG founded in the EU represents a challenging task. Despite of the compulsory entry into the usual national company registration, groupings are registered and published in the EU Official Journal S (which usually publishes public tenders) often with a delay of some months, even if they already have been working for quite a long time. There is no EU-wide central register for EEIG. Also, very often, national registers do not pass on the national GEIE registrations.

The EEIG certainly cannot be considered a *quantité negligeable* inside European company law, even if this legal instrument and its potentials are still largely unknown.

Both entrepreneurs and legal and tax consultants should know how an EEIG it is structured: groupings offer entrepreneurs suitable and useful opportunities or even an interesting alternative to „traditional" legal instruments for transborder business co-operation.

Groupings have to be formed upon the terms laid down in the European regulation, but they are a very flexible legal instrument which can adapt to different economic conditions. The regulation guarantees a considerable freedom for its members in the internal organization and in their contractual relations.

How to found an EEIG

A grouping must be formed by, at least, two members coming from two different European states, companies or legal bodies having a central administration in a member state, or natural persons. There is no limit to the amount of members, except in Greece and Ireland where the maximal number of members is limited to 20. These companies can be in Chinese hands or the individuals can be U.S. citizens; the main condition is only their activity within the EU. Their national provenance does not count; neither does the character of the members: two companies or two freelancers, or one company or one freelancer etc.

Members of a grouping can be stock companies, free lancers like architects, tax consultants, journalists etc., self-employed persons like craftsmen, associations, public law corporate bodies (for example: universities, chambers of commerce, towns, counties) and other legal bodies. A grouping can be formed e. g. by a Danish free lance journalist, an Italian joint-stock company, a German registered association and a British limited partnership. The opportunity of a mixed composition offers a useful and innovative instrument and can have a very positive impact on the activities of the grouping.

A written contract is required by the EU regulation. This contract for setting up a grouping shall include[4] at least:

- the name of the grouping preceded or followed either by the initials EEIG or the words European Economic Interest Grouping,
- the official address of the grouping,
- the object of the grouping,
- information about each member (name, company name, legal form, permanent address, number and place of registration if any),
- duration of the grouping, except where it is indefinite.

Normally and under most European legislations, the signatures of the persons founding an EEIG or the signatures of the managing director(s) have to be authenticated, before registration, by a notary. Formalities required for the formation are very easy – each one who can found an association can also start an EEIG.

Names of the members, company name of the grouping, official address, foundation contract and the name(s) of the executive(s) have to be declared in the commercial register.

The groupings founded in each European country, after publication on the national level, are published in the Official Journal of the European Communities, which is also available on the internet: http://ted.publications.eu.int/official.

There are references to the national official journal published on this website, in order to facilitate obtaining more detailed information and to guarantee transparency.

Object of the grouping

The object for which the grouping is formed represents an important element of the founding agreement. The object has to be declared with the register as a guarantee of publicity.

The purpose of the grouping shall be to facilitate or to develop the co-operation among the members; its activities constitute an ancillary nature to the activities run by the members and can not replace the members' own activities. However, in practice it complies fully if "the co-operation of the members" is mentioned. According to the art. 3 of the EU regulation the purpose of the grouping shall be „to improve and increase the results" of the members[5]_ activities.

What a grouping may not

Consequent with its object, a grouping may not:

- be a member of another European Economic Interest Grouping;
- employ more than 500 persons (this limit has been introduced on a request of the German government aiming to avoid the application of the Employees Representation Act, which determines a form of joint management or co-determination);
- directly or indirectly hold shares in a member enterprise (so called holding prohibition; exemptions are foreseen);
- exercise a power of management or of control over its members' own activities;
- issue loans to members (prohibition of loans; some exceptions are foreseen).

In the practice of business life these limits do not really represent a problem.

Legal status

The grouping is endowed with legal status (except in some EU member states, e. g. Italy, Austria or Germany). The recognition of a legal status facilitates the attainment of the grouping's objects (development of the members' own activities). In all states, a grouping has the capacity, in its own name, to have obligations and rights of any kind. It can conclude a contract or accomplish any legal act, it can sue and be sued, and this independently from national law, but by its EU law status.

Registered capital

An EEIG can be formed with or without assets, cash or material contribution, or e. g. know how investment. Most of the groupings, at the time of founding, do not have any capital (around 95%).

The members can decide freely to contribute or not to; a grouping represents from this point of view a much more convenient legal instrument than e. g. a private limited company, during which setting-up phase capital can be blocked.

Liability

The members of a grouping shall have unlimited joint liability for its debt, in the form of subsidiary liability (art. 24): at first the EEIG will be responsible; if this is not possible it is the matter of the members. The regulation provided by art. 24 does not represent a prejudice for the members: EEIG usually exercise ancillary activities and the main business activities are still run and controlled by the members.

The introduction of an unlimited joint liability is a consequence of the basic differences existing among national company laws dealing with this subject in Europe. A German private limited company answers for at least 25.000 Euro, a private limited company in UK may be liable for a much smaller amount (from 1,50 EUR), and a Romanian limited company has a minimum of capital of 200 RON.

Whereas a grouping is a legal instrument which can be used in each EU country, it has to be reliable. The unlimited joint liability is parallel to the EU-wide product liability regulated in an EU directive and subsequent national laws. It is based on the similar access to the EU Single Market which contributes to the kind of product liability (independent from the recognition of a fault) of the producers.

The European regulation guarantees considerable freedom for the grouping's members; they also can agree that some of them answer for different amounts. Furthermore, the expenses undertaken by the management can be limited until a decision of the members can be induced. Altogether, no single case of liability "harakiri" has been reported in the European Union, and this since 1989.

The management of an EEIG: legal persons can be appointed, too

The executive of a grouping with, for example, its official address in Germany, or in some other EU Member States, must be an individual person; executives coming from non-EU countries are allowed to run the business besides a (or more than one) EU executive.

In most of the other EU countries legal bodies, such as a private limited company or a joint-stock company, are allowed to be nominated executive. An individual person has to be appointed as their representative in this case.

A German private limited company, or a Swiss joint-stock company could therefore manage a grouping with an official address in Luxembourg[6].

An executive is usually one of the founders: they are generally endowed with initiative, communication capabilities and with an „European approach" to business life, which are required to run successfully this kind of activity.

After all, also the seat of a GEIE can be transferred within the European Union. This is unique – at present – among all companies (with the exception of the European Company = Societas Europaea, S.E., which is since recently another transnational structure); it clearly is an advantage of the GEIE. All other legal structures would have to be closed down, with a lot of financial and bureaucratic efforts, and often with image losses (liquidation is often considered close to insonevy!), and they would have to be reopened again in other EU Member States – again with additional financial expenses and efforts. All this is not valid with a GEIE.

Management, winding up, insolvency, transfer of the official address and liquidation are ruled by the EU regulation, or by national implementation laws. In some points the rules differ from the rules laid down for other companies.

Taxation

An EEIG pays value added tax (V.A:T.) as every other company (EEIG should not forget to look for an European Union V.A.T. identity number, for EU transborder business). They also pay employment taxes (for instance in UK the PAYE-tax) for their employees, if any.

However, a grouping does not pay any company taxes, such as corporation tax (art. 40 EU Regulation). Therefore a grouping can offer various advantages:

- for an EEIG there is no publicity duty;
- a balance is usually not required;
- no company taxes;
- operating expenditures can be deducted as in any other company.

EEIG are taxed according to national laws, with the exception of company tax exemption, which is of course of extreme importance. The purpose of the grouping is not to make profits for itself: according to article 40 profits resulting from the activities of a grouping shall be taxable only with its members.

At the end of the fiscal year (in most cases also the calendar year) the accounts will have to be balanced; a GEIE is not allowed to transfer profits from one year to the other (with the exception of payments to a reserve fund).

Profits shall be reinvested or divided up among the members (according to the agreements of the members). Profits, however, can be turned in reserves as well, which of course makes a GEIE extremely interesting. Thus there is another level of tax disposition above the taxation level of the members.

The financing of a grouping depends on a members' decision when it has not been already ruled in the foundation contract. The distribution of profits and losses, the kind of operating expenditures of the grouping, advances and subsequent payments have to be clearly ruled in advance in the foundation agreement or, even

better, through members' decisions (for they can be changed easier than an agreement which would have to be submitted to the company register).

Finally, a grouping can own real estates, which are taxable for the EEIG.

Regulation reduced to a minimum

With the EU regulation, the European legislator laid down rules reduced to a minimum. The regulation provides the members of a grouping with a considerable freedom for their contractual relations and the internal organization.

The statutes (or the founding agreement) should provide regulations limited to fundamental points, all further decisions should be better taken by the members each time. One has to remember: all changes in the founding agreement would have to be passed on to the commercial register which takes time and absorbs activity and costs.

Companies or freelancers dealing with EEIG should be endowed with European „multicultural" knowledge, knowledge related to different legal instruments within the European countries, understanding and communication capabilities. A contract saved in the computer and signed without any further understanding cannot be useful in this case, whereas the widespread autonomy left to the members, the needs and the peculiarities of the members have to be taken accurately in consideration.

Experience shows, however, that in the internal decision-making of GEIE almost all decisions are usually made unanimously.

Typologies of problems which can arise

The EEIG represents a recent innovation and most of the implementation laws came into force in 1992. This is the reason why at that moment there is still almost no jurisprudence dealing with this new legal instrument in the European Union. Some reports (diploma theses, dissertations, practice reports etc.) dealing with specific cases are already available.

They also describe the most common problems which can arise:

- internal communication and its costs;
- linguistic problems;
- doubts what taxation is concerned at the beginning;
- distribution of profits and losses where the members did not find an agreement in advance;
- lack of confidence in the other members.

Both entrepreneurs who made use of groupings and the European Commission, whose Direction General for Enterprise Policy constantly monitors the development of EEIG, are satisfied with the results reached. A research carried out of some diploma thesis had a positive result: about 70% of the interviewees declared that they reached the objectives expected and only 9 % denied it, and in other thesis the positive figure is even at 90%. This can be considered as an excellent result.

Experience reports

EEIG are a useful and very flexible legal instrument, for they adapt to different needs of the members. More than 1900 groupings exist at present in the EU member states (groupings which have been founded and already winded up not included), and many of them would be worth of mention in order to confirm the considerable flexibility offered by this new legal instrument and the freedom guaranteed to the members.

- groupings have been founded to exercise a common sales or purchase office in non-EU countries, such as Japan, United States, Canada, Eastern European countries,
- to organize personnel exchanges and specialization courses,
- to carry out research and development.
- consultants, lawyers and tax-consultants made use of EEIG to collaborate in many sectors: common training courses, personnel exchange, research and authorship of specialist literature, co-operation.
- advertising experts from almost every country in Europe founded a grouping called *European Advertising Lawyers Association* (*EALA*). EALA, among others, publishes books and developed a system for legal evaluation of advertising campaigns all around Europe.
- groupings have been founded by entrepreneurs (dealing, for example, in office articles) to carry on common activities,
- forwarders made use of groupings to organize transports and logistic services.

- the French-German cultural TV-channel „*ARTE*" it is also a grouping.
- Belgian monks (beer producers) and French monks (cheese producers) founded an EEIG in order to market their products mutually.
- Italian and French chambers of commerce, for common consulting of start-up enterprises,
- movie makers,
- and seeds and seeds-machines producers from Germany, Portugal and Greece, together with a Spanish research centre, established an EEIG to carry out joint activities.
- a grouping has been established in the Rhine river border region to run a scheduled bus service, which operates both in France and in Germany.
- Belgian and Irish horse breeders also established a grouping,
- and Belgian and British osteopathy experts founded the „*European Federation for Classical Osteopathy EEIG*".
- in the Netherlands, there exists the European Federation of Harley-Davidson clubs as an EEIG,
- and in Mons/Belgium another grouping works for the amelioration of cat breeding.
- other examples are, just to name some of them, the filling station credit card system for lorries „*TEPAR*" formed by five oil companies in Southern Europe,
- the co-operation of regional airports in Belgium, France and Spain,
- a grouping established by seven nuclear power companies for the improvement of the security standards and practice of nuclear power plants in Eastern European countries,

Universities of several EU Member States have founded a GEIE for research in language testing, as there are in general many research institutions (academies of science institutes, universities etc.) organized in a GEIE, if they want to cooperate in a pan-European way (some of them include for example also Russian universities as associated member[7]).

There is no limit for company co-operation and other in Europe – and for the imaginative powers of its entrepreneurs.

Integration of members from non-EU countries

Members of a grouping are usually legal bodies having their official address in EU countries or private persons running their activities within the European Union. But both entrepreneurs, researches and privates often carry out activities involving subjects coming from outside the EU, from Switzerland, Eastern European countries, United States or Canada etc. and therefore want to include them into the EEIG.

Legal bodies and natural persons which have their official seats (or run their business mostly) within the EFTA states of the European Economic Area, i.e. in Norway, Iceland or Liechtenstein, can be members of a grouping or an EEIG can be located in these countries. Entrepreneurs and business people of these countries however seldom expressed interest for the grouping; the main reason for this may be in the little information on EEIG though everything is public.

Some problems can arise particularly in relation to countries which are often involved in business transactions or activities of any kind carried on by EU companies. Switzerland can be taken as example: there are in Italy, France, Germany and Austria countless entrepreneurs who have excellent business links in Switzerland. Swiss entrepreneurs are not allowed to full participation in the European Single Market, nor in the European Economic Area. This is the reason why they are looking for other legal instruments to develop and facilitate any European business collaboration.

The solution of an association of an EEIG with non-EU partners still remains an interesting legal instrument to go beyond the limits foreseen by the European regulation. Whereas the establishment of an association with non-EU members could retard the registration of an EEIG, the members should establish it through a resolution adopted by the partners rather than in the foundation agreement. Experience show that associated members are not treated as second-class members; they take part in business activities, management and decisions. But in this case the question of responsibility should be well regulated between the partners.

Finally a non-EU member of an EEIG can be appointed as executive as there is no rule which prohibits it. There are some EEIG having managers from third countries (e.g. there are in some Germany-based GEIE Turkish directors) who in this way integrate their partners from these countries.

Entrepreneurs from third countries can of course decide to found an establishment within the European Union, too, in order to answer to the prerequisites foreseen in the European regulation for European Economic Interest Groupings.

A grouping can also open an establishment in non-EU countries. In this case the grouping shall be subject to the local legislation.

The number of EEIG increases slowly, but constantly

Though literature in the EU dealing with the EEIG is quite widespread (mostly theoretical treatises), company law books still do not offer an adequate treatment of the subject, compared to more traditional legal instruments such as private limited companies or joint-stock companies. This lack of attention is due on the recent introduction of this new legal instrument and on general negligence and a smaller demand in relation to European law.

The amount of groupings increases constantly; about 1900 groupings have been established in the European Union until April 2006. According to the European Commission (the late Direction General XXIII, today DG Enterprise) at the 14.12.1995 there were 697 groupings. The figure of 1900 does not include groupings which still have not been published; there is no central register in the EU, only a central publication in the Official Journal S according to national register entries.

The majority of groupings have been established in France (whose G.i.e. can be considered the ancestor of the grouping), Belgium (as European centre of many entrepreneurs and associations) and Luxembourg (compared to its dimension), followed by the Netherlands, Great Britain and Germany.

Whereas each grouping is formed by 6 to 8 members on an average, there are currently (April 2006) about 15.000 entrepreneurs, legal bodies, associations which make use of groupings[8].

Another research realized within the EU Commission came to a slightly different result in the first year of the 1990s: on the basis of 127 questioners feedbacks each grouping on an average is formed by 4, 3 members. Altogether, the number of members per GEIE has, however, increased in the last years and might strive towards 8-10.

Some reasons to prefer an EEIG to more traditional legal instruments

In a summary, some of the advantages offered by a grouping are as follows:

- it is a legal framework which aims to develop and facilitate the collaboration between entrepreneurs and can represent a profit centre for its members;
- it is a very flexible and unbureaucratic legal instrument, whose rules can be decided by the members in observance of a few guidelines fixed in the European Regulation;
- a grouping can be founded with or without a assets, investment or know-how transfer;
- a grouping can be established by subjects with a different legal status: self-employed persons, private limited company, chambers of commerce etc.;
- the members of a grouping go on carrying out their own activities autonomously. They maintain the activities they ran before and besides obtain new business opportunities, by a new interface of synergy they obtain;
- a grouping can guarantee a high-level liability: members have unlimited and several liability for its debts;
- profits and losses resulting from its activities are taxable only in the hands of the members; profits must be divided up among the members, if not reinvested;
- a grouping pays neither company taxes nor taxes on earnings;
- a grouping can run its own business and can have a trade mark; it can conclude agreements with business partners, can sue or be sued in economic life, and can act as a "one-stop shop" in business;
- the official address of a grouping can be easily transferred within the Community. Other legal instruments require a previous winding up of enterprise, which involves costs, activities and loss of corporate image;
- due to the European Regulation no. *2137/85* constituting the legal basis of EEIG and being drafted in each European official language, entrepreneurs do not feel discriminated because of the use of a foreign language (as it would be e. g. for an Italian partner in a German limited private company);

- GEIE must not be discriminated in public tenders or publicly financed programmes, according to a communication by the European Commission from 1997;
- the members of a grouping are not required to show their previous knowledge in EU Single Market, the establishment of a grouping could be very useful for consortium which apply for EU programmes;
- their members can improve their knowledge of the European Single Market, as entrepreneurs meet regularly and facilitate a process of globalization.

Entrepreneurs who would like to launch an EEIG should, however, ask for consulting. The costs for the consulting on EEIG and its taxation, for legal advice, the foundation agreement, registration by a notary and the commercial register are usually lower than the costs for the foundation of a private limited company.

Romanian business should indeed avoid the mistakes of other new Member States of the EU and be trained in this way of cooperation[9].

For some cooperation purposes, a GEIE might not be the most adequate solution, but also in these cases the GEIE should be known. After all, it is an unbureaucratic and easy to handle legal form for cooperation, favorable for taxation and management questions and with a transparent legal background – just what many Romanian companies need, which already have excellent contacts to the European Union.

NOTES:

[1] Hans-Juergen Zahorka, a German Assessor jur., has been for 20 years advocat and is a former Member of European Parliament. He is today Director of a think-tank for European economy (LIBERTAS – European Institute GmbH) in Stuttgart/Germany, and also leading the European EEIG Information Centre. He is author of many publications on company cooperation and teaches European Affairs at several universities and MBA schools. His e-mail address: zahorka@gmx.de.
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[2] All versions in official EU languages (and some languages of third countries, like Turkey and some Balkan states) can be found on the website of the European EEIG Information Centre (in German, English, French and Italian): www.libertas-institut.com, then button "EWIV" (German), "EEIG" (English), or "GEIE" (French and Italian). On this website there are also lots of other information, also in some other languages, including a list of all known GEIE and statistics (per EU Member State and year on the setting-up and liquidaton of GEIE). Also a (free) periodical can be subscribed: the "EWIV/EEIG/GEIE eJOURNAL" (in German and English).

[3] Within the different abbreviations of a GEIE the Roman languages Italian, French and Romanian have the biggest advantages, as all three countries abbreviate "GEIE". It is legal duty to mention the legal form on business papers, visitor cards etc.

[4] It is possible indeed to write full GEIE statutes on one page. But is is adviseable to mention many other things in the statutes; the normal volume of GEIE statutes is between 20 and 30 articles (around 10-15 pages

[5] There is a list of all EU-wide published and partly also nationally registered GEIE on the homepage of the European EEIG Information Centre. But not all national registers publish automatically the national registrations in the EU Official Journal S (although they should).
www.libertas-institut.eu

[6] However, a very little number of GEIE has opted for such a management structure. Normally, most GEIE have a natural person as Managing Director.

[7] There exist even EU documents recommending GEIE for research cooperation, as then the otherwise complicated consortium agreements can be left out.

[8] Research realized by Michael Deichsel, University from Ulm/Germany, and estimations/extrapolations by the European EEIG Information Centre

[9] At the 5th EEIG Practice Conference in November 2004 in Strasbourg/France, organized by the European EEIG Information Centre, there was discussed Romania's possible role in GEIE: with EU neighbours in Bulgaria and Hungary, there is high potential for GEIE between Romania and Bulgaria, Hungary, Slovak Republic, Slovenia, Greece, but mainly Germany, Italy and France. The "EEIG axes" are not only between neighbouring countries, but also along the biggest trading lines, as well as involving smaller countries.

A Dispute at the Political Consultative Committee Meeting of the Warsaw Treaty Organization: Nicolae Ceauşescu vs. Marshal Viktor G. Kulikov (Berlin, May 28-29, 1987)

I

Petre Opriş

For four decades and a half, Romania, as other Central and Eastern European states, was part of the Soviet sphere of influence and was forced to adopt a new system of values, different from the traditional Romanian one.

After the end of the Cold War, following the Romanian politicians' will of no longer being considered Nicolae Ceauşescu's usurpers by the West, the door of the Archive of the Central Committee of the Romanian Communist Party (CC of RCP) was half-opened and many excerpts from the files drawn up during the communist period, partially or wholly reconstituted, within the Central Historical National Archives were attentively researched.

One of the existing files in the Central Historical National Archives that was published abroad is recorded under number 31/1987 and contains, among others, the leaders' speeches of the Warsaw Treaty Organization member states (WTO) that met at Berlin, at the Political Consultative Committee reunion (May 28-29, 1987). As these documents necessitate a large printing space, in this study, we will confine to explaining the context in which the meetings of the Political Consultative Committee took place at Berlin.[1]

It is obvious that Nicolae Ceauşescu tried, even as early as his taking over the leadership of the Romanian Communist Party (RCP) in March 1965, to oppose any Soviet initiative that he considered dangerous to himself and to his country. It is also true that the political leader at Bucharest greatly reduced Romania's military expenses in the latter half of the 1970s because the Romanian economy did not have sufficient resources to sustain both the rapid rhythm of forced industrialization and the modernization process of the Romanian Army's military technique at the pace desired by the Soviet Union marshals. The Kremlin kept trying to impose on the WTO member states an increase in the financial contribution dedicated to the military domain, as well as a renewal of the arsenal of the WTO member states so as to maintain the strategic balance in Europe.

Romania's President rejected, both in November 1978 and subsequently, a series of initiatives coming from Moscow and aiming at the modernization of Romania's military arsenal, and mobilized the entire propaganda mechanism of R.C.P. so as to convince the Soviets and the NATO members of the futility of continuing the armament race.[2] Unfortunately, the campaign led by the RCP propagandists, at the international level, in favour of peace yielded doubtful results in terms of ensuring Romania's security, the Romanian Army was allotted fewer and fewer funds for the modernization of its fight technique during the 1980s, while the giant projects such as the Danube-Black Sea Canal, the House of People or the Bucharest-Danube Canal consumed more and more material and financial resources, although the economic efficiency of such objectives was even then more than disputable. Thus, Nicolae Ceauşescu opposed the *armament race* so as to impose the *concreting race* in Romania. For him and his military counsellors, starting a war in Europe had become impossible. Consequently, they considered they could afford to continuously reduce Romania's military expenses and to erroneously maintain that WTO's military doctrine – which established the military and political leadership options with respect to armed combat to attain the goals and objectives of the war waged against NATO – had

to be a political document of pacifist propaganda. Simultaneously, ever larger Romanian military forces were eliminated from the training process and sent to work in various economic sectors that recorded a major deficit of poorly qualified labour.

Nicolae Ceauşescu' disdain of the role the Romanian Army had in the Warsaw Treaty Organization was obvious on May 28, 1987, at the Political Consultative Committee reunion that took place in Berlin. Among other things, on this occasion, the Romanian leader declared the following: *„In elaborating the military doctrine* (of the WTO member states – Author's note) *we have to start firmly from the technical and practical conclusion that a war is impossible while nuclear arms exist, and from the necessity of eliminating any war from the life of our society. The military doctrine of the WTO countries must become an important political document in the combat for the education of peoples in the spirit of peace, friendship and collaboration, an important document for disarmament and peace"*[3].

It seems that the Romanian leader had felt his position as leader of the country was losing more and more support whereas Moscow saw the coming of Mikhail Gorbachev. Moreover, the Soviets were pressing for a renewal of the technical equipment of the WTO armies and, implicitly, of the Romanian Army, and these repeated interventions practically contested the military decisions adopted by the leader at Bucharest, of cutting on Romania's military expenses. Consequently, Nicolae Ceauşescu contested, during the Conference of the Political Consultative Committee, Moscow's plans to increase military funds allotted to the modernization/ electronic equipment of the combat technique and opposed the adoption of the principle proposed by the Soviet Marshal Viktor G. Kulikov, the Supreme Commander of the Unified Armed Forces, that of simultaneous reduction of the armed forces of the two European military blocks *„to a sufficient, reasonable level"*[4].

The Romanian leader considered that decision was taken by the Kremlin authorities without asking for his consent, therefore the principle of non-interference in Romania's internal affairs had been infringed; but such a motivation could not hide Nicolae Ceauşescu's hurt vanity, who wanted to play an important part in the negotiations between the USA and the USSR relative to the reduction of military forces and armament in Europe and thus, by external politics success, to regain Romania's prestige, obviously shaken by the profound internal crisis the country was going through. Concentrating the entire power in Ceauşescu's hands was complete in 1987, Ceauşescu being both the people's elected representative (by means of a vote that was guided by RCP propagandists), the state's representative (as president of the country), and the (unique) governing party's representative (as RCP General Secretary). That's why perhaps Nicolae Ceauşescu dared to oppose the principle promoted by Marshal Viktor G. Kulikov and have the following intervention at Berlin: *„That is why, for us, the idea of establishing a «sufficiency» is not acceptable. What can one understand by «sufficiency»? Who is to establish it and what does this «sufficiency» stand for? Under no circumstance do we agree to give free hand to anyone, the more so as it is given to militaries to establish how they should represent forces, armament, and military expenses. These issues belong to peoples, states, parties, and the issue concerning the level of armament should be handled by states and parties. At the same time, it is necessary to clearly assert the necessity of concentrating all the forces with a view to the economic and social development as an essential part of strengthening the defence capacity of our states"*[5].

Besides this harsh rejection of the principle of military forces sufficiency, which both the Soviets and the Americans implemented over the following years without taking into consideration the Romanian leader's opinion, one can notice the contradiction at the end of Ceauşescu's statement. He believed that a sustained economic and social development and a simultaneous reduction of military expenses, which he had stressed as early as 1986, without being urged by the Soviet and/or Romanian military, would have led to strengthening Romania's defensive capacity. Such a development though, failing to be accompanied by steps taken to increase the national security, could make of Romania an easy prey for any state that would have been tempted to obtain, by armed pressure and/or aggression, material, financial, and/or territorial benefit from Romania.

In his turn, Marshal Viktor G. Kulikov noted in his report the fact that *„the firepower and*

maneuver possibilities of ground troops were increased by equipping them with high-precision missiles, T-72 tanks, self-propelled Costica-Turban artillery pieces, Leon mine throwers, KUB, OSA, and AKM high-efficiency anti-tank and air defence missile complexes. By the end of the current five-year plan (1990 – Author's note), *the quantity of armament of the regiments and divisions – I have in mind the new models – will more than double. [...] The troops of the Unified Air Defense System of the states participating in the Warsaw Treaty currently have S-200 long-range air defence missile batteries, automated target-tracking and firing systems and new means of reconnaissance, which increased their capabilities of fighting against their air enemy. In the years to come, the air defense troops will be equipped with the MIG-29 fighter aircraft of the new generation, high-efficiency air defence missiles with several directing channels, as well as radio-technical reconnaissance means [...] The upgrading of the T-55 A tanks, the VOLHOV, NEVA, KUB, and OSA missiles, the MIG-21 bis, MIG-23, and SU-20 aircraft, the MI-24 helicopters, military vessels, and PT boats continues in most armies"* [6].

Evidently, the perspectives described by the Soviet marshal have not coincided with the Nicolae Ceauşescu's plans; he had made on the further reduction of Romania's military expenses. On the other hand, one cannot invoke the fact that the Romanian leader was not well informed on the use for military purpose of the latest technical and scientific innovations. In his report, the Supreme Commander of the Unified Armed Forces mentioned, among other things, that *„the scientific and production potentials of our countries are not utilized to the full. The fulfillment terms for scientific research and constructional-experimental works intended for creating new armaments and automated command systems are not observed. Some important decisions in the technical-scientific field, such as those referring to microprocessors and laser engineering are being fulfilled at a slow rate"* [7].

Nicolae Ceauşescu and his counsellors benefited from clear information made available by, and pertaining to technical and scientific research fields with military applications that their WTO allies were to develop, and information relative to the future of microprocessor technology, but the Romanian leader ordered, at the end of May 1989, that classical equipment should be installed on Romanian tanks, instead of the recently mounted electronic devices, and that other types of Romanian armament should not be modernized and/or electronically equipped without his express approval. [8] Thus, Nicolae Ceauşescu returned to the instruments he had known in his youth, when he was the head of the Superior Political Army Department[9], and broke the mirror in which he was looking because he probably no longer had the capacity to understand the reflected image.

APPENDIX no. 1

May 29, 1987, Berlin. Report of Marshal V.G. Kulikov, the Supreme Commander of the Unified Armed Forces, at the meeting of Warsaw Pact leaders on May 29, 1987.

Archives of Political Executive Committee of C.C. R.C.P.
No. 1346 14 VII 1987

REPORT

of the Supreme Commander of the Unified Armed Forces, Marshal of the Soviet Union V.G. Kulikov, at the conference of the Political Consultative Committee of the states participating in the Warsaw Treaty:
„On the situation of the Unified Armed Forces and the measures to be taken to insure their combat capability in view of the ratio of forces extant in Europe."
- 29 May 1987 -

Esteemed comrades,

The decision made by the Conference of the Political Consultative Committee at Budapest in June 1986, "On ensuring a high combat and defense capability of [the socialist countries] at a level appropriate to guarantee their security..." established one of the main tasks of the Unified Armed Forces. The Unified Command subordinated its whole activity to the fulfillment of this task for about a year.

In the interventions of the chiefs of the delegations at the current Conference of the Political Consultative Committee an in-depth and multilateral analysis of the international situation in Europe and the rest of the world was conducted, and measures were established with a view to reducing military tension, deepening, and developing general European cooperation.

In the Common Declaration on the military doctrine of the states participating in the Warsaw Treaty, which is to be adopted, the defensive character of the military doctrine is unanimously expressed. The importance of this Declaration lies in the fact that it will contribute towards affirming the unity of views relating to the solution of the problems of maintaining parity in the field of armed forces and armaments, and reducing the number of NATO forces in Europe to a sufficient and reasonable level. It will be apparent to public opinion that all of our efforts are directed towards preventing an attack from the outside.

The Unified Command and the ministries of defense of the allied states shall direct their activity in accordance with the requirements of this important document, and shall make their best efforts to meet these requirements in practice in the training of the troops and forces of the fleets.

As long as the NATO block exists, our defensive alliance will have in the future as well a decisive role in the defense of socialism. In this connection, we further take the view that our main task is the permanent improvement and development of the armed forces, taking into account the ratio of forces existing in Europe, as well as the complexity of the international situation.

The troops and the fleets are now implementing the new Directive of the Supreme Commander of the Unified Armed Forces regarding the combat capacity, which came into effect in 1986. This enabled us to achieve a greater elasticity of the passage of [the troops and fleets] from the state of peace to the state of war, improve the combat status, and upgrade the actions intended for warding off aggression.

In the training of the Unified Armed Forces permanent attention is paid to the improvement of the ground, air, and sea drills intended for the large units, units, and ships, and the internationalist education of the effectives so that they will be ready to do their patriotic duty towards our peoples.

The implementation of the development plan of the forces and fleets has been continued. The main purpose consists in ensuring, on the basis of the broadening of the multilateral military collaboration, the qualitative development of the armed forces of the allied countries, the improvement of their combat composition and organizational structure, as well as their technical endowment with the newest types of armament.

In this respect, a number of positive results have been registered within the framework of allied armies. The firepower and maneuver possibilities of ground troops were increased by equipping them with high-precision missiles, T-72 tanks, self-propelled Costica-Turban artillery pieces, Leon mine throwers, KUB, OSA, and AKM high-efficiency anti-tank and air defence missile complexes. By the end of the current five-year plan, the quantity of armament of the regiments and divisions – I have in mind the new models – will more than double.

The organizational-type structure has been adopted and it has attained almost 70% with all of the armed services put together. The formation of assault paratrooper units has begun. The upgrading of the engineer and chemical troops, the communications troops, and other kinds of troops is intended.

The troops of the Unified Air Defense System of the states participating in the Warsaw Treaty currently have S-200 long-range air defence missile batteries, automated target-tracking and firing systems and new means of reconnaissance, which increased their capabilities of fighting against their air enemy. In the years to come, the air defense troops will be equipped with the MIG-29 fighter aircraft of the new generation, high-efficiency air defence missiles with several directing channels, as well as radio-technical reconnaissance means.

The Military Air Forces are equipped with new SU-22 and SU-25 fighters and ground-assault aircraft. By the end of the current five-year plan, the number of fighter, bomber, and assault aircraft will double as compared with 1985, and the total proportion of fighter aircraft will attain 20%. Also, more than 85% of the helicopters of the Army Air Force will be of new types.

The military sea fleets will be equipped with modern battleships, submarines, and RUBEZH and REDUT coast missiles, and a marine corps will be formed. Measures designed to increase the operativity and security of the command system are under way.

The upgrading of the T-55 A tanks, the VOLHOV, NEVA, KUB, and OSA missiles, the MIG-21 bis, MIG-23, and SU-20 aircraft, the MI-24 helicopters, military vessels, and PT boats continues in most armies. The collaboration of our countries in scientific research, and in constructional-experimental development of future state-of-the-art types of armaments within the framework of the permanent

commission for the defense industry of COMECON is being extended and improved. By common agreement with the ministries of defense of allied armies, the Unified Command is currently drawing up a long-term plan of armament and battle means development to the year 2000. A number of important activities intended for the operative preparation of the territories of allied countries are being carried out. The building and upgrading of protected command points is being continued. The national and coalition command and communication systems increase the operativiry and the establishment of troop command by the introduction of highly-efficient technical means, and by the organization of permanent duty service at the command points of the operative echelon.

The building of airports, hangars for military aircraft, air defense means, and radar equipment is under way. The traffic capacity and the viability of the railway and road communications is being increased, and the basing system of fleets is being improved.

The technical endowment of all of the army categories is being upgraded. The stocks of matériel are being increased up to the established norms, the organizational structure of the service organs and their equipping with high-productivity technical means are being improved, and the works for stock dispersion, protection, and increase of their mobility are being continued.

The formation of high moral and combat qualities of the effectives has an important role in increasing the combat capacity of troops and fleet forces.

The efforts of the commanders and political organs of the allied countries were directed towards fulfilling the decisions of the congresses of the fraternal communist and workers' parties, and educating the effectives in the spirit of devotion and permanent preparation for the defense of the interests of the states participating in the Warsaw Treaty.

These are the main results of fulfilling the decisions of the Budapest Conference of the Political Consultative Committee.

Analyzing the situation of our armies and fleets, the Unified Command also reports to the Political Consultative Committee about a number of unsolved problems. It is on that very score that a more exacting and self-critical analysis of the obtained results is required from us.

The cases of simplifying things or making them easier have not been eliminated yet from the praxis of processing the issues of combat capacity of the troops and fleet forces, which does not contribute to the qualitative solution of the whole complex of measures required for the armed forces to pass from a peace situation to a war one. In some allied armies it is still permitted to discontinue the combat training of the effectives. Many difficulties arise in the accumulation of mobilization resources.

The works of upgrading the armament and the technical combat means are proceeding at a slow pace. This is valid, first of all, for the T-55 A tanks. The number of these modernized tanks does not currently exceed 3%, and by 1990 – that is to say by the end of this five-year plan – it will not exceed 50%.

I think it necessary to mention that it is these very tanks that constitute the basis of the tank park.

The scientific and production potentials of our countries are not utilized to the full. The fulfillment terms for scientific research and constructional-experimental works intended for creating new armaments and automated command systems are not observed. Some important decisions in the technical-scientific field, such as those referring to microprocessors and laser engineering are being fulfilled at a slow rate. There are difficulties in the improvement of the infrastructure, first of all in the development of the airport network, and in the creation of stocks of material means, especially of ammunition for the new armament types.

Esteemed comrades,

In spite of some deficiencies in the state and training of the Unified Armed Forces, we report that from the standpoint of their level of technical endowment, the degree of training and drilling, and the provision of material means they are combat-ready and in a position to fulfill the tasks assigned to them, in a coalition configuration, taking into account the ratio of forces extant in Europe.

In this connection, I would like to quote Lenin, who showed that „...To be seriously concerned with the defense of the homeland means to train thoroughly and take seriously into consideration the ratio of forces."

Currently, the ratio of the Warsaw Treaty forces to the NATO forces in Europe is the following:

- Effectives: two armies of three million troops each face each other;
- Number of combat-ready divisions of the various arms put together and of the independent brigades: NATO maintains a certain superiority – 71 divisions and 76 independent brigades of NATO as

compared with 73 divisions and 14 independent brigades of the Warsaw Treaty, which is equivalent to 96 NATO divisions and 78 Warsaw Treaty divisions. The fact must be mentioned that the effectives of NATO divisions are 16,000 to 20,000 troops, that is to say nearly 1.5 times bigger than [the effectives of] our divisions, which – in accordance with the wartime payrolls – are of 10,000 to 12,000 troops;

- Tactical and operational-tactical missiles: sevenfold superiority for the states participating in the Warsaw Treaty;
- Number of tanks: the Unified Armed Forces of the Warsaw Treaty have 1,5 times more tanks. The number of tanks of the Unified Armed Forces of NATO, however, is not small but big, about 30,000 tanks. As regards the number of anti-tank cannons, the enemy's superiority is double;
- Tactical assault aircraft: a superiority of over a thousand aircraft for NATO, which completely makes up for our superiority in missiles;
- Number of artillery pieces and throwers: approximately equal;
- Attack helicopters: an approximately fourfold superiority of NATO;
- Number of big military vessels and PT boats: NATO maintains its superiority in the field.

It is apparent from the above that an objective appreciation of the ratio of forces of the camps as regards the classic armament in Europe shows that this armament is approximately equal.

Speaking about the assymetry of some types of armament of the camps in Europe, it is necessary to take into consideration the fact that this assymetry is determined by the historical development and geographical location of the camps in the political-military alliance. There exist, therefore, all of the fundamental elements required for holding successful negotiations on a general-European scale – from the Atlantic Ocean to the Ural Mountains – as it was declared at the Budapest Conference of the Political Consultative Committee.

[At the Budapest conference] the initiative was presented of reducing by approximately 25%, in comparison with the present period, all of the components of the ground troops and tactical assault aircraft, along with the tactical nuclear armament and the tactical-operative armament of both alliances in Europe. This does not include the effectives of the Naval and Military Forces, and the Air Defense, the composition of which NATO does not want to discuss. The reason why is well known: the superiority of the USA and NATO fleets in comparison with the fleets of the states participating in the Warsaw Treaty as regards battleships, cruisers, destroyers, and missile-launching frigates is almost triple, and the superiority regarding aircraft carriers is absolute.

In addition, NATO countries do not take into account the armed forces of about one million troops and twenty divisions of France and Spain, consequently a distorted image [of the armed forces] is presented.

The myth according to which the Warsaw Treaty has military superiority in classic armament is used on a large scale by the USA Administration to cover the achievement of their own military programs intended for increasing nuclear and classic armaments. I will put forward a few relevant data: in the last few years, eighteen launching pads for „MX" ICBM's, thirty B-1 B strategic bombers, and eight „OHIO"-class submarines have been placed in combat-readiness condition. Moreover, a hundred and thirty-eight B-52 [strategic] bombers have been equipped with long-range cruise missiles. The new submarine-launched „TRIDENT-2" ballistic missile is being currently tested; it has a range of eleven thousand kilometers and seven separable 600-kiloton warheads, which make this missile similar – as to technical-tactical characteristics – to the „MX" ICBM. The development of the „MIDGETMAN" mobile ICBM is under way.

By the end of the 1990's, the number of nuclear warheads of the strategic nuclear forces of Great Britain and France will double.

At the present time, there are in Europe three hundred and eighty of the planned medium-range missiles. Although the Soviet Union launched the initiative of doing away with these missiles, the NATO block has no intention of giving up the manufacture and location of the whole number of such missiles. This is equally valid for the SDI program. In its [military] policy, the USA attaches importance to the Federal Republic of Germany's Bundeswehr as the main strikting force in the operations theater in Central Europe and to Turkey's armed forces in the operations theater in Southern Europe.

The combat capabilities of the general-purpose troops are permanently. being increased. Only in 1986 the number of the most modern tanks was increased by 15%, the number of "PATRIOT" ground-to-air remote-controlled missile systems up to 70%, and of the number of F-15 and "TORNADO" fighter aircraft up to 12%.

The NATO infrastructure is being upgraded. Its possibilities of operational deployment of troops and fleet forces are being extended, stocks of material means are being created, and the airports are being modernized so they are able to accommodate the rapid-deployment troops of the USA.

The intensity of the operational and combat training of NATO armed forces is being stepped up, and the scope of the various applications and maneuvers was broadened. Last year, a hundred and seventy-five major, large-scale exercises were carried out in the theaters of military operations in Europe, of which more than a half in the immediate vicinity of the boundaries of the states participating in the Warsaw Treaty, and the operational and operational-strategic exercises of vast proportions of the types "AUTUMN FORGE", "WINTEX", "REFORGER", and "DISPLAY DETERMINATION" are, as a rule, conducted in accordance with a unique conception and under a centralized command.

In 1986, seven hundred and fifty various exercises were carried out in Europe in keeping with the plans of the national commands of NATO countries; a peculiarity of all of the exercises is the fact that organs of the higher political-military leaderships and the main commands in the zones of Europe took part in them, and that the newest weapons systems were utilized in them on a large scale.

[From these exercises] the tendency was also apparent of training NATO Unified Armed Forces with a view to conducting combat actions using only classical destruction means.

According to existing data, in the current year, 1987, the NATO Block planned to broaden the participation of the organs of higher political-military leadership of the states participating in the exercises, the leadership organs of the national ministries [of defense], and the civil departments involved in the security of the armed forces.

We have to point out that, when planning large-scale operational activities, the military leadership of the NATO countries does not always observe what it was established regarding the notification [of the Warsaw Treaty countries] in compliance with the requirements of the Final Document of the Stockholm Conference relating to the measures of strenghtening trust and security in Europe.

Thus, last January, the USA did not give notice of the exercise of the 5th Army Corps, in which up to 23,000 troops participated. Canada, Portugal, and Italy generally did not present either plans or communications about the fact that they would not carry out activities in 1987.

Such an attitude of the NATO countries regarding the observance of the obligations undermines the agreements, and amplifies the lack of trust of the other states taking part in the General-European Conference.

The Unified Command and the ministries of defense of the allied countries see it as their mission to maintain their armed forces in a state of high combat capability in order that they can carry out the tasks assigned to them. For the purpose of fulfilling the provisions of the Budapest decision of December 1986, the Committee of Ministers of Defense specified the main directions of actions. Activities aimed at achieving these [directions] are under way in all of the allied armies.

One of the decisive conditions of maintaining the military-strategic equilibrium of the forces is the further broadening of our military and military-technical collaboration, and the fulfilling of the obligations in the protocols regarding the development of troops and fleets and in the plans of mutual deliveries of armament and technical means during the current five-year plan 1986-1990.

The measures intended for ensuring the operational and combat training of the Unified Armed Forces are planned starting from the requirements of the defensive orientation in the education and training of the troops and fleet forces.

In connection with the above issue it is advisable to stipulate the introduction of clarifications and changes in the regulations and instructions in force, paying special attention – in the training of personnel – to the continuous increase in quality and to the development of all of the exercises.

The activity of upgrading the technical command means continues. Common proposals are being drawn up for the creation of all of the organs and the preparation in due time of their operation in wartime conditions. Efficient forms for the moral-political preparation of personnel in the spirit of Marxism-Leninism, internationalism, and socialist patriotism are currently being sought.

As is the case at present, emphasis is laid on the strengthening of the cohesion of the allied armies, the formation of the sentiment of devotion to our common cause in the military, the toughening of counterpropaganda, and of the ideological struggle against imperialism.

An important complex of measures will be constituted by the drawing up of the development plans for the allied armies for the following five-year plan, 1991-1995, taking into consideration the possible

changes in the groups of opponents, the camps, and the economic factors in this activity. We have already begun it.

The Unified Command will be in a position to report the main directions of development of the Unified Armed Forces in the period 1991-1995 to the Political Consultative Committee at the next conference of the latter in 1988.

Esteemed comrades,

With the agreement of the Communist and Workers' parties, measures were taken to establish direct links between the commands of the Unified Armed Forces of the Warsaw Treaty and the NATO Block. Our proposal regarding the [organization] of a meeting between the Supreme Commander of the Warsaw Treaty and General Rogers was turned down. We take the view that the line of broadening the contacts in the interest of achieving détente in the international situation must be continued.

To wind up, allow me to express my deep gratitude to the central committees of the Communist and Workers' parties and the governments of the allied countries for their permanent concern with the combat power of the Unified Armed Forces.

Our high combat capability is an objective necessity, determined by the aggressive nature of imperialism and the character of its military preparations.

With a view to solving this important issue, we consider it with full responsibility and assure the Political Consultative Committee that the Unified Command, together with the ministries of defense, will make their best efforts to maintain the combat capability of the Unified Armed Forces – taking into account the reported ratio of forces of the camps in Europe – at such a level that the leadership circles of NATO, headed by the USA, can notice the fact that there is no perspective of solving by military means, in their favour, the contradictions between imperialism and socialism.

Allow me to conclude the report.

Thank you very much for your attention.

CHNA, CC of RCP – Chancellery Collection, file 31/1987, pp. 118-124.

Romanian version

29 mai 1987, Berlin. Raportul comandantului-şef al Forţelor Armate Unite, mareşalul Uniunii Sovietice, Viktor G. Kulikov, prezentat la Consfătuirea Comitetului Politic Consultativ al statelor participante la Tratatul de la Varşovia în ziua de 29 mai 1987.

Arhiva Comitetului Politic Executiv al C.C. al P.C.R.
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RAPORTUL

comandantului-şef al Forţelor Armate Unite, mareşalul Uniunii Sovietice, V. G. Kulikov, la Consfătuirea Comitetului Politic Consultativ al statelor participante la Tratatul de la Varşovia „Cu privire la situaţia Forţelor Armate Unite şi măsurile de asigurare a capacităţii lor de luptă ţinând seama de raportul de forţe existent în Europa"

- 29 mai 1987 -

Stimaţi tovarăşi,

În hotărârea Consfătuirii Comitetului Politic Consultativ de la Budapesta din iunie 1986, a fost stabilită ca una din sarcinile principale ale Forţelor Armate Unite – „asigurarea unei înalte capacităţi de luptă şi de apărare a ţărilor noastre la un nivel care să le garanteze securitatea ...". Comandamentul Unificat şi-a subordonat întreaga activitate pentru îndeplinirea acestei sarcini, timp de aproximativ un an.

În intervenţiile şefilor delegaţiilor la prezenta Consfătuire a Comitetului Politic Consultativ s-a făcut o analiză profundă şi multilaterală a situaţiei internaţionale din Europa şi din lume, au fost stabilite sarcini îndreptate spre slăbirea încordării militare, adâncirea şi dezvoltarea colaborării general-europene.

În Declaraţia comună cu privire la doctrina militară a statelor participante la Tratatul de la Varşovia, care va fi adoptată, este exprimat în mod univoc caracterul de apărare al acesteia. Importanţa acestei Declaraţii constă în faptul că va contribui la afirmarea unităţii de vederi în soluţionarea problemelor

menținerii parității în domeniul forțelor armate și armamentelor, reducerii forțelor armate NATO din Europa până la un nivel, suficient, rațional. Opinia publică poate să vadă faptul că toate eforturile noastre sunt îndreptate pentru a preveni atacul din afară.

Comandamentul Unificat și ministerele apărării ale statelor aliate se vor conduce în activitatea lor după cerințele acestui document important și vor depune eforturi în realizarea practică a acestora în pregătirea trupelor și forțarea flotelor.

Atât timp cât există Blocul NATO, alianța noastră defensivă va avea și în viitor un rol determinat în apărarea socialismului. În legătură cu aceasta, noi vedem în continuare sarcina principală a noastră ca să perfecționăm în permanență și să dezvoltăm forțele armate, ținând seama de raportul de forțe existent în Europa și complexitatea situației internaționale.

La trupe și flote se însușește noua Directivă a comandantului șef al Forțelor Armate Unite privind capacitatea de luptă, intrată în vigoare în anul 1986. Aceasta ne-a permis să realizăm o elasticitate mai mare a trecerii acestora de la situația de pace la cea de război, să îmbunătățim serviciul de luptă, să perfecționăm acțiunea în ascuns a flotelor pentru respingerea agresiunii.

În pregătirea Forțelor Armate Unite se acordă atenție permanentă ridicării calității instruirii terestre, aeriene și maritime, a marilor unități, unităților și navelor, educării internaționaliste a efectivelor, care să fie gata să-și îndeplinească datoria lor patriotică față de popoarele noastre. S-a continuat realizarea planului de dezvoltare a forțelor și flotelor. Scopul principal constă în faptul că, pe baza lărgirii colaborării militare multilaterale, să se asigure dezvoltarea calitativă a forțelor armate ale țărilor aliate, să se îmbunătățească compunerea lor de luptă, structura organizatorică și înzestrarea tehnică a acestora cu cele mai noi tipuri de armament.

În această privință există unele rezultate pozitive în cadrul armatelor aliate. Trupele de uscat și-au sporit puterea de foc și posibilitățile de manevră, prin dotarea lor cu complexe de rachete de înaltă precizie, tancuri T-72, piese de artilerie autopropulsată Costică-Turban, aruncător mine Leon, complexe de rachete antitanc și antiaeriene de înaltă eficiență KUB, OSA, AKM. Până la sfârșitul cincinalului, cantitatea de armament, am în vedere noi modele, la regimente și la divizii, va crește de peste două ori.

La structura tip organizatorică au trecut, s-au apropiat până la 70 la sută a tuturor diviziilor de arme întrunite. A început formarea unităților de desant de asalt. S-a conturat perfecționarea trupelor de geniu și chimice, trupelor de transmisiuni și a celorlalte.

Trupele Sistemului unic de apărare antiaeriană al statelor participante la Tratatul de la Varșovia au în prezent complexe de rachete antiaeriene cu rază mare de acțiune, S-200, sisteme automatizate de conducere și noi mijloace de cercetare, ceea ce a sporit posibilitățile în lupta lor împotriva inamicului aerian. În anii următori, în trupele de apărare antiaeriană vor fi introduse avioane de vânătoare-interceptare din noua generație MIG-29, complexe de rachete antiaeriene de înaltă eficacitate cu mai multe canale de dirijare, mijloace de cercetare radiotehnică. În Forțele Aeriene Militare, aviația cu noi complexe de SU-22, SU-25 este înzestrată cu aviația de lovire. Cantitatea de avioane de vânătoare, bombardament și de asalt, până la sfârșitul cincinalului în comparație cu anul 1985 va crește de două ori, iar a avioanelor de vânătoare în total va ajunge până la 20 la sută. În compunerea aviației de armată vor exista peste 85 la sută de elicoptere de ultimele tipuri.

În înzestrarea flotelor maritime militare se introduc nave de luptă moderne, submarine și complexe de rachete de coastă RUBEJ și REDUT, se constituie unități de infanterie marină. Se desfășoară lucrări pentru creșterea operativității și siguranței sistemului de conducere.

În majoritatea armatelor se continuă modernizarea tancurilor T-55, rachetelor VOLHOV, NEVA, KUB, OSA, avioanelor MIG-21 Bis, MIG-23, SU-20, elicoptere MIG-24, nave și vedete de luptă. Se extinde și se perfecționează colaborarea țărilor noastre în cadrul comisiei permanente pentru industria de apărare CAER, în cercetarea științifică și în elaborarea constructiv experimentală a armamentului de perspectivă. De comun acord cu ministerele apărării ale armatelor aliate, Comandamentul Unificat pregătește un program de lungă durată în dezvoltarea armamentului și tehnicii până în anul 2000. Activități importante se desfășoară pentru amenajare din punct de vedere operativ a teritoriilor țărilor aliate. Se continuă construcția și modernizarea punctelor de comandă protejate. Sistemele de conducere și de legătură naționale și de coaliție măresc operativitatea și stabilirea conducerii trupelor, prin introducerea mijloacelor tehnice de înaltă eficiență și prin organizarea serviciului permanent la punctele de comandă, la eșalonul operativ.

Se desfăşoară construcţia de aerodromuri, adăposturi pentru avioanele de luptă, mijloacele antiaeriene şi de radiolocaţie. Se măreşte capacitatea de trafic şi viabilitatea comunicaţiilor feroviare şi auto, se îmbunătăţeşte sistemul de bazare a flotelor.

Se perfecţionează asigurarea tehnică a tuturor categoriilor de forţe ale armatei. Se măresc stocurile de materiale până la normele stabilite, se îmbunătăţeşte structura organizatorică a organelor de servicii şi dotarea acestora cu tehnică de înaltă productivitate, continuă lucrările de dispersare a stocurilor, de protecţie şi creştere a mobilităţii acestora.

În ridicarea capacităţii de luptă a trupelor şi forţelor flotelor, un rol important se acordă formării la efective a unor înalte calităţi morale şi de luptă.

Eforturile comandanţilor şi organelor politice ale ţărilor aliate au fost orientate spre îndeplinirea hotărârilor congreselor partidelor comuniste şi muncitoreşti frăţeşti, educarea efectivelor în spiritul devotamentului şi pregătirii permanente pentru apărarea intereselor statelor participante la Tratatul de la Varşovia.

Acestea sunt principalele rezultate ale îndeplinirii hotărârilor Consfătuirii de la Budapesta a Comitetului Politic Consultativ.

Analizând situaţia armatelor şi flotelor noastre, Comandamentul Unificat raportează Comitetului Politic Consultativ şi despre unele probleme nerezolvate. Tocmai aici se cere din partea noastră o analiză mai exigentă şi autocritică a rezultatelor obţinute.

În practica prelucrării problemelor capacităţii de luptă a trupelor şi forţelor flotelor nu sunt încă înlăturate simplificările şi uşurările, ceea ce nu contribuie la soluţionarea calitativă a întregului complex de măsuri pentru trecerea forţelor armate de la situaţia de pace la cea de război. În unele armate aliat se îngăduie sustragerea efectivelor de la pregătirea de luptă. Multe greutăţi avem în acumularea resurselor de mobilizare.

Se desfăşoară cu încetineală lucrările de modernizare a armamentului şi tehnicii de luptă. Înainte de toate acestea se referă la tancurile T-55 A. Numărul acestor tancuri modernizate în prezent nu depăşeşte trei la sută, iar până în anul 1990, adică până la sfârşitul cincinalului, nu va depăşi 50 la sută.

Consider necesar să remarc că tocmai aceste tancuri, ca şi înainte, reprezintă baza parcului de tancuri.

Nu se folosesc în totalitate potenţialele ştiinţific şi de producţie ale ţărilor noastre. Termenele de realizare a unor lucrări de cercetare ştiinţifică şi experimental-constructive pentru crearea de noi armamente şi sisteme de automatizare a conducerii nu sunt respectate. Unele hotărâri importante în domeniul tehnico-ştiinţific este cel al microprocesoarelor, tehnicii laser. Se realizează într-un ritm lent. Există dificultăţi în perfecţionarea infrastructurii, în primul rând în dezvoltarea reţelei de aerodromuri, crearea stocurilor de mijloace materiale, în mod deosebit de muniţii pentru noile tipuri de armament.

Stimaţi tovarăşi,

În pofida unor neajunsuri în starea şi pregătirea Forţelor Armate Unite, noi raportăm că după nivelul înzestrării tehnice a acestora, gradul de instruire şi asigurarea cu mijloace materiale, ele sunt gata de luptă şi în măsură să îndeplinească misiunile încredinţate, în compunere de coaliţie, ţinând seama de raportul de forţe existent în Europa.

În legătură cu aceasta, aş dori să citez pe Lenin, care arăta că „...a te ocupa în mod serios de apărarea ţării înseamnă să te pregăteşti temeinic şi să ţii riguros seamă de raportul de forţe".

În prezent, raportul de forţe ale Tratatului de la Varşovia şi blocului NATO din Europa este următorul:

- efectivele – faţă în faţă stau două armate de câte trei milioane;
- numărul diviziilor de arme întrunite şi al brigăzilor independente, gata de luptă – se menţine o oarecare superioritate de partea NATO: 71 divizii şi 76 brigăzi independente ale NATO, faţă de 73 divizii şi 14 brigăzi ale ţărilor Tratatului de la Varşovia, ce sunt în echivalent cu 96 divizii NATO şi 78 divizii la Tratatul de la Varşovia. Trebuie menţionat că efectivele diviziilor Blocului Nord Atlantic sunt de 16-20 mii oameni, deci mai mari cu aproape 1,5 ori decât diviziile noastre care, după statele de război, au 10-12 mii oameni;
- la rachetele tactice şi operativ-tactice, superioritatea, de şapte ori, rămâne de partea ţărilor Tratatului de la Varşovia;

- după numărul de tancuri, Forţele Armate Unite ale Tratatului de la Varşovia este superior de 1,7 ori. Însă nici tancurile Forţelor Armate Unite ale NATO nu sunt puţine, sunt multe, în jur de 30 de mii. La aceasta, inamicul este superior de aproape două ori în mijloace antitanc;

- la aviaţia tactică de lovire – o superioritate de peste o mie de avioane în avantajul NATO, cu care acoperă în întregime superioritatea noastră în rachete;

- cantitatea de artilerie şi aruncătoare – este aproximativ egală;

- elicoptere de luptă – aproape de patru ori superioritate la NATO;

- numărul navelor de luptă mari şi al vedetelor – superioritatea este păstrată de partea NATO.

Astfel, aprecierea obiectivă a raportului de forţe ale părţilor privind armamentul clasic din Europa arată că acesta este aproximativ egal.

Vorbind despre asimetria în ceea ce priveşte unele tipuri de armament al părţilor în Europa, este necesar să avem în vedere că aceasta este condiţionată de dezvoltarea lor istorică şi poziţia geografică, care intră în alianţa politico-militară. De aceea, există toate fundamentele pentru tratative reuşite la scara general-europeană – de la Atlantic până la Urali – aşa cum s-a declarat la Consfătuirea de la Budapesta a Comitetului Politic Consultativ. Acolo a fost prezentată iniţiativa privind reducerea, la începutul anilor '90, a tuturor componentelor trupelor de uscat şi aviaţiei tactice de lovire, în complex cu armamentul nuclear tactic şi operativ-tactic al ambelor alianţe din Europa, cu aproximativ 25 la sută în comparaţie cu perioada actuală. În această grupare, însă, nu se au în vedere efectivele Forţelor Maritime Militare şi ale Apărării Antiaeriene, iar despre compunerea acestora NATO nu vrea să discute. Cauza este binecunoscută privind cuirasatele, crucişătoarele, distrugătoarele, fregatele purtătoare de rachete, SUA şi NATO au aproape o triplă superioritate faţă de flotele ţărilor Tratatului de la Varşovia şi o superioritate absolută în ceea ce priveşte portavioanele.

De asemenea, ţările NATO nu iau în calcul forţele Franţei şi Spaniei care sunt până la un milion de oameni şi 20 de divizii şi deci se prezintă un tablou deformat.

Mitul privind superioritatea militară a Tratatului de la Varşovia în armament clasic este larg folosit de către Administraţia SUA pentru a acoperi realizarea programelor militare proprii pentru sporirea armamentelor nucleare şi clasice. Voi da câteva date: în ultimii ani au trecut în serviciul de luptă 18 instalaţii de lansare a rachetelor balistice intercontinentale „MX", au fost introduse în compunerea de luptă aproximativ 30 de bombardiere strategice B-1 B şi opt submarine de tipul „OHIO". Au fost reînzestrate cu rachete cu aripi şi cu rază mare de acţiune 137 de bombardiere B-52. Se execută experimentări ale noii rachete balistice cu bazare maritimă „TRIDENT-2", care are distanţa maximă de lansare de 11 mii de km şi şapte focoase care se separă, fiecare având câte 600 kilotone, ceea ce o apropie pe aceasta, prin caracteristicile tehnico-tactice, de rachete balistică intercontinentală „MX". Continuă elaborarea rachetei balistice intercontinentale mobile „MIDGETMAN".

La sfârşitul anilor '90 va creşte aproape de două ori numărul de încărcături nucleare ale forţelor nucleare strategice ale Marii Britanii şi Franţei.

În Europa, în prezent, există 380 de rachete din cele planificate cu rază medie de acţiune. Cu toate că Uniunea Sovietică a lansat iniţiativa pentru lichidarea acestor rachete, Blocul NATO nu are intenţia să renunţe în realizarea totală şi pentru amplasarea lor. Aceasta în egală măsură priveşte şi programul iniţiativei de Apărare. În politica sa, SUA acordă importanţă Bundeswherului, R.F. Germania, ca forţa principală de lovire pe teatrul de acţiuni militare din Europa centrală şi forţelor armate ale Turciei pe teatrul de acţiuni militare ale Europei de sud.

În permanenţă cresc posibilităţile de luptă ale forţelor cu destinaţie generală. Numai în anul 1986, în trupele NATO cantitatea celor mai noi tancuri s-a mărit cu 15 la sută, a rachetelor dirijate PATRIOT până la 70 la sută, iar la avioane de lovire F-15 [şi] TORNADO, până la 12 la sută.

Se perfecţionează infrastructura NATO. Se lărgesc posibilităţile acesteia de desfăşurare operativă a trupelor şi forţelor flotelor, se creează stocuri de mijloace materiale şi se modernizează aerodromurile pentru primirea pe acestea a forţelor de desfăşurare rapidă ale SUA.

Creşte intensitatea pregătirii operative şi de luptă a forţelor armat ale NATO, s-a lărgit amploarea diferitelor aplicaţii şi manevre. Anul trecut, pe teatrele de acţiuni militare din Europa s-au desfăşurat 175 de aplicaţii mari, de amploare, din care mai mult de jumătate nemijlocit la frontierele statelor participante la Tratatul de la Varşovia, iar aplicaţiile operative şi operativ-strategice de mari proporţii, de tipul „AUTUMN

FORGE", „WINTEX", „REFORGER", „DISPLAY DETERMINATION", de regulă, se reunesc într-o concepţie unică şi conducere centralizată.

După planurile comandamentelor naţionale ale ţărilor membre ale NATO, în Europa, în anul 1986, s-au desfăşurat 750 de aplicaţii diferite; ca o particularitate a tuturor aplicaţiilor o reprezintă faptul că la acestea au participat organe ale conducerilor superioare politico-militare, comandamentele principale din zonele Europei, Atlanticului şi Oceanului Pacific, de asemenea, s-au întrebuinţat pe larg cele mai noi sisteme de armament.

În mod clar s-a manifestat tendinţa de pregătire a Forţelor Armate Unite ale NATO în vederea ducerii acţiunilor de luptă cu întrebuinţarea numai a mijloacelor clasice de nimicire.

Potrivit datelor existente, în anul curent, anul 1987, Blocul NATO a planificat să lărgească participarea organelor de conducere superioară politico-militară ale ţărilor participante la aplicaţii, a cadrelor de conducere ale ministerelor naţionale, departamentelor civile, care au legătură cu asigurarea forţelor armate.

Trebuie să menţionăm că, conducerea militară a ţărilor NATO, planificând activităţi operative de amploare, nu respectă întotdeauna cele convenite privind notificarea, potrivit cerinţelor Documentului final al Conferinţei de la Stockholm pentru măsuri de întărire a încrederii şi securităţii în Europa.

Astfel, SUA, în ianuarie anul curent, nu a notificat aplicaţia Corpului 5 Armată, la care au participat până la 23 mii de militari. Canada, Portugalia şi Italia în general nu au prezentat nici planuri, nici comunicări despre faptul că nu vor desfăşura activităţi în anul 1987.

O astfel de atitudine a ţărilor NATO faţă de respectarea obligaţiilor, subminează înţelegerile, amplifică neîncrederea din partea celorlalte state participante la conferinţa general-europeană.

Comandamentul Unificat şi ministerele apărării ale ţărilor aliate îşi văd misiunea lor în aceea ca să-şi menţină forţele într-o înaltă capacitate de luptă pentru a îndeplini misiunile date. Comitetul miniştrilor apărării pentru îndeplinirea hotărârii de la Budapesta din decembrie 1986 a concretizat direcţiile principale de acţiune. Activităţi de realizare a acestora se desfăşoară în toate armatele aliate.

Una din condiţiile hotărâtoare de menţinere a echilibrului militaro-strategic al forţelor va fi lărgirea în continuare a colaborării noastre militare şi militare tehnice. Îndeplinirea obligaţiilor din protocoale pentru dezvoltarea trupelor şi flotelor şi a planurilor de livrări reciproce de armamnent şi tehnică în cincinalul actual 1986-1990.

Măsurile privind pregătirea operativă şi de luptă a Forţelor Armate Unite sunt planificate pornind de la cerinţele orientării defensive în instruirea şi educarea trupelor şi forţelor flotelor.

În legătură cu aceasta să prevadă introducerea unor precizări şi schimbări în regulamentele şi instrucţiunile în vigoare, în instruirea personalului, atenţie deosebită acordându-se pentru ridicarea continuă a calităţii şi desfăşurării tuturor aplicaţiilor.

Se continuă activitatea pentru perfecţionarea mijloacelor tehnice de conducere. Se pregătesc propuneri comune pentru crearea şi pregătirea la timp pentru funcţionarea în timp de război a tuturor organelor. Se caută forme eficace pentru pregătirea moral-politică şi educaţiei personalului în spiritul marxism-leninismului, al internaţionalismului şi patriotismului socialist.

Accentul, ca şi până în prezent, se pune pe întărirea coeziunii armatelor aliate, formarea la militari a sentimentului de devotament faţă de cauza noastră comună, întărirea contrapropagandei şi combaterii ideologice a imperialismului.

Un import complex de măsuri îl va constitui elaborarea planurilor de dezvoltare a armatelor aliate pentru cincinalul următor, 1991-1995, ţinându-se seama de schimbările posibile ale grupărilor oponente, a părţilor şi a factorilor economici din această activitate. Deja am început-o.

Direcţiile principale de dezvoltare a Forţelor Armate unite în anii 1991-1995, Comandamentul Unificat este în măsură să le raporteze Comitetului Politic Consultativ la următoarea consfătuire a acestuia din anul 1988.

Stimaţi tovarăşi,

Cu acordul conducerilor partidelor comuniste şi muncitoreşti au fost luate măsuri pentru stabilirea legăturilor directe între conducerile Forţelor Armate Unite ale Tratatului de la Varşovia şi a Blocului NATO. Scopul este unul: de a folosi posibilitatea de slăbire a încordării militare în Europa. Propunerea noastră cu privire la întâlnirea comandantului şef al Tratatului de la Varşovia cu generalul Rogers, a fost

refuzată. Considerăm că linia pentru lărgirea contactelor în interesul destinderii situației internaționale trebuie să fie continuată.

În încheiere, permiteți-mi să exprim profunda recunoștință comitetelor centrale ale partidelor comuniste și muncitorești, guvernelor țărilor aliate pentru grija permanentă față de puterea de luptă a Forțelor Armate Unite.

Înalta noastră capacitate de luptă reprezintă o necesitate obiectivă, determinată de natura agresivă a imperialismului și de caracterul pregătirilor militare ale acestuia.

În vederea rezolvării acestei probleme importante, noi privim cu toată răspunderea și asigurăm Comitetul Politic Consultativ că Comandamentul Unificat, împreună cu ministerele apărării, va face totul pentru menținerea capacității de luptă a Forțelor Armate Unite ținând seama de raportul de forțe al părților în Europa, raportat la un asemenea nivel încât cercurile conducătoare NATO, în frunte cu SUA, să vadă lipsa de perspectivă a calculelor privind rezolvarea, în folosul lor, prin mijloace militare a contradicțiilor dintre imperialism și socialism.

Permiteți-mi să închei raportul.

Vă mulțumesc foarte mult pentru atenție.

Arhivele Naționale Istorice Centrale, fond C.C. al P.C.R. – Cancelarie, dosar 31/1987, filele 118-124.

NOTES:

[1] One of the important documents of that reunion was translated in the English language and published in the USA – Vojtech Mastny, Malcolm Byrne, *A Cardboard Castle? An inside Story of the Warsaw Pact, 1955 – 1991*, National Security Archive Cold War Reader, CWU Press, 2005, pp. 562 – 571 (document no. 123 – *Records of the Consultative Political Committee Meeting in Berlin, May 27 – 29, 1987*).

In the United States of America and Romania, two documents of equal importance have been published only in English, without being explained or at least mentioned in the historical analysis – *Speech of Nicolae Ceaușescu at the meeting of Warsaw Pact leaders held in Berlin, 29 May 1987* and *Report of Marshal V. G. Kulikov, the Supreme Commander of the Warsaw Pact forces, at the meeting of Warsaw Pact leaders held in Berlin, 29 May 1987*. See http://www.wilsoncenter.org/index and *Romania and the Warsaw Pact: 1955 –1989*, editors: Dennis Deletant, Mihail E. Ionescu, Cold War International History Project, Working Paper 43, Washington DC, Woodrow Wilson International Center for Scholars, April 2004 (the document volume was also published in full in Romania, under the same title, by Politeia-SNSPA Publishing House, Bucharest, 2004). In our opinion, the publication only in English of the documents in the file no. 31/1987 does not give the opportunity for knowing the historical events (historical analysis) to many people that do not speak English, including to those Romanians from abroad. That is why we considered necessary to enclose here the Romanian language version of the two documents mentioned above (Appendix no. 1 and 2). We hope that these documents will be well known by the international historical community.

[2] Vojtech Mastny, Malcolm Byrne, *op.cit.*, pp. 418 – 426 (document no. 84 – *Speech by Brezhnev at the Consultative Political Committee Meeting in Moscow, November 22, 1978*; document no. 85 – *Minutes of the Romanian Politburo Meeting, November 24, 1978*). One can also add the Romanian language version of document no. 85 in the second part of this paper (Appendix no. 3).

[3] Central Historical National Archives, Central Committee of the Romanian Communist Party – Chancellery Collection (abbreviated in Romania as ANIC, CC al PCR – Cancelarie, for Arhivele Naționale Istorice Centrale, Comitetul Central al Partidului Comunist Român – Cancelarie), file 31/1987, p. 79. This source will hereafter be referred to as CHNA, CC of RCP – Chancellery Collection.

[4] *Ibidem*, p. 118.

[5] *Ibidem*, p. 80.

[6] *Ibidem*, p. 119.

[7] *Ibidem*, p. 120.

[8] At the Socialist Republic of Romania's Defence Council Meeting (May 31, 1989), it was admitted that the new tanks to be manufactured by the Romanian military industry were confronted with issues of reliability. The participants in the same reunion adopted a meek attitude when Nicolae Ceaușescu ordered the reinstallation of classical equipment on Romanian tanks, instead of the recently mounted electronic devices and that other types of Romanian armament should not be modernized/electronically equipped without his express approval. „*Let us*

use the equipment that we have!" – Nicolae Ceauşescu ordered. *„Please present everything to me. No equipment shall be modified, unless what we establish that is strictly necessary. The classical equipment that we have is better, more reliable, and yields better results".* CHNA, CC of RCP – Chancellery Collection, file 38/1989, p. 18; *Romania and the Warsaw Pact: 1955-1989*, op.cit., p. 394.

The participants in this meeting did not have the courage to tell Ceauşescu that such an action was wrong and it would be interesting to find out how the Minister of National Defence, General Vasile Milea, first Deputy of the Minister of National Defence and Chief of Staff, General Ştefan Guşe, as well as other generals and officers that attended the meeting, could mislead the state leader as to the implementation of installing classical equipment on tanks. Such a working hypothesis, that we consider valid, may be the subject of a future research topic.

[9] From March 23, 1950 to April 19, 1954, Nicolae Ceauşescu was the chief of the Superior Political Army Department.

Constantin Hlihor, ***Geopolitics and Geostrategy within the Analysis of Contemporary International Relations. Theoretical and Methodological Considerations,*** National Defense University *"Carol I"* Press, Bucharest, 2005, 326 pages

The events of September 11th, 2001 generated profound changes in the international security environment that induced increased concern for assessing the actors that could cause, at regional or global levels, political, economic, social or spiritual crisis. Their asymmetric manifestation in the field of international relations led to an increase in the complexity of understanding the current international security environment.

The security issues were usually intrinsically linked to the classic actor, namely the State and its capacity to manage security. Nowadays, the power of international actors is only partially expressed in classic military terms, given that there were added at least two other dimensions to the military one of the power potential: the economic and technical-informational dimensions. Their every day deeper interdependence makes actors of the international relations' system look for non-classic solutions in order to find the best formula to manage world security and stability.

An exhaustive evaluation of international actors in the geopolitical field, the exact knowledge of sources generating political, economic or military crisis, of the causes that make participants to adopt a certain behavior in international relations, all constitute topics of interest for the analyst, scholars and academics. The answers to all these problems can be found out by investigating the reality with scientific tools and adequate analysis methods. The book "Geopolitics and Geostrategy within the Analysis of Contemporary International Relations" fits into the research efforts that experts put to improve analysis tools and methods in the field of international relations.

Basically, the author proposed us a new perspective of geopolitics which, through paradigms and analysis methods, defines what is nowadays particularly called "Critical Geopolitics". As an objective reality in the field of international relations, geopolitics, asserts Professor Constantin Hlihor, manifested itself in the evolution of mankind since the very moment a state/an actor disposed of the power and capacity to control other spaces than the one where it was constituted as a political entity on its own. As a theory, geopolitics has been present in the field of scientific disciplines since analysts begun to observe and study the behavior and interests of actors in certain geographic spaces, more or less strictly determined and delimitated.

The historical perspective demonstrates that geopolitics, together with other disciplines, used by a state/an actor to justify political action in a certain space, it turns into a propagandistic tool, outside theory and scientific analysis.

Geopolitics is a relatively new discipline, its paradigms being borrowed from bordering disciplines that transcend both their content and significance in the fields of history, politics, sociology, psychology etc. In this respect, the author proposes an analysis methodology that, besides those of other disciplines, contributes to the thorough knowledge and understanding of contemporary political phenomenon. This book aims to integrate within the effort of studying the contemporary political phenomenon from a multidisciplinary perspective. Taking into account the risk that the above proposals do not enjoy general acceptance, the author underlines that the purpose of the book is "to encourage reflection and investigation and not justifying; to monitor the trends and draw the attention to shifts and changes at international level, to provide for the

readers, indicators and analysis methods, useful for theses ones to soundly delve into the very substance of international reality and not at all scenarios/best patterns able to be applied everywhere and anyhow".

The arguments on which the author relies in his endeavor to define the object of geopolitics and to give ground to this discipline's own paradigms are substantial and coherent. The differentiation made by Professor Constantin Hlihor between the classic studies of geopolitics that are closer to geographic determinism and the non-classic ones, that are part of the international relations theory, is very rich in arguments.

Not only does this book constitute a theoretical approach, but also a work tool that proposes the reader an analysis methodology grounded on the fact of explaining and using fundamental paradigms of geopolitical theory: the geopolitical field, actors, balance of power, interest, perception etc.

It is for several reasons that striving deeper into theoretical and methodological reflections on geopolitics and geostrategy seems to be necessary. The enhanced complexity and dynamism of contemporary international relations led to a panoply of analysis perspectives. Geopolitical paradigms were often used to widen the understanding of causes that led to the appearance of certain phenomena and processes that generated tensions within the international security environment. Geopolitics and geostrategy, while in full theoretical and practical-applicative development, went through constant improvement both at conceptual and paradigms' levels. If decades ago geopolitics and geostrategy were perceived in a similar way as during their period of self-reflection, they were to be nuanced by adding new paradigms and join the category of disciplines that analyze contemporary international relations.

The analysis of geopolitics and geostrategy studies and works published in the last years highlights the fact that the classic approach is still valid. The determinist-geographical explanations of the geopolitical and geostrategic shifts in the security international environment after the end of the Cold War were not abandoned.

The author stresses in the first chapters that geopolitics' evolution was highly influenced by the level of development reached by the field of social-humanist disciplines, as well as by the philosophical and political trends that at a certain moment dominated the scientific, scholar, political and diplomatic world. Professor Constantin Hlihor differentiates between the geopolitical reality, as part of the international politics' phenomena and processes and geopolitical theory/analysis as a product of the critical reflection of geopolitical reality. According to the author's arguments, geopolitics is first of all a reality describing a particular behavior of actors at international level and also a depiction of this one that, by evolving operational, can become both method and analysis tool of the international relations.

The confusion between geopolitical reality and the outcome of its reflection in the analysis of the contemporary political phenomenon was preserved because of the success that certain mechanicists' paradigms explaining the balance of power enjoyed ("Heartland", "Rimland"). One can notice the fact that certain great powers' diplomacy made of the classic geopolitics' determinist-geographical theories a "transportation vector" for propaganda, with the aim to justify some foreign policy actions.

The perspectives on geopolitics such as approached by the present book intend to overcome this framework. The premise that led the author's endeavor referred to the fact that nowadays international life has become so complex and diversified that it could not be understood from the perspective of a single discipline. That is why the geopolitical dimension should also be included in the analysis delivered from the historical, sociological, economic, anthropological perspectives. It is from this standing that geopolitics should be re-defined within the framework of disciplines that deal with the study of international relations and it is also necessary to have clarified the working paradigms.

The fundamental purpose of the research undertaking on which this book relies is to prove that geopolitics, although it is not a science, has its own paradigms that can provide valid instruments to monitor the balance of power and interest evolutions in the contemporary world.

The last chapter proposes a different vision on geostrategy, of mutual interactions and interdependence that get this discipline closer to geopolitics. Geopolitics, through its analysis methods, answers the question "why" an actor develops competitive relations in a specific geographical area while ignoring other ones. Geostrategy answers the question "through" which means/strategies an actor promotes and defends its interests in that area.

Currently, the competition between classic actors in terms of interests does not express itself mainly through armed violence as during the second half of the last century. The military strategies are more and more often replaced by the diplomatic, financial, political, image ones. Therefore, in order to successfully compete in terms of interests in a certain area, an actor can undertake a large scale geostrategic action whose military dimension is diminished or even entirely absent. While geopolitics has an inter-disciplinary nature, geostrategy has an integrated one.

The author aims to giving support to a larger introduction in theoretical debates referring to a confrontation between ideas on contemporary geopolitics and geostrategy issues. At the same time, he intends to draw the attention to the fact that theoretical and methodological studies are necessary since most of the disciplines in the field of international relations are modernizing their conceptual system and analysis techniques in order to have the ability to deal with international security environment's challenges.

The operational analysis of the geopolitical field, stimulative as an intellectual exercise, provides the majority of the experts in geopolitics issues with explanations and arguments regarding evolutions in the international relations arena as realistic and plausible as possible. In the uninterrupted data and events flow, theories supply selective outlines to get to the point, to distinguish between details and a general framework so that to have a depiction as adequate as possible of geopolitical realities at the beginning of the XXIst century. The paradigms in this book, submitted to the reader's attention, aims to the deepening and development of the critical geopolitical approach that imposed itself after the end of the Cold War.

This book stresses the fact that geopolitics and geostrategy need to define and coordinate their own tools and analysis techniques in the field of international relations disciplines. Theories have an instrumental value and by being made operational they supply analysis instruments that make possible the explanations regarding the competition in terms of geopolitical interests, in a specific area. Geostrategic theories also supply the necessary instruments for an actor in order to identify the most appropriate way to achieve its interests and implicitly its objectives. From this point of view, the book proposes, through geopolitics and geostrategy, those interested in knowing the international environment, a specific analysis method and an option for carrying out geostrategic and geopolitical scenarios.

The book represents a vigorous conceptualizing approach, a discipline on the point of defining its identity and taking its place in the field of social-humanist sciences and also constitutes an invitation addressed to those interested in international relations to reflect on possible future evolutions.

This book provides the readers passionate for the concerned topic and particularly experts in international relations with a necessary tool that contributes to both understanding and explanation of the evolution of the political phenomena that we encounter in the field of contemporary international relations.

Laurenţiu-Cristian DUMITRU

The Institutional Organization of the Romanian Foreign Affairs Ministry, Papers and Documents, vol. I (1859-1919), vol. II (1920-1947), Titulescu European Foundation, Bucharest, 2004 (Edited by Ion Mamina, Gheorghe Neacşu, George G. Potra, Nicolae Nicolescu)

The first volume contains 55 fundamental papers and documents regarding the institutional organization of the Foreign Affairs Ministry, as conceived by the founding fathers of modern Romania, which clearly show the commitment and actions taken to the national interest/cause. Official papers and documents are edited – laws, regulations, displays of arguments brought on legislative projects, parliamentary rapports, speeches made in the Senate or the Chamber of Deputies – all being fundamental for the evolution of Romania's foreign policy until 1919. The Unification of January 5/24, 1859 opened the process of renewal, modernization and setting of new bases in all fields of the Romanian society. One of the priorities of the newly elected ruler Alexandru-Ioan Cuza was the unification and standardization of the political-administrative field. On February 22, 1859, a Decree opened the series of organizational measures taken for the central administration. A few months later, on July 2, 1859, Walachia's Foreign Affairs Ministry was founded. A step forward was taken together with the establishment of a single Foreign Affairs Ministry, on July 27, 1862, a Ministry that had three sections: Consular Affairs, Political Affairs and the Administrative Court.

After the establishment of the constitutional monarchy (1866), the entire Romanian diplomacy strove to accomplish the two main national purposes: the state independence and unification. The new realities resulted from the 1866 Constitution imposed the elaboration of several organic laws referring to the departments that formed the state's central administration. Thus, on March 21, 1873, the bill for the organization of the Foreign Affairs Ministry, concerning the foreign policy and actions of the Romanian state, was adopted. This document also stated that Romania was represented by diplomatic missions in eight capitals – Constantinople, Paris, Belgrade, Vienna, Berlin, Saint Petersburg, Rome, and London – and the country's representative officials should provide information on "its origin, past, national advantages, level of culture, skills, desires, and aspirations". After the Russian-Romanian-Turkish war (1877-1878) and Romania winning its independence, the 1873 bill had to be changed in accordance with the country's new international status. On February 14, 1879 an additional bill was voted; in essence, this bill stipulated a new organization of diplomatic missions and a representation "as wide as possible" on the European stage. A final organic law was adopted on February 13, 1894 and, together with the changes of the modified bill of March 15, 1912, it coherently summed up the legislative measures taken up to that moment and added the improvements occurred in the diplomatic practice.

The first volume concludes with a document dated December 23, 1919, a Decree signed by King Ferdinand I, which establishes a special Commission to carry out the Peace Treaties signed by Romania at the Paris Peace Conference.

The 72 documents of the second volume show the main directions and steps taken for the organization and functioning of the institution during a time that covered Great Romania, the territorial losses of the summer of 1940, and the participation in the unification war, followed by the Red Army occupation that brought the Communist government into power.

On July 19, 1921, the bill that modified several articles of the 1921 law – in force at the time – was adopted. Thus, three new departments of the Foreign Affairs Ministry were established – Judicial, Borders, and Media – which represented a necessity after World War I.

Structural changes occurred afterwards thanks to Nicolae Titulescu, Minister during July 6, 1927 – July 30, 1928; on August 1, 1928, he forwarded a Decree draft regarding a new organization of the Foreign Affairs Ministry central administration. The aim of these measures

was to "ease the Ministry's work until a new bill would be voted", as Nicolae Titulescu stated in the display of arguments. Another important step initiated by Nicolae Titulescu was the foundation of the Diplomatic Superior Council (February 1, 1928), in charge with the study of "important foreign matters". The latter was replaced by a Diplomatic Consultative Council, on February 1, 1937, that maintained the same assignments.

In 1937, under the Victor Antonescu government (August 29, 1936 – December 28, 1937), two very important regulations were approved: the Regulation regarding the traveling expenses and the wage for those working abroad (April 14, 1937) and the Consular Regulation (October 24, 1937). This final document, having 206 articles, replaced the 1889 one, including its later changes.

During Nicolae Petrescu-Comen's office (March, 30 – December, 21) a Foreign Affairs Ministry's organic law was adopted by Royal Decree on July, 16 1937, 44 years after the first such document (February, 13 1894). According to the law, the Ministry had "Romania's relations with the Society of Nations and the international judicial institutions in its exclusive powers".

After the territorial losses of the summer of 1940 – Basarabia and North Bucovina (50,762 sq km and 3.9 million inhabitants) in favor of USSR, the Northeastern part of Transylvania (48,492 sq km and 2.7 million inhabitants) being conceded to Hungary, and the Quadrilateral to Bulgaria – the Foreign Affairs Ministry was confronted with several waves of refugees. In order to assure order and responsibility, the General Commissariat for the resettlement of the population in Dobrodgea (September 13, 1940) and the General Commissariat for the resettlement of the population in Northern Transylvania were established by Decree-Laws, both subordinated to the foreign affairs department.

The problems that the Romanian state had to deal with between September 1940 and August 1944 did not allow for a normal evolution of the Romanian diplomatic system. By taking part in the battle of liberation of the territories occupied in the summer of 1940, Romania clashed with a number of 10 states and had to reduce the number of diplomatic missions by 22, and therefore the number of clerks.

It is only in the spring of 1944, after many plans and propositions, that the most complex Foreign Affairs Ministry organic law was elaborated, based on a new and unitary conception. On April 8, 1944, the Decree concerning the laws on the establishment of Romania's exercise of international functions was adopted; this included the following procedures: the Law regarding the organization of the Foreign Affairs Ministry in the Romanian Kingdom (229 articles), the Law regarding the establishment and organization of the Royal Romanian Institute for International Research and Political Sciences (61 articles), and the Law regarding the establishment and organization of Romanian schools and cultural institutes from abroad, state scholarships and the situation of the Romanian students abroad (45 articles). After August 23, 1944, all these bills were abrogated, under the pretext of being "an artificial creation of the military dictatorship regime".

A year after the establishment of Dr. Petru Groza's Government (March 6, 1945), a new bill regarding the organization of the Foreign Affairs Ministry was adopted, supported by Gheorghe Tatarescu, Vice-President of the Council of Ministers and leader of the department in question. The bill also included the first interferences from the left wing forces, with long and harmful effects on the Romanian diplomacy. Among others, this was the moment when career diplomats and politicians started to disappear, while middle-educated officials began to be hired. The measures taken to remove professionals from diplomatic positions started with the Decree-Law for the purification of the public administration (October 7, 1944) and with the one regarding the purification of the media (February 9, 1945), which led to the elimination of a large number of specialists and technicians from the Foreign Affairs Ministry and the Ministry for National Propaganda. Moreover, on August 31, 1947, Gheorghe Tatarescu signed a Ministerial Decision to suppress budgetary positions that affected 234 persons, from chiefs of diplomatic missions to couriers and janitors. By the end of 1947, another 24 people would be dismissed from the

Ministry's central administration. During Ana Pauker's office at the Foreign Affairs Ministry (September 6, 1957 – July 11, 1952), a number of 161 jobs were "compressed", all these affected persons being hired before March 6, 1945.

It is only on July 16, 1957, 10 years after the removal of a high-educated minister, that Ion Gheorghe Maurer, originally a legal advisor, was appointed as head of the Romanian diplomacy. Before him, the position was held by people lacking the necessary studies, qualities and abilities, such as Simion Bughici (July 11, 1952 – October 3, 1953) and Gheorghe Preoteasa (October 3, 1953 – July 6, 1957).

The geopolitical interests of world powers forced on Romania, for several decades, a series of restrictions and political, economical and military pressures that the Bucharest governments tried to elude and surpass by political and diplomatic measures and efforts. The two volumes of documents illustrate the concern of Romania's decision factors to develop and promote the national interests by means of diplomacy – this art of the well-educated and the chosen.

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