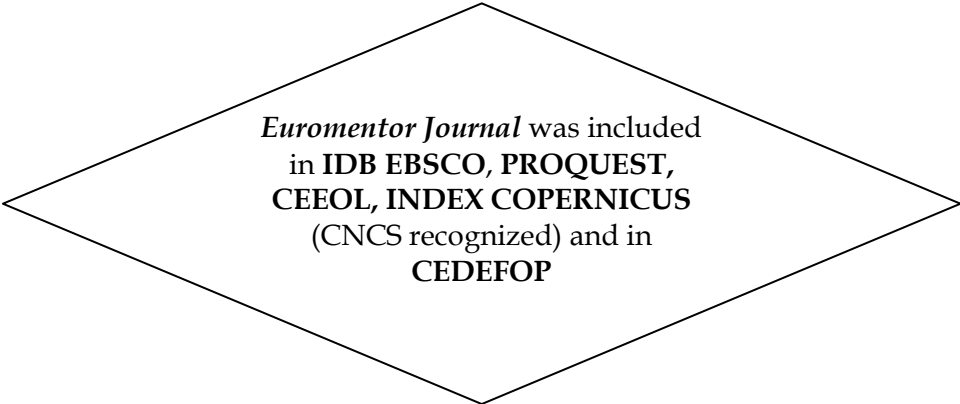


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ASPECTS OF THE PHILOSOPHY OF EDUCATION IN JOHN DEWEY'S VIEW

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Article dedicated to our late colleague, the philosopher-educator, Nicolae Sacaliș-Calata.

*"What matters is practical life,
and philosophy is meant to make it easier and richer"*

Abstract: *Rethinking education in a globalized world requires the analysis and thorough research of the great philosophers-educators' works as current education claims a new philosophy which needs to be based on authentic landmarks that can be objectified under the new circumstances. From this perspective, we consider it useful and necessary to examine the contribution of the American philosopher and educator J. Dewey with a view to analyzing some of the most valuable ideas in the philosophy of education, which we think of great importance for adapting the Romanian education system to the specific of a dynamic and pragmatic youth, by rethinking the national curriculum after the American pragmatist model.*

Keywords: *pragmatism, instrumentalism, philosophy of education, experience, value, democracy.*

The greatest philosopher and educator of the United States of America, the first philosopher of education in the world philosophy, he had a profound influence not only among the philosophers, but also among the scholars in the field of education, aesthetics and political theory. His contemporary, B. Russell featured him as follows: "He is a man of the

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highest character, liberal in outlook, generous and kind in personal relations, indefatigable in work.”¹

Dewey was born in Burlington, Vermont, USA in 1859. Between 1875 and 1879 he attended the University of Vermont. He taught Latin, Sciences and Algebra at a secondary school in Oil City, Pennsylvania, whose principal he became later. In his leisure hours he was interested in philosophical speculations, especially in Kant's philosophy. In 1884 he got his PhD. in philosophy with the work *The Psychology of Kant* at Johns Hopkins University and he also began his academic career as Professor G.S. Morris' assistant, at the chair of philosophy within the University of Michigan, Ann Arbor. Later on, he worked as a professor, also having positions of high responsibility at other universities: Minnesota, Chicago, California, Columbia. He lectured at numerous foreign universities: Tokyo, Mexico, Peking, Nanjing. In 1896, he founded the famous experimental school of the University of Chicago, which worked as a field of application and development of new ideas and pragmatist theories on education. He was the President of the American Philosophical Society and of the Association of Psychology in the USA. In 1930 he retired from the University of Columbia, New York. He died in New York in 1952.

The fundamentals of his pedagogical thinking

When Dewey became a professor of philosophy in Chicago in 1894, pedagogy was one of the subjects he was to teach. He founded a progressive school and wrote much on education issues. The texts written during this period were summarized in his book *School and Society* (1899), considered the most influential of his writings. He continued writing about education throughout his life, almost as much as in the field of philosophy.² *Democracy and Education* is the first great work of philosophy and pedagogy that comes from America and imposes itself on the cultural markets in Europe and Asia, claiming the right to shape the course of history by the force and flow of ideas. It is the work by means of which America starts speaking to the world about the path to be followed and, not coincidentally, when it comes to holding the primacy of truth, Dewey

¹ *The History of Western Philosophy*, the Bertrand Russell Peace Foundation Ltd., 2009, p. 646, on <https://books.google.ro>

² His main works are: *My Pedagogic Creed* (1897), *The School and Society* (1899), *The Child and the Curriculum* (1902), *Democracy and Education* (1916), *Art as Experience* (1934), *Experience and Education* (1938), *Freedom and Culture* (1939).

clashed, more than once, with the other cultural pole, which at that time was the German philosophy³.

Democracy and Education is a pivotal work in pedagogy. Before J. Dewey pedagogy was more or less a kind of chapter of applied philosophy, as it was with Locke, Kant, Hegel, Herbart, to highlight just a few of his most famous predecessors. The American philosopher delimited himself, for the first time, from this tradition and conceived a philosophy of education as such, that is a philosophy that starts from the analysis, understanding and explanation of the phenomenon of real education and not from lofty philosophical or metaphysical speculations on man and human existence. It was claimed that "*the birth certificate of education of philosophy appears with Dewey.*"⁴ The philosophy stated in this book links the growth of democracy with the development of the experimental method of science, with the evolutionary ideas of biological sciences and with the industrial reorganization and its main interest is to indicate changes in education in terms of teaching method and subject matter triggered by these developments⁵

Thus, the democratic society and scientific education are the main elements of *An Introduction to the Philosophy of Education*, also called by J. Dewey *Democracy and Education*. Through this approach, Dewey makes a significant cultural shift, considering education as the major agent of the democratic society and establishing an organic and biunivocal relationship between education and democracy. Thus, the Enlightenment ideas about the importance of education on human emancipation through education become, with Dewey, an articulated theory and a political program through which the American industrial democracy makes its entrance in history.

An outstanding representative of the American pragmatism, considered a "philosopher of life", Dewey argues that any idea or theory has a prospective nature, is directed towards the future, as an instrument of transformation and adjustment to living experience. The ideas are true to the extent in which they are used and help transform the actual reality. Knowledge is a more refined and complex form of adaptation and choice of the means and goals that provide utility and individual benefit. In the American philosopher's opinion, ideas are not real in themselves, they

³ N. Sacaliş-Calata, *Return of the Gods - Power, Democracy and Education*, Iaşi, The European Institute, 2011, p. 244.

⁴ Ibidem, 245.

⁵ Ibidem, 245.

become real through actual actions, when submitted to the practice test. Science and values do not exist as such, they are being made in the course of action. Ideas, just like philosophy, are mere tools for action. Efficiency is the measure and criterion of truth. *Experience is the core concept of his philosophy* and it may take two aspects: a primary experience, made up of our representations resulted from the direct contact with things, and a second experience, a reflective one, by means of which reality gains meaning and is brought into a comprehensible, logical universe. Influenced by Darwin's theory of evolution, he does not admit any experience outside nature, as something supernatural. By definition, anything that is experienced cannot be non-natural. Both organic and spiritual life are phenomena that belong to the natural order. Experience comes from nature and occurs in the nature. Things that interact in various ways are experiences. Interaction and continuity are two central tenets experience rests on.

Dewey's evolutionary immanentism implies accepting change as the unique and ultimate reality. Novelty is one of the links in the development chain and it is important and valuable not by what it is preceded it, but by its mere existence. The new viewpoint is focused on the present and implies its valorization, abolishing the right of the past to impose its own models, denying the right of imagination to turn the future into the controller of the present, ongoing life. The pragmatism adopted by this thinker should not be identified with utilitarianism, which Dewey himself widely criticized. As far as utilitarianism is concerned, Dewey views it as a theory which is wrong not only in conceiving virtue, but also art, poetry, religion and state as subservient means for accomplishing sensual pleasures, and when he considers man's creative impulse a simple search for earnings.

The pedagogical concept is based on the psychology of interest and effort. The real interest springs from the child's inner self. When the self is expressed directly there is no separation between the means and ends of the activity. The effort is designed as a pressure of the impulse to adjust the means to the ends. Desire is that pressure of the impulse felt as the energetic potential, as a means to reach the aim. J. Dewey rejected what we call the *theory of passive learning*, in which the student is a mere "spectator" in favour of *active learning*. He believed that children's imagination should be developed and that they can learn more by *interacting with practice*.

J. Dewey's instrumentalist pragmatism makes use of the psychology of thought and delimitates itself from rationalism through a *sui generis*

anti-rationalism, along with an empiricism that breaks the thresholds of gnoseology and flows into ethics. He wrote that the functions of thinking and intelligence do not consist in the strict reproduction of what exists in the environment, but rather in finding the path through which the most profitable and effective relationships can be established with them in future.⁶

The Pedagogical Philosophy

Dewey strongly criticized the traditional concept of education, because it consists of a set of information and exercises developed in the past and the main goal pursued in school is to impart knowledge to new generations. Dewey proposes a form of education that support the student's need for freedom of expression in a form of education which is organically linked to experience, to life. The essence of education, Dewey argues, lies precisely in this idea that there is an intimate and necessary connection between experience and education.

Education is a development of the current experience based on past experience. Experience is a continuous transaction; more specifically, the human experience is a reconstructive transaction. The difference between the civilized and the primitive state of mankind is based on the extent to which previous experiences have changed the objective conditions. Therefore, the central problem of education lies in selecting the type of experiences that will enhance the future experiences. Education means a permanent reorganization or reconstruction of experience which adds to the previous experience, causing an increase in the ability to assimilate and confer meaning to the subsequent experiences. An experience must be continuous in order to acquire educational value. Education is the main means for maintaining the continuity of social life. Education is as significant for social life as nutrition and communication are to physiological life. Education means conveying the experience by means of communication. "Communication involves an expansion of experience – writes Dewey.⁷ Neither the receiver nor the communicator will remain unaffected". Communication is a shared experience, until it becomes a common good.

⁶ J. Dewey, *The Development of American Pragmatism*, in vol. *Philosophy and Civilisation*, Minton, Balch and Co., New York-London, 1931, p.15.

⁷ *Ibidem*.

Dewey's pedagogical "creed" attaches great importance to the individual's existential concreteness. Education⁸ – he says – is achieved through the active participation of the individual in the social consciousness of mankind; the true education results from stimulating the child's capacity by the demands of the social environment; it is the regulation of the process of participation in social consciousness; education is a process of living, not a mere preparation for life. School, as a favorable environment for increasing experience, has three priority functions:

- simplifying and organizing the elements of disposition that needs to be developed;
- purifying and idealizing the existing social customs;
- creating a broader and better balanced environment than the one which could be influenced by young people, if they were left free.

The curriculum must be separated from insignificant experiences or knowledge that is not useful for enhancing the experience. Our educator demonstrates that the foundation and purpose of education consist of active occupations related to concrete experiences.

It is meritorious the American teacher's idea considering that the child's maturity is no longer a handicap, a lack, but it guarantees the "growth power". The role of potential growth that can be updated is thus highlighted. Childhood is very promising, while maturity is not. Childhood leads to many directions, while maturity assumes having already made a choice.

Childhood is no longer understood as mere immaturity and is no longer opposed to adult life, it is regarded as such by emphasizing an unequivocal amount: the possibility of evolution. Education is understood in a dynamic perspective; it is not only training, disclosure, skills developing process, but it becomes self-reproductive, leading to an autotelic development, increasing as new experiences are integrated and assimilated by the individual. Immaturity has two qualities: dependence and plasticity. Compared with the offsprings of animals, children need more time to integrate into adult life. Gaining their autonomy is more difficult, but it remains uncompleted, open to improvement. Children can

⁸ J. Dewey, *The Child and the Curriculum*, The Didactic and Pedagogical Publishing House, Bucharest, 1973.

even reach the performance to learn the learning process. The hypothesis of education as a growth process is based on the idea that it has no purpose outside the educational process and that is a continuous process of reorganization, reconstruction and transformation. The growth power is expressed by the quality of the human subject to accede to further education. An educated man is the one who has the power to move forward, to purchase other experiences by virtue of his previous ones. The educated subject should be a "profiteer", he should exploit the embedded experiences in order to gain new ones. The criterion for valuing education depends on the extent to which education creates desires for spiritual evolution. The current experience is important insofar as it prepares individuals for their subsequent experiences⁹.

An undisputed exponent of the philosophy of education, Dewey links indestructibly theory with practice in the philosophy of education. The American educator launches the hypothesis that thinking means activity in a first stage, that of premeditation, foresight and intentionality of a real fact. Thinking is the first step on the way to action. Philosophy is not an empty theory, without connection to action, but it is the general theory of education. For Dewey, knowledge, reflection and action reach a concentration and unity that is rarely seen in the history of pedagogy: the three aspects are embodied in education. *Pedagogy is applied philosophy*. Through education, not only understanding will be envisaged, but also the ability to handle things. The qualities of things are noticed and acquire meaning only through activity. The child must handle objects in order to use them effectively. Thinking itself becomes perfect following *experience*; it is not a prerequisite of action, but it is structured in the developing action. The student learns something by acting, working, what is called "learning by doing"¹⁰.

In Dewey's conception, a prerequisite of acquiring knowledge is the participation of thought. It appears in unsafe, questionable, problematic situations, as an effort to get out of an existing or possible mess. Hence the teacher has set its distinctive note of the method, known as the "**problem method**", that is considering it as part of the research method. Its elements are, indeed, stages of the research process.

1. The first stage of the problem method is to create an empirical situation, a situation similar to that from home or specific to the

⁹ *Ibidem*.

¹⁰ *Ibidem*.

community to which the child belongs. At first, everything seems familiar to him. Apparently, what has he done falls within the limits of his previous experience.

2. When he starts working, he encounters obstacles, a problem which stimulates thinking appears.

3. It appeals to the data provided by past experience, to information obtained in various ways.

4. On this basis, the student formulates hypotheses for solving the problem; he imagines the possible consequences.

5. He chooses the hypothesis considered to be the best and it is checked. If the hypothesis is confirmed, it means that it becomes an effective tool for future action. This verified hypothesis is precisely the consciousness.

By means of the "*problem method*" John Dewey wants to create in school the conditions that can foster learning as *discovery* and not as *accumulation* of what is conveyed by others.

In his view, the student's activity is not performed at the end of the lesson - as for Herbart - after acquiring the knowledge, with a view to repeating and fixing it. The practical activity is present from the beginning and the knowledge is obtained precisely through it.

Different from other representatives of the new education concept, he does not consider that this activity is required by the child's psychological nature either. In Dewey's educational system, it is imposed by epistemological needs.

The "problem method" provides a satisfactory solution to the dispute between two concepts: training through effort and training through interest.

The learning theory based on effort considers that positive results in terms of moral formation will be acquired only by the power of the will; the education based on interest, on pleasure is unable to develop the will, to form characters.

The learning theory based on pleasure appreciates that the activity performed by the student without interest becomes a burden that he seeks to avoid, heading toward what interests him.

From the point of view of the American educator, both the theories that consider pleasure an engine and those resorting to artificial effort reach the same result. "The effort theory always addresses pleasure or pain as urges to action. And the theory of pleasure, devoid of an intrinsic goal,

which should catch the spiritual energies and lead them, must constantly resort to external elements to excite the weakened energies"¹¹.

In Dewey's conception, there is no opposition between interest and effort, on the contrary, the effort is a product of the interest and the interests are signs of some power that tend to develop.

Dewey distinguishes several types of values in education: intrinsic and extrinsic values. He denies the existence of some ultimate values and believes that all values are relative to humans.¹²

Dewey's pedagogy has opened new topics for discussion: education curriculum, educational management, school architecture and teaching material, ethics and school deontology. Dewey is the founder of the progressive education, the trend that made history in the United States. The progressive education is based on the following principles according to which school allows the individual to:

- 1) express themselves individually;
- 2) act freely;
- 3) learn through experience;
- 4) make use of a detachment to reach the set goals;
- 5) extract the side of life that adequately explains reality;
- 6) take into account the fact that the world is changing.

As far as the purpose of education is concerned, Dewey proves to be particularly ingenious. He disagrees to the classical design of the educational purpose, as he considers it would lead to stagnation, to stopping the development process (student must reach ... must do... must think ...). Likewise, the goal requires certain unpredictability (especially in a dynamic society such as the US society) and it can only be expressed as a continuous enhancement of the adjusting capacity and experience reconstruction. From this perspective, the formulation of the purpose would entail imposing it by force, from the outside, which is not within the spirit of education; the assumption of an extrinsic purpose contradicts the demands of a free development of the being and of the democratic development of society. Education is efficient at the social level when it does not compel the intimate nature of the child, of the individual. Therefore, one cannot conceive the education purpose beyond itself. The purpose of education is ... infinite education!

¹¹ *Ibidem.*

¹² www.unibuc.ro/2007...%20Orientari%20in%20teoria%20E...

Dewey returns in 1938 with a last major piece of writing on education, suggestively entitled *Experience and Education*¹³. Dewey returns in 1938 with a last major piece of writing on education, suggestively entitled *Experience and Education*. It is a kind of response to the progressive movement, from which Dewey masterfully delimits himself with pedagogical skill and it is a kind of educational testament. Let us not forget that Dewey was 79 when he wrote this book. But the American philosopher warns again that the *road of the new education* is not an easier one to follow than the old road, and the danger lurking within the new education is the belief that it can be easily accomplished or even improvised. On this occasion, Dewey makes a radical statement saying that "there is no discipline in the world so severe as the discipline of experience subjected to the tests of intelligent development and direction". We have here, in summary, the whole problem of the book. His testament is to be found at the end of the book: "I do not wish to close, however, without recording my firm belief that the fundamental issue is not new versus the old education nor of progressive against traditional education but a question of what anything whatever must be to be worthy of the name of *education*".¹⁴

Conclusions

John Dewey contributed to opening education towards the concreteness of things and processes, developing a theory on education connected to the demands of a modern and democratic world. Supporter of students' activism, he experienced an education focused on the youngsters' needs and interests. In his view, education is a process of reconstruction and reorganization of past experience in order to gain some new experience. True education ensures power of growth, of acceding to new spiritual experiences. The process of education coincide with its purpose: to improve the human being based on actional autonomy. Without absolutizing J. Dewey's educational philosophy, we believe that the American philosophical ideas can be valued today in any educational system in the world because the instrumentalist paradigm that J. Dewey proposed in education is consistent with the profile of the today's youngsters who are extremely intelligent, dynamic and pragmatic, with

¹³ Jh. Dewey, *Experience and Education*, Collier Books, New York Collier-Mamilian, Londra, 1938, pp.5.

¹⁴ Ibidem, p.90-91.

expectancies of a genuinely free education meant to develop infinitely their intelligence and personality. J. Dewey's timelessness is a reality confirmed by experts in the field, because "the emphasis laid on measurable skills and standardized testing have switched to another plan Dewey's philosophical concepts, considering democracy as a fundamental way of life in today's society"¹⁵.

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¹⁵ P. Klohr, *Dewey Today*, Paideia Publishing House, Bucharest, no. 4/2002.

ATYPICAL LEARNERS AND EXTRAORDINARY CIRCUMSTANCES IN LANGUAGE ACQUISITION

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Abstract: *Detractors of nativism, inspired by methodological rigour of scientific hypothesising, have often been complaining about the untestability of innateness claims in linguistics. However, the purpose of this short paper is to argue that the following cases not only should provide sufficient ground to assuage their methodological sensibilities but also furnish further empirical support for the stance: (1) deaf isolates that have not been exposed to any language; (2) language learning past the critical period where the child has either been a victim of abuse or suffered from hearing impairment; (3) individuals suffering from some kind of hereditary language disorder; and, (4) savants exhibiting extraordinary linguistic ability despite mental handicap.*

Keywords: *Atypical Learners, Critical Period, Deaf Isolates, Hereditary Language Disorders, Language Acquisition, Linguistic Innateness, Non-Nativism, Poverty of the Stimulus Argument, Savants.*

One of the criticisms that has been advanced against nativist claims in general and linguistic innateness in particular has been that they are in some sense “untestable” – the obvious implication being that claims not susceptible to testing are methodologically unscientific and thus disreputable. (Popper, 1959) Nelson Goodman, for example, suggests that if one wanted to test Noam Chomsky’s hypothesis about the innateness of language, one should construct “unnatural” languages, languages which lack the properties Chomsky claims to be universal, and try to teach them to children. (Goodman, 1971) If they failed, then Chomsky would be supported, but otherwise not. He then remarks that of course one cannot do this – presumably for ethical reasons – implying that this somehow casts doubt on Chomsky’s hypothesis.

But, interestingly enough, it turns out that Goodman seems to have underestimated the possibility of testing nativism’s hypothesis in this

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way. As it turns out, the course of human history as well as nature have just run this sort of experiment, and the results are quite intriguing. It is, therefore, against this scientific methodological background that the purpose of this brief paper is to focus on *atypical* learners and *extraordinary* circumstances *vis-à-vis* language as further independent support for linguistic nativism. The following cases are considered to be typical of this kind of corroboration:

- (1) *deaf isolates* that have not been exposed to any language (Goldin-Meadow & Mylander, 1990; Klima & Bellugi, 1979);
- (2) language learning *past the critical period* where the child has either been a victim of abuse or suffered from hearing impairment (Curtiss, 1977 & 1988);
- (3) individuals suffering from some kind of *hereditary language disorder* (Gopnik, 1990 a & b); and,
- (4) *savants* exhibiting *extraordinary linguistic ability despite mental handicap* (Bellugi *et al.*, 1992; Smith & Tsimpli, 1995).

Deaf Isolates

“Deaf isolates” are deaf children born to hearing parents who are not exposed to any natural sign language for one reason or another. This is typically because the parents, who may speak English for example, think the children should try to integrate with the speaking community by learning, for instance, to lip-read. As the parents often than not do not speak a real sign language, like British Sign Language or American Sign Language, and the children cannot hear parents’ natural language, they end up not being exposed to any real natural language at all.¹ In some cases, these children have virtually no parental input. Typically, the only language they are exposed to in such cases is the parents’ primitive sign system made up of a number of crude pantomime-like gestures that the parents have invented. These rudimentary sign systems are mostly unsystematic, and quite unlike natural languages. In effect, they are exactly the sorts of system Goodman describes and suggests that one could not teach to children for moral reasons.

Putting the ethical issues to one side, the question is what actually transpires in those situations. Do the children learn the unnatural

¹ What is important to note here is that sign languages like the British or the American variety are fully-fledged languages with rich syntax, morphology, and even an analogue of phonology. (Jackendoff, 1993; Klima & Bellugi, 1979)

language? Remarkably, they do not – they invent their own language instead! Even more remarkably, perhaps, the language they invent has many features common to standard natural languages, and amazingly the linguistic development pattern of these children is much the same as normal children. This is despite the fact that they effectively have *no model at all*, and therefore *no training* in the use of this language, since they are virtually making it up from scratch! Again, it should be borne in mind that in such cases one is talking about one to three year old children.

Naturally, it is not possible to present the full range of evidence for these claims in this short space. Nonetheless, it will be perhaps useful to note some of the language-like features which the children's language took on that went beyond the parental input. Pointing gestures were used to indicate not just objects in the immediate environment, but also objects located in imaginary space, not present in the immediate environment. An inflectional system for verbs was used whereby the action sign was displaced towards the position of the sign for the object in motion. The latter is, indeed, a common device in standard sign languages. (Goldin-Meadow & Mylander, 1990) What in fact renders this situation extraordinarily interesting is that the parents' sign system never develops to the same degree as the children's, and when the parents' system does develop to some degree, it is in *response* to the spontaneous changes in the children's language not the other way round! It is also worth noting that the children's "vocabulary" overlaps with their mothers' symbols in only an estimated 33%. (Jackendoff, 1993)

Conceptual-cum-Methodological Digression

Before proceeding to present the other three atypical cases in support of linguistic nativism, a contrast should be made between them and the case of deaf isolates. The argument based on the latter seems to be a strengthened version of the poverty of the stimulus argument. For, the data from deaf isolates are not from any natural language at all, and the language learned is not the one that is encountered. This means that there is very clear sense in which the data alone do not suffice to determine the language. In contradistinction, the following three atypical cases attempt to exploit a different variable in the language acquisition situation, namely the learner.

The underlying thought here could be fleshed out thus: one would expect that the crucial property of a language learner from a non-nativist perspective be the learner's general intellectual abilities, since language

learning is just another application of a general purpose intellectual ability for non-nativists. This implies that as the data involved in language acquisition appear to be rather complex, the task of language acquisition should be an intellectually demanding one. Accordingly, if non-nativists were correct, one should expect the ability to acquire a language to correlate strongly with general intellectual abilities. Now the way to test this claim is to see if linguistic ability and general intelligence are dissociable: that is, to see if there are cases of normally intelligent individuals that are unable to speak a natural language and cases of individuals who can speak a language despite severe intellectual handicap. The following cases are intended to vindicate these two possibilities for the cause of nativism.

Language Learning Past the Critical Period

Perhaps the most famous case of this sort is a woman named “Genie” who was the victim of severe abuse and neglect as a child. Until the age of thirteen, she grew up in isolation and was almost never spoken to.² Needless to say, when she was discovered, she had very little cognitive or linguistic abilities, and emotionally she was severely damaged. It turned out that although she was able to recover significantly, she was never able to acquire anything like normal linguistic abilities. Susan Curtiss, who was one of the main researchers to study Genie’s development, describes her as a ‘powerfully effective non-linguistic communicator’, but notes that her knowledge of the basic rules of English did not develop beyond that of a two year old in the eight years in which she was studied. (Curtiss, 1988, 98) These are some of the illustrative examples of Genie’s speech:

Applesauce buy store;
Man motorcycle have;
Genie bad cold live father house.

However, it should be admitted that because of the severe abuse Genie suffered as a child it is rather difficult to extrapolate from her case. The deficits might be explainable in other ways. For this reason, the case of another woman, named “Chelsea”, is perhaps a better example. Chelsea is a severely hearing impaired person who was misdiagnosed as being mentally retarded as a child. Since people attributed her inability to learn

² Genie was apparently strapped to a potty chair and kept in a small room. Her father beat her if she made any noise, and she was not spoken to.

a language as being due to her alleged mental retardation rather than her inability to hear the language, no effort was made to expose her to a sign language. When it was discovered that she had a severe hearing impairment – unbelievably, in her thirties – she was fitted with hearing aids, and an attempt was made to teach her language. Like Genie, she has not been able to acquire normal linguistic abilities, despite being otherwise of normal intelligence.

Here are some examples of Chelsea’s speech:

The small a the hat;

Breakfast eating girl;

They are is car in the Tim. (Curtiss, 1988, 99).

Interestingly, unlike Genie, Chelsea makes free use of determiners, prepositions and such linguistic devices. But her use of language is often so ungrammatical that it is effectively unintelligible.

The standard nativist account of cases like these involves the idea of a so-called “critical period” for acquisition. Many innately determined capacities or features follow a fairly strict timetable for development. The idea behind critical period is that development outside of this time frame is not possible. A good example of a critical period is the critical period for development of the capacity to perceive lines of a particular orientation. For example, by raising kittens in an environment where they were deprived of stimuli from lines of a particular orientation, researchers have been able to show that if they were not exposed to such stimuli within a certain period they would not develop any sensitivity towards them. (Hubel, 1988; Hubel & Wiesel, 1960, 1962 & 1963)

Correspondingly, a similar claim is being made about the human language acquisition system. If it is not activated before the ending of a certain critical period, normal linguistic abilities will not develop. The idea was very much fashioned into the biological-*cum*-theoretical discussions of language through the work of Eric Heinz Lenneberg. (Lenneberg, 1967) Following him, the notion that first language acquisition can only be normal if it occurs during a critical period, which is surmised to be from age two until the onset of puberty, has almost become an orthodoxy.³

³ Lenneberg cites four aspects of brain development related to this hypothesis: (1) pronounced morphological development with growth coming to a halt at the end of the period; (2) steady and orderly histological development – in particular, of dendritic arborescences – during the period; (3) high levels of cholesterol and cerebroside related to myelination; and (4) changes in brain electrophysiology. (Lenneberg, 1967, 158ff.)

(Hurford, 1991) Often, this psycholinguistic notion of critical period is assumed to be, not one of learning in general, but a specific feature of language acquisition for which it is claimed that there is a great deal of neuroscientific evidence. (Mueller, 1996)

What is significant in this context is that this sort of explanation is not naturally available to non-nativists. According to non-nativism, language is acquired by our general intellectual capacity. The capacity is obviously still functioning in people like Genie and Chelsea, who are clearly capable of learning new stuff generally, and exercise their all-purpose intellectual abilities. Yet, they are peculiarly unable to learn *language*, and it is this particular inability that seems to impale a non-nativist approach.

Hereditary Language Disorder

A rather different sort of case involves what is apparently a hereditary language disorder.⁴ The affected members of the family seem to have a very particular deficit, which is both particular to language, and quite localised. But the deficit has been observed to exhibit the classic distribution pattern of a trait governed by a dominant gene over a period of three generations in this particular family.⁵

One of the peculiar features of the deficit is that the affected family members are unable to generalise plurals in the standard way. Where normal English speakers have no trouble at all working out the plurals for new words like “wug”, “sas” and “zat”, the affected family members were oddly unable to figure them out. They suggested such plural endings as, for “wug”, “wugness”, for “sas”, “sasses”, for “zat”, “zackle”, and others equally bizarre.

A classic example is the *wug*-test ... The testee is shown a line drawing of a birdlike creature and told that it is a *wug*. Then a picture of two of them is shown, and the child is told, “Now there are two of them; there are two ---.” Young typical four-year-old will blurt out *wugs*, but the language-impaired adult is stymied. One of the adults Gopnik studied laughed nervously and said, “Oh, dear, well carry on.” When pressed, she responded, “Wug ... wugness, isn’t it? No. I see. You want to pair ... pair it

⁴ Particularly dramatic data come from one British family studied by Gopnik and her colleagues.

⁵ Thus, if neither parent has the deficit, then none of their children do, and if a parent has it, there is a 50% chance of each child having it too.

up. OK." For the next animal, *zat*, she said, "Za ... ka ... za ... zackle." For the next, *sas*, she deduced that it must be "sasses." Flushed with success, she proceeded to generalize too literally, converting *zoop* to "zoop-es" and *tob* to "tob-ye-ses," revealing that she had not really grasped the English rule. Apparently the defective gene in this family somehow affects the development of the rules that normal children use unconsciously. The adults do their best to compensate by consciously reasoning the rules out, with predictably clumsy results. (Pinker, 1994, 49-50)

Now, how might a nativist explain such a deficit? It should be remembered that nativists think there is a special purpose cognitive mechanism devoted to language processing which embodies certain information about language. Thus, nativists have the resources to suppose that some particular aspect of this mechanism is malfunctioning, or that some particular bit of information which is normally innately encoded is missing. And, they can suppose that this malfunction or missing information explains the affected family members' deficits. Non-nativists, on the other hand, are somewhat at a loss to explain these deficits. Why should a general-purpose problem solver have any particular problems determining the plurals of new words or detecting errors in verb inflections? Given the apparent genetic tie, it seems there is a particularly strong argument for the innateness of at least *some* very particular linguistic information.

Linguistic Ability despite Mental Handicap

A number of individuals with severe mental handicaps and relatively normal linguistic abilities have now been documented. The following passage is taken from a transcript of a woman named "Crystal" who has Williams syndrome.⁶

This is a story about chocolates. Once upon a time, in Chocolate World there used to be Chocolate Princess. She was such a yummy princess. She was on her chocolate throne and then some chocolate man

⁶ The syndrome is a rare form of retardation. It seems to be associated with a defective gene on chromosome 7 involved in the regulation of calcium, and it acts in complex ways on the brain, skull, and internal organs during development, though there is no definite understanding of why it has the effects it does. The children have an unusual appearance: they are short and slight, with narrow faces and broad foreheads, flat nasal bridges, sharp chins, star-shaped patterns in their irises, and full lips.

came to see her. And the man bowed to her and he said these words to her. The man said to her, "Please, Princess Chocolate. I want you to see how I do my work. And it is hot outside in Chocolate World, and you might melt to the ground like melted butter. And if the sun changes to a different colour, then the Chocolate World – and you – won't melt. You can be saved if the sun changes to a different colour. And if it does not change to a different colour, you and Chocolate World are doomed. (Pinker, 1994, 53)

Clearly this person has intact linguistic abilities. But, according to Pinker, Crystal and other people suffering from this particular syndrome have an IQ of about fifty and are not able to do such simple things as find their way home, add, or retrieve things from a cupboard. (Pinker, 1994, 52) Again, this is perfectly explicable in terms of nativism, since for the nativist the ability to acquire a language is distinct from general intellectual abilities. In contrast, it is hard to see how the non-nativist can hold that someone who, even as an adult, cannot add or retrieve things from a cupboard, could have mastered the complexities of language with nothing but their general intellectual abilities to guide them.

Finally, there is the case of a savant named "Christopher" which basically makes the same point, though somewhat more dramatically. According to Smith and his co-researcher who have studied Christopher's abilities, he has a non-verbal IQ between sixty and seventy and finds ordinary tasks like 'doing up a button, cutting his fingernails or vacuuming the carpet' to be 'tasks of major difficulty'. (Smith & Tsimpli, 1991, 317) In spite of this, Christopher's knowledge of English is 'entirely comparable to that of normal native speakers'. (Smith & Tsimpli, 1995, 44) What is, however, amazing is that 'given a passage written in any of some 15 to 16 languages – Christopher simply translates it into English at about the speed one would normally read aloud a piece written in English'. (Smith & Tsimpli, 1991, 317)

Although Christopher's competence is rather varied in the different languages, his overall abilities are impressive on any scale. Here are two examples of his translations – the passages were given to Christopher in their original script and each of his translations in quotation marks is preceded by a professional translation:

German

Wolfgang und seine Schwester machen einen Ausflug mit dem Zug. Sie wohnen in einen Dorf. Heute fahren sie in die Stadt. Sie gehen in ein Warenhaus. Wolfgang kauft ein Radio, Sigrid braucht eine Lampe für ihren Schreibtisch.

Wolfgang and his sister are going on an excursion by train. They live in a village. Today they are going to the city. They go into a shop. Wolfgang buys a radio, Sigrid needs a lamp for her desk.

‘Wolfgang and his sister are on a ... with the train. They live in a village. Today they go and visit a city. They go in a shop. Wolfgang buys a radio. Sigrid buys a lamp for her writing-table.’

Greek

Otan perase t'amaksi, epsakse ja tis pantufles tis, ala ena paljopedho ihe pari ti mja ki efevje jelontas.

When the car passed, she looked for her slippers, but a naughty child has taken one and was leaving laughing.

‘When she passed the car ... when the car passed, she was looking for her slippers but an old child had taken one away and left ... and was laughing.’ (Smith & Tsimpli, 1995, 13-14)

Smith and Tsimpli also provide examples of Christopher’s translations of passages from Danish, Dutch, Finish, French, Hindi, Italian, Norwegian, Polish, Portuguese, Russian, Spanish, Swedish, Turkish and Welsh. (Smith & Tsimpli, 1991, 318-22) If non-nativists had trouble with Crystal, Christopher is definitely a bigger trouble!

Later, Smith and his colleagues ran another set of experiments involving Christopher and a control group that highlights other aspects of the innateness of language in unison with biological cases of innateness. (Smith *et al.*, 1993) In this round of tests, Christopher and the control group were taught Berber and an invented system designed to violate principles of language. As expected, Christopher learned Berber easily but, lacking other cognitive capacities, could do little with the invented system. The control group made some progress on the invented system, apparently treating it as puzzle. Yet, there were some extremely simple

rules they did not discover: for example, the rule that placed an emphatic marker on the third word of a sentence. Commenting on the result of the experiments, Chomsky concludes:

The language faculty is both very rich and very impoverished, as any biological system is expected to be: capable of a high-level of achievement in specific domains, and correspondingly unable to deal with problems that lie outside them. (Chomsky, 2000, 121)

In summary, the general argument that can be adduced against non-nativism, on the basis of the various cases surveyed in this paper, would look something like the following. For non-nativists, the ability to acquire a language should correlate strongly with general intellectual abilities, since, according to them, this ability is simply one more manifestation of our general intellectual abilities. The failure to correlate suggests that language acquisition is not a matter of general intellectual abilities, but rather involves some special purpose cognitive mechanism. Hence, it would be natural to assume that this mechanism, its structure, and the basic principles it appeals to are innate, since if it could be acquired on the basis of general intellectual abilities, the various cases of normally intelligent individuals without language described above would have acquired it. On the other hand, the various cases where language is acquired in spite of severe intellectual handicap add further weight to the poverty of the stimulus argument. Together, the pair of dissociations, *i.e.* intact language with impaired general intelligence and impaired language with intact general intelligence, strongly suggests that language acquisition is not conducted by some general-purpose processor, but rather is the result of the operation of an innate special purpose language acquisition mechanism.

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TRANSPARENCY OF THE MANAGEMENT OF HIGHER EDUCATION INSTITUTIONS IN THE NETHERLANDS

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Abstract: *Transparency tools are aimed to contribute to building trust in the field of higher education. Transition from strong state regulation to regulation on distance, the strengthening of the institutional autonomy, increase of the level of room of manoeuvre of the management of the higher education institutions, diversification of the sources of funding and increased level of competition for resources requires corresponding mechanisms of accountability and transparency of higher education institutions. The Netherlands was picked as a country with the most entrepreneurial university governance model and the most market-based type of higher education public policy of the countries situated in the Continental Europe. Besides, the Netherlands has centrally organized higher education with a long academic tradition and autonomous well-established universities. Thus the aim of the article is to explore such mechanisms of transparency of higher education institutions as annual report, strategic plan and performance agreements. The higher education institutions should be aware that transparency tools can help in making informed decision to prospective students and representatives from business and our research shows that Dutch higher education institutions use transparency in beneficial way.*

Keywords: *transparency, higher education institution, annual report, strategic plan, performance agreement, the Netherlands.*

Introduction

Transition from strong state regulation to regulation on distance, the strengthening of the institutional autonomy and increase of the level of room of manoeuvre of the management of the higher education institutions, diversification of the sources of funding and increased level of competition for resources requires corresponding mechanisms of accountability and transparency of the higher education institutions. The

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Netherlands was picked as a country with the most entrepreneurial university governance model and the most market-based type of higher education public policy of the countries situated in the Continental Europe. Besides, the Netherlands has centrally organized higher education with a long academic tradition and autonomous well-established universities (Antonowicz and Jongbloed 2015; de Boer et al, 2007).

Transparency tools are aimed to contribute to building trust in the field of higher education. They are meant to inform decisions (Vercruysse and Proteasa 2012). Transparency in the context of higher education relates to the need to provide information on higher education's efforts and performance in their various fields of activity, e.g. education, research and knowledge transfer. It is also related to the concept of quality assurance because creating transparency entails providing the information which higher education institutions' stakeholders need in order to form judgements and take decisions. Such decisions can range from students choosing between specific educational programs to public or private agencies awarding research contracts and government deciding on accountability issues related to funding. Therefore, transparency instruments are information tools designed to communicate information on higher education institutions' efforts and performance to external stakeholders (Westerheijden, 2010). Transparency is a condition under which producers and consumers possess 'perfect information' about products or services. "This perfect information includes information on price as well as information about relevant characteristics of the product or service such as quality. Better information is important not only for consumer protection purposes, but also for producer effectiveness. Information on the quality of a product provides an incentive for producer effectiveness. Information on the quality of the product provides an incentive for producers to invest in quality improvements. And thereby better compete in the market" (Dill and Soo 2004, 61). If the higher education institutions which are providers of the education services have knowledge about their educational services that is unknown or unavailable to consumers (prospective students and their parents) it leads to the asymmetry of knowledge which creates uncertainty. In the instance of higher education, this uncertainty can be understood in several ways. Dill and Soo (2004) state that information asymmetry in higher education 'can be understood as a 'consumer protection' problem'. Universities may produce or publish information about themselves and their academic programmes that is misleading or not in the interests of prospective

students and/or the public. Lacking valid knowledge about the relative quality of educational programmes, students may be forced to spend additional time and money searching for relevant academic quality information'. In such a case lack of transparency and information asymmetry leads to inefficiency of higher education institutions. Functioning of higher education institutions in conditions of scarcity of public resources and diversification of the sources of funding, including third party funding requires from the higher education institutions also financial transparency, e.g. information about sources of funding and allocation of funds (Angluin and Scapens 2000).

The aim of the article is to explore such mechanisms of transparency of the Dutch higher education institutions as annual report, strategic plan and performance agreement. Strategic plan is a management instrument which helps to define goals and achievements of the organization (Tenorth et al. 2007). A strategic plan contains not only future goals, but also the necessary resources, timeline and responsibilities for the implementation of the specific steps that lead to the achievement of the strategic goals and parameters with which the performance and its success or failure can be measured (Nickel 2011, 18). Most of the strategic plans describe three hierarchical level goals which must be achieved. On the highest level there is an area of normative management which concerns the statements about long-term social benefits which university promotes (Vision, Mission) and values. In area of strategic management the middle level describes the middle and long-term strategies and goals the achievement of which provides the fulfillment of normative goals. The lowest level is operational management which includes the concrete measures (projects) which must be implemented during the five- or ten-year period which is stated in strategic plan to implement the strategy. A strategic plan must include performance and output goals. On the level of operational management must be created the product. There are different performance areas beside the hierarchy of the levels of the goals (Zechlin 2007).

Performance agreement is a contract between higher education institution and educational ministry about funding which is allocated on the basis of the performance of higher education institution. Performance-based funding is a system based on allocating a portion of a state's higher education budget according to specific performance measures such as course completion, credit attainment and degree completion, instead of allocating funding based entirely on enrollment (Miao, 2012)

In the Netherlands performance-based budgeting has been in place since the early 1990s. Performance contracts were introduced recently. Whilst contracting allows for more differentiation between institutions/departments and gives budget holders more freedom to choose their strategy within (national/institutional) budget guidelines, it also has disadvantages. Contracts may have high transaction costs and a tendency to turn into yet another accountability instrument (Jongbloed, 2011, 183)

Transparency of the higher education institutions in the Netherlands

The Netherlands have a binary system of higher education, which means that there are two types of providers: universities traditionally deliver research-oriented education, while professional higher education is offered by universities of applied sciences or institutions for higher vocational education.

The Netherlands count thirteen research-universities and forty universities of applied sciences, which together educate well over 600 000 students, to the ratio of one-third for research universities and two-thirds for universities of applied sciences. Together they constitute the higher education institutions.

Funding modalities for universities in the Netherlands are characterized by an increasing diversity of funding sources, which requires more control on the expenses and therefore demands much accountability and transparency from university administration to the government organization. At the same time, universities must be accountable to funders and society at large by demonstrating quality and showing how they used funding (both public and private). In this regard, full costing is one of the key pillars of accountability because it is an instrument which also shows funders how their funding has been spent.

The Dutch higher education institutions are largely public funded. This can be illustrated by the following public income streams:

- first income stream: substantial (direct) government contribution, which makes up 60% of all HEI money;
- second income stream: government money which is distributed by some (public) science organizations such as the Netherlands Organization for Scientific Research NOW and Royal Netherlands Academy of Arts and Sciences KNAW for projects on the basis of competition;

- the third income stream, which also increased in the last few years, can be identified as project-money for which universities compete with other types of entities such as companies, this includes project-based funding from the European Union and from the national authorities;
- the fourth income stream are tuition- and examination-fees (Jansen 2011).

Universities in the Netherlands have a high degree of autonomy in many areas. The ability to act as independent financial entities is one of the key drivers for universities towards achieving their strategic goals. Universities are free to spend their public money on all tasks related to education, research and knowledge dissemination. Institutional autonomy also enables universities to meet the challenges (new roles and tasks) of an increasing complex global environment. This requires them to increase and diversify funding sources. That includes funding from a variety of public sources.

From the perspective of the different funders, one of the issues is that it is not clear who funds what. That is why universities present an annual report which contains information about allocation of the funding.

According to the Law on Education and Research (WHW) till the first of July every year the higher education institution should publish its annual report which contains the following information (University of Amsterdam 2013):

1. Research: amount of publications, growth in number of publications, preferably in leading journals, average number of academic publications per position, average per research FTE deployed per year, average duration for doctorates to be completed by doctoral student employees (trainee research assistants), number of doctoral these supervised per full professor; growth in acquisition of key awards (KNAW professorship, Spinoza) and revenue for indirect government-funded research (NOW, ERC Starting/ Advanced grants, Veni-Vidi-Vici) and contract research funding; growth in indirect government-funded research relative to government-funded research; publication pattern for academic staff per FTE funded by 1st and 2nd flows of funds, per year. The research priority areas are presented
2. Education: information about Bachelor and Master programs, teaching workload, level of satisfaction of the students by the

- quality of education. Information about the market share of the university (regional origin of the students).
3. Corporative and social responsibility of university –policy of university in the area of knowledge transfer, collaboration with other higher education institutions and indicators in the knowledge transfer (financial income, license and patents).
 4. Organizational and operational management – information about academic staff and supportive personnel, relationship between academic staff, students and alumni.
 5. Funding – allocation of the funding on education and research.
 6. Administration – information about the salary of Executive Board (rector and vice-rectors) and Supervisory Board.
 7. Social report of the Executive Board – social goals of the university: influence of the university on the environment, socio-economic input of the university into the development of the region.
 8. Financial report of the Executive Board – information about spending and budget for the next years.

The next document which provides a transparency of the activities of higher education institutions is a *strategic plan*.

Dutch universities are required by Higher Education and Research Act (WHW) 1993 to draw up an institutional plan at least once every six years, so that their medium-term strategy is clear. The prevailing plan is updated every three years, and the universities report annually on their strategic progress and current financial position. This annual report is externally audited and submitted to the Supervisory Board for approval, then presented to the Minister of Education, Culture and Science.

First of all, strategic plans of the Dutch universities provide the analysis of the institutional environment: regional, national and international dimensions. The addressees of the strategic plans are internal and external stakeholders. Dutch universities formulate the purpose of the strategic plan in the following way:

- "...outlining a strategic plan provides a perfect opportunity to thoroughly analyze research and teaching achievements, to date and to set a course for the coming years on the basis of a critical grasp of past strategic policy" (University Groningen Strategic Plan 2010-2015, 1);
- "Strategic Plan represents a key opportunity for the university to reflect on institutions' activities and performance in a constantly

changing environment” (University of Amsterdam Strategic Plan 2011-2014, 4);

The essence of the strategic plan is the strategic goals, which form the direction for the future strategy. There are three compulsory strategic areas in the strategic plans of the Dutch universities – education, research, valorization or knowledge transfer.

Implementation of the strategy is based on the development of measures, projects and indicators. Successful implementation of the strategy is possible when staff and students share a common vision of organization (Delft University of Technology Strategic Plan 2010). Successful implementation of the strategy requires administrative support organization and sound financial policies (University Groningen Strategic Plan 2010-2015, 22). Taking into consideration the scarcity of public resources “funding from beyond regular internal funding sources is becoming more important, besides finding further funding from external sources such as alumni, private funds and the business world” (University Groningen Strategic Plan 2010-2015, 22) or “it is very important to investigate whether the objectives are feasible given the financial conditions and possibilities of our university. Strategic plan contains figures about the available resources that make the process of the allocation of the resources rather transparent for the staff and students” (Erasmus University Rotterdam Strategy document 2008, 65).

Implementation of the strategy also involves development of the methods of control. As the strategic plan is created for more than one year its implementation requires periodical check of the achieved results, the senior managers should be sure that the strategy leads the university in the right direction.

The third documents which contributes to the transparency of higher education institutions are performance-agreements (Hladchenko 2014).

In July 2011, the Dutch Ministry of Education, Culture and Science published its White Paper on Higher Education, Research and Science, entitled *Kwaliteit in verscheidenheid* (Quality in diversity). All of the Dutch universities were invited to indicate by spring 2012 how they would respond to the major themes included in the White Paper: improvement of their teaching and learning performance, enhancement of their teaching and research profiles, and alignment with the future’s grand challenges and the needs of business and society (Profile of the University of Amsterdam, 2012, p.iii). The parameters for these agreements were

defined in a broad agreement with the Association of Cooperating Dutch Universities (VSNU)

The Ministry subsequently appointed a Review Committee to compare and reflect on the profiles and contracts submitted. The task of the Committee was to evaluate the level of ambition in these submissions, together with the viability of their proposals and the anticipated contribution of these proposals to national policy goals (Profile of the University of Amsterdam, 2012, p.iii). The Review Committee assessed the universities' plans on the basis of certain criteria:

- level of ambition,
- sense of reality,
- alignment with the desired developments on the system level, determination of priorities, differentiation and feasibility.

Performance agreements of the Dutch universities which are focused on such areas as education, research and valorization provide a basis for the increase of the efficiency and performance of higher education institutions. They contain qualitative indicators and that is why can be used not only as instrument for planning but also as instrument of evaluation and control of performance. Performance agreements increase the accountability of the higher education institution before state and provide the basis for the efficient funding allocation of the state budget.

Conclusions

As we see high level of transparency of Dutch higher education institutions is supported by three documents: annual report, strategic plan and performance agreements. They provide transparency not only in education, research and knowledge transfer but also about funding allocation. Example of the Dutch higher education institutions shows that high level of transparency beneficially contributes to the image of the university attracting students and financial resources including third party funding. Dutch universities understand that autonomy requires more accountability and transparency is not a threat for their functioning but opportunity for further development.

Transparency is aimed to help users to make informed decision. Thus universities should provide in open access information which will help prospective students and representatives from business to make decision and which they need about education, research and knowledge transfer of the universities. The public and higher education institutions should be aware that transparency tools can help in making informed decision and

our research shows how Dutch higher education institutions use transparency in beneficial way.

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LEADERSHIP, DILEMMAS AND HIGHER EDUCATION – WHOSE VALUES?

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Abstract: *"The present essay explores some of the tensions that seem to arise today in the practice of higher education with a focus on the Romanian situation and mainly on the authors' home institution. Higher education best practices have a background that often eludes policy makers or practitioners who feel inclined to adopt them without sufficient time and support to adapt them to the local conditions. Mentoring would provide a good reflective practice at the various levels of the education spectrum particularly in acknowledging and discussing dilematic situations.*

Some explorations of the ways in which Romanian universities, particularly the socio-economic sciences and humanities, could contribute to offering our business and political leaders useful, accessible and meaningful research findings while struggling with their own inner reform are suggested in this essay."

Keywords: *leadership, values, higher education.*

1. Introduction

The field of higher education has been under constant change everywhere in the world. What used to be an area of contemplation, research and, why not, convenience – and is still thought of as such by part of the general public who has little or no connection at all with the academic world, or by various categories of bureaucracies, has changed into an extremely competitive and, relatively, dynamic environment both

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at institutional and personal levels. Massification, marketization of higher education¹, democratization, educational markets, competitive advantages of universities, entrepreneurial universities, quality assurance, ranking of universities, teaching and research higher education institutions, student centered universities – are only a few of the concepts that are in wide circulation nowadays. While these are mostly positive and motivating concepts conjuring up visions of an enlightened knowledge society in which research, innovation and creativity are key elements of social life, they also bear darker sides and connotations underlining for the insiders the fight for the expansion of a university's influence that is materialized not only in the increasing number of its students, but also in the social visibility of their teaching staff materialized in income and influence.

Living in a “bottom line” or even a “triple bottom line” economy, with an almost exclusive focus on money, in which only materially documented success counts, where quality standards are no longer recognized and acknowledged when seen, but have to be expressed in quantitative evidence, transformed higher education in a very competitive field in which the “winners” take it all – students, staff and resources. However, for a number of idealists higher education is still a field in which, more than in sports or business, what should count is participation translated in the synergy of minds that working together could contribute to the pushing forward of the frontiers of knowledge or, expressed less dramatically and more realistically, to the pushing backwards the ignorance of our students.

This essay looks at tensions that most of us have to deal with in our professional activities both in interacting with the university administration and with our students.

2. A complex world

The complexity of today's world is taken for granted and often blamed for anything that may not be functioning according to the strategic planning or forecasting exercises that most organizations seem to undertake. We often regret that the post-communist society has turned either too consumerist or is yet not capable of integrating the true values of a market economy and a capitalist society. And this is true for most

¹ Furedi, in Molesworth, M., Scullion, R., Nixon, E., (editors), 2010, *The Marketisation of Higher Education and the Student as Consumer*, Routledge, p. 16. Retrieved December 2015,

<https://www.routledge.com/products/9780415584470>

former communist countries². With the occasional cry that a third way might also be true – that based on faith and a rediscovery of (conservative) values (Hurduzeu & Platon, 2008).

There are comparatively few studies in Romania relating to values in business and in business higher education and most of them are theoretical, with few examples taken from the Romanian society of today (Neesham, et al. 2008). Although there has been a rapidly growing international research literature on business leadership, the Romanian counter field remains relatively under populated though efforts have been made including those of the authors³. An increasing number of books on leadership are being translated into Romanian but there is still a large gap to cover compared with the international literature on leadership. Academic textbooks on the subject are also in small number, and the discussion of the concept tends to be rather general, not offering more subtle distinctions and best practices that could be useful in real situations. Most of the still few textbooks that have been written by Romanian academics for the area of management appear to be adaptations rather than original work. This means that there is usually little research or adaptive transfer of leadership concepts to circumstances relevant to the Romanian economy and/or higher education⁴.

Discussions about values in higher education are even more unpopular due, probably, to an obsession of the Romanian academic community with research only and catching up with an international community of universities and higher education institutions that are ranked internationally in various classifications which seem to confer prestige, credibility, access to international funding and an option for international students.

² Ksenija Vidmar Horvat, "Memory, Citizenship and Consumer Culture in Postsocialist Europe" in Kockel, U., Craith, M. N., Frykman, J., (eds.), (2012), John Wiley & Sons, pp. 145 – 162.

³ Nicolae, M., Education, leadership – discourse and terminology, in "Philosophy and Economy. Contemporary themes and realities", (eds. L. C. Bosca, L.O. Vreja), (2015) ASE Publishing House, Series Et in Arcadia Ego, pp. 375 – 386; Seitz, V., Nicolae, M., *The Role of Academic Values in Higher Education Convergence in Romania: A New Approach*, in *Handbook of Research Trends in European Higher Education Convergence*, IGI Global, 2014, <http://www.igi-global.com/book/handbook-research-trends-european-higher/97340>; Nicolae, M, (ed.), Ion, I., Nicolae, E.E., Vițelar, A., (2013), *The Art and Science of Leadership. A Theoretical and Practical Guide*, Tritonic Publishing House.

⁴ Nicolae, M., *Education and Leadership. Romanian realities and experience*, ASE Publishing House, Series Et in Arcadia Ego, 2015;

3. Business Values, Education Values - Whose Values?

Romania still has a controversial international image in terms of ethics or rather lack of ethics in its public institutions, with frequent accusations of high corruption and a general unwillingness of society to deal with corruption cases. The various cases of the plagiarism of the doctoral theses of some highly visible political figures are notorious. The Global Corruption Report: Education of Transparency International, in its chapter on Romania, showed that “the measures for monitoring and punishing plagiarism have improved, especially when it comes to high-level public persons, but measures for checking and preventing plagiarism at its origins (in the academic institutions) still require commitment from higher education institutions”⁵ which is a matter both of education and, very important, affordability and willingness to commit to the costs of antiplagiarism software. In terms of higher education international students who come to Romania complain about the lack of sophistication of services, of a rather old and not always comfortable infrastructure, difficulties of communication with the university administration particularly due to language barriers. At the same time international students enjoy the friendly atmosphere of the academic environment and of their Romanian colleagues and are, generally, impressed with Romanian students proficiency and versatility in languages.

Adina Luca’s *Employescu* still remains one of the relatively few cultural studies attempting to draw the profile of the Romanian employee and therefore highlight some of the values of the Romanian society in the economic field in general and in the business environment in particular. Luca’s study evidenced that Romania shares the same values as other Balkan countries: great authority distance, high collectivism, femininity, high risk-avoidance and short-term orientation, which situates it at the opposite pole from the Anglo-Saxon countries, from which it nevertheless borrows its managerial and human resource management practices.

One of the relevant areas for the present essay that Luca tackled in her study is, what she calls, the complex of authority and the leadership style in business. Romanian employees (including here staff from higher education as well) have the complex of authority. By that she means the difference between the behaviour demonstrated when perceiving

⁵ Romanian Academic Society, *Ranking university governance in Romania: an exportable model?* in Transparency International, *The Global Corruption Report: Education*, (2013), Routledge, UK, p. 243.

inequality and distancing oneself from the authority on the one hand and the hidden expectations of working in a consultative and participative environment on the other. Romanians want to be treated with confidence by power structures, to be able to express their fears freely and even to be allowed to avoid decisions when they find themselves in dilemmatic situations. They also wish to have a leader who is ready to assume responsibility for risky decisions in their place and who offers support when they try something different. Luca considers that this expectation of both paternalistic and consulting behaviour, though contradictory and difficult to fulfil, indicates that in the Romanian society the participative system will be more successful than the authoritarian one. The same assumption can be applied, we believe, in higher education institutions. A democratic leader/rector/head of department will be able to rally her/his community and obtain more successes through their employees, either academics or administrative staff, particularly in times of major economic crisis when extrinsic motivations, such as salaries or other financial benefits, are no longer available.

Several analyses have been published recently of the Romanian value systems. The main approach is that human resources are one of the country's most valuable assets which need, however, to be educated and trained by a *reformed* system of education based on values that seem to have disappeared. The analysis of the Romanian society offered by a thinktank of researchers and practitioners (Malita, 2008) emphasizes the importance of education for the social progress of a country, underlining the pathetic state of the Romanian education system at present. Investment in education takes a long time to yield results (20 years at least). The authors document how present values of society are mainly focused on the immediate return and gratification of needs considered important to the immediate present and thus give one explanation to the low state of Romanian education. The values induced through a system of education such as the one analysed in the cited report are not conducive to social progress and cohesion. The young generation of people are more aware of their own, individual values and interests rather than those of their own community and, therefore, society at large. This, of course, is not characteristic only of Romania. The Institute of Business Ethics in London in one of its recent studies⁶, shows that at present organizations have to

⁶ The Institute of Business Ethics, (2015), Business Ethics across the Generations, briefing 48, retrieved December 2015.

address their diverse employees, both ageing and young, especially in relation to values and, therefore, business ethics. Using the categories that have come to be known as *traditionalists* (born between 1922 - 1945), *baby boomers* (born between 1946 - 1964), *generation X* (born between 1965 - 1982) and *generation Y* or *millennials*, (born between 1983 - 2004)⁷ the briefing shows that there are large differences in assumptions, personalities and management features of those groups. In other words, organizations should use customized approaches to ethics, rather than a general, fit-for-all policy and address all their age groups as all have some intrinsic, valuable characteristics.

Another line of approach to the analysis of present Romanian values advocates a return to the traditional values not only of the more profound Romanian society, but also to the Christian traditions. This approach is pursued mainly by representatives of alternative movements with a remarkable appeal to the younger generations. It is an attempt to escape the gross consumerism of today's society by rediscovering the areas of spirituality, the larger picture of human and world development, the sustainability of a world and civilization that are in a profound crisis not only economically and financially, but also axiologically. In terms of education this may mean, among others, an interest into the quantitative aspects of learning and teaching, getting faster and easier through the system, an emphasis on an ever increasing number of research „results“, number of published papers, without a genuine interest in the quality and relevance of those numbers. Hurduzeu & Platon (2008) consider that the mainstream of today's Romanian intellectual elites hold a set of values that is detrimental to the development of society at large. They include here a large part of the higher education system as well which is criticized for a mere copying of Western theories and practices and no natural inclination to discuss with students other models than the mainstream, Anglo-Saxon ones.

These complex aspects related to values and mentalities started to be discussed nowadays in higher education, but they are still rare in business and economic higher education. The most obvious reasons are that they are difficult to accommodate in the modern curricula with ever fewer teacher-student contact hours and still a lack of support that would,

http://www.ibe.org.uk/userassets/briefings/b48_ethics_across_generations.pdf

⁷ Though the names are standard the age ranges may differ depending on the source. <https://www.med.umich.edu/diversity/pdffiles/file29.pdf>

ideally, contribute to the empowerment of students to develop critical and creative thinking skills, become life-long learners and study independently. Unfortunately, the authors of this essay are too painfully aware that most often this is not the case and that business higher education usually focuses on hard core disciplines, with a neglect of humanities. The mainly multiple choice examinations that encourage students who memorize and are convenient for university and teaching staff to administer and mark perversely contribute to fast going through the system to get a hopefully well paying job.

Higher education continues to be under intense pressure to cope with society's challenges resulting from demographics, enrollments, economic and social forces that may bring both disruption and/or opportunity. Romanian society in general expects a lot from higher education with very little concern for the investments into the system and the time necessary for the yielding of results. Universities find themselves torn between their traditional respect for values, as expressed by their mission statements and codes of ethics, and the policy decisions they have to take to cope with the complex decisions about decreasing funding and thinner budgets.

4. Dilemmas - as possible catalysts to change

In the present essay the authors will briefly explore some **dilemmas** in higher education. The first step in dealing with a dilemma is, however, recognising you have one. One needs to have a relatively clear evaluation of a situation and of the several alternatives that one faces. It is only after having established the dilemmatic situation that one uses one's judgement or virtue to see what should be done. And this is where a mentor is important.

Some of the strong points that are constantly reinforced in institutional discourse and have become stereotypes in the way we address our students are connected to the required efforts to become a good, successful professional. By which most people understand a good and secure position in a strong company, preferably multinational, with clear and motivating promotion opportunities, a large income and a good package of benefits. A successful professional has easily noticeable outward signs of success materialized in property, international travel, expensive training opportunities. In order to become successful professionals, students need to study hard and, consequently, get the highest grades, be able to transfer knowledge across disciplines and into

real life, be on the alert to detect opportunities, take opportunities and move on in their careers and, always be transparent and ethical in their behaviour. They have to study hard, but also manage somehow to get experience which can be acquired in the internship system, but mainly by getting a job and being noticed in what one does there. These are the constant points that are reinforced by most instructors when addressing a new class or by university management on official occasions such as the opening of a new university year.

Some students continue to look at their professors as role models, others judge the people that teach them and the easiest way to pass judgement is to challenge their statements. When confronted in this way one cannot but reflect upon the state and status of university teaching staff as compared with the rest of the occupations in Romania. While the pressures and constraints of everyday life add to the difficulties of a career based on constant and continuous study, in conditions of severe underpayment comparative to similar jobs in the industry, in a system that is changing in abrupt and controversial ways, it is no wonder that the appeal to take up a university career, which used to be the cherished dream of most of the top part of university graduates, is no longer that appealing. Therefore, when students are asked whether they intend to choose a teaching career in higher education the answers are most often negative. Even those who embark on teaching careers take up a second job or leave the field of education for better paid jobs. The high turnover for junior staff in universities is a clear indication that education is regarded as a temporary solution on a way to a more prestigious and better paid career. Moreover research shows that academic employment may start having a negative image⁸ due to lack of real career prospects not only in Romania, but elsewhere as well. The authors cannot but notice this trend: higher education is perceived as a second or even third best option from the point of view of career desirability.

Therefore one finds oneself soon enough in a dilemmatic situation: should one leave the institution and start another career in the industry or should one stay in the university and try to change things - which can be a long and frustrating process. Leaving for a more rewarding position, both from a financial and visibility point of view, has been an option for an important number of academic staff.

On the other hand staying on and trying to change a system that is highly conservative, in which ego, status and power relations are

⁸ The Journal of Higher Education, 2002, p. 141.

dominant while financial support to push change forward is scarce, has become a stereotype in the official discourse of administrators, but in reality is an undertaking that is considered idealistic. Criticism against the present state of things is more and more frequent with emphasis on: lack of genuine professionalism, obsolete methodology of research, an almost exclusive focus on quantitative research, territorial rivalries and discipline entrenchments, lack of interest in changing teaching methodologies and the content of curricula, lack of quality assurance mechanisms and a continuously changing, unattractive and discriminating promotion procedure for young researchers/teachers. More and more public positions are taken against the system: younger academics organize themselves to put pressure on the administration, more professional associations define criteria and establish codes of ethics and best practices⁹ while public figures voice their concern and take personal actions¹⁰.

5. Transparent and ethical – trickling in change

The Department of Modern Languages and Business Communication is one of the largest departments in the Bucharest University of Economic Studies and, probably, the largest modern languages department in the country as well: fifty-one full time teaching staff and about sixty collaborators. In such a large department of one of the still largest universities in Romania even after the recent plummeting of enrolments, institutional communication can be difficult. Most of the times it is so, which accounts for the very slow decision making process and for informational bottlenecks. These are some of the reasons for students' complaints against lack of transparency in explaining course objectives and requirements, testing and evaluation criteria and lack of meaningful feedback whenever required. Most of the complaints are justified and although progress¹¹ has been made in the last ten years, the gap existing in

⁹ <http://www.ad-astra.ro/>

¹⁰ David, D., *Why the Reforms of Modernizing Romania Fail. The Case of Education*, (2015),

<http://www.romaniacurata.ro/de-ce-esueaza-reforme-de-modernizare-a-romaniei-cazul-educatiei/>

¹¹ Study programmes curricula and course syllabi (called Fișa disciplinei) are available on the university website, some course materials are offered free by instructors on their personal websites, important attempts to improve test design and test grading have been made with debatable results however, the university management encourages student participation and has set up complaint procedures, there is an attempt to re-introduce oral exams, etc.

comparison with international practices is still considerable. Romanian students' mobility has increased, either through institutional channels or individual efforts, and their familiarity with western universities best practices puts a lot of pressure on their Romanian professors. On the other hand, the dilemma between institutional efficiency and personal standards of professionalism, as well as costs of opportunity, haunts an important part of the teaching staff.

Changing the system takes a long time; changing oneself should be easier. Transparent communication and a genuine understanding towards students' needs are popular points in the discourse of most university teaching staff. However, work overload and lack of financial support, mainly, and then convenience in continuing with familiar procedures, conservative attitudes and stereotypes about the central role and position of the teacher in the learning process makes it difficult to discuss and accommodate students' needs and encourage students to take responsibility for their own learning.

To show that success is reached through hard work, intellectual honesty pays, fraud both in business and in the academia are sooner or later discovered, etc., and based on the authors strong belief that language and business communication are subject matters that cannot be taught successfully without the meaningful involvement of students who have to actively contribute to their own progress, the following teaching/learning and evaluation procedures have been negotiated with students from the beginning of each academic year:

- Students are instructed where to find the syllabus online and are given the recommended reading list and the expected project work from the very beginning.
- Students are given written assignments and have to study by themselves the topic introduced only briefly by the instructor. Assignments are sent by email and a lot of class interaction takes place by email.
- Feedback is provided and discussed in class. Issues that students find difficult to understand or feel the need to clarify and debate are also discussed.
- Current affairs topics are discussed in class students being encouraged to read, watch and discuss news related to Romanian and international business.

- End-of-course evaluation is done through project work and a test with books on the desks.
- A study guide is provided for the end-of-term test.

The idea of a test with the textbook or/and with a dictionary on the desk is not new. A procedure that encourages not learning by heart, but critical thinking has to provide an evaluation procedure that makes students study during the whole term, research their projects, allows students to have the courage and responsibility of their own beliefs and attitudes and to express them publicly in an appropriate manner. The exam procedure presented here allows students to have the textbook on the desk, but they are strictly prohibited to talk among themselves during the test.

There are advantages and disadvantages, mainly in terms of instructor time, of this evaluation procedure. The authors believe that the most significant one is that students become aware of their own responsibility for their own learning. Students who usually tend to show that tests use insignificant details that cannot be remembered from their textbook lose a favorite point of complaint. They have access to the textbook – if they know how to use effectively that access. Which is what happens in real life as well: most information is publicly available. Accessing it, however, requires more than just basic reading skills.

6. Some conclusions

Professional dilemmas are important and need time to be addressed. First steps are small, but they may become important if organizations encourage their members to go on. Change only happens if people are persistent. Feelings of frustration and moving backwards are common to the majority of professionals, but it is important to share those feelings, to have organizational support and understanding and to keep going. This is where the role of mentoring is needed.

More academic research is necessary to re-discuss the role of values in Romanian society, to remodel leadership in higher education and to really connect the education system to the needs of Romanian society. This involves a high level of collaboration which is difficult to achieve because the Romanian society, and higher education particularly, are still fragmented and territorial.

It is necessary to critically connect Romanian society to values and mentalities which are internationally appropriate: this is a huge task that needs to be accomplished not only at the top, by changing the role and

functions of the Romanian intellectual elites, but also at the level of the entire society as a whole - which is one of the main roles of education.

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PERFORMANCE MANAGEMENT AND THE ISSUE OF DIVERSITY. A PSYCHOSOCIOLOGICAL APPROACH

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Abstract: *In psychosociological literature, Performance Management is defined as a permanent process of identifying, measuring and development of both individual performance and of the group in organizations. The necessary conditions for an assessment to have results are: consistency with the organization's strategy, completeness, practical nature, relevance, specificity, differentiation, reliability and validity, inclusion, correctness and acceptability. There are some significant differences that separate practical thinking by traditional intelligence tests, among which the fact that intelligence tests suggest implicitly and sometimes explicitly the idea of competition, while practical thinking has the ability to be guided by the social context, favoring cooperation at the expense of fierce competition in certain given situations.*

Keywords: *Performance Management, appraisal of employee performance, psychosocial differences between individuals, practical thought.*

I. Performance Management

In psychosociological literature, Performance Management is defined as a permanent process of identifying, measuring and development of both individual performance and of the group in organizations. Thus, performance management is influenced by the social component of organization; hence it must be analyzed from a technical standpoint and from an emotional point of view. Performance management envisages performance evaluation, the thorough and systematic description of the strengths and weaknesses in terms of meeting the specific job tasks either in individual level or in the level of the working group.

As regards performance evaluation, we can notice that it consists of two elements: observation and judgment/assessment capacity, both

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having a high degree of subjectivity. A biased assessment may have several causes: the assessors themselves, that does not have essential information about the performance of employees whom they valued; individuals assessed, for example, who do not know the duration of filling of a particular job; the social interaction between the assessors and the assessed persons.

The assessment of employee performance shall not be performed once a year, but at regular smaller intervals of time. It is based on feedback from the part of those assessed, so the performance to be improved continuously. In fact, performance evaluation, the systematic description of the strengths and weaknesses of how a person or a group accomplish specific tasks job is the most sensitive and delicate problem throughout Human Resource Management. The inability of specialists and researchers to definitively resolve the problems imposed by performance evaluation has made that this problem to be called the "Achilles heel" of Human Resource Management.

In conclusion, to be relevant, it is appropriate that performance management have the following objectives¹:

- The strategic objective refers to making the connection between employee activities and general objectives of the organization. Performance management must identify those desired behaviors and the outcomes that are consistent with the company's strategic priorities.

- The goal relating to communication seeks to communicate to the employees which are the organizational expectations concerning their performance.

- Performance Management is a support regarding the decisions of employees on the promotion of people with outstanding performance, the dismissal of those who have very poor results, the increase or cutting the salaries of certain employees, the participation of some at courses and/or training activities, the transfer of some employees from one department to another, specific measures relating to discipline etc. Therefore, Performance Management has a crucial role in the adequate functioning of the system of rewards and penalties within the organization.

- Information relating to employee performance is used as assessment criteria in research in the field of Human Resource Management.

- The development of organization in the sense of Performance

¹ Cascio, W.F. & Aguinis, H., *Applied Psychology in Human Resource Management* (6th ed.). Pearson Education, inc., Upper Saddle River, New Jersey, U.S.A., 2005.

Management refers to goal setting in terms of professional training programs, aiming mainly learning of desirable behaviors.

- Performance Management is able to provide a real feedback to employees, because the stated objective of it is to improve employee performance; these are informed about the weaknesses of their past work in order to correct them in the future. Feedback has in this case the role of motivational experience, Performance Management being in connection with personal development.

- Performance Management is in direct relation with human resources planning and evaluation, with elaboration of organizational diagnosis, with differentiation of the employees whose work is effective by those with inefficient job activity etc. In conclusion, evaluating employee performance is a starting point, the beginning of an organizational process and not a final step.

- Performance Management has the role to deliver essential information that can be used in substantiate decisions of human resource department.

Regardless of the way in which is applied Performance Management, there are four specific features of performance appraisal². First, it can be seen that the assessment activity of employees is practiced in all organizations without exceptions. Even if an organization has a large number of employees or not, whether it is private or public, national or multinational, managers from all departments should be informed whether employees performs its tasks competently or not. On the other hand, it should be noted that the evaluation process has direct consequences both on individuals - through the system or rewards and penalties - and on organizations - the need to adjust the system of rewards and sanctions according to individual performance.

The third characteristic of performance appraisal is that according to which as a particular job complexity increases, is becoming more difficult, even for assessors with extensive experience, to carry out adequate performance evaluation.

Finally, implementation of performance appraisal requires time and effort, assessors and those who are assessed must be convinced that the evaluation system is worthwhile and fair/correctly, otherwise is a

² Ghorpade, J. & Chen, M.M., *Creating quality-driven performance appraisal systems*. Academy of Management Executive, 1995, Vol. 9 No. 1.

needlessly waste of resources and employees lose their motivation. Performance appraisal must not become a pretext to reward friends/allies and to punish enemies or competitors.

The performance assessment activity of a particular employee is to provide information about the fact that this is ready to be promoted, or that another employee longer needs a training in order to acquire more experience, or the fact that another employee has knowledge and skills to be moved to another department of the organization; or, on the contrary, that an employee has no competence to occupy a particular job and that it requires a new recruitment process to identify competent person to occupy the job in question. Purposes to which is performed the activity of performance assessment may be divided into two large categories³: judgment and development. The criteria for judgment about past performance can be a source for allocating rewards, and regarding promotions, transfers, dismissals, and also to identify employee with or without potential and, more important, to validate selection procedures etc. On the other hand, the development of future performance aims to identify career development opportunities, to improve performance and also to correlate the specific expectations of employees and supervisors.

II. The Performance Assessment

There are also certain requirements necessary for an assessment to have proper results⁴:

- Consistency with the organization's overall strategy has in view encouraged those social behaviors that contribute to achieving the organization's objectives.

- Completeness refers to the need for all employees to be assessed. The responsibilities of each job in part should be measured, and the assessment takes into account the entire time period in question.

- Practical nature of assessment implies that it must provide transparent, realistic, easy to use information and the benefits that it brings must outweigh the costs.

- Assessment has a high degree of relevance; through this it understands that performance measurement should include only those

³ Griffin, R.W. & Moorhead, G., *Organizational Behavior: Managing People and Organizations* (11th ed.). South Western, Cengage Learning, Mason, U.S.A., 2014.

⁴ Cascio, W. F. & Aguinis, H., *Applied Psychology in Human Resource Management* (6th ed.). Pearson Education, inc., Upper Saddle River, New Jersey, U.S.A., 2005.

aspects of the job that the employee can control, the assessment takes place at regular intervals, to pursue continuous development of skills/abilities of those who are assessed, the results of the assessment to be used in important decisions of Human Resource Management and implementation of the assessment system to be regarded as an important part of every job.

- Assessment has specific character – the assessment should indicate to assess persons what is expected from them and how they can meet these expectations.

- Assessment emphasis on differentiation - the assessment should clearly and transparently differentiate between efficient and/or inefficient work and individuals.

- The assessment is characterized by reliability and validity – performance scores must be consistent over time and to point out the same observed behaviors.

- Another fundamental feature of the assessment is the inclusion – an assessment with a high degree of success allows active participation of both assessors and those assessed. Accordingly, persons assessed are allowed to assess their own performance/activity within the organization, whereas they play an active role in the appraisal interview.

- Finally, correctness and acceptability constitute fundamental criteria regarding the opportunity to put into practice the assessment results – persons assessed must be convinced by the correctness of both the assessment process and its conclusions, and the fact that the assessment is equitable.

Another specific problem of performance appraisal is the assessment of groups or team works. In terms of organizational structure, groups can be formal or informal. Within formal groups, the types of developed behaviors are in direct relation with the organization's objectives. Formal groups are, in turn, of two types: command groups and work groups. Command groups are those composed of a manager and several subordinates. Those groups are schematically shown in the organizational chart of each institution. Under this category of groups hierarchical relations are dominant. Work groups, on the other hand, have as main objective the achievement of specific tasks, being composed of people working together. To accomplish these tasks, the relations between employees have not a strictly hierarchical character, but may entail the involvement of some employees from different departments of an

organization. It can be seen that all command groups are simultaneously work groups, but not every work group is automatically a command group.

Secondly, informal groups do not have an organizational structure, being a direct consequence of the need of employees to socialize within organization.

Psychosociologists have established that there are several reasons that lead people/employee to become members of a group⁵:

- For security reasons – because of the fact that they are part of a group, people/employee do not feel pressed by the feeling which generates fear of loneliness, but rather they are animated by the feeling that they are stronger, that they are not exposed to a very high danger, and have no reasons for doubt themselves.

- Social status – the fact of being part of a group confer on a member a specific status and social recognition, which is perceived by others as having a high degree of importance.

- Self-esteem – very often, members of a particular group manifest the tendency to self-worth, to have a positive image of themselves, this picture being owed to their belonging to this group.

- Power – certain goals can be achieved only through common and continuous activity of members of the group. As a consequence, the increasing number of people involved in a particular activity generates a specific feeling of power of a person.

- Affiliation to a particular group generates a feeling of joy or even happiness in people's hearts. Interactions within a group are meant to satisfy the need of socialization of people/employee, to communicate with those people/colleagues whom we consider to be important and whose views and beliefs have a high degree of relevance to each of us.

- Achieving the objectives – some goals, and in particular those with organizational character, can not be achieved by one person/employee, but involves an organizational activity, constitute of a team work. In these situations, most often, it is required the development of a formal group.

III. Psychosocial differences and the issue of diversity

But in order to perform an assessment in accordance with the requirements of psychosociology it is necessary to undertake an analysis

⁵ Robbins, S. P., *Essentials of Organizational Behavior* (7th ed.). Pearson Education, Inc. Upper Saddle River, New Jersey, U.S.A., 2003.

of the psychosocial differences between individuals. A first difference that can be established between people is that concerning the cognitive level. In other words, some people process faster and more appropriate than others the available information. The response of psychologists to this challenge has been creating and developing different kinds of intelligence tests. Thus, to measure the each person's level of intelligence have been proposed various intelligence tests.

French psychologists Binet and Simon have created the first test of measuring human intelligence. This test serve as a model for all the subsequent developments in this area of research, since all are based on the definition of intelligence adopted by Binet and Simon, according to which it can be measured by assessing the ability of a person to respond to a series of questions designed specifically by other people. The fundamental principle of IQ tests is therefore to put the intelligence in relation with the achievement of a certain number of strictly determined tasks.

There are also some psychologists and sociologists which have argued that intelligence tests reduce human intelligence to something unitary, which is a big error. In psychosociology there is, therefore, a current of thinking that argues that the intelligence tests refers to a kind of thinking fundamentally different from the way in which the intelligence effectively operates in everyday life. In this regard, it was introduced the notion of "practical intelligence".

Further, we selected some significant differences that separate practical intelligence/thought by traditional intelligence tests⁶.

First, practical thought is interested in how it is formulated the issue, while in intelligence tests, most often the task to be solved is formulated clearly, without ambiguity, but without the question arises whether such issue does or does not sense. A person to whom applies an intelligence test does not put the question of the meaning of certain questions or of the entire test itself, but this is trying to solve the problems/answer correctly to questions in a shortest possible time.

More than that, intelligence tests suggest implicitly and sometimes explicitly the idea of competition, to have a level of intelligence superior in relation to other people or with vast majority of people, while practical thought has the ability to be guided by the social context, favoring cooperation at the expense of fierce competition in certain given situations.

⁶ Arnold, J., Silvester, J., Patterson, F., Robertson, I., Cooper, C., Burnes, B., *Work psychology: understanding human behavior in the workplace* (4th ed.). Pearson Education Limited, Harlow, England, 2005.

On the other hand, practical thought has a high degree of flexibility, a problem can be solved in several ways – for example, when a student wants to remember certain information for an exam, this can organize that information in many ways to memorize it more well –, as opposed to conventional intelligence tests in which problems of a particular type are based on certain algorithms generally applicable.

Practical thought has no schematically character emphasized, being oriented towards a detailed presentation of the complexity of a given situation and not reduce that complexity to a particular synthetic scheme that lends itself to a more easily resolving, unlike standard tests of intelligence within which this trend is more often dominant.

For practical thought, the environment is an integral part of the problem; it can not solve a problem without considering the environment in which is taking place, while in the traditional intelligence tests we encounter a standardized environment and void of relevance in solving the problems related to a specific given context.

Another significant difference here is that practical thought focus on using of highly specialized knowledge, as opposed to intelligence tests, in which are targeted not specific knowledge, but the more general intellectual processes. The fact that a person solve an intelligence test with a very good score, superior to the great majority of people, does not mean that person will be able to solve specific problems of a given domain/sphere of activity and neither this has no knowledge of a higher level specific to that domain.

However, there are some common elements, among which are efficiency, namely that are used those strategies that require minimal effort and a more reduced resources consumption.

Another criticism to standard intelligence tests envisages the observation that it promotes certain cultural groups in the expense of other groups. This argument of prejudice/favoring underlines the fact that certain people or even groups, whose development took place in a socio-economically environment different from typical occidental, often acquire mediocre or very weak results to some intelligence tests, even though they possess a real native intelligence. Although it can not demonstrate that tests for measuring the level of intelligence have been designed specifically to prejudice specific individuals or groups, it can be observed that there are some differences concerning the achieved scores of different cultural groups. These differences are connected with the fact that most of the creators of these tests belong to occidental culture, and to the fact that

Western culture has always focused on differentiation and on the individual's need to solve logical/mathematical/theoretical etc. problems in a more competitive way.

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PLEA FOR A EUROPEAN CULTURAL MODEL OF BYZANTINE ORIGIN OR CONTINUOUS INTEGRATION THROUGH CULTURE

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Abstract: *A critical history of the Romanian culture reveals three major manners of relating to cultural change. First of all, dialectic of cultural openness and closeness may be invoked, as it was analyzed throughout centuries, by appealing to either the disjunctive or the conjunctive logic. Secondly, the rapport with the close exteriority has created a sort of reflection of diffusionism, fact that has led, on the one side to the vision of selective absorption of foreign forms (theory of forms without substance), on the other side, a non-selective absorption, yet adequate to the spirit of the time (theory of synchronism). Thirdly, on space coordinates, cultural change with Romanians takes the form of a certain appetite for a Europe whose cultural model has its origin in the fundamentals of the south-eastern European cultural paradigm. Although each of the three directions of analysis – otherwise, a synthesis-image of a culture displaying a certain cultural (and communicational) specificity – additionally implies the analysis of the communicational openness or closeness in relation with the cultural exteriority, the true manner for cultural openness is the last of them.*

Keywords: *Europe, European Cultural Model, cultural openness, One/Multiple rapports, Europeanization, synchronism.*

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1. The early days of the cultural openness toward Europe

To Romanian foreign policy, the European openness appears rather pliable to the Lovinescian synchronism¹. Nevertheless, as we are about to discover, the European openness is to be found in the subtle articulations of Romanian culture, a reality that becomes intelligible once we analyze the Romanian culture's rapports with Europe throughout modern history, by appealing to a different perceptive framework from the one proposed by Maiorescu's school of Junimea. In this respect, it is worth reminding, first of all, Cantemir's endeavors of bringing together, under the same European umbrella, the Latin Humanism and the Oriental Teaching, of accomplishing his knowledge under the cultural peculiarities of a synthesis-space, in which there are equally Eastern and Western influences. Dimitrie Cantemir, the chronicle-writing prince, member of the same Academy where Leibniz and Montesquieu belonged, came to be the first European man of the East. Considering that his own people belonged to the "more enlightened world", in his work - *Descriptio Moldaviae* - (work that was written upon the special request of the Science Academy of Berlin)², and finding himself in a tensioned area caused by the conflicting rapports between his love for his country and for truth, the Moldavian prince sketches a "cultural model" - the rudiments of an investigation manner of the Romanian cultural complex facing the antagonistic challenges of the East and of the West - bearing the meaning that Noica³ assigns this phrase with, of a spectral image of culture (implying simplification in essential). Whereas contrasting the physiognomy and physiology of Moldavian culture and civilization at the beginning of the eighteenth century against the Western values, Cantemir included the cultural being into its integrating, larger European context.

2. The natural openness toward Europe as perceived by Rădulescu-Motru

One of the relevant personalities of Romanian culture's modern history, when compared to Europe, is Constantin Rădulescu-Motru, especially that it

¹ Eugen Lovinescu, *The History of Contemporary Romanian Literature*, Vol. I., Bucharest, Minerva Publishing House, [1973] 1981.

² Dimitrie Cantemir, *Befschreibung der Moldau*. Faksimiledruck der Originalausgabe von 1771. Nachwort von Constantin Măciucă, Bucharest, Kriterion, [1716] 1973, respectively Dimitrie Cantemir, *The Description of Moldavia*, Bucharest, Tineretului Printing House, [1716] 1967.

³ Constantin Noica, *The European Cultural Model*, Bucharest: Humanitas Printing House, [1988] 1993, p.39.

is for the first time when the “European culture” is invoked, as an all-embracing whole. In his intention to reveal the objective truth, Constantin Rădulescu-Motru came to configure an anti-individualistic perspective by resorting to the model/system of “energetic personality”, able to connect everyone around him, and within whose boundaries culture may be defined as a synthesis of personality, conceived as a model-personality, namely, something that is invariable, more potential than real, ideal, balanced and holding a role of maintaining the equilibrium:

Because culture holds its personality. However, it is a model-personality and not something materialized into a real body, such as a human’s. The various structure presented by the concrete personality is not to be found with culture. Culture holds an ideal structure: it is more about a potential reality. It is something extra than compared with the statistic average of concrete personalities of a nation; it is the ideal personality to which every single concrete personality contributes with a component part. The more are the concrete personalities torn apart within their inner souls, because of the pains of doubting or the absurdity of their existence, the more vivid are their aspirations toward unity. The more does the consciousness of a nation feel the disharmony of the world, the more eager is that nation to receive a culture. Because culture, similar with personality, relates to inner equilibrium⁴.

This perspective brings to the foreground the European culture as something given, made up of national cultures, so long as nations are incapable, individually, of creating a certain type of culture: “*none of the European peoples is, exclusively, the creator of any type of culture*”⁵. The rapport between the European culture and national cultures refers to an organic growth; the European culture is divided into national cultures just the same as the human being’s personality is divided into individual personalities. Consequently, the Romanian culture is more concrete the European culture, more actual than the European one, the same way in which culture/individual personality is more concrete when compared with the national one, despite the fact that it is not the belonging, but the identity, that counts. The European culture implies a natural openness, it is something given. Romanians cannot be anything else but European.

⁴ Constantin Rădulescu-Motru, *The Romanian Culture and Politicianism*, in Constantin Rădulescu-Motru, *Scrieri politice*. Selection of texts, editing and introductive study by Cristian Preda. Bucharest, Nemira Printing House, [1904] 1998, p.93.

⁵ Idem, p.94.

3. The European cultural model of byzantine origin

Constantin Noica's *European Cultural Model* is the central point of the cultural change re-focus for Romanians, in relation with other nations. Written in the late period of Noica's creations, and found under his intention of revaluing the national, the specific, the authentic, the work is structured around the debate regarding rules and exceptions in culture. According to Noica, there are exceptions that contradict and infirm the rule (with an intolerant rule in the marginal), exceptions that confirm the rule (tolerated, but marginal), exceptions that broaden the rule (they model it so as to account for digressions, to absorb what at a certain moment used to be in the marginal, through successive integrations), exceptions that proclaim the rule, while remaining exceptions (which, in this framework of understanding, engage the existence of culture as an exception, in relation with a remote, abstract rule, but that is always renewed and refaced in rapport with the daily exception), and also exceptions that become a rule, just as simple as that – the most productive among the relation forms already analyzed in relation with culture's sciences: *"The entire European culture will have been the one in which, successively, exceptions constituted as autonomous values – theological, ethical, philosophical, scientific, economic, even technical values – will have tried to become the rule"*⁶.

The creation of culture in relation with its own variations, with its own exceptions, becomes the field of analysis of the paradoxes of its own becoming. The dynamic rapports between culture and its limits/margins/variations may also be perceived in the extension of such dissociations as, for example, the ones mentioned within Plato's dialogue *Parmenides*: One and its repetition; One and its variation; One in Multiple; One and Multiple; One-Multiple⁷. Without ignoring the first four types of subjecting the cultural rule to its variations, or disregarding the multiple possibilities of developing the rapports between One and Multiple in the plan of repetition, variation, inclusion or conjunction, what belongs to *"our culture's structure"* is, in fact, the exception that becomes rule, expressed by *One-Multiple*:

This time, neither One, nor Multiple comes first; One is Multiple from the very beginning, *distributing itself without sharing*. Not even for a second can One-Multiple be assimilated by One *in*

⁶ Constantin Noica, *idem*, pp.25-26.

⁷ *Idem*, pp.44-45.

Multiple of pantheism, in which individuation degraded the parts and only their reintegration may save them; in which the world is but one, due to One's primacy, whereas One-Multiple spreads around in worlds and fields; in which One does not divide into units, while in European culture One is reflected by units, every time autonomous, just like monads⁸.

Thus, in order to differentiate between the European cultural model of the unit reducible to monads and the local cultural model of One-Multiple, indivisible, organically incorporated in the functionality of the whole, bearer of the whole and potentialities of the whole, and equally expressing itself through the particularity of the formula generating life, or of the manner able to value the whole, Noica keeps distance from Spengler's theory with regard to the beginning of European culture, apparently Faustian, somewhere in the Northern haziness of the years 900-1000. To Noica, Europe was born in South-East.

4. Differences from the cultural model of western origin

Accordingly, two fundamental works, written almost simultaneously, give account for the European identity challenges: *Thinking Europe*, by Edgar Morin (in French: *Penser l'Europe*)⁹, respectively, *European Cultural Model*, by Constantin Noica (in Romanian: *Modelul cultural european*)¹⁰, both bringing to the foreground the principle of multiple unity (and, implicitly, of multiple identity). The former work, appeared in the heart of the European West and carrying along western values, speaks about a European culture of Jewish-Christian-Greek- Latin origin. The latter, resulted from the polychronic reflux of the Romanian space, speaks about the Byzantine foundations of Europe. Noica's work expresses the rational paradox within the boundaries of the natural, communicating about the moment of Europe's birth:

Everything started in the year of 325, during the Council of Nicaea, summoned by the emperor, and continued with other six reunions [of the Bishops], until 787. (...) In the year of 325, another culture comes into being, ignoring all rules. (...) Against any

⁸ Idem, p.51.

⁹ Edgar Morin, *Thinking Europe*, translated by Margareta Batcu, Bucharest, Trei Printing House, [1987] 2002.

¹⁰ The first edition of this book was published in German, Constantin Noica, *De Dignitate Europae*, Bucharest, Kriterion, 1988.

Gnosticism, incapable of understanding how it is possible for three [persons, hypostases of the Holy Trinity: the Father, the Son and the Holy Spirit] to be one [a single substance, a single being, namely, God], it was established that three represented just one.¹¹

The former work, written in a remote place from the one in which naturally $1=3$, struggles to formulate the Multiple, by appealing to logic – different logics connected within a unity, in a complex manner (complementary, competing and antagonistic, according to Morin):

The difficulty of conceiving Europe lies, first of all, in the difficulty of thinking One in Multiple, Multiple in One: *unitas multiplex*. It is equally the difficulty of conceiving identity in non-identity. Thus, in order to conceive the manner in which the European unity lies in dis-unity and heterogeneity, we need to appeal to two principles of intelligibility susceptible of clarifying the complex phenomena of this order: the dialogic principle and the recursion principle.¹²

Following the natural order, a multiple Europe may be perceived through appeal to communion. *During* the sacrament/communion, One and Multiple are present. In the light of communication the two exclude reciprocally, despite the fact that through communion communication is not excluded, moreover, it is enriched; the same happens with identity.

Only at this level, of understanding the European culture as a whole operating with multiple, diverse structures, structures found in a perpetual diversification, distinct at the imagological level, but bearing the whole at the cultural level, can cultural change, in general, and the one specific to the local cultural space, in particular, display the richness of organic, multipliable forms of the exception that tends to replace the rule. More precisely, in the light of this meaning, the path toward a whole is through its parts, the path toward the universal goes through the national, which is a form of universalization, of instituting some values that, anyway, are going to impede the possibility of decadence of any culture constituted in this manner. The European culture, of Byzantine origin, lasts in spite of the European civilization erosion. Just like a *Byzantium after Byzantium*, it gives birth, in the normative, cultural, historical, or even

¹¹ Constantin Noica, *The European Cultural Model*, pp.69-71.

¹² Edgar Morin, *Thinking Europe*, p.28.

geographical marginal, to new forms of exception that tend to replace the rule. One-Multiple perpetuates from the inside and may be eroded still from the inside. And this is possible, in Grigore Georgiu's view, because "the force of the European culture comes from its new and fertile manner in which it knew how to harmonize its unity and diversity"¹³.

Moreover, in the context in which, following the European empires disintegration, Europe of the nations gives signs of a possible disarticulation, the problem of identity becomes implicitly connected with the organicity of national culture in relation with the organicity or artificiality of the European culture. Therefore, in a Europe troubled by contrastive, centrifugal and centripetal tendencies, the Romanian culture, in its organic becoming, relates to the openness toward the universal through its own identity.

5. Conclusions

The best formula of the openness, which implies a reduction in tensions generated by contrastive effects (integrationist vs. nationalist, localistic) is the paradoxical one of expressing multiple identities simultaneously, by appealing to the merry phrase originating in the "ontological symmetry": unity-diversity, in its form of "unity in diversity". In this respect, the option for the cultural way of articulating the European unity becomes mandatory: the political unity and the economic unity should be consequences of the unity in diversity, at the cultural level, and they should not dictate the centered order of some juxtaposition of identities. Although the Maastricht Treaty stipulates the political and economic supports of the European Union, the real cultural richness of Europe, its cultural diversity, is the one that has nurtured and supported its unity almost invisibly. In the light of this reality, the Romanian culture, whose vocation is to perceive the relation U/D (unity/diversity) as "unity in diversity", is, in fact, constitutively integrated to its spirit. National European communities are to demand, in the spirit of the Noicean model, their right to identity and diversity, within an integrative framework which, as a whole, distributes itself without sharing, and which is "everyone's and nobody's, in an absolute manner"¹⁴.

¹³ Grigore Georgiu, *The History of Modern Romanian Culture*, Bucharest, Faculty of Communication and Public Relations "David Ogilvy" - National University of Political Studies and Public Administration - NUPSPA, 2000, p.478.

¹⁴ Grigore Georgiu, *Nation. Culture. Identity*, Bucharest, Diogene Printing House, 1997, p.405.

Furthermore, the Europeanization solution becomes clarifying for the changing manners of the Romanian culture. The principle of “unity in diversity” allows cultures to manifest as being irreducible, to affirm their anthropological legitimacy in an equal manner, so long as cultures may not be reduced, substituted or related to one another. The self-consciousness of culture likewise permits the affirmation of identity and openness toward alterity within the European integrative framework, constituted on the same principles as the Romanian local cultural framework. Differences should not be translated through distances, such as within the boundaries of the disjunctive paradigm, but through acceptance, tolerance and, finally, through inner unity, through the holographic inclusion within the consciousness boundaries of the other’s cultural being, in a broader integrative Ego – the European culture.

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THE PREVENTIVE - EDUCATIONAL ROLE OF USING POLITICAL - DIPLOMATIC MEANS IN THE CASE OF INTERNATIONAL DIFFERENCES

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Abstract: *The political – diplomatic procedures are peaceful regulation means often used to deal with differences, because are less expensive and can be easily achieved, directly between the interested parties, without formalities. These are, usually, confidential and based upon the belief of the parties that by using them, the sovereignty of states is better defended, contributing to the normalisation of relations and the future. Additionally, the parties are free to accept the proposed solutions, which are not mandatory as in the case of jurisdictional means, so that if the dispute is settled, the solution founded is to be considered convenient to all parties.*

Keywords: *disputes, education, peaceful means, prevention, sanctions.*

Introduction

The education of people in the way to respect the judicial regulations constitutes one of the essential conditions to establish order, both in the field of social reports from within states and in the field of international relations.

The idea to respect the international public right regulations was concretized under the principle *pacta sunt servanda*, according to which the states need to fulfil their obligations deriving from the conventions concluded between them.

The mandatory force of treaties is deduced from the good-faith idea, that being recognised even by old nations, as a debt of honesty, as an obligation to respect the given word¹.

Along the history, within international relations, there were also numerous violations of treaties or violations of some common regulations,

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¹ Grigore Geamănu, *International Public Law. Treaty*, volume I, Bucharest, The Didactic and Pedagogical Printing House, 1981, p. 245.

generating litigations between states, which often degenerated into armed conflicts, resulting loss of human lives, material values or of other nature.

With the adoption of *The United Nations Charter* at 26th of June 1945 (in force since 24th October 1945), the old principle *pacta sunt servanda* was assigned with a wider acceptance, referring to the necessity of respecting precisely the variety of obligations which derive from all the regulations of public international right.

The diversity of the international society, generated by the different evolution of each nation, tradition, custom, economic development and civilisation, mainly, of religious perception, mentality, internal regulations etc., influence the international judicial order², between states and/or other subjects of international public right arising permanently new divergences, besides the ones still not settled.

These divergences can occur due to opposite interests, misunderstandings, different positions or litigation problems, which, in official documents and specialty literature, are called: *dispute, litigation, situation, conflict, crisis* etc.

These terms are used according to the severity of the misunderstanding status and their implication over the reports between the subjects in cause, yet the notion of "dispute" is appreciated to have a wider acceptance, centralising the other concepts³.

Political-diplomatic means of settlement regarding the international differences

The first peaceful regulation trials of international differences are composed in *The Hague Conventions* from the years of 1899 and 1907, which foreseen the obligation of the participant states to make all efforts in this way⁴.

The political-diplomatic means of settlement may have a *preliminary title*, in report with the jurisdictional ones, if the parties decide to invoke them, because during negotiations, for example, the jurisdictional regulation form could be convened with: judicial or arbitrary, or

² Mona Maria Pivniceru, *International Public Law*, volume I, 2nd edition, Bucharest, Hamangiu Press, 2007, p. 152.

³ Grigore Geamănu, *Public International Law*, volume II, Bucharest, The Didactic and Pedagogical Printing House, 1983, p. 384.

⁴ Dominique Carreau, *International Law*, 7th edition, Paris, A. Pédone Press, 2001, p. 597.

conditions in order to develop those procedures are established⁵. Likewise, there is the possibility to choose a single dispute settlement mean, but it also be combined with more political-diplomatic means between them⁶.

To the extent of offered possibilities by the concrete surroundings, in order to settle disputes, one could resume to: *negotiations, good conditions, mediation, international investigation or international counselling*.

- *The diplomatic negotiations* (parleys) constitute the most often used and most important mean to settle disputes, due to the efficiency and low costs, being a rather undefined modality from the procedural point of view⁷, parties entering into direct contact with one-another, which is in nature to put them on levelled grounds in discussions; in this way, the opinions may be directly expressed, without reserves or procedural formalities either legal or arbitrary, each part thus defending their own interests⁸.

If such rules and principles are respected, the negotiations may lead to a solution which, usually, is fair and definitive, therefor avoiding tensions in international relations.

The consultations between parties in dispute, diplomatically, represents a simplified modality, less formal and more direct of negotiations in order to find a rapid and discrete solution or in order to reach a common ground over a mean of peaceful regulation⁹.

- *The good conditions* represent the action of a *third party* meant to create favourable conditions in order for the state in litigation to reach the settlement of an international dispute, by parleys. This procedure may also consist in the interposing of a third party in the interstate conflictual relations, where the direct contact between parties is impossible due to certain political obstacles, sometimes doubled by legal difficulties¹⁰.

⁵ Raluca Miga-Bestelie, *International Law. Introduction in Public International Law*, 3rd edition, Bucharest, All Beck Press, 2003, p. 334.

⁶ Pierre-Marie Dupuy, *Public International Law*, 7th edition, Paris, Dalloz, 2004, p. 548.

⁷ Emmanuel Decaux, *Public International Law*, 4th edition, Paris, Dalloz, 2004, p. 213-214.

⁸ Dumitra Popescu, Adrian Năstase, *Public International Law - Revised and Enlarged Edition*, Bucharest, „Șansa” S.R.L. Press and Publishing House, 1997, p. 294.

⁹ Aurel Preda-Mătășaru, *Treaty of Public International Law*, 3rd edition, reviewed and completed, Bucharest, Lumina Lex Publishing House, 2008, p. 247.

¹⁰ Jean Combacau, Serge Sur, *Public International Law*, 5th edition, Paris, Montchrestien, 2001, p. 565.

The purpose of the good conditions is to convince the parties in dispute to begin negotiations or to resume them, if they were interrupted.

At request or with the agreement of parties, the good conditions may be achieved by states, international organisations or personalities (as in the General Secretary of UN, who offered the good conditions in many disputes).

The one who offers the good conditions does not participate to negotiations, yet he can support the parties to establish the place of negotiations, their objective, the level where developed etc.

- *The mediation* consists in the action of a *third party* (state, international organisation or personality) to participate at the management of negotiations, which he often *leads*, examining the grounds of the dispute and making proposals of nature to constitute a basis for its settlement¹¹.

Besides the good conditions, the mediation proposes the active and direct participation to negotiations of the mediator, who serves as an intermediate in the development of parallel negotiations¹², following the reach of parties' positions and the achievement of an agreement.

The proposed solution by the mediator is not mandatory for the parties, yet his personal talent plays a determining role in the success of such a method of regulating disputes¹³.

- *International investigation*, as a peaceful mean of outsourcing international disputes, serves right as purpose the exact establishment of deeds which gave birth to the dispute and digging for some information regarding the conditions in which they took place.

The procedure is achieved by an international investigation commission, created by the parties in litigation through an international agreement, where the composure of the commission is shown along with the factual situations which need to be examined and the terms of achieving the established activities.

The report of the investigation commission, will be limited to *the establishment of the factual situation*, without proposing solutions. It is not mandatory for the parties but has the purpose to create – as in the case of good conditions and mediations – the necessary conditions for the future diplomatic treaties, because by carrying out the investigation, the necessary data regarding the fact that generated the dispute is established.

¹¹ Grigore Geamănu, [3], p. 402.

¹² Emmanuel Decaux, [7], p. 205.

¹³ Pierre-Marie Dupuy, [6], p. 549.

• *The international counselling*, as a regulation mean of the international disputes, proposes the examination of the dispute by a commission (rarely by a person) under all aspects, proposing afterwards a solution comprised, usually, in a report, yet that does not have a mandatory character, being only recommended to the parties.

No longer being mentioned in *The Hague Convention* from 1907, the counselling occurred soon before The First World War.

It could also have a more complex character, combining, where appropriate, elements of international investigation with the ones specific to this dispute settlement procedure¹⁴.

A variety of international treaties foresee the creation of some counselling commissions in order to settle certain disputes, or as permanent organisms, and in the last years, within the UN, counselling commissions were established in order to outsource some categories of disputes (for example, *The convention regarding the right of sea*, from 1982).

According to some treaties, the counselling may be a preliminary phase to the submission of a dispute to the international arbitrary procedure¹⁵ or mandatory jurisdiction.

Conclusions

Until the XIX century, the states insured themselves, by war, the respect of own rights and they imposed their concepts, as international right rules¹⁶, the most part of the classic treaties dealing more with the regulation of pro-war paths, rather the establishing some rules of right to govern the peaceful relations between states¹⁷.

Along the increase in education levels and civilisation, mainly, not any misunderstanding or disagreement between states or other subjects of public international right generated conflicts, which propose the formulation of well-defined opposite positions, respectively the affirmance of some petitions or divergent opinions, of nature to disturb international relations.

The peaceful regulation of disputes and the prohibiting of force threatening is mutually inter-conditioned, between one-another being both a logical link and an historical one. Thus, whilst war was considered

¹⁴ Grigore Geamănu, [3], p. 405.

¹⁵ Dominique Carreau, [4], p. 605.

¹⁶ Raluca Miga-Besteliu, [5], p. 325.

¹⁷ Lassa Oppenheim, *International Law: A Treatise*, Volume I (Peace), Sixth Edition, edited by Hersch Lauterpacht, Longmans / Green and Co., London / New York, 1947, p. 5.

an illicit mean of settling disputes, the resolution to peaceful procedures, necessary to normalize international relations, gained an ever growing importance¹⁸.

In its evolution, the international right militates more and more for the awareness of the preventive-educational role of the peaceful outsourcing of disputes, even if under certain limits, some constraining means are also used and accepted when they are justified¹⁹.

Assigning also the principle to not resume to force or threat with force, the states in litigation will submit their efforts to settle the disputes between them by peaceful means, avoiding the use of force or even applying international sanctions²⁰, after the internal right model, where there the old moral conduct norms were still promoted²¹.

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¹⁸ Edwin Glaser, *Socialist Romania's Contribution to the Progressive Development of International Contemporary Legality*, in RRD, no. 8, 1969, pp. 59 and the following.

¹⁹ Ramona-Gabriela Paraschiv, Elena Paraschiv, *The report between the international responsibility of the states and penalty*, "European Union History, Culture and Civilization. Current Issues of European Integration", 2nd edition, Publishing House of Pitești University, Pitești, 2009, pp. 816-820.

²⁰ Yannick Dubois, Hélène Tigroudja, *Public International Law*, Édition Vuibert, Paris, 2004, p. 83.

²¹ Elena Paraschiv, Ramona Paraschiv, *Rules of Conduct and Ethic in Dimitrie Cantemir's Work and Their Evolution*, Supplement to Cogito Journal, no. 3/2012, Pro Universitaria Press, Bucharest, 2012, pp. 297-304.

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THE NON-PROFIT EDUCATIONAL SERVICE PROVIDERS

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Abstract: *Within non-profit organizations the NGOs in the field of education have a very important role. They provide children, youth, adults and disadvantaged groups with the opportunity to learn new things that can offer a new perspective on life and skills that can help them to find a job or to evolve professionally.*

Keywords: *Education, NGOs, Romania, Foreign Languages Courses.*

The importance of non-profit organizations

In many countries, the (re)discovery of civil society coincided with renewed emphasis on the role of non-profit organizations (Deakin, 2001). In the last decade, most developed market economies of Europe, North America and the Asia-Pacific region have witnessed an increasing economic importance of non-profit organizations as providers of health, social, educational and cultural services of many kinds. On average, the non-profit sector is responsible for employing nearly 6 percent of the total employed labour force in member countries of the Organization for Economic Cooperation and Development (OECD) or nearly 10 percent if we add voluntary work (Salamon, 1999).¹

Due to increasing doubts about the ability of the state to cope with its own welfare, developmental and environmental problems analysts of the political spectrum (Anheier and Kendall, 2001; Deakin, 2001) have come to see non-profits as strategic components of a middle way between policies that put primacy on „the market” and those that advocate greater reliance on the state (Edwards and Gaventa, 2001). Also, institutions such as the World Bank, the United Nations or the European Union, together with bilateral donors and many developing countries, are seeking a balance between the approaches that focus on the state or the market in terms of development, and are allocating more responsibility to NGOs (Clark, 2003).²

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¹ Helmut K. Anheier, *Civil Society: “Measurement, Evaluation, Policy”*, Taylor & Francis, 2013, pp. 9-10.

² *Ibidem.*, p. 10.

The basic argument for granting a greater role to the non-profit sector in both developed countries and in the developing ones is based on public administration (Salamon, 1995), in this context it is suggested that non-profit organizations or NGOs are effective providers of social and other services that governments could consider too expensive and to no avail to offer them themselves. Therefore, cooperative relations between governments and non-profit organizations in providing welfare have become a prominent feature in countries like the US (Salamon, 2002), Germany (Anheier and Seibel, 2001), France (Archambault, 1996) or the UK (Plowden, 2001; Strategy Unit, 2002).³

Where such partnerships with the government emerged, the non-profit organizations role is more pronounced than in countries where this collaboration did not prevail (Anheier and Salamon, 2003). As part of public sector reform in many developed and developing countries, this partnership is open and seen in the context of privatization. The development of quasi-markets and public-private partnerships under the name of „new public management“ emphasizes the role of non-profits as service providers, contractors of services paid for, at least partly by the government (Ferlie, 1996; McLaughlin, Osborne and Ferlie, 2002).⁴

The political discourse about the role of the non-profit sector as a provider has expanded from the welfare state paradigm that has characterized this field for a long time, to the inclusion of powerful elements of civil society in our present days. While their economic function, particularly the provision of welfare, has been a common, often overlooked, feature of non-profits in most developed countries, the emphasis on civil society is new and reflects profound changes in the wider political environment. The non-profit or voluntary sector is seen as the social infrastructure of civil society, creating and facilitating a sense of confidence and social inclusion that is seen as essential for the functioning of modern societies (Putnam, 2000; Anheier and Kendall, 2002). The explicit or implied joint emphasis on providing services and civil society brings with it many theoretical and policy-related challenges.⁵

Romanian NGOs in the education field

The exact delimitation of the NGOs active in the education field is very difficult due to the international classification of non-profit

³ Ibidem.

⁴ Ibidem.

⁵ Ibidem., pp. 11-12.

organizations that includes education along with research. Many non-governmental organizations working in education have complementary activities in other fields, such as: social services, democracy, human rights, arts and culture, environment, etc.⁶

A special category of NGOs represents the private educational establishments, whose legal regime is much more complex and special compared to the legal status of NGOs, because of their importance as providers of public services. According to the law, private education can function only if it is organized and operates on the „principle of non-profit”, and is organized on non-discriminatory principles and rejects ideas, currents and attitudes that are anti-democratic, xenophobic, chauvinist and racist, respecting national standards.⁷

Besides the establishment which is the same as associations or foundations, private educational establishments must meet some additional provisions for both the previous stage obtaining legal personality and for the proper operation stage. Kindergartens, primary and secondary schools, schools of arts and vocational schools can be established only with the authorization of the school inspectorate based on the evaluation documentation (requirement that does not exist for another type of association or foundation). High schools and post-secondary schools can be established only with the approval of the school inspectorate and of the Ministry of Education, Research and Youth, based on the evaluation documentation.⁸

Regarding higher education, the involvement and representation of non-governmental organizations is consistent. In the national education system in 2009, there were 28 private accredited higher education establishments, in addition 21 were provisionally accredited and 5 were provisional authorized, but were in the process of accreditation.⁹

Most of the private higher education institutions have been established at the initiative of associations, foundations or religious orders, or even act themselves as associations or foundations.¹⁰

⁶ Civil Society Development Foundation (CSDF), *Romania 2010. The nongovernmental sector - profile, trends, challenges*, Coordinators: Mihaela Lambru, Anuța Vameșu, Mircea Kivu, Bucharest 2010, p. 170.

⁷ Ibidem.

⁸ Ibidem.

⁹ Source: <http://www.edu.ro/index.php/articles/c22>

¹⁰ Civil Society Development Foundation (CSDF), *op.cit.*, p. 175.

Private intervention in the Romanian education system is best represented in higher education.¹¹

In 2010, out of 2.297 NGOs registered in the Civil Society Catalogue, 973 organizations representing 42.36% have the field of activity „education and research”. In the table below we provide data on the distribution on subdomains, taking into account that some organizations reported two subdomains of activity.¹²

The distribution on subdomains of NGOs in education and research

| <i>Subdomains</i> | <i>Percentage %</i> |
|--------------------------------------|---------------------|
| Education | 43 |
| Training | 34 |
| Research | 17 |
| Science and technological innovation | 6 |

Source: Database from the Civil Society Catalogue, FDSC (January 2010).¹³

The data presented in the table shows that the NGOs active in education and research chose with predilection the following subdomains: education - 43% and training - 34%, while in the opposite side are research with 17% and science and technological innovation with 6%.

It should be mentioned that within the general field of „health” 241 NGOs representing 10.49% have as a subdomain of activity „Education for Health”.¹⁴

The number of NGOs with the main field „Education” had a steady positive trend, with an important rate of increase compared to others in other areas.¹⁵

In 2008 the percentage of non-governmental organizations in the field of education was 7.5% of all civil society organizations, with a share of 19.03% in the number of staff employed in the NGO sector and respectively 22.27% of recorded revenue. Education is the main field of activity of NGOs in Romania, if we consider the number of employees and revenue.¹⁶

¹¹ Ibidem.

¹² Ibidem., p. 171.

¹³ Ibidem.

¹⁴ Ibidem.

¹⁵ Ibidem.

¹⁶ Ibidem.

Over the years non-governmental organizations in the field of education have evolved from intervention in the case of disadvantaged groups to defining and promoting educational policies, development of institutional capacity and human resources, and also, creating pressure for accountable governance. The intervention in the field of education is a priority in public policy and the core processes of community development.¹⁷

Free courses offered by NGOs in Romania

Many NGOs in the education field offer free courses for children, youth and adults, courses taught by a teacher that is either paid or volunteer. These courses have a diverse thematic: foreign languages, computer classes, photography, painting, retraining, management, accounting, business development.

Next we will focus only on the language courses and we give two examples of civil society organizations in Romania that offer free courses for learning and improving different foreign languages.

In 2008 was established the Foreign Language Center of the County Library „Duiliu Zamfirescu” Vrancea after an international project of donation of 16 tons of books from the United States. These books were divided equally among the three county libraries from Romania which participated in the project, namely: Vrancea (project coordinator), Baia Mare and Suceava.¹⁸

This Center mentioned above is the only foreign language center in Vrancea that is cultural, social and educational active involving the local community, enjoying the support of donors and sponsors which understand the role of the library in a community.¹⁹

To promote the library, reading and foreign languages among the community the Foreign Language Center set up at the request of its readers, a number of foreign language clubs. Approximately 160 children and youths became members of these clubs, and under the guidance of volunteer teachers they learn the following languages: English, Spanish and French. Following the success of this initiative and the rising demand, the Center seeks to establish clubs of other foreign languages seeking volunteer teachers for this purpose.²⁰

¹⁷ Ibidem., p. 173.

¹⁸ http://centruldelimbustraine.blogspot.ro/2009_05_15_archive.html

¹⁹ Ibidem.

²⁰ Ibidem.

Another organization that offers free foreign language courses for children and adults is Dan Voiculescu Foundation. The program of personal multilingual development held by this foundation since 2012 is available to those interested in a wide range of foreign language courses: Japanese, Chinese, English, French, Arabic, German, Spanish, Italian or any other foreign language.²¹

The courses taught by teachers are organized in modules, each module lasting three months, they begin soon after the formation of groups of minimum 15 persons. These courses are for both the people that live in Bucharest that can opt for the classic course (in the classroom) and the ones living in the provinces, because the courses are also conducted online. When the module is finished each student receives a diploma certifying the graduation from the respective foreign language course.

Conclusion

NGOs working in the education field are among the most important civil society organizations. They can influence people's thinking and are essential for the dissemination of education among the population. Organisations in this field through the courses they organize and the information they disseminate can educate people to comply with certain principles related to other areas, such as environment protection which is essential for the environmental NGOs or health education which helps the NGOs that are providing medical services.

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²¹. <http://www.fundatiadanvoiculescu.ro/2012/05/vrei-sa-inveti-o-noua-limba-straina/>

ROLE OF REGULATIONS AND JURISPRUDENCE IN STRENGTHENING EDUCATION ON RESPECTING THE RIGHT TO PROPERTY

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Abstract: *In many cases violating the rights is based on shortcomings in the education of those who violate them, as representatives of States, officials or private individuals, and insufficient documentation of the population on the rights and freedoms of which everyone can benefit, at boundaries in exercising them and the ways of achieving them, plus the ignorance of obligations and liability of those guilty of infringement.*

As far as property rights are concerned, it appears that there are still many infringements, although in this matter numerous international and national regulations which guarantee it have been adopted, there are also many jurisdictional solutions which penalize its breach, such as the European Court of Human Rights.

Keywords: *right to property, compliance, education, legislation, jurisprudence.*

Introduction

The right to property is considered as part of civil rights, but is also qualified as an economic¹ one, since the property is of particular importance in developing the social and economic relations.

Without denying the need for cooperation of states in the international processes of control and jurisdiction over human rights², especially right to property (with all imperfections and deficiencies in the

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¹ Renucci, Jean François, *Treaty of European Human Rights Law* Bucharest: Hamangiu Publishing House, 2009, p. 555.

² Cristean, Victoria; Buzatu, Nicoleta Elena, *The Principle of International Cooperation - integral part of the principles of international law*, in volume "Legal Contemporary Institutions in the Context of Romania in the European Union, Bucharest: Publishing House Pro Universitaria, 2009, pp. 474-480.

functioning of bodies that “manage” them), we consider that putting a greater emphasis on the education of citizens and removing harmful mentality besides ensuring balanced economic development and the fair distribution for benefits of working in a society run democratically, would contribute to a greater extent, in respecting human rights by own initiative, being actually normal behavior that should be adopted by as many people on the planet as possible.

International concerns for respecting right to property

Ensuring international property is achieved by the existence of a favorable legal framework for the organization of free social relations, with respect for equality, dignity and justice³. The Universal Declaration of Human Rights states in Article. 17 that: “Everyone has the right to property alone as well as in association with others” and “No one shall be arbitrarily deprived of his property” and the American Convention on Human Rights guarantees “the right to private property”, but condemns “usury” and “any other form of exploitation of man by man” (art. 21) and in art. 14 of the African Charter of Human and Peoples’ Rights is also recognized the right to property.

European Convention on Human Rights did not guarantee this right at the time of adoption, but after two years, by art. 1 of the Additional Protocol no. 1 is guaranteed the right to property, each individual may use his goods, and the state may adopt laws to bring some justified limitations to this right which can not be violated out of such limitations.

Regarding the *limitation* on the right to property, Protocol 1 of the European Convention on Human Rights establishes the conditions under which deprivation of property is possible (art. 1, paragraph 1) and recognizes the competence of states to regulate possessions according to public interest (art. 1, paragraph 2); deprivation of property should have an aim of public interest and comply with the conditions provided for by law and by the general principles of international law.

The regulation of restriction of goods is done by each state according to what it considers necessary in connection with some restrictions on the exercise of right to property, education also people in this regard.

³ Mouly, Christian, *The Property* in Cabrillac, M – A Frison – Roche, Th. Revet (Coord.), *Fundamental Rights and Freedoms*, 12 Edition, Paris: Publishing House Dalloz, 2006, p. 737.

In terms of property right limitations must be a *fair balance*, a general requirement of *proportionality* between the general interest of the community and the requirements of protecting the interests of the individual; the material deprivation of property (expropriation or nationalization) appreciates by more flexibility the requirement of “fair balance”, using the term “reasonable”; which means that the allowance paid as compensation should be reasonable.

Contributions of national regulations and Echr practice in educating citizens of our country towards respecting the right to property

Art. 44 of the Romanian Constitution guarantees the right to private property, pointing out, however, the circumstances in which this right may be limited. Thus, it states that the right to property and claims over the state are guaranteed, content and scope of these rights being established by law.

As a limitation of the right to property, the Constitution states that for works of general interest, the public authority may use the subsoil of any real estate with the obligation to indemnify the owner for damage to the soil, plantations or buildings, as well as for other damages imputable to these authorities. The compensation shall be established as expropriation, in agreement with the owner, or, in case of divergence, by justice (para.5 and 6 of art. 44 of the Romanian Constitution).

Another limitation of the powers of property right is that the owner must ensure compliance with environmental protection tasks.

It also must ensure good neighborliness and other tasks that by law or custom, are incumbent to the owner (para.7 of art. 44 of the Romanian Constitution).

At the same time, it shows that private property is guaranteed and protected equally by the law, irrespective of its owner, one can not be expropriated except in the public utility, established by law, against just compensation paid in advance.

As a guarantee of respect for property rights, the Constitution also stipulates that property acquired legally may not be confiscated, the legal nature of acquisition is presumed.

Goods intended for, used or resulted from crimes or offenses may be confiscated, but only under the law (para.8 and 9 of art. 44 of the Romanian Constitution).

Ensuring respect of right to property is achieved by the fact that the Criminal Code criminalizes several acts which affect this right, like for example: theft, destruction, fraudulent management, etc.

The principles of Romanian Constitution and the regulations contained in other laws on the protection of property correspond to the provisions and the spirit of the European Convention on Human Rights and other relevant international conventions.

Despite legislative transformations occurred after 1990, which brought additional guarantees for the right to property, there are still numerous cases against Romania by the ECHR for infringing this law, because of gaps in public and officials education, materialized in the wrong administrative decisions, malfunctioning of the judicial system, or even of the adoption of inadequate laws.

Studying the cases in which Romania was condemned by the European Court of Human Rights for violation of Art. 1 of Protocol no. 1 to the European Convention on Human Rights, we observed multiple causes that led to violation of right to property.

Many convictions are based on the failure of the authorities to administrative acts issued under the laws of reparation, which established compensation to the claimants.

Other convictions were handed down by the ECHR for non-execution of final court decision, which established redress in property or restitution of fines on the court ordering the cancellation.

The ECHR also ruled several convictions for property infringement by admitting appeals against final and irrevocable decisions, which concerned restitution of nationalized properties to former owners.

In some cases the ECHR condemned Romania for violating the right to property by prolonged inability to take possession of the buildings by the claimants due to the extension of leases, by law, in the case of nationalized houses that were restituted to former owners.

Non-compliance of property by the state by selling some nationalized properties during the communist period generated numerous other convictions of Romania by the European Court of Human Rights. Action for recovery of those entitled to restitution under common law, were generally rejected⁴, generally the problem of selling the property of another not being sanctioned by Romanian law if the parties are of good faith (the Supreme Court of Justice, Civil Division, Decision no. 132/1994, in Law no. 5/1995, p. 77).

⁴ Pop, Liviu, *Right to property and its dismemberments*, Bucharest: Publishing House Lumina Lex, 1997, pp. 778-779.

After the appearance of remedial laws (Law no. 112/1995 and Law no. 10/2001), the problem of nationalized properties was even more complicated, getting other shades.

Researching the conviction of the ECHR we noted that in many cases national courts upheld the claim brought under common law, stating that the nationalization of the buildings was illegal, but they refused to cancel contracts of sale under which the State dispose of such property to others, on the grounds of good faith of the parties.

In ECHR practice there are convictions for infringement of property right by taxing amounts received as compensation by soldiers early retired, etc.

Conclusions

Examining the factors that determine human rights violations in general, we find that there are a multitude of factors which may have affected the exercise in good condition, of them we note: the overall level of civilization, the development stage of the economy, character traits, organization of education system and how the society ensures the exercise of rights by disadvantaged categories, social and political organization of community, systems of consecration and guarantee of rights, the structure of the bodies for protection, efficiency of control and judiciary procedures and the penalties system applicable to breaches of rights.

Slippages in the conduct of human relations and low education levels of certain categories of persons, favors human rights violations, including of the right to property.

By increasing education this goal could be achieved because man by nature, has good traits and evil traits, has positive feelings and actions and impulses and acts harmful to others, so that between good and evil is a constant struggle such as between *factors* influencing respecting or violating the rights of their fellow men.

Basically, the real situation regarding the level of respect for human rights, including the right to property is illustrated by the outcome of the struggle between the two sets of factors.

This battle between positive factors (that contribute to respect for the rights) and the negative ones (which is an obstacle in this endeavor, encouraging their violation) can be decided in favor of human rights in a ratio very high, in so far as it acts more effectively to increase the role of education in this area, of the general level of civilization.

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