New Europe College
Ştefan Odobleja Program
Yearbook 2009-2010

RAFAEL-DORIAN G. CHELARU
ATTILA KIM
PUIU LĂŢEA
ANDREI MURARU
ALINA SILIAN
ANDREI FLORIN SORA
ÁRON ZSOLT TELEGDI-CSETRI
AURELIA VASILE

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Editor: Irina Vainovski-Mihai

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NEW EUROPE FOUNDATION
NEW EUROPE COLLEGE

Institute for Advanced Study

New Europe College (NEC) is an independent Romanian institute for advanced study in the humanities and social sciences founded in 1994 by Professor Andrei Pleşu (philosopher, art historian, writer, Romanian Minister of Culture, 1990–1991, Romanian Minister of Foreign Affairs, 1997-1999) within the framework of the *New Europe Foundation*, established in 1994 as a private foundation subject to Romanian law.

Its impetus was the *New Europe Prize for Higher Education and Research*, awarded in 1993 to Professor Pleşu by a group of six institutes for advanced study (the Center for Advanced Study in the Behavioral Sciences, Stanford, the Institute for Advanced Study, Princeton, the National Humanities Center, Research Triangle Park, the Netherlands Institute for Advanced Study in Humanities and Social Sciences, Wassenaar, the Swedish Collegium for Advanced Study in the Social Sciences, Uppsala, and the Wissenschaftskolleg zu Berlin).

Since 1994, the NEC community of fellows and *alumni* has enlarged to over 500 members. In 1998 the New Europe College was awarded the prestigious *Hannah Arendt Prize* for its achievements in setting new standards in research and higher education. New Europe College is officially recognized by the Romanian Ministry of Education, Research and Innovation as an institutional structure for postgraduate studies in the humanities and social sciences, at the level of advanced studies.

Focused primarily on research at an advanced level, NEC strives to create an institutional framework with strong international links that offers to the young scholars and academics in the fields of humanities and social sciences from Romania, and to the foreign scholars invited as

fellows working conditions similar to those in the West, and provides a stimulating environment for interdisciplinary dialogue and critical debates. The academic programs NEC coordinates and the events it organizes aim at promoting contacts between Romanian scholars and their peers worldwide, at cultivating the receptivity of academics and researchers in Romania for fields and methods as yet not firmly established here, thus contributing to the development of a core of gifted young academics and scholars, expected to play a significant role in the renewal of research and higher education in Romania.

Academic programs currently organized and coordinated by NEC:

• *NEC Fellowships (since 1994)*
  Each year, up to ten NEC Fellowships for outstanding young Romanian scholars in the humanities and social sciences are publicly announced. The Fellows are chosen by the NEC international Academic Advisory Board for the duration of one academic year (October through July). They gather for weekly seminars to discuss the progress of their research, and participate in all the scientific events organized by NEC. The Fellows receive a monthly stipend for the duration of nine months, and are given the opportunity of a one–month research trip abroad, at a university or research institute of their choice. At the end of the academic year, the Fellows submit papers representing the results of their research, which are published in the New Europe College Yearbooks. This program also includes a number of international fellowships.

• *Ştefan Odobleja Fellowships (since October 2008)*
  The fellowships given in this program are supported by the National Council of Scientific Research in Higher Education, and are meant to complement and enlarge the core fellowship program. The definition of these fellowships is identical with those in the NEC Program, in which the Odobleja Fellows are integrated.

- ***The GE-NEC III Fellowships Program (since October 2009)***

  A new program supported by the Getty Foundation started this academic year. It proposes a research on, and a reassessment of Romanian art during the interval 1945 – 2000, that is, since the onset of the Communist regime in Romania up to recent times, through contributions coming from young scholars attached to the New Europe College as Fellows. As in the previous programs supported by the Getty Foundation at the NEC, this program will also include a number of invited guest lecturers, whose presence is meant to ensure a comparative dimension of the program, and to strengthen the methodological underpinnings of the research conducted by the Fellows.

- ***The Black Sea Link (starting in October 2010)***

  This Fellowship Program, sponsored by the VolkswagenStiftung, invites young researchers from Moldova, Ukraine, Georgia, Armenia and Azerbaijan, as well as from other countries within the Black Sea region, for a stay of one or two terms at the New Europe College, during which they will have the opportunity to work on projects of their choice. The program welcomes a wide variety of disciplines in the fields of humanities and social sciences. Besides hosting a number of Fellows, the College will organize within this program workshops and symposia on topics relevant to the history, present, and prospects of this region.

Other fellowship programs organized since the founding of New Europe College:

- ***RELINK Fellowships (1996–2002)***

  The RELINK Program targeted highly qualified young Romanian scholars returning from studies or research stays abroad. Ten RELINK Fellows were selected each year through an open competition; in order to facilitate their reintegration in the local scholarly milieu and to improve their working conditions, a support lasting three years was offered, consisting of: funds for acquiring scholarly literature, an annual allowance enabling the recipients to make a one–month research trip

to a foreign institute of their choice in order to sustain existing scholarly contacts and forge new ones, and the use of a laptop computer and printer. Besides their individual research projects, the RELINK fellows of the last series were also required to organize outreach actives involving their universities, for which they received a monthly stipend. NEC published several volumes comprising individual or group research works of the RELINK Fellows.

- **The NEC–LINK Program (2003 - 2009)**

  Drawing on the experience of its NEC and RELINK Programs in connecting with the Romanian academic milieu, NEC initiated in 2003, with support from HESP, a program that aimed to contribute more consistently to the advancement of higher education in major Romanian academic centers (Bucharest, Cluj–Napoca, Iași, Timișoara). Teams consisting of two academics from different universities in Romania, assisted by a PhD student, offered joint courses for the duration of one semester in a discipline within the fields of humanities and social sciences. The program supported innovative courses, conceived so as to meet the needs of the host universities. The grantees participating in the Program received monthly stipends, a substantial support for ordering literature relevant to their courses, as well as funding for inviting guest lecturers from abroad and for organizing local scientific events.

- **The GE–NEC I and II Programs (2000 – 2004, and 2004 – 2007)**

  New Europe College organized and coordinated two cycles in a program financially supported by the Getty Foundation. Its aim was to strengthen research and education in fields related to visual culture, by inviting leading specialists from all over the world to give lectures and hold seminars for the benefit of Romanian undergraduate and graduate students, young academics and researchers. This program also included 10–month fellowships for Romanian scholars, chosen through the same selection procedures as the NEC Fellows (see above). The GE–NEC Fellows were fully integrated in the life of the College, received a monthly stipend, and were given the opportunity of spending one month abroad on a research trip. At the end of the academic year the Fellows submitted papers representing the results of their research, to be published in the GE–NEC Yearbooks series.

- ### *NEC Regional Fellowships (2001 - 2006)*
  In 2001 New Europe College introduced a regional dimension to its programs (hitherto dedicated solely to Romanian scholars), by offering fellowships to academics and researchers from South–Eastern Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, The Former Yugoslav Republic of Macedonia, the Republic of Moldova, Montenegro, Serbia, Slovenia, and Turkey). This program aimed at integrating into the international academic network scholars from a region whose scientific resources are as yet insufficiently known, and to stimulate and strengthen the intellectual dialogue at a regional level. Regional Fellows received a monthly stipend and were given the opportunity of a one–month research trip abroad. At the end of the grant period, the Fellows were expected to submit papers representing the results of their research, published in the NEC Regional Program Yearbooks series.

- ### *The Britannia–NEC Fellowship (2004 - 2007)*
  This fellowship (1 opening per academic year) was offered by a private anonymous donor from the U.K. It was in all respects identical to a NEC Fellowship. The contributions of Fellows in this program were included in the NEC Yearbooks.

- ### *The Petre Ţuţea Fellowships (2006 – 2008, 2009 - 2010)*
  In 2006 NEC was offered the opportunity of opening a fellowships program financed the Romanian Government though its Department for Relations with the Romanians Living Abroad. Fellowships are granted to researchers of Romanian descent based abroad, as well as to Romanian researchers, to work on projects that address the cultural heritage of the Romanian *diaspora*. Fellows in this program are fully integrated in the College's community. At the end of the year they submit papers representing the results of their research, to be published in the bilingual series of the *Petre Ţuţea* Program publications.

- *Europa Fellowships (2006 - 2010)*
  This fellowship program, financed by the VolkswagenStiftung, proposes to respond, at a different level, to some of the concerns that had inspired our *Regional Program*. Under the general title *Traditions of the New Europe. A Prehistory of European Integration in South-Eastern Europe*, Fellows work on case studies that attempt to recapture the earlier history of the European integration, as it has been taking shape over the centuries in South–Eastern Europe, thus offering the communitarian Europe some valuable vestiges of its less known past.

- *Robert Bosch Fellowships (2007 - 2009)*
  This fellowship program, funded by the Robert Bosch Foundation, supported young scholars and academics from Western Balkan countries, offering them the opportunity to spend a term at the New Europe College and devote to their research work. Fellows in this program received a monthly stipend, and funds for a one-month study trip to a university/research center in Germany.

New Europe College has been hosting over the years an ongoing series of lectures given by prominent foreign and Romanian scholars, for the benefit of academics, researchers and students, as well as a wider public. The College also organizes international and national events (seminars, workshops, colloquia, symposia, book launches, etc.).

An important component of NEC is its library, consisting of reference works, books and periodicals in the humanities, social and economic sciences. The library holds, in addition, several thousands of books and documents resulting from private donations. It is first and foremost destined to service the fellows, but it is also open to students, academics and researchers from Bucharest and from outside it.

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Beside the above–described programs, New Europe Foundation and the College expanded their activities over the last years by administering, or by being involved in the following major projects:

In the past:

- **The Ludwig Boltzmann Institute for Religious Studies towards the EU Integration (2001–2005)**

  Funding from the Austrian Ludwig Boltzmann Gesellschaft enabled us to select during this interval a number of associate researchers, whose work focused on the sensitive issue of religion related problems in the Balkans, approached from the viewpoint of the EU integration. Through its activities the institute fostered the dialogue between distinct religious cultures (Christianity, Islam, Judaism), and between different confessions within the same religion, attempting to investigate the sources of antagonisms and to work towards a common ground of tolerance and cooperation. The institute hosted international scholarly events, issued a number of publications, and enlarged its library with publications meant to facilitate informed and up-to-date approaches in this field.

- **The Septuagint Translation Project (since 2002)**

  This project aims at achieving a scientifically reliable translation of the Septuagint into Romanian by a group of very gifted, mostly young, Romanian scholars, attached to the NEC. The financial support is granted by the Romanian foundation *Anonimul.* Seven of the planned nine volumes have already been published by the Polirom Publishing House in Iași.

- **The Excellency Network Germany – South–Eastern Europe Program (2005 - 2008)**

  The aim of this program, financed by the Hertie Foundation, has been to establish and foster contacts between scholars and academics, as well as higher education entities from Germany and South–Eastern Europe, in view of developing a regional scholarly network; it focused preeminently on questions touching upon European integration, such as transnational governance and citizenship. The main activities of the program consisted of hosting at the New Europe College scholars coming from Germany, invited to give lectures at the College and at universities throughout Romania, and organizing international scientific events with German participation.

- **The ethnoArc Project–Linked European Archives for Ethnomusicological Research**

  An European Research Project in the 6th Framework Programme: Information Society Technologies–Access to and Preservation of Cultural and Scientific Resources **(2006-2008)**

  The goal of the *ethnoArc* project (which started in 2005 under the title *From Wax Cylinder to Digital Storage* with funding from the Ernst von Siemens Music Foundation and the Federal Ministry for Education and Research in Germany) was to contribute to the preservation, accessibility, connectedness and exploitation of some of the most prestigious ethno-musicological archives in Europe (Bucharest, Budapest, Berlin, and Geneva), by providing a linked archive for field collections from different sources, thus enabling access to cultural content for various application and research purposes. The project was run by an international network, which included: the "Constantin Brăiloiu" Institute for Ethnography and Folklore, Bucharest; Archives Internationales de Musique Populaire, Geneva; the Ethno-musicological Department of the Ethnologic Museum Berlin (Phonogramm Archiv), Berlin; the Institute of Musicology of the Hungarian Academy of Sciences, Budapest; Wissenschaftskolleg zu Berlin (Coordinator), Berlin; New Europe College, Bucharest; FOKUS Fraunhofer Institute for Open Communication Systems, Berlin.

Ongoing projects:

The Medicine of the Mind and Natural Philosophy in Early Modern England: A new Interpretation of Francis Bacon (A project under the aegis of the European Research Council (ERC) Starting Grants Scheme) – In cooperation with the Warburg Institute, School of Advanced Study, London (since December 2009)

Business Elites in Romania: Their Social and Educational Determinants and their Impact on Economic Performances. This is the Romanian contribution to a joint project with the University of Sankt Gallen, entitled **Markets for Executives and Non-Executives in Western and eastern Europe**, and financed by the National Swiss Fund for the Development of Scientific Research (SCOPES) (since December 2009)

Civilization. Identity. Globalism. Social and Human Studies in the Context of European Development (A project in the Development of Human Resources, under the aegis of the National Council of Scientific Research) – in cooperation with the Romanian Academy (starting October 2010)

The EURIAS Fellowship Programme, a project initiated by NetIAS (Network of European Institutes for Advanced Study), coordinated by the RFIEA (Network of French Institutes for Advanced Study), and co-sponsored by the European Commission's 7th Framework Programme - COFUND action. It is an international researcher mobility programme in collaboration with 14 participating Institutes of Advanced Study in Berlin, Bologna, Brussels, Bucharest, Budapest, Cambridge, Helsinki, Jerusalem, Lyons, Nantes, Paris, Uppsala, Vienna, Wassenaar. The programme will issue its first call in the nearest future.

DOCSOC, Excellency, Innovation and Interdisciplinarity in doctoral and postdoctoral studies in sociology (A project in the Development of Human Resources, under the aegis of the National Council of Scientific Research) – in cooperation with the University of Bucharest (starting July 2010)

Other projects are in the making, often as a result of initiatives coming from fellows and *alumni* of the NEC.

Present Financial Support

The State Secretariat for Education and Research of Switzerland

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The Ministry of Education, Research and Innovation – the Executive Agency for Higher Education and Research Funding, Romania

Zuger Kulturstiftung Landis & Gyr, Zug, Switzerland

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Porticus Düsseldorf, Germany

VolkswagenStiftung, Hanover, Germany

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New Europe College -- Directorate

Dr. Dr. h.c. mult. Andrei PLEŞU, Rector

Professor of Philosophy of Religion, Bucharest; former Minister of Culture and former Minister of Foreign Affairs of Romania

Marina HASNAŞ, Executive Director

Dr. Anca OROVEANU, Academic Director

Professor of Art History, National University of Arts, Bucharest

Dr. Valentina SANDU-DEDIU, Permanent Fellow

Professor of Musicology, National University of Music, Bucharest

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RAFAEL-DORIAN G. CHELARU

Born in 1976, in Câmpina

Ph.D. in History, Faculty of History, University of Bucharest (2009)

Assistant Professor, Faculty of Archival Sciences,
"Alexandru Ioan Cuza" Police Academy, Bucharest

Research grants and travels to Hungary, France and Italy
Participation in conferences and symposia in Romania, Hungary,
Czech Republic, Italy and United Kingdom
Articles and studies on the history of Catholicism and Catholic missionarism
in Medieval and Early Modern Moldavia (16th – 19th cc.)

Book:
Colecția Microfilme "Vatican". Ghid arhivistic,
Arhivele Naționale, Bucharest, 2007

CUTTING RELIGIOUS BOUNDARIES: "CONFESSIONAL" DISCOURSE AND ADAPTATION STRATEGIES OF THE CATHOLIC MISSIONARIES IN MOLDAVIA (18TH CENTURY)

Introduction

Sempre sono stati zelanti in promovere anche i vantaggi temporali de' Serenissimi principi con predicare a loro parrocchiani la dipendenza, ubbidienza, fedeltà e tributo al loro principe, richiamandoli a riconducendoli nel di lui Stato quando fuggivano per li troppi aggravij; facendo a gara i padri per più multiplicare e rendere fruttuoso al principe il suo villaggio, con condurvi novi abitatori da Stati vicini, talvolta anche con disgusto dell'Imperatore e de'Polacchi.[1]

These words were used by Antonio Maria Mauro, mission prefect in Moldavia (1774-1777), in a letter sent to an unspecified recipient sometimes before October 11th, 1777.[2] In this letter, Mauro asked for diplomatic support needed to obtain from prince Grigore III Ghica the reconfirmation of fiscal privileges previously granted by the former princes to the missionaries who were sent in Moldavia by the Sacred Congregation "De Propaganda Fide" (hereafter SCPF). The other main objective of Mauro's letter was to obtain a special permission from the Ottoman authorities, the suzerain power, to erect a stone made Catholic church in Iași.

The argument used by Mauro to support his claims is most interesting for our study: the prefect underlines the importance of the missionaries as agents of social discipline within the Catholic communities from Moldavia, enforcing through their efforts the state authority over its subjects.[3] According to Mauro, the missionaries acted to transform the Catholics into

good citizens able to practice fidelity and obedience and to pay their due taxes to the prince. Last but not least, the same missionaries were praised to have succeeded in bringing back to their homes the fugitive Catholics and to organize the new settlements appeared in Moldavia through numerous waves of immigrants from Transylvanian and Polish territories.

In fact, Mauro used arguments that belong to the well known confessionalization theory which includes also concepts like social disciplining or confessional identity. Within this framework, the main goal of the present study is to identify and describe the specific features which could define a "confessional" discourse issued and used by the Catholic missionaries who were active in 18th century Moldavia. A subsequent objective is to draw a comparison with similar situations in other Orthodox areas within the Ottoman Empire and to see whether this sort of "missionary confessionalization" created or tended to create real "confessional frontiers" within Moldavian society.

In parallel, we plan to analyze also the missionaries' strategies of adaptation as an indistinct and "necessary" part of their activities. We will not focus on the strategies themselves, but rather on the relation between these efforts of adaptation (including also personal career goals) and the main goal of the post-Tridentine missionarism, namely to strengthen the Catholic Church authority over its believers and maintaining the purity of the Catholic faith and rituals.

The key concepts that we are going to use to build our argument are *confessionalization* (with its corollary *confessional identity*), *social disciplining* and *popular religion*. These concepts provide the necessary theoretical and methodological framework for our study, being useful to create an interpretative scheme applicable to the missionary sources that we shall address, scheme that was never applied until now in the relevant scholarly literature concerning the Catholic missionarism in Moldavia.[4] Before proceeding to the core of our study, a brief critical presentation of the above mentioned concepts is by all means useful for a better understanding of their explanatory possibilities and limitations.

Confessionalization, social disciplining, popular religion

The *confessionalization theory* was elaborated for the first time by the German scholars Heinz Schilling and Wolfgang Reinhard in the late 1970s and early 1980s to describe the complex processes that led

to the modern state and society in the German Empire.[5] Schilling[6] and Reinhard[7] defined confessionalization as a structuring process of the confessional identities both *inwardly* (through the significant increase of the "confessional cohesion" within the communities) and *outwardly* (through the clear delimitation of the religious, cultural and social frontiers between various confessional communities). The new confessional churches[8] (or "confessions") created after Reformation tended to become political and cultural systems well defined in doctrine, spiritual life, rites and "popular culture".

Confessionalization addresses four levels of description: *social*, *cultural*, *religious* and *political*. The *social* level includes the"Christianization" of the daily life,[9] the refashioning of the social behavior according to the divine commandments, the strict regulation of the social assistance. The *cultural* level is represented mainly by the efforts carried to eradicate the so called "superstitions" and "abuses" and to strictly control the cultural products and manifestations (such as carnivals, feasts, etc.). On the *religious* level, confessionalization meant also the reinforcement of the clerical discipline along with the doctrinal clarification and "purification" of the rituals. The *political* level brings into discussion the existence of an alliance between the State and Church resulting in a top-down action of social disciplining over the communities and individuals.

On the historical time scale, confessionalization is generally placed between the second half of the 16th century and the beginning of the 18th century, although the scholars in the field are far from consensus concerning its periodization.[10] Regarding the geographical and political area where the concept was and can be applied, most scholars agree that outside Catholic and Protestant European states there can be no discussion on confessionalization.[11]

Social disciplining was introduced in the scholarly literature in the 1960s by the German sociologist Gerhard Oestreich, who used it as a substitute for absolutism, a concept whose theoretical limitations were put into light by the totalitarian regimes of the 20th century.[12] To Oestreich, the construction of the confessional identities and the consolidation of the ecclesiastic discipline within the "confessional churches" contributed to the "rationalization" of the state authority through the inculcation of the disciplined social behaviors. Following this argument, both Schilling[13] and Reinhard considered that social disciplining cannot be separated from the confessionalization process, ensuring the consolidation of the confessional conformity. In other words, the confessional churches controlled their

faithful through social disciplining, leading to their slow transformation into obedient subjects of the state authority.

The limitations and weaknesses of confessionalization and social disciplining as explanatory concepts for a theory of state modernization were already put into light by various scholars since the 1990s. The most important criticism pointed out that the concept paradoxically misses the main stake, namely the understanding of the religious practices themselves.[14] Another important criticism addressed the overemphasizing of the top-down perspective accused of neglecting the active participation of the subjects in their own confessionalization – what was called by Ronnie Po-Chia Hsia „horizontal disciplining" or self-disciplining.[15] The interconnection between confessionalization and social disciplining was also criticized, Heinrich Richard Schmidt considering that it greatly limited the theoretical value of the former, while Po-Chia Hsia regarded the importance of social disciplining as modernizing factor overestimated.[16]

In relation with the Catholic Reformation, the applicability of the concept of confessionalization gave room to some necessary amendments. Heinz Schilling underlines the differences between Catholicism and Protestantism concerning mechanisms of social disciplining: while the Catholic ecclesiastic discipline is highly interiorized (its main vehicle being the individual confession), in the case of Protestants it is applied in public, at the community level.[17] Moreover, Tridentine Catholicism promoted some principles that contradict the confessionalization paradigm such as the clear cut separation between the sacred and secular spheres (including the jurisdiction and penalties), the autonomy of the clergy, the transnational perspective (see the missionary policy of the Congregation "De Propaganda Fide"), the continuity with the "traditional" pre-Reformation Catholicism (even at the level of the so-called "popular piety").[18]

Marc Forster's well known study on the bishopric of Speyer ends with the conclusion that the traditional Catholicism was actually enforced during the Counter-Reformation whose most important result was the strengthening of the Catholic identity towards the non-Catholic confessions.[19] Forster openly criticized the confessionalization approach as he clearly stated that in the diocese of Speyer there was no sign of a significant social disciplining policy during 16th – 18th centuries (except the activity of the Jesuits). According to him, the success of Catholic Reformation can be measured not regarding the level of "reformation" of the pre-Tridentine Catholicism, but taking into consideration the level of devotion manifested by the faithful – and this devotion seems to have been

preserved by maintaining many "traditional" religious practices through a flexible and adaptive policy of the local bishops. In this evolution, the state authority did not played practically any role.

Po-Chia Hsia nuanced Forster's conclusions by stating that what happened in the Catholic villages from Speyer until 1720 was a long process of "horizontal disciplining", complementary to the social disciplining exerted by the state and public authorities.[20] For Po-Chia Hsia, the Catholic confessionalization cannot be separated from social disciplining and this connection can be documented all over the Catholic Europe. However, there is a significant limitation of Catholic social discipline which derives from the way sin was defined and from the practice of individual confession and penitence. Unlike in the case of Protestant churches, many sins could not be converted in penal crimes punishable by the State and sometimes even not by the Church itself.

While the confessionalization was put under criticism regarding its applicability as an explanatory concept of Catholic Reformation, social disciplining was questioned regarding also its roots, which were placed earlier than the Confessional Age. Starting from Norbert Elias' famous essay on civilizing process, some scholars stated that the strict monastic *regula* from Middle Ages became models of regulating the community life in towns especially through the influential *Devotio Moderna*.[21] Other opinions linked the concept to the communal movement in some German cities in the 15th century, which aimed to protect and safeguard the so called *bonus communis* through strict regulations and observance of the public behavior.[22] Confessionalization was therefore regarded only as a factor that gave a new impetus to a process already under way.

Unlike in the case of the two concepts discussed above, we will not insist on the concept of *popular religion* as its area of meaning is much wider and rather controversial, and also it overlooks the limits of our study.[23] We'll confine to underline the fact that popular religion will be discussed only as an object of the missionary confessional discourse which defines it as a mixture of Catholic devotional practices and "superstitions", "abuses", "contaminations" from other confessions (Protestantism or Orthodoxy) which have to be removed. The particular interest shown towards "popular religion" by the Catholic Church seems to increase significantly during 18th century and, to Marc Venard, this happens especially due to the fact that the process of Christianization in Western Europe reached its peak and the Tridentine institutions such as seminaries, catechizations or "popular" missions fully produced their effects.[24]

Objectives. Sources

Given these considerations, the present article will try to answer the following questions: Is it possible to apply the confessionalization paradigm in the case of the Catholic missionarism in 18th century Moldavia? If yes, did it create real confessional frontiers in relation with the Orthodox majority? What is the importance of the social disciplining in the missionary sources? Which are the features of the missionary discourse referring to the "popular religion"? Can we consider this discourse as "confessional"?

In order to answer these questions, we need to analyze the available missionary sources referring to 18th century Moldavia applying an interpretative scheme able to put into light the features of a confessional discourse. Although there are several editions comprising documents issued by the Catholic missionaries from Moldavia (including the Jesuits),[25] we identified for the 18th century many unpublished sources especially in the "Vatican" Microfilm Collection at the National Archives of Romania[26] (some of them being only mentioned in the recent relevant scholarly literature). It was mandatory for the superiors of the Catholic missionaries in Moldavia to exchange regular correspondence with SCPF.[27] This correspondence (consisting mainly of letters and annual and/or multi-annual reports)[28] is not only the main source on the history and evolution of the early modern Catholic communities in Moldavia, but it is also one of the richest sources of information on Moldavian society in general.

Most important of all this rich correspondence were the annual reports (*relazioni*) meant primarily to provide information on the Catholic communities in Moldavia, the ecclesiastical structure and functioning of the diocese of Bacău (which was the sole Catholic diocese in Moldavia from 1607 until 1880), the situation of the local churches and parishes and the economic status of the missionaries in the region. In addition to this "core" information, several reports also include details concerning the geography of the country, the general economic conditions, the state organization and administration, the society (daily life, social relations), and, last but not least, religious beliefs and practices shared not only by the Catholics but also by the Orthodox. This "contextual" information was required by SCPF in order to be able to adopt decisions as accurate as possible.

The amount of sources produced by Catholic communities and individuals from Moldavia that we identified is far too small in order to allow a comparison with those produced by the missionaries.[29]

There are also very few documents issued by the state authorities and we did not identify any document issued by the Orthodox authorities regarding the Catholic clergy or communities for the period. Given the lack of non-missionary sources for Moldavia, we decided to include for comparative purposes documents issued in other areas with similar "confessional" features, such as the Balkans or the Near-East, territories being under Ottoman rule and dominated by an Orthodox majority. Last but not least, the "normative" sources with general applicability – papal constitutions and the decrees and instructions issued by SCPF and other congregations (e.g. Saint Office) cannot miss from our argumentation.

The Catholic missions in Moldavia – a short overview

In 1623, SCPF established the first new mission under its direct control in the principality of Moldavia. This mission was directed at that time by the Franciscan Andrea Bogoslavić, who bore the title of *commissarius missionis*. The Moldavian mission was placed under the supervision of the patriarchal vicar of Constantinople, who also bore the title of *praefectus* of the Moldavian and Walachian missions. The vicar appointed a vice-prefect who was formally obliged to reside there and to regulate the activity of the resident missionaries. After 1650, when the Franciscan Bonaventura da Campofranco was appointed by the cardinals of the Congregation as prefect of the apostolic missions in Walachia and Moldavia (and also provincial of the Franciscan missions in Transylvania), the control of the Constantinopolitan vicariate ceased and the missionaries in Moldavia and Wallachia came under the direct rule of Rome until the 19th century. [30]

In the course of its evolution through the 17th and 18th centuries, the Moldavian mission was represented by a relatively small group (ranging from 1-2 up to 10-12) of Franciscan Conventual[31] monks, mostly Italians, but also Polish, Hungarians and Germans, led by a mission prefect appointed by SCPF, who had the obligation to supervise them, to decide over their territorial distribution in the parishes, to maintain the connection with SCPF and to ensure good relations with the Moldavian authorities. These missionaries lived scattered in a few Catholic communities[32] where every of them had to perform the usual tasks of a parish priest as well as catechizing the local population as part of their missionary duties. According to the Treaty of Karlowitz (1699), the Catholic missions of Moldavia were put under the protection of Poland, who also had the

right to propose the candidate for the bishopric of Bacău.[33] The secular and religious Orthodox authorities generally tolerated their activity and caused no significant hindrances as they considered the Catholic Church having a similar juridical status as the Orthodox Church.[34] However, the missionaries were not permitted, under severe penalties, to proselytize the Orthodox population.

The confessional discourse of the missionaries

Our study will focus on the confessional aspect of missionary discourse as it appears in their letters and reports sent to the Propaganda Fide. The analysis will address the following issues as they can be traced in the sources: **a)** the "contamination" of Catholicism with "superstitious" practices (named generally as "abusi") taken from the Orthodox majority; **b)** the necessity of extirpating these "abusi", which are seen as the main obstacles for a real purification of religious practices of the Moldavian Catholic faithful – in other words, the necessity of determining the Catholics to abandon the practices of the Orthodox; **c)** the problem of conversion of Catholics to Orthodoxy and vice-versa (problem of the mixed marriages will be treated subsequently).

When speaking about a confessional discourse, one should think first at those elements that pertain to the concepts of confessional identity and confessional frontiers (usually not very clear and easily traceable, but definitely necessary to preserve the identities). Therefore, in order to purify and to delimitate the Catholic confession in relation with other confessions and religions, the missionaries need to make efforts to eliminate or transform every belief and practice of the Catholic communities and individuals susceptible of not being in accordance with the Tridentine principles and rules. All these beliefs and practices are generally called "superstitions", "abuses" or even "paganism", terms that are quite usual in Western Europe as cultural references regarding the so called "popular religion". The missionaries from Moldavia do not make exception and we may quote here several examples. However, we'll not just simply enumerate these examples but make a sort of classification according to the context in which they are used.

In many cases, the missionaries refer to these "superstitions" as taken directly from the Orthodox majority. In his report sent to SCPF in 1745,[35] the vice-prefect Giovanni Maria Ausilia affirmed without hesitation that

all the "witchcrafts" practiced by the Catholics were "borrowed" from the Orthodox. Among these "witchcrafts", Ausilia enumerated spells against the evil spirits, spells for binding and unbinding curses, belief in dreams, rituals for protecting the house and family,[36] for ensuring the prosperity,[37] funerary rituals,[38] etc.

The missionary Giovanni Bartolomeo Frontali in his richly detailed report from 1764[39] realized a veritable inventory of all "abuses" practiced by the Moldavian Catholics "per la corispondentia che anno con li Scismatici". Frontali categorized all these „abuses" according to the sacraments they related to. Thus, regarding *baptism*, Frontali pointed out the practice of postponing it for several months due to the belief that this will ensure a more rapid growth of the child; also, Frontali referred to the practice of appointing Orthodox as godparents. In relation to the *Eucharist*, Frontali mentioned the fact that many Catholics required their children to be administered it earlier than the age of 12, following the Orthodox practice which concentrated the baptism, the administration of the Eucharist and the anointing in a single ceremony. Concerning the practice of *confession*, most Catholics used to confess only three times per year (Easter, Christmas and the feast of the patron saint) like the Orthodox, but many of them came to church even more rarely.[40] Regarding the *final anointing* of the ill people, Frontali noted that many Catholics refused it as they thought that this will cause death (in other cases, they asked for anointing when they wanted to die more quickly). As for the *marriages*, the missionary recorded the practice of punishing the brides that proved to be not virgin before marrying and to force their parents to pay compensations to the groom's family. Concerning the *funerary rites*, besides those already signaled by Ausilia, Frontali mentioned the habit of sacrificing a domestic animal over the burial place or pouring wine in order that the deceased not to suffer from thirst. Moreover, the dance around the fire practiced by girls and boys in the court of the deceased was particularly refuted by the missionary as pure „paganism". Frontali criticized also the way in which excommunication was understood as stopping the normal process of body decaying and the missionaries were often asked by many Catholics who discovered their dead relatives non decayed to relieve the excommunication. [41]

In very few cases, the missionaries only enumerated and described these "superstitions", without making reference to the Orthodox influence. Prefect Giovanni Francesco Bossi complained in 1725 about the many superstitions, deeply rooted in the souls of the Catholics, which destroyed their faith, for

example making them appealing to some "enchantresses" instead of praying to God, Jesus Christ and the Holy Virgin. In other cases, the issue is used as argument for criticizing the fellow missionaries' or even prefect's activity. In 1794, Angelo Cantone accused prefect Fedele Rocchi as he

> non cura di levare gli abusi nelle parrochie, come con gran fatica l'oratore [Cantone himself] sradicò in Huss in 1794. L'inveteratto abuso di visitare la sposa nella prima notte con festa pubblica, se ha dato segno di virginità, e portare poi la camigia in trionfo di allegrezza, e se per disgrazia non fosse stata vergine nascessano dissenzioni, liti (…) in publico (…).[42]

In a letter from November 8th, 1799[43] the missionary Michele Sassano accused the new appointed prefect Vincenzo Gatt of allowing the old "abuses" and "paganisms", previously removed by earlier missions, to flourish again among the Catholics:

> gl'abbusi e residui di gentilismo, estinti già dalla cura e viggilanza dei zelantissimi predecessori, come sono i conviti dopo d'aver sepeliti i morti volgarmente detti commendar;[44] le fiere ed i mercati nelle sacre delle chiese dette bolgi,[45] nelle quali si commettono dei più enormi peccati con scandalo degl'istessi Greci.

Finally, the superstitions are also mentioned in some of the circular letters issued by the prefects especially in the second half of the 18th century. Such an example is the letter from 1778 issued by prefect Giuseppe Martinotti where the use of candles during wedding and funeral celebrations and also the funeral feasts were strictly forbidden.[46]

What is to be noticed here is the fact that, although, the practices themselves are described in a very similar manner with those identified and condemned in the case of Catholic faithful from Western Europe, the missionaries made a change in argumentation opting for an *outward explanation*, i.e., the influence of the "Greek" confession instead of an *inward causality* (ignorance, lack of spiritual assistance, lack of proper catechization). The problem of *ignorance* is not totally dismissed: the missionaries tried to explain to the SCPF that this is the main cause of the *persistence* of the "superstitions" as it makes the Catholics an "easy prey" for the Orthodox religious contamination.[47] This approach is not new as Bernard Heyberger pointed out for the Catholic communities living near Orthodox and Muslims in the Near East:[48] the Franciscan, Carmelitan or

Jesuit missionaries in this region used the same arguments to underline the wide spread usage of "abusive" religious practices. Heyberger explains this type of argumentation as being a justifying discourse meant to underline the merits of the missionaries and the obstacles they had to overrun.[49]

Missionaries refer to the superstitions also when trying to emphasize the efficiency of their catechizations over their flock. An anonymous draft produced at the secretariat of SCPF summarizes three letters sent to Rome in May 3rd, September 4th and October 18th, 1724 by mission prefect Bossi, in which the latter asked repeatedly for the due annual subsidies. Bossi's argument was cited as following:

> Oltre di ciò riferisce i vantaggi spirituali che va riportando dalli fatiche de' suoi missionari e consistono nell'aver già estirpati varj abusi tanto nei sacerdoti come nei secolari.[50]

In 1777, prefect Francescantonio Minotto, refuting the accusations brought by some fellow missionaries against him, underlined his efforts in preventing the Catholics from taking part in Orthodox feasts and rituals and even from using the wooden boards instead of bells:

> Chi ancor per questa casa fui criticato, dicendomi che io voglio fare cose che mai in Moldavia pratticate, cose patimenti posi tutta la mia attenzione nel fare che i Cattolici ne suoi ancora divertimenti non si uniscono con li Moldovani. Chi procuro da fare casa per abbitazione de missionari, chiese e campane col sbandire loro d'una tavola, che sensiva per campana quando la baterana ab'usanza de Moldovani, se non io?[51]

A similar language is used also in sources that do not come from missionary milieu such as the letter sent to SCPF by the bishop of Transylvania, Ignácz Batthyány, in October 1st, 1787, regarding the replacement of Italian missionaries with Hungarian ones:

> Ruditatem e vestigio excipit superstitionum confertus numerus quem auget Schismaticorum contubernium qui superstitionibus ultra omnem modum dediti sunt.[52]

Even lay people that were involved in the missionary activity in Moldavia use a similar language. Countess Agnes Kalnoki Ferrati, in her letter sent in 1740, praised the activity of missionary Giacinto Lisa in Moldavia just before his nomination as prefect:

richiamando molti traviati e dispersi da quella scismatica gente al retto sentiere del Cattolico gregge, soccorendoli, istruendoli, e confirmandoli nell'osservanza della legge da vero pastore ed'immitatore degl'Apostoli con levare molti abusi e superstizioni che per il continuo commercio de' Tartari, Turchi e Scismatici appresi aveano.[53]

Although rarely, theological issues were also used from a confessional perspective. In 1745, vice-prefect Ausilia commented on the belief, widely spread among Catholics, according to which redemption could be granted by God to every Christian no matter his/her confession ("secondo la sua legge"), including here also the Orthodox, in contradiction with the Tridentine principle "Extra Ecclesiam nulla salus". Ausilia bitterly criticized also the interpretation – identified as an "Orthodox error" – that gave full credit to the external rituals (such as Lent) as having sufficient value for ensuring the redemption of the faithful. The Moldavian Catholics believed – as Ausilia noted – that only God knew how to discern the good deeds from the bad ones and they mistrusted the missionaries' spiritual competences as they could not have access to God's own intentions.[54]

The confessional features of the missionary letters are potentiated when the necessity of preserving the Catholic faith within the Orthodox majority is particularly stressed. In 1764, Giovanni Frontali noted that there was no without importance the effort of the missionaries "to preserve our Catholics" in Moldavia dominated by the "false Greek faith".[55] In his report sent to SCPF in March 25th, 1799, prefect Michele Sassano praised his missionaries' efforts in Moldavia:

I Missionari oltre gl'in'umerabili beni che prestano alla salute delle anime, conservano i Cattolici in mezzo ad una nazione perversa nella vera religione.[56]

Sometimes, the merits of the missionaries are engrossed only by underlining the fact that they perform all their duties correspondingly. Prefect Bossi informed SCPF about the progress of the Latin rite Catholicism in Moldavia in 1743 due to his own efforts in organizing public prayers, processions, more catechization sessions, etc.[57] In 1791, prefect Fedele Rocchi depicted a similar situation:

Il Battisterio fù introdotto in tutte le chiese di Moldavia, e come in Roma istessa, vi è il culto della propria Religione, così regna in Moldavia; noi abbiamo campane in tutte le chiese, publicamente si fanno tutte le funzioni,

si erigge Croce e si canta anche qui nelle strade pubbliche, ad alta voce, in tempo di devozioni e si sepeliscono morti.[58]

What is important for us concerning these positive accounts is that the missionaries clearly stressed the confessional pattern of their activities in Moldavia, i.e. the conformity of the practices to the Tridentine principles as in Rome itself.

The preservation of the Catholic faith consisted also in the interdiction of any *communicatio in divinis* with any other Christian confession.[59] In his report from 1762, prefect Giovanni Hrisostomo dei Giovanni mentioned at the point #34 that the Catholics "do not interfere with the Orthodox", referring to the religious practices.[60] Michele Sassano pointed out in 1799 that the interdiction was fully respected in Moldavia:

"I Cattolici non communicano active, ma passive solamente, perchè essendo questi [i.e. the Orthodox] Dominanti non ci è lecito scacciarli dalle nostre chiese; in Divinis però in nessuna maniera comunicano."[61]

One of the main objectives of the missionary activity carried by SCPF was the conversion of the "heretics" and "schismatics" to Catholicism in order to recompose the lost unity of the *Republica Christiana*. In the case of the territories under the Ottoman rule (including here Moldavia), this objective was concealed due to obvious political and practical reasons. However, in the missionary sources available for the 18th century. Moldavia, there are some glimpses of this unspoken utopian plan, and a less diplomatic Franciscan like Giovanni Ausilia could even recall the possibility of convincing the sultan to issue a decree allowing the freedom of conversions to Catholicism in his empire, thus forcing also the Orthodox authorities from Moldavia to adopt a similar attitude[62]. Conversions of the Orthodox were almost impossible, due to the strict interdiction applicable under very severe penalties[63]. The only legal possibility was the re-conversion of the Catholic apostates that had been converted to Orthodoxy.[64]

Actually, many missionaries were aware of the fact that a real danger in Moldavia was not the impossibility of converting any Orthodox faithful, but the very possibility of losing many Catholics through conversions to Orthodoxy. The former prefect Felix Zauli gave word to older fears when he wrote in 1716 that "essere in queste parti [Moldavia] non pochi Cattolici inclinati alla schisma".[65] This "inclination" was manifested due to the fact that, according to Bossi, many Catholics used the religious

assistance provided by Orthodox priests,[66] especially because of the lack of sufficient Catholic sacerdots.

On the other hand, bishop Stanislas Jezierski, *ordinarius* of the diocese of Bacău, accused also the "negligence" of the missionaries in performing their duties (especially catechization): "Catholici sunt devotissimi sed ob defectum sacerdotum et negligentiam missionariorum non omnes bene instructi."[67] The same "negligence" of the missionaries regarding catechization was recalled also by the Polish Jesuit from Iaşi, Jan Regarski, who accused them of being the main cause for the ignorance of the Catholics in matters of faith, that made them vulnerable to conversion:

> Catholici sunt hic rudissimi, non mysteria Fidei, non praecepta Dei, non orationem Dominicam, aliasque precationes callent, signum crucis vix norunt efformare, ob christianae doctrinae defectum. Unde fit, quod Catholicum fidem facile deserant, erroresque Schismaticorum quavis de causa amplectantur.[68]

Even some missionaries used this kind of accusations against their fellows, such as Francantonio Minotto who blamed prefect Martinotti in 1779 for poor administration of the mission, resulting in many conversions of the Catholics.[69] Failing the main task of a missionary, that is the preservation of his flock within the Roman Catholic Church, was a serious accusation which, due to its gravity, was rarely used, as much as there was not only an individual but a collective responsibility.

Another cause of the conversions of Catholics to Orthodoxy was represented by the mixed marriages. According to some missionaries, in these cases the conversions were very difficult to prevent, especially regarding the situation of the women. In 1745, vice-prefect Ausilia complained that during the habitual reunions and dances held in villages (rom. *şezători*, *hore*), where took part Catholics and Orthodox altogether, Catholic girls were often taken by Orthodox young boys and accepted to convert to Orthodoxy in order to marry them[70]. In 1764, Frontali noted that the missionaries needed to be very careful at the mixed marriages as the Catholic women usually adopted the religion of their Orthodox husbands.[71] Prefect Rocchi, replying to the accusations of Jesuits regarding the negligence of the missionaries in catechizing their flock, underlined that there were only few cases of conversions of Catholics, namely the case of the girls married with Orthodox.[72] In fewer cases nevertheless, mixed marriages could result in the conversion of one of the partners to Catholicism.[73]

Taking into account these realities, the ordinance no. 4 issued by bishop of Bacău, Stanislas Jezierski, in August 31st, 1741 instructed the missionaries and the parish clergy to handle very carefully the mixed marriages between Catholics and Orthodox and, in any case, they had to prevent the conversion of the Catholic partner.[74]

Apart from the mixed marriages, the missionaries from Moldavia complained in their letters sent to SCPF about the wide spread practice of concubinage, with significant occurrence especially in Iași, where many foreign Catholics lived.[75] In 1799, prefect Michele Sassano even accused them of bigamy, asserting that most of them came to Iași due to the more "liberal" perspective of the Orthodox Church regarding divorce and marriage.[76] In 1787, prefect Rocchi noted with bitterness what he considered to be an outrageous situation:

> Riguardo ai Luterani mescolati con Cattolici mi regolarò come mi vienne prescritto; ma mi crepa il cuore nel vedere Cattolici tenere preso di se Luterane, e viceversa senza essere congiunti, vivendo in un continuo concubinato, e con pompa e trionfo portono i loro figli alla chiesa cattolica per battezzarli.[77]

The confessionalization and social disciplining

As we have already discussed in the theoretical preamble, the social disciplining is intricately linked with the confessionalization and the missionary sources concerning the Moldavian Catholicism make no exception. When speaking about their efforts in restoring and preserving the purity of the Catholic faith, the missionaries cannot miss to mention the methods they use to ensure the efficiency of their actions.

Consequently, we shall discuss the way the social disciplining is reflected in the letters of the missionaries from Moldavia addressing the following issues: **a)** the capacity of the missionaries in monitoring and punishing the disobedient faithful (including also the implication of the secular authorities); **b)** the forms of the social disciplining and their frequency, and **c)** the degree of resistance of the Catholics towards the missionary social disciplining.

To maximize the dimension of their missionary work, the Italian Minorites from Moldavia tended to complain about the many obstacles that hampered an efficient exertion of the ecclesiastic authority over their

flock. One of these obstacles, often invoked to explain the low capacity of the Catholic mission in controlling the faithful, was the general attitude of reluctance of the Moldavian Catholics towards any form of ecclesiastic authority. This was explained as being caused by either the absence or irregular exercise of the Church authority. The prefect Giovanni Bossi claimed in 1726 that, although he performed several visitations in the parishes, their results were quite modest: "mà tutto non si è potuto ottenere da questo popolo, parte impedito dalla miseria grande, e parte distolto dal ben oprare dalla mala autorità".[78] In another letter from that year, Bossi noted that this attitude of the Catholics made them perceiving his admonitions as being unusually rough ("e duro li pare ogni mio sermone").[79]

In other cases, the „undisciplined" nature of the Moldavian Catholics is invoked to explain some particular situations. In 1779, when the missionaries Bartolomeo Montaldi, Giuseppe Borioli and Francantonio Minotto accused prefect Giuseppe Martinotti of being a poor administrator of the mission, this caused the loss of credibility of the missionaries themselves in front of their parishioners insomuch that they dared to threaten their own priests saying that "se non gli piace il loro padre lo battino e lo discaccino pure dalla parochia".[80] In 1795, prefect Rocchi labelled the Catholic Szekler immigrants from the villages of Grozeşti and Trotuş (Southeastern Moldavia) as "impertinenti e disubbidienti" in response to their complaints about the Hungarian speaking missionary István Bialis accused to be "troppo rigoroso". [81]

In the second half of the 18th century, we could notice the tendency of the missionary sources to describe a more obedient Catholic who respected the ecclesiastic authority. We have already seen the positive reports concerning the missionaries' success in maintaining and strengthening the confessional conformity of their flock. In 1762, prefect Hrisostomo dei Giovanni noted at the point #69 from the usual standard questionnaire that the customs of the Moldavian Catholics resembled to those of the Catholics from Italy, thus being unnecessary any method of correction. Describing the Catholic community of Fărăoani – the greatest and richest at that time in Moldavia –, the prefect remarked the obedient and respectful attitude of the people, who came to ask for spiritual assistance and advice every day during his 10 day visit in the parish.[82] According to Hrisostomo, the Catholics from Fărăoani were not an exception: all the parishes (except Iaşi, where most Catholics were foreigners) paid the due obedience to their ministers.

This is not, however, the usual way in explaining the success in turning the Catholics into submissive subjects. Some missionaries actually insist on their own role as active agents of social disciplining. We have already discussed prefect Mauro's letter from 1777 regarding the social function of the Catholic clergy. In 1716, the former prefect Felix Zauli urged SCPF to appoint him as apostolic visitor in Moldavia in order to re-establish the authority of the Church, warning that without this authority "accompagnata con ammonizioni caritative possa succedere anche peggio".[83] Prefect Bossi convinced SCPF to adopt his system of Easter tickets, a method considered to be successful in determining the Catholics to go to confession on a regular basis.[84] In 1785, prefect Fedele Rocchi presented his actions for enforcing the degree of obedience of the Catholic faithful to the commandments of the Church especially in cases of sexual morality:

> e per porre fine a tanti scandali e incovenienti che quotidianamente succedono ne' nostri villaggi cattolici, stante le veglie notturne pratticate dalla nostra sfrenata gioventù (…). Nella passata visita ho avuto molti giudizi, essendosi presentate varie ragazze col parto nelle braccia senza potersi scuoprire il delinquente; nonostante sono stati da me condannati li stimati, ed accusati colpevoli e convinti colla pena della … secondo le leggi e norma del Paese […] Cio che riguarda poi il servizio di Dio, si sono in parte emendati gl'abusi e negligenze.[85]

In 1790, the same Rocchi imposed a pecuniary fine to all Catholics living in the Valley of Siret who did not come to be anointed.[86]

There is also mentioned the practice of *circular letters* issued by mission prefects and directed to their flock (sometimes also to the missionaries and the parish priests), a widely spread instrument for social disciplining in the 18th century Western Europe. These circular letters contained various admonitions, interdictions and counsels regarding the proper way to conduct a religious life according to the Catholic doctrine. In 1778, the already mentioned letter issued by prefect Mauro included some restrictions and interdictions for the Moldavian Catholics such as the interdiction of using the see-saw (labeled as "perniciosa animae et corpori machina"), the interdiction of participating in communal reunions ("șezători") or the interdiction of consuming dairies during the Lent to avoid offending the Orthodox.[87]

In 1782, the same Mauro mentioned that the publication of the papal constitution issued by Clement XIV concerning the suppression of certain feasts common with the Orthodox need to be published and distributed in Moldavia in order that the Catholic calendar would not be mixed up anymore with the Orthodox one.

As we have seen in the discussion regarding the superstitions, one of the social practices that represented a preferred target of the missionaries' criticism was the participation of the Catholics in public fairs ("bâlciuri") organized by each parish with the occasion of the feast of the patron saint. Considered to be an Orthodox custom and often counted by missionaries among the "abusi", these fairs were not something wrong by themselves, but they had a negative effect for the Catholic faithful as they offered plenty of room for sinful manifestations (i.e., drinking, cursing, debauchery etc.).[88] The missionaries tried firstly to forbid them, but being opposed by the resistance of many Catholics, they had to allow them, but only for the communities having a parish church and under the strict supervision of the deacon, who had the task to detect and suppress any trace of "wrong" behavior among the participants.[89] We have here a clear example of a social disciplining strategy aimed at controlling the public morality of the Catholic villagers.

The function of the deacon as supervisor of the public morality in the Catholic communities is not singular. In 1820 the apostolic visitor Giovanni Paroni mentioned the fact that, before its interdiction by bishop Karwosiecki in 1779, the "old people" of the Catholic villages used a beating instrument for publicly punish those who were guilty of immoral acts, no matter if they were men or women. This instrument was called "tiba" and he was also used by the missionaries, being placed in front of the church, as it was seen also by Paroni himself in 1820.[90] The "old people" mentioned by Paroni seem to be the same with those called "bătrânii satului", a representative body which led the local community and who seem to have been a support for missionaries' efforts in disciplining their subjects. Later sources mention also the role of the so called "sons of the Church" (rom. "feciori de biserică") who were auxiliaries of the deacons (i.e., cantors), but they could fulfill also administrative (i.e., gathering from each family the due contributions for the deacon and priest) and social disciplining tasks (i.e., monitoring the morality of the villagers), thus helping the priest or the missionary in controlling their flock.[91]

Another auxiliary of the missionaries, the so-called *vătaf*, appears in sources at the end of the 18th century as the person who supervised the behavior of the participants at the communal reunions and dances

organized usually in Sundays.[92] All these functions define a sort of a "disciplinary apparatus", partly "inherited" (as "traditional" local institutions) and partly built and modified by the missionaries with clear purposes of control and punishment of the deviators.

Still, what was the role of the state in this ongoing process of turning the Catholics into obedient subjects of the ecclesiastic authority? As we have seen in the preamble, confessionalization and social disciplining in Western Europe implied an active role of the secular authorities, with the important specification that they shared the same confession as the "confessionalized" population. Or, in the case of Moldavian Catholics, there is obviously a different situation: the state shared a different confession and this seems to make the theoretical model inapplicable for Moldavia.

Some missionary sources actually speak very clearly and with frustration about the non-implication of the secular power regarding the disciplining of the Catholic subjects. In 1721, prefect Silvestro d'Amelio expressed such a frustration regarding the conversion of a Catholic from Baia to Orthodoxy.[93] Brought at the princely court by his former wife (who remained Catholic) with the implication of the Catholic Bartolomeo Ferrati, the apostate was acquitted as the prince declined any jurisdiction concerning ecclesiastic matters. Amelio noted that the princely decision was unjust and, moreover, turned the apostate into a very popular figure, respected by the Orthodox. His exclamation "à che fine à servito puoco che abbiamo studiato?" expresses his powerless state in face of such a situation.

Vice-prefect Giovanni Ausilia complained in 1745 about the fact that the secular power refused to assist the missionaries, invoking the same argument i.e. the limited jurisdiction in ecclesiastic disciplinary cases. Ausilia noted with bitterness that the spiritual punishments had no effect and, if the situation persisted, the authority of the Church would value nothing in the near future for the Moldavian Catholics.[94] However, this "passive" attitude of the princes was not the expression of an arbitrary discriminatory policy regarding the Catholics, but moreover the expression of the principle of toleration and equal juridical treatment for all confessions.[95] In the 17th and 18th century there were issued several privileges granting total jurisdiction over the Catholic faithful to the bishop of Bacău and the mission prefect.[96] Similar privileges were granted also to the Orthodox clergy.[97]

In the second half of the 18th century, the situation seems to have changed significantly – the state authority begun to be much more aware of the importance of social disciplining exerted by the Church. In 1740,

prince Grigore II Ghica, in his letter addressed to the SCPF demanding for the nomination of Manzi as prefect of the Moldavian mission, invoked as argument the principle of "public utility":

> Nos tamen magis considerantes publicam utilitatem atque annuentes subditae nobis unanimi communitati catholicae maxime autem cum nobis constaret (…).[98]

In 1741, prince Constantin Mavrocordat ordered the captain of Dorohoi to investigate the plaint of Manzi, regarding the attempt of forceful conversion to Orthodoxy of a Catholic man from Cotnari, married with an Orthodox woman.[99] A year later, Mavrocordat sent the governor of Roman county to investigate Manzi's other plaint regarding the refusal of some Catholics from the village of Răchiteni to pay their due taxes to the prefect; the governor – Mihalache Sturza – was required to take the necessary measures to regulate the debts.[100]

In 1782, following the complaints of prefect Mauro, the prince Constantin Moruzi ordered the investigation and punishment of the Catholic cantor from Răchiteni, Gál János, "seminatore delle zizanie".[101] In 1785, prefect Fedele Rocchi mentioned that he got the support of the prince Alexandru II Mavrocordat for punishing the young Catholics guilty of sexual immorality during the communal reunions ("clacă"): "sono ricorso al prencipe, acciò mi somministra ajuto ad estirpare le suddette veglie".[102]

A missionary could be used by the princely house even as supervisor like in the case of Giovanni Cajoni, who was appointed in 1765 by the secretary of prince Grigore III Ghica, Pietro Nagni, to oversee the Polish Catholic workers employed at the manufactory of cloth from Chipereşti.[103]

The missionaries had also an important role in ensuring the stability of the Catholic communities by providing religious services, promoting obedience to the authorities and, sometimes, by building also a church with the help of the parishioners. The secular authorities and the landowners could collect the due taxes more easily when the parish priests accomplished their role. Prefect Giuseppe Cambioli noted in 1762 that the prince Grigore Callimachi was worried about the fact that the Catholic community from Moghilău (at the Moldavian-Polish border) could dissipate because of the absence of a parish priest: "per mancanza del missionario si destrugge il Paese".[104] The boyars owning Catholic villages were also interested in maintaining missionaries on their lands:

> Questi [the boyars] non vedendo crescere c.e. vorrebbero, ma con loro dispiacere vedendo mancare il numero de' suoi sudditi perche non s'ho possuto provederli di missionario accrescono avversione sopra avversione, e per quanto possono non mancano di far del male a qualsiasi cattolico, che incontrano, non escludendo verono ancor che pò religioso.[105]

The social disciplining program, whose features glimpse in the missionary sources, could not be accepted by the local communities without opposition. There are several mentions regarding this in the sources discussed in our study. In 1726, prefect Giovanni Bossi informed SCPF[106] about a case of disobedience from the part of a Catholic, Iacob Karakai, appointed as cantor in an unnamed parish church. This Karakai, who had been imprisoned following accusations of theft, rejected Bossi's admonitions and warnings with the reply "non siamo in Italia", recalling the lack of real coercive authority of the Catholic Church in Moldavia.

In 1781, the missionary Ignazio Trigona from the parish of Săbăoani noted that his fellow, Giuseppe Buriolli, could not convince his parishioners of Răchiteni to replace his servants with others (following prefect Mauro's order).[107] Even when Buriolli decided to "punish" them by leaving the parish for a month and a half, he had to return without any success.

Such deficit of authority, as we have seen, was explained by invoking the lack of support from secular power, as the missionaries themselves did not have real means to control the parishes, except their charisma and, in certain cases, using the local forms of social disciplining.

Another type of opposition was that manifested towards the attempts of the missionaries to put the religious practices of the Moldavian Catholics in accordance with the Roman ritual. In some cases, the missionaries were forced to make compromises. In 1769, prefect Giuseppe Carisi asked for a dispense allowing him to administer the confession and Eucharist on the Sacred Friday before Easter because the Catholics refused to go in other days.[108]

Sometimes, the resistances seem to be the result of those actions and initiatives of the missionaries considered as excessive or even abusive. In 1779, the missionaries Montaldi, Buriolli and Minotto accused the prefect Martinotti of stirring the protests of the Catholic villagers by his suspicious attitude and abusive interrogations taken from the women who worked as servants for the missionaries.[109] According to the missionaries, Martinotti determined many Catholics to refuse to obey their authority and some of them even decided to convert to Orthodoxy. The Hungarian missionary, Toma Pozsony, parish

priest at Grozeşti, was accused in 1792 by the prefect Rocchi of using penalties considered too severe and abusive by the faithful.

Moreover, by the end of the 18th century the introduction of a new system of *iura stola* or ecclesiastic taxes (until then paid only on a irregular basis as voluntary contributions), which was imposed to the Moldavian Catholics by prefect Vincenzo Gatt, caused widespread protests.[110] The Catholics from the parishes of Fărăoani, Valea Seacă and Călugăra addressed a collective letter to SCPF in which they complained about the onerous taxes levied by the missionaries, accused of "scandalous" and "immoral" behavior to de-legitimize their financial pretentions. The Catholics urged SCPF to eliminate the new taxes, otherwise they would convert to Orthodoxy: "Rogamus ergo enixe Eminentias Vestras liberare nos miseros a continuis rixis et a multis pecuniis dandis Patribus nobisque dare responsum consolans, aliter multi Catholici excutient jugum, transeundo ad presbiteros non unitos."[111] Despite all the complaints, on March 13th, 1801 the representatives of the princely authority, the boyars Constantin Balş (high chancellor of the Low Moldavia) and Iordachi Ruset (high treasurer) decided to give justice to prefect Gatt, maintaining the taxes with only some minor reductions. The secular power had decided to enforce the authority of the Catholic Church over its faithful.

Conclusion

The present study proposed in the first place to analyze the confessional features of the missionary discourse practiced in the sources regarding 18th century Moldavia and to compare them with the theoretical model of confessionalization as it was defined by the Western historiography. From this point of view, we think that our analysis succeeded in evidencing the presence of "confessional" themes, such as the necessity of strengthening the confessional identity of the Moldavian Catholics by following as strictly as possible the Tridentine model and by eliminating every practice that bore the influence of other confessions i.e. Orthodoxy. We may also affirm that from this point of view, the evolution of the missionary interest towards confessionalization represents clearly a moment of breach in comparison with the 17th century. If before 1700, the missionaries were more preoccupied by the theological confessional dialogue and polemic with the Orthodox and Protestants, dialogue embedded with utopian ideas of reuniting the divided Christianity, in the next century the missions took

a more "pragmatic" approach, being preoccupied to ensure the purity of the Catholicism. Even more than in the 17th century, the missionaries went to the level of the rural communities and made extensive efforts (or at least they declared that they did it) to "confessionalize" them.

Beyond other theological implications, the 18th century Tridentine Catholicism emphasized the importance of the moral constraints, social discipline, the necessity of abandoning the "barbarous", "uncivilized" beliefs and rituals[112] and makes appeal to the religious baroque sensibility aimed to revitalize the collective ceremonies like processions and pilgrimages. The harsh critique towards the Orthodoxy produced in the 18th century represented the reflex of a cultural axiology nurtured by the Catholic West.[113] The "ignorance" and the "superstitious" practices ("abuses") became common references in the missionary writings regarding the Orthodox world (especially the territories under Ottoman rule) and the missionaries from Moldavia do not make separate voice as we have seen in the sources analyzed in this study. Therefore, the necessity of tracing clearer areas of demarcation between Catholics and other confessions is more visible in the missionary sources and we'll quote here only the issue of the community reunions ("şezători") or the mixed marriages. Moreover, a new target of the Catholic Church in the 18th century, the popular fairs (carnivals or the Moldavian "bâlciuri" etc.) and feasts, provided the opportunity for strenghtening the instruments of social discipline. In Moldavia, we have seen that the missionaries did not succeed in stopping them but, with the help of local disciplining factors, they tried to control and limit the possibilities of "sinful" manifestations.

To conclude, we may consider at this point that the missionary discourse concerning the Catholicism in 18th century Moldavia can be considered a product of the early modern "confessional" age. However, to measure the impact of the missionary confessionalization over the Moldavian communities is much more difficult, as we did not identified sufficient "autonomous" internal sources to control the information provided by the missionaries. To our opinion, such an important task can be better accomplished for the 19th century when the secular power and local authorities begun to interfere more visibly (at the "documentary" level also) with the life of the communities. Nevertheless, as Liviu Pilat had noticed for the parish of Săbăoa,[114] the evolutions after 1800 had their origins in the confessionalization of the previous century.

NOTES

[1] See Nicolae Iorga, *Studii și documente cu privire la istoria românilor*. Vol. II. *Acte relative la istoria cultului catolic în principate*. Bucharest: Ed. I.V. Socec, 1901, 114-5.

[2] Iorga assumed that the letter was sent to the diplomatic representatives of the Catholic Great Powers in Constantinople, namely France, the Habsburg Empire and Poland.

[3] See a similar argument in Violeta Barbu, "Purgatorium missionarium. Catolicii în Moldova în a doua jumătate a secolului al XVIII-lea (1753-1817)". *In honorem Ioan Caproșu*, edited by Lucian Leuștean, Maria Magdalena-Szekely, Mihai Răzvan Ungureanu, Iași: Polirom, 2002, 321-352.

[4] For the 17th century, it is worth mentioning the recent contribution of researcher Violeta Barbu, *Purgatoriul misionarilor. Contrareforma în Țările Române în secolul al XVII-lea*, Bucharest: Ed. Academiei, 2008, a massive and important study that applies the concepts *confession* and *social disciplining* as to the missionary activity in both Romanian principalities.

[5] For a recent and extensive presentation of the confessionalization theory see Thomas A. Brady jr. "Confessionalization – the career of a concept". *Confessionalization in Europe 1550-1700: Essays in honor and memory of Bodo Nischan*, edited by John M. Headley, J. Hillerbrand and Anthony M. Papallas, Ashgate: Aldershot, 2004, 1-20.

[6] I will quote here one of Schilling's recent synthesis on confessionalization, "Confessionalisation and the rise of religious and cultural frontiers in Early Modern Europe". *Frontiers of faith. Religious exchange and the constitution of religious identities 1400-1750*, edited by Eszter Andor and István György Tóth, Budapest: Central European University – European Science Foundation, 2001, 21-36.

[7] See Wolfgang Reinhard, "Pressures towards confessionalization? Prolegomena to a theory of the Confessional age". *The German Reformation. The essential readings*, edited by C. Scott Dixon, Oxford: Blackwell Publishers, 1999, 169-192.

[8] While Schilling addressed the case of the Protestant churches in the Empire, Reinhard focused mainly on the Catholic confessionalization (within the frame of Counter-Reformation).

[9] By Christianization of the daily life we understand here the efforts made by the Church in order to ensure the active participation of the believers in the daily religious rituals following the sacred temporal rhythms.

[10] There are two main interpretations regarding the temporal extent of the confessionalization (or confessional age): one proposed by Schilling, who placed its limits from 1555 (the Peace of Augsburg) until 1648 (the Treaty from Westphalia) and the other, more widely accepted, which defines two

stages of confessionalization: 1) the "top-down" confessionalization (mid 16ᵗʰ c. – end of 17ᵗʰ c. and 2) the „horizontal" confessionalization (18ᵗʰ c.). The first stage can be described as the era of the confessionalization imposed from above, while the second one refers to its "internalization" by the individuals and communities that were "confessionalized" in the first stage. According to Joel F. Harrington and Helmuth Walser Smith: "historians would not simply narrate the late seventeenth century as the end of the confessional age: rather, they would redirect the focus of their research on confessionalization from a concentration on the questions of state building to a concern with meaning and identity." – see their study "Confessionalization, Community and State Building in Germany, 1555-1870". *Journal of Modern History*, no. 69, March 1997, 88-89.

[11] According to Schilling, the areas dominated by Orthodox Christianity did not experienced any form of confessionalization – see "Confessionalisation and the rise of religious and cultural frontiers", p. 24.

[12] A discussion on Oestreich's argument in Wolfgang Reinhard, "Disciplinamento sociale, confessionalizzazione, modernizzazione. Un discorso storiografico". *Disciplina dell'anima, disciplina del corpo e disciplina della società tra medioevo ed età moderna*, edited by Paolo Prodi, Bologna: Il Mulino, 1994, 101-123.

[13] Heinz Schilling, "Chiese confessionali e disciplinamento sociale. Un bilancio provvisorio della ricerca storica". Ibid., 125-160.

[14] See Thomas A. Brady jr. "Confessionalization – the career of a concept", 16.

[15] Ronnie Po-Chia Hsia, "Social discipline and Catholicism in Europe of the Sixteenth and Seventeenth Centuries". *Chiesa cattolica e mondo moderno. Scritti in onore di Paolo Prodi*, edited by Adriano Prosperi, Pierangelo Schiera, Gabriella Zara, Bologna: Il Mulino, 2007, 177.

[16] See "The concept of social disciplining and its applicability in current historiographical debate. A discussion initiated by Maria Crăciun". *Colloquia: Journal of Central European History*, vol. X-XI, 2003-2004, 70-85.

[17] Heinz Schilling, "Chiese confessionali e disciplinamento sociale", 145.

[18] Thomas A. Brady jr. "Confessionalization – the career of a concept", 17.

[19] Marc Forster, *The Counter-reformation in the villages: religion and reform in the bishopric of Speyer, 1560-1720*. Ithaca NY: Cornell University Press, 1992, 243-247.

[20] Ronnie Po-Chia Hsia, "Social discipline and Catholicism in Europe", 177.

[21] *Ibid.*, 171.

[22] *Ibid.*

[23] For an extensive discussion on the concept, see the collection of studies *La religion populaire: Paris 17-19 Octobre 1977 – Colloques Internationaux du Centre National de la Recherche Scientifique*. Paris: Editions du CNRS, 1979.

[24]   Marc Venard, "Popular religion in the eighteenth century". *Church and Society in the Catholic Europe of the Eighteenth Century*, edited by William J. Callahan and David Higgs, Cambridge: Cambridge University Press, 1979, 141.

[25]   See for example Nicolae Iorga, *Studii și documente cu privire la istoria românilor*. Vol. II: *Acte relative la istoria cultului catolic în principate*. Bucharest: Ed. I.V. Socec, 1901; Gheorghe Călinescu, "Alcuni missionari cattolici italiani nella Moldavia nei secoli XVII e XVIII". *Diplomatarium Italicum* I (Rome: Libreria di scienze e lettere, 1925), 1-223; *idem*, "Altre notizie sui missionari cattolici nei Paesi Romeni". Ibid., II, 305-514; *Moldvai csángo-magyar okmanytar/Documenta Hungarorum in Moldavia (1467-1706)*, vol. II, edited by Benda Kálmán, Gabriella Jászay, Gyözö Kenéz, István György Tóth, Budapest: Magyarságkutató Intézet/Institutum pro studiis Hungarorum, 1989; *Călători străini despre Țările Române*, vol. IX. Edited by Maria Holban, M. M. Alexandrescu Dersca-Bulgaru, Paul Cernovodeanu, Bucharest: Editura Știinţifică şi Enciclopedică, 1997; *Documenta Catholicorum Moldaviae. A. Documente românești. I. Fondul episcopiei romano-catolice Iași*, Vol. I (1627-1750). Edited by Silviu Văcaru and Anton Despinescu, Iași: Editura Presa Bună, 2002; Emil Dumea, *Catolicismul în Moldova în secolul al XVIII-lea.* Iași, Ed. Sapientia, 2003; Anton Coşa, *Catolicii din Moldova în izvoarele Sfântului Scaun (secolele XVII-XVIII)*. Iași: Ed. Sapientia, 2007, 293-558.

[26]   For a description and index of the collection see Rafael-Dorian Chelaru, *Colecția Microfilme Vatican. Ghid arhivistic*, Bucharest: Arhivele Naţionale ale României, 2007.

[27]   The Congregation required at least one annual detailed report of the missionary activity, which had to be compiled by the mission prefect. For the correspondence carried by the missionaries from Moldavia, see the article of Teresa Ferro, "The Correspondence between the Italian Catholic missionaries and Fide Propaganda Congregation during the 17th – 18th centuries". *Romanian and Polish Peoples in East-Central Europe (17th-20th Centuries)*, edited by Veniamin Ciobanu, Iași: Ed. Junimea, 2003, 196-212.

[28]   Most of the missionary reports were written in Italian.

[29]   Some of these sources (especially collective letters) are more likely to have been produced either by or with the help of the missionaries.

[30]   For further details on the Moldavian mission, see Petru Tocanel O.F.M., "Laboriosa organizzazione delle missioni in Bulgaria, Moldavia, Valachia e Transilvania". *Sacrae Congregationis de Propaganda Fide memoria rerum: 1622-1972*, edited by Josef Metzler, I/2 (Rome: Herder, 1972), 239-273; *idem*, "Assestamento delle missioni in Bulgaria, Valachia, Transilvania e Moldavia," in *ibid.* II/1 (Rome: Herder, 1973), 722-742. The most recent synthesis on the Catholic missions from 18th c. Moldavia was written by Emil Dumea, *Catolicismul în Moldova în secolul al XVIII-lea.* Iași: Ed. Sapientia, 2003.

[31] The Conventuals held an official monopoly over Moldavian missions; even SCPF recognized it. As a general principle, SCPF was reluctant to accept missionaries from various orders within the same missionary territory in order to avoid competition and disputes. The cardinals preferred the lesser disadvantages of keeping a single order within a missionary territory. Sometimes competition was unavoidable, especially due to the Jesuits which were not under the authority of SCPF, but of pope – see the detailed presentation of the conflicts between the Conventuals and the Jesuits in Moldavia in Francisc Páll, "Le controversie tra i Minori conventuali e i Gesuiti nelle missioni di Moldavia (Romania)". *Diplomatarium Italicum*, IV (Rome: Libreria di scienze e lettere, 1939), 136-357.

[32] If in 1745, according to vice-prefect Ausilia, the number of the Catholics from Moldavia could be estimated at around 4,000 individuals (in 21 communities), at the end of the century (1799), prefect Michele Sassano counted around 14,000 Catholics living in 9 parishes (each one with several filial churches) – see Emil Dumea, *Catolicismul în Moldova*, 168-170.

[33] For the problem of the protectorate see Anton Coșa, *Catolicii din Moldova*, 87-111. In 1731-1732 and 1744-1747, the mission prefects Romualdo Cardi and Francescantonio Manzi tried to obtain the French protectorate over the missions from Moldavia, but with no success – see V. Mihordea, *Contribuție la istoria catolicismului în Moldova în secolul al XVIII-lea. Protecția francesă pentru călugării franciscani*. Vălenii de Munte: Tipografia "Datina românească", 1934, 1-32.

[34] For the problem of juridical status of the Catholic clergy in Moldavia see Emil Dumea, *Catolicismul în Moldova*, 232-241; Violeta Barbu, "Dreptul de protectorat al puterii seculare asupra misionarilor și comunităților catolice din Țările române în secolul al XVII-lea". *Studii și materiale de istorie medie* XXV (2007), pp. 135-158 (part I) and XXVI (2008), 69-89 (part II); Rafael-Dorian Chelaru, „Contribuții privind statutul juridic al catolicilor din Moldova (sec. XVII-XIX)". *Buletin Istoric*, nr. 6/2005, 103-116.

[35] See Ausilia's report published in original in Gh. Călinescu, "Alcuni missionari", 183-198.

[36] Ausilia describes the practice of anointing the doors and windows with crosses made from garlic or animal excrements.

[37] The vice-prefect mentioned the habit of giving nothing from home on Mondays, Wednesdays and Fridays.

[38] It is mentioned the practice of placing a coin into the hand of the dead for paying the custom tax in heaven or the practice of praying for dead through dances and songs similar to those practiced by the Orthodox. Moreover, the dead are buried dressed in their best clothes in order that they will face properly the Last Judgment.

[39] See Frontali's report published in original in Gh. Călinescu, "Altre notizie", 477-485.

40 Frontali noted that some Catholics justified their absence from the confessional with the fact that they did not succeed in reconciling their enemies; according to Frontali, actually many Catholics feared that they would be forced to pay their due taxes if they would appear at the church.

41 Frontali mentioned that there was a custom to dig out the bodies of the dead every one or two years to check whether the process of decaying went normally.

42 Archivio Storico della Sacra Congregazione per l'Evangelizzazione dei Popoli, fond "Scritture riferite nei Congressi della Sacra Congregazione – Fondo di Vienna" (hereinafter APF – Fondo di Vienna), vol. 31, f. 345 apud National Archives of Romania, "Vatican" Microfilm Collection (hereinafter NAR – VMC), reel no. 59, frame 453.

43 Archivio Storico della Sacra Congregazione per l'Evangelizzazione dei Popoli, fond "Scritture riferite nei Congressi della Sacra Congregazione – Moldavia" (hereinafter APF - Moldavia), vol. 6, ff. 64-5 apud NAR – VMC, reel no. 30, frame 322.

44 Rom. *comândare*, funeral feast.

45 Rom. *bâlciuri*, fairs.

46 See N. Iorga, *Studii şi documente*, 117 – the circular letter was entitled *Modus agendi apostolicum ministerium in Moldavia patribus missionariis per epistolam instructivam exhibitus ab eorum patre praefecto anno 1778.*

47 And of course, the Orthodox themselves (especially the priests) are accused of ignorance regarding the theological basis of the faith. An example of such criticism at Ausilia (1745) – Gh. Călinescu, "Alcuni missionari", 191.

48 Bernard Heyberger, *Les chrétiens du Proche Orient au temps de la Reforme Catholique (Syrie, Liban, Palestine, XVII-XVIII siècle)*. Rome: Ecole française de Rome, 1994, 139.

49 To Heyberger, such arguments were used by the missionaries also in order to promote among the Catholics in the Near East the necessity of adopting the Roman rituals.

50 APF – Moldavia, vol. 3, ff. 322-3, *apud* NAR – VMC, reel 29, frame 212.

51 *Ibid.*, vol. 5, f. 163, apud NAR – VMC, reel 30, frame 293.

52 APF – Fondo di Vienna, vol. 31, f. 60, apud NAR – VMC, reel 58, frame 311 – see also Marius Diaconescu, „Peter Zöld şi «descoperirea» ceangăilor din Moldova în a doua jumătate a secolului al XVIII-lea". *Anuarul Institutului de Istorie "A. D. Xenopol"*, vol. XXXIX-XL, 2002-2003, 290 (copy identified in an archival fond from Transylvania).

53 Ibid., vol. 4, f. 3, apud NAR – VMC, reel 29, frame 260. The letter may have been written in fact by a missionary, the Conventual Francesco Maria Madrelli, who served at that time as private chaplain of the countess, although he was sent by SCPF to activate in Moldavia. The countess praised Lisa as she intended to obtain the approval of SCPF to erect a missionary center on her domain in South-eastern Transylvania – for details see Emil Dumea, *Catolicismul în Moldova*, 98-100.

54   See Gh. Călinescu, "Alcuni missionari", 168. In 1783, prefect Antonio Mauro mentioned the same belief as being adopted by the Greek-Catholic immigrants from Transylvania – see his letter in APF – Moldavia, vol. 5, f. 267 apud NAR – VMC, reel 30, frame 284.

55   Gh. Călinescu, "Altre notizie", 483.

56   Emil Dumea, *Catolicismul în Moldova*, 274.

57   Gh. Călinescu, "Alcuni missionari", 172.

58   *Ibid.*, 263.

59   In May 15th, 1704, the Congregation of the Sacred Office issued a decree that forbade any active participation of the Catholics in either Orthodox or Protestant divine services: "et eorum confessiones [non] audire, nec coram illis emittere, nec iis sacram Eucharistiam conferre". SCPF sent in 1729 an instruction to the missionaries from Orient in which reiterated the interdiction aimed to avoid any contamination with non-Catholic influences: "vix ullus sit ritus apud heterodoxos qui aliquo errore in materia fidei in materia non maculetur."- *Collectanea Sacrae Congregationis de Propaganda Fide* (I). Rome: Typographia Polyglotta, 1907, 92, 99-100.

60   Gh. Călinescu, "Alcuni missionari", 210.

61   Emil Dumea, *Catolicismul în Moldova*, 269.

62   See Ausilia's plan entitled *Impedimenti alla Santa Fede. Bisogni e Rimedij* in Gh. Călinescu, "Alcuni missionari", 199-200.

63   In 1744, prefect Manzi informed SCPF about the fact that some missionaries suffered persecutions ("travagli, percosse e mali trattamenti") from the Orthodox metropolitan "a cagione di aver convertiti alcuni del suo partito" – see APF – Moldavia, vol. 4, f. 280 apud NAR – VMC, reel 30, frame 304. In 1745, Ausilia noted that if a missionary dared to convert an Orthodox to Catholicism, he would be punished by beating and prison and the apostate would be executed by drowning - Gh. Călinescu, *Alcuni missionari*, 172. Even when bishop Jezierski mentioned in 1742 the apparent more liberal position of prince Constantin Mavrocordat towards this issue, the Catholic prelate was aware of prince's irony when he said to Jezierski: "Ego permitto ut quos vocatis Schismaticos fiant Catholici sed monstrent mihi vestri missionarii si vel unum converterunt et ego monstrabo plures Catholicos qui facti sunt nostrae Religionis et a vobis transierunt" – see APF – Moldavia, vol. 4, f. 131 apud NAR – VMC, reel 30, frame 243.

64   In 1743, Manzi noted that he succeeded in re-converting more than 100 apostate Catholics with the support of the prince Mavrocordat – Gh. Călinescu, *Alcuni missionari*, 168.

65   APF – Moldavia, vol. 3, f. 264 apud NAR – VMC, reel 29, frame 177.

66   *Ibid.*, ff. 365-6 apud NAR – VMC, reel 29, frames 298-9. Bossi mentioned that "onde un male senza riparo sarebbe diffuso per tutta la provincia in discapito di nostra e SS Romana Chiesa".

[67] APF – Moldavia, vol. 4, f. 131 apud NAR – VMC, reel 30, frame 243 – letter from November 26th, 1742 from Lublin (Poland).

[68] Francisc Pall, "Le controversie tra i Minori conventuali e i Gesuiti nelle missioni di Moldavia (Romania)". *Diplomatarium Italicum*, vol. IV, Rome: Libreria di scienze e lettere, 1939, 326.

[69] APF – Moldavia, vol. 5, f. 194 apud NAR – VMC, reel 30, frame 248.

[70] Gh. Călinescu, *Alcuni missionari*, 193. Ausilia accused the Orthodox metropolitan, Nicholas the Peloponesian of allowing such practices despite his demands for stopping them.

[71] Gh. Călinescu, *Altre notizie*, 484. Frontali added that in some cases the missionaries succeeded in convincing the local authorities – i.e. the boyar who owned the village – to annul such marriages. According to Heyberger, the missionaries in the Near East were very careful to prevent any mixed marriage, especially when the woman was Catholic, as she would have been obliged to convert to her husband's confession (or religion, in the case of Islam), even if SCPF recommended that the mixed marriages being allowed as in the German principalities – Heyberger, 544-5.

[72] APF – Fondo di Vienna, vol. 31, f. 224 apud NAR – VMC, reel 58, frame 203 – letter from December 18th , 1788.

[73] In 1782, prefect Mauro related the conversion of a young Orthodox boy, the son of an apostate Catholic, as he prepared to marry a Catholic girl - APF – Moldavia, vol. 5, f. 238 apud NAR – VMC, reel 30, frame 266. Mauro mentioned that he was obliged to move the young couple in the town of Oituz to confirm their marriage, due to the harsh opposition of boy's family.

[74] APF – Moldavia, vol. 4, f. 317 apud NAR – VMC, reel 30, frame 331. In fact, some missionaries speak about the possibility of annulling those marriages, which led to the conversion of the Catholic partner, with the help of the state authorities or the local boyars.

[75] These Catholics were generally Polish, German, French and Austrian residents.

[76] Emil Dumea, *Catolicismul în Moldova*, 274.

[77] APF – Fondo di Vienna, vol. 31, ff. 41 apud NAR – VMC, reel 58, frame 390.

[78] APF – Moldavia, vol. 3, f. 336 apud NAR – VCM, reel 29, frame 381 – letter from March 4th.

[79] *Ibid.*, f. 343 apud NAR – VCM, reel 29, frame 417 – letter from November 20th.

[80] APF – Moldavia, vol. 5, f. 195 apud NAR – CMV, reel 30, frame 238.

[81] Anton Coşa, *Catolicii din Moldova*, 539-540. Rocchi considered Bialis as the best option to keep control over these Szeklers because he was an Hungarian too – "acciò li tenesse in freno".

[82] Gh. Călinescu, "Alcuni missionari", 211.

83   APF – Moldavia, vol. 3, f. 264 apud NAR – VMC, reel 29, frame 177.

84   Fr. Pall, "Le controversie", 319-320. The system can be described as such: each Catholic who was administered confession received a small piece of paper with the name of the confessor on it; this paper was then required by the prefect on St. Peter and Paul's Day (June 29th). Those Catholics who did not have any ticket to show entered under ecclesiastical penalty administered by the prefect.

85   APF – Fondo di Vienna, vol. 31, ff. 7-9 apud NAR – VMC, reel 58, frame 112.

86   Emil Dumea, *Catolicismul în Moldova*, 172. The anointing was administered by the mission prefect instead of the bishop, who could not come to Moldavia.

87   N. Iorga, *Studii și documente*, 116-7. The interdiction of consuming diaries, although not imposed by the Catholic doctrine, can be considered as a method of disciplining aimed at maintaining a good perception of the Catholic religious practices among the Orthodox (who practiced very rigorous alimentary interdictions during Lent).

88   We recall here the description of Michele Sassano from 1799: "le fiere ed i mercati nelle sacre delle chiese dette bolgi, nelle quali si commettono dei più enormi peccati con scandalo degl'istessi Greci".

89   See Fedele Rocchi's letter from 1792 in Emil Dumea, *Catolicismul în Moldova*, 217, footnote 147.

90   APF – Moldavia, vol. 7, ff. 511-4 apud NAR – VMC, reel 34, frames 513-520: "Mons(igno)r Karvosieski vescovo coadiutore di mons(igno)r Stanislao Raimondi nella visita di questa diocesi fatta da lui nel 1779 [s.a.] proibi un istromento penale detto tiba [s.a.], dove il reo serrato nel collo e nelle mani tra due pezzi di legno era ne battuto. Non ostante però io lo vedo avanti la porta grande di tutta la chiesa e si adopera dai P.P. specialmente contro li bestemmiatori rei di peccato di dissonestà. Io non ho voluto ordinare l'osservanza di quanto comandò l'anzid(ett)o prelato perchè conosco che dispiacerebbe gli anziani del popolo, che vogliono così tenere in freno li licenziosi e non timorati di Dio."

91   See Liviu Pilat, *Comunități tăcute. Satele din parohia Săbăoani (secolele XVII-XVIII)*. Bacău: Ed. „Dumitru Mărtinaş", 2002, 192-3.

92   *Ibid.*, 199.

93   Gh. Călinescu, "Alcuni missionari", 148-9. According to Amelio, this conversion (performed by adopting the Orthodox monastic habit) was made only to avoid paying the due taxes.

94   *Ibid.*, 190.

95   See Violeta Barbu, *Dreptul de protectorat* (I,II), *passim*.

96   See Chelaru, "Contribuții", *passim*.

97   See the privilege granted by Nicolae Mavrocordat to the bishop of Huși, Teofil, in 1734 - *Condica lui Constantin Mavrocordat* (II). Edited by Corneliu Istrati, Iași: Editura Universității "Al. I. Cuza", 2008, 656-7.

98   APF – Moldavia, vol. 4, f. 57 apud NAR – VMC, reel 30, frame 67.
99   *Condica lui Constantin Mavrocordat*, II, 25.
100 Cited by Liviu Pilat, *Comunităţi tăcute*, 177.
101 APF – Moldavia, vol. 5, f. 242 apud NAR – VMC, reel 30, frame 471.
102 APF – Fondo di Vienna, vol. 31, f. 9 apud NAR – VMC, reel 58, frame 112.
103 APF – Moldavia, vol. 5, ff. 129-131 apud NAR – VMC, reel 30, frames 342-3. In his position, Cajoni was also assisted by armed people ("arnăuţi"). The scandal created by this situation led to Cajoni's transfer to Constantinople.
104 E. Dumea, *Catolicismul în Moldova*, 251.
105 *Ibid.*
106 APF – Moldavia, vol. 3, f. 342 apud NAR – VMC, reel 29, frame 361.
107 APF – Moldavia, vol. 5, f. 237 apud NAR – VMC, reel 30, frame 374. Buriolli was suspected of committing "il vizio di donne".
108 Gh. Călinescu, "Altre notizie", 500. Although, according to the decree of the Sacred Congregation of the Rites issued in 1622 this practice was strictly forbidden, Carisi motivated his request by mentioning the fact that in Moldavia Friday was the most sacred day.
109 APF – Moldavia, vol. 5, f. 195 apud NAR – VMC, reel 30, frame 233. Martinotti was accused of unjustly suspecting the women of committing sexual intercourses with the missionaries, although most of them were elder, calling them "whores" and forcing them to swear on the crucifixe.
110 See Gatt's circular letter issued in April 16th, 1800 in N. Iorga, *Studii şi documente*, 145-146. The Catholics were also obliged to assist the parish priests with two married servants. Gatt warned that those communities who refused or failed to comply with the new obligations would not be spiritually assisted.
111 APF – Moldavia, vol. 6, f. 6 apud NAR – VMC, reel 30, frame 401.
112 Philippe Martin noticed, for example, that the Catholic clergy from Lorraine developed after 1700 a strong criticism against all superstitious practices in the rural parishes – see Philippe Martin, *Les processions: outil de christianisation des campagnes lorraines (fin XVIe – milieu XVIIIe siècle). La christianisation des campagnes. Actes du colloque du C.I.H.E.C. (25-27 août 1994)*, edited by J. P. Massaut and M. E. Henneau, Bruxelles – Rome: Institut Historique Belge de Rome, 1996, 306-7.
113 Mihaela Grancea, *Western Travellers on Romanians' religiosity: 1683-1789. Church and society in Central and Eastern Europe*, edited by Maria Crăciun and Ovidiu Ghitta, Cluj Napoca: European Studies Foundation Publishing House, 1998, 408.
114 See Liviu Pilat, *Comunităţi tăcute*, *passim*.

ATTILA KIM

Born in 1977, in Târgu Mureș

DLA Candidate, Moholy-Nagy University of Art and Design, Budapest
Dissertation: *Functional and Architectural Rehabilitation of the Penitenciary:
Typological Analysis of Penitentiaries Designed on Functional and Architectural
Schemes of the 19th Century in Central and Eastern Europe. Conceptual and
Functional Redefinition of Penitentiaries*

Architect, designing for *Studio Kim Bucșa Diaconu* and *LUNDI et DEMI*
architecture and design offices

Hungarian Government Doctoral Scholarship, Moholy-Nagy University of
Art and Design, Budapest (2005-2008)
TEMPUS Scholarship, Technical University of Eindhoven (1999)
CETP Scholarship, Study trip in the USA (1998)

Participation to several exhibitions, projects and conferences in
Romania and Austria
Numerous research papers published in Romania and Hungary

FUNCTION AND FORM
IN THE ARCHITECTURAL DEVELOPMENT
OF PENITENCIARIES

The social restructuring, the spontaneous series of decisions following them and the ideological changes characteristic to the beginning of the nineteenth century are those elements that influenced the development of prisons. The change of the forms of punishments and the change of their relation with the society resulted in many compromises in the early history of this institution. Regarding architecture, we cannot follow the autonomous evolution of prisons that the managing of the *newly* introduced *function,* loss of freedom as a general form of punishment, would have required. Although a new institution was born, power restricted itself to adapting the architecturally already existing though functionally only similar architectural programs. We can state that the short historical development of prisons can be studied only to a small extent as far as the pure history of architecture is concerned.

Prisons as building types evolved from the 17th and 18th century workhouses, lock-ups, approved schools, barracks and hospitals. The original function of these groundings and in many cases the existing buildings that were renamed prisons had not been intended to exclusively serve locking-up or detention purposes. Indeed, detention was part of their function, but it was only interpreted as a secondary, concomitant function of their operation. These building types were the different citadels of surveillance, which became specialized in keeping human body under restraint, pressing it, torturing it, keeping it under discipline and isolating it, whereas the new function, the prison tried to influence the intellect, the spirit. It does not use physical punishment as its predecessors did, but tries to give a social (re-)education to those breaking the laws. As far as its aims and instruments are viewed, prison cannot be compared to the

centuries old institutions of physical punishment. Their operation though was restricted to the same architectural spaces, except a few examples.

The structure of the architectural form housing the new institution has not much changed since the beginning of the 19th century until nowadays as far as the interior space structure and its connection to the immediate environment is concerned. Studying both elements that are decisive from architectural point of view – functional structuring and the form interlocking it – makes us feel the tension that has developed for more than two centuries. The contradictory relationships between *function* and *form*, the users and the building, the building and its environment have determined the slow development of prisons until nowadays. The only requirement that the building has successfully solved may be the impediment of violent escapes. But is it really an architectural issue? What has architecture contributed to the development of the institution with? What is the connection between the changes of ideologies regarding the execution of punishments and the *architectural form*? What alternatives has architecture offered in the course of history in order to solve the specific problems of prisons? Answering these questions is extremely important as during the last two centuries, the primary symbol of loss of freedom as a modern form of punishment has become the building providing room for it. The deficient architectural development of prisons raises the following questions: have architects not succeeded in finding the *form* matching the *function*? Or: is it possible that *architecture* has not been given the chance to develop an appropriate *form*?

The guiding principle of this study is the critical analysis of the history of prison-buildings. Our aim is to determine the connections between *architectural forms* and *functions* while taking into consideration the social forces having an impact on them. We hope that the cause and effect connections that we can discover will give an explanation to the inflexible social image associated to the almost two hundred years old institution, the operational issues existing within the building, and the unsuccessfulness of the architectural form.

Prison buildings can be interpreted from more points of view considering their architectural form. First and foremost, the questions still waiting for an answer are linked to the translation of loss of freedom, locking-up and the functional constraints accompanying them to the "language of stone". To what extent do we need to make one conscious of the continuous presence of the social and political power by the

spatial organization of the building? What kinds of spatial and functional connections determined by the physical space can be used in order to reform the individual? What does the right to intimacy mean and where are its architectural limits? All these questions are strongly related to the convicted individual and the ever changing punishment ideologies influencing them. The formal development of prisons is strongly related to the continuously changing forms of punishment, the restrictions of their functional and technical execution, and the symbolic role of the institution in society. The operation of the disciplinary mechanism, the form of the prison building and its construction primary depend on the philosophy regarding systematic and organized execution of punishment of a given period, on the system of ideas which determines the administration of punishment – loss of freedom, or penal labor connected to it –, the relationship between society and criminals, and the re-education of convicts. (Snarr & Willford, 1985)

The architectural form of prisons besides the responsibility towards those "inside" them is given a symbolic role and carries a message for the society and its environment. From formal point of view the prison building has always been aligned with a socially well-defined role. The form of the prison building is not originating from the expectations arising from its locking-up – guarding function only, but it is scenery at the same time. The basically unique institution typology regarding the execution of punishment, which has been defined in many different ways in the course of history, is a punctiform building similar to the Middle Ages castles, apparently turning its back to the world. Regarding its architectural concept and formal symbolism, the traditional prison is actually against the world, warns us to lead a law-abiding life and wishes to deter us from committing crime. The result of this hundred-years-old concept is – as it is well-known – that society keeps itself aloof of prisons, thus making the work of the institution, the achievement of its objectives more difficult.

The study and analysis of prisons, the institution giving place to this social function and execution of punishment has become an important social research topic based on different considerations since the mid 1970s. Prisons, according to modern definition, are those institutions that are the scenes of execution of punishments that accompany loss of freedom. Their almost 250 years old history is strongly related to the approaches to legislation of the given age as well as to the shaping powers existing within western society. The standard works dealing with the appearance and development of prisons, recognized as classics today,

are due to the political, social and economic conjuncture of the 1970s. It is characteristic to these works that the reform aspirations formulated at the end of the eighteenth century and beginning of nineteenth century and the contemporary discussions linked to them are central in their approach. As an introduction, let's review the most important researches published on this field.

The face of power: total institutions

I wish to mention three researches connected to the basic works on history of institutions regarding prisons: *The Discovery of the Asylum: Social Order and Disorder in the New Republic* written by David Rothman (1971)[1], *Surveiller et punir* by Michel Foucault (1975)[2] and *A Just Measure of Pain: The Penitenciary in the Industrial Revolution* by Michael Ignatieff (1978),[3] the latter being a research dealing with the history of Pentonville penitenciary in Great Britain.

The works mentioned above have common standpoints and assumptions. All three of them agreed that the ideology of the enlightenment served as a basis for punishment with imprisonment and loss of freedom. All three works examine the process of imprisonment becoming a general punishment, the social acceptance of loss of freedom as a fair punishment, as well as the disappointments lying in the regenerating power of reforming detention, and they all agree that it is moving far from the original Quaker intention, moreover against it, imprisonment coarsening to institutional violence. The appearance of prisons, according to these studies, was part of a wider social strategy, which regarded detention as a means of diminution of delinquency, partial elimination of poverty and unemployment; on individual level it realized the spread of state power interference. From this point of view, the originally more human punishing intentions and wishes to deter from crime mentioned in connection with the birth of prisons had become insignificant in comparison with the reasons that had a more important role in serving the revelation, the possible experience and visibility of state power, and started to fight disobedience, indiscipline and lack of respect prevailing on social level.

Rothman studies the appearance and development of all the institutions in the same group that on a given level, in the name of the society keep the individual under restraint, control his life and influence his free will. He includes prisons, mental hospitals, orphanages, community homes

and poorhouses here. He says that all the historians who declare the birth of the above mentioned institutions as a reform only because their novelty and new function, and appreciate their appearance as a progress of mankind, are considerably wrong. Similarly, those who led and protected these institutions were not necessarily reformers having a human way of thinking. None of the above enumerated institutions could have been established out of good will and social necessity since all of them have become without exception a disgrace to society. Rothman traces the rise of total institutions in the United States back, Ignatieff traces the appearance of prisons in Great Britain (especially the opening of the first, pioneer institution of Pentonville) back, Foucault traces the French developments back to the views becoming popular in the eighteenth century according to which criminals, poor people, orphans, the elderly and the insane should be locked-up in specially conceived buildings, representing social power, order, discipline and stability. This is the meeting point between the standpoints of Foucault and Rothman, the first completing the list determined by Rothman with colleges, boarding-schools, barracks, manufacture, and later with factories. Preceding Foucault, Goffman had already included military facilities, leper colonies, boarding-schools and monasteries among total institutions[4]. Goffman defined the concept of total institutions in 1961 as follows:

> a total institution may be defined as a place of residence and work where a large number of like-situated individuals cut off from the wider society for an appreciable period of time together lead an enclosed formally administered round of life.[5]

Another important characteristic of these institutions according to Goffman is that there has evolved a communication gap between the individuals cut off from society and the individuals living in society who keep them in detention.[6]

Rothman continues his researches, just like Foucault and Ignatieff later, from the point of view of social history. Rothman asks the question: "Why in the decades after 1820 did (Americans) all at once erect penitenciaries for the criminal, asylums for the insane, almshouses for the poor, orphan asylums for homeless children, and reformatories for delinquents?",[7] and tries to find an answer to the "revolution in the practices toward the insane".[8] The total institutions of the 19th century became the first concentration camps of poverty, crime, sickness and social outcast. Social

and moral cohesion are the roots of the process in Rothman`s vision, that have tried to find a solution in developing social balance during the birth of the new republic. When seeking for stability and social cohesion, locking-up individuals who caused tension within society was meant to calm to a certain extent the general anxiety arising from the unknown social system. At this level they had only helped to survive the already existing, centuries-long used, but not excessively refined separation mechanisms.

In 1961 Foucault mentioned the continuity of these lock-up mechanisms that can be observed in the course of history, giving as an example the leper colonies that had been liquidated towards the end of the Middle Ages.[9] The epidemic had come to an end in Europe, camps had been shut down, but the structure itself survived. The place of the leprous was soon taken over by criminals, tramps and the insane. "With an altogether new meaning and in a very different culture, the form would remain – essentially that major form of a rigorous division which is social exclusion but spiritual reintegration."[10] In 1656 we can find the total institutions defined by Goffman under one roof at the contemporary *Hospital General* in Paris during the reign of Louis XIV. An old barracks had been transformed so that to serve new functions: residence for veterans and the poor, hospital for the sick, but the unemployed, the homeless, the orphans, the insane and criminals were also locked-up here.[11]

"But the art of 'enclosure' is neither constant, nor indispensable, nor sufficient in disciplinary machinery. This machinery works space in a much more flexible and detailed way."[12] – writes Foucault in *Discipline and Punishment* – where he specially stresses discipline that divides individuals in space, sometimes demanding imprisonment, "marking the self-contained space, different from the rest".[13] However systematic classification should continue within these institutions, in-house. "Disciplinary space tends to be divided into as many sections as there are bodies or elements to be distributed ... Discipline organizes an analytical space."[14]

This is the point when Foucault refers to the church prototype, the cells of monasteries, which were autonomous, organically existing disciplinary unit-spaces influencing both body and soul. The corresponding elements to cells as basic elements can be found with any total institution: isolation cells of prisons, hospital beds isolated by curtains, closed rooms at the mental hospital, the beds of barracks and boarding schools, the worker's table, etc. In all the above cases the individual becomes controllable, appreciable and comparable by power.

The conceptions basically indicate two directions. The first group from chronological point of view, whose main representatives are the already quoted and mentioned Goffman, Rothman, Foucault and Ignatieff link the appearance of the institutions of power with the social changes of the enlightenment, then with the age of industrialization. The other group, the critical historians build up their views based on the ideology of the Frankfurt School, mainly on the works of Rusche and Kirschheimer as well as the theory of Althusser regarding the apparatus of the state. They have similar views with those of the first group concerning the development of total institutions, but they explain the process by the motivation of another cause and effect connection. According to their views, hospitals, schools, prisons and other total institutions serve the interests of the state, both from the social order and economic point of view. Thus the basic question that they primarily study is as follows: whose interests do these institutions really serve?

Researchers of the 1990s study the development of institutions of power from a different angle compared to their ancestors, and handle both the above mentioned approaches critically. Though the new generation accepts as a fact the definitions of total institutions lying at the basis of their research made by their predecessors, their views are more subtle and detailed. The questions waiting for an answer have remained the same: what did determine the time of appearance of prisons, why did loss of freedom take over the place of pillory, why did penal labor almost immediately follow detention? Why does the same state power that promised total freedom to its citizens at the birth of the democratic state visibly show its powers by introducing loss of freedom, establishing different institutions and locking-up individuals in them? Contrary to previous theories, authors of the 1990s find somewhat different answers to these questions; among them we mention the works of Adam Hirsch[15] and Michael Meranze.[16]

Hirsch rejects the cause and effect connections between the criminology theories of Beccaria[17] and the appearance of the institutions. According to him, the patrons of prisons were looking for alternative methods of punishment in order to restrain crime, and were studying their relative effects.[18] Prison at the same time could offer a practical solution to other social and economic problems, such as the social off-balance caused by population explosion. Hirsch also rejects the views of critical researchers according to who the state or certain classes could have benefited of penal labor. He draws our attention to the fact that the Quakers who were the

main supporters of establishing prisons, were actively taking part in the liquidation of slavery. Hirsch makes a distinction among the types of penal labor, such as slave-labor that led to economic benefits, and the work going on in prisons that was part of the reform process. All in all, Hirsch does not attribute the appearance of prisons to the enlightenment or economic interests, but to the social changes of that age. He agrees with his predecessors about the fact that prisons or other total institutions have not develop over night but have transmitted the structure, the models of the institutions of power and their mechanisms from the past. According to his observations, work as an activity imposed by power plays the role of threat or therapy, depending on the different cases. At this point his opinion meets the theory of Foucault, Rothman and Goffman regarding the instruments used by power.

The work of Michael Meranze published in 1996 includes similar approaches as Hirsch`s. He throws light on the mechanisms of power that wanted to shape souls using different methods and on their past groundings, also dealt with by Foucault. The study is built up around the establishment and development of Philadelphia Prison, which is well-known to have served as a model for the development of prison-institutions in the western society, while its basic concept is deeply rooted in religious beliefs. In accordance with the new political, social and economic situation in France, Great Britain and the US, institutionalization, determining total functions – although its elements were taken from the past – ensured a proper change as far as the expectations of the newly evolved democratic society were concerned. Meranze agrees with Hirsch about the mentality of reformers, but disproves his theory regarding the motivation of reformers. He partly agrees with the theory of Rothman, rejecting – just like Hirsch – his theories regarding the role of the enlightenment. He is on the same position regarding the social importance of the debates carried out on the definition of crime, taking into consideration the interests of the different strata, groups and the state. He founds his views on the establishment of the liberal state, not forgetting the contradictions lying in it. He refers to the tensions existing in the structure of the liberal state, which appear due to the different power and subordination relationships. He studies the means of supporting power just like his predecessors did, irrespective of being formal elements or operational mechanisms.

Penitenciary: the birth of a new architectural function

The scaffold, where the body of the tortured criminal had been exposed to the ritually manifested force of the sovereign, the punitive theatre in which the representation of punishment was permanently available to the social body, was replaced by a great enclosed, complex and hierarchized structure that was integrated into the very body of the state apparatus. ... The high wall, no longer the wall that surrounds and protects, no longer the wall that stands for power and wealth, but the meticulously sealed wall, uncrossable in either direction, closed in upon the now mysterious work of punishment, will become, near at hand, sometimes even at the very centre of the cities of the nineteenth century, the monotonous figure, at once material and symbolic, of the power to punish.[19]

The new civil fortress defined by Foucault has developed on basis of its pre-conceptions. The models were those buildings that had had similar basic functions, and in many cases the same buildings were transformed according to the new demands: lock-ups, approved schools or prisons holding galley slaves became the scene of the newly spread forms of punishment, the scenes of detention.

Until the mid eighteenth century prisons could hardly be isolated as forms of architecture or functional units. The models contributing to their development were those buildings that had had similar basic functions, and in many cases the same were later transformed according to the new demands. Previously – and the earlier institutions had been prepared for this purpose – detention lasted for a mainly short period while the prisoner was waiting for delivering the sentence. Sentence consisted of a fine, physical punishment or execution instead of loss of freedom as punishment, in other cases loss of freedom was combined with a sentence to forced labor. Loss of freedom for a defined period of time first appeared in the life of monasteries. Pevsner mentioned the existence of such cells at Cluny Benedictine Monastery that could only be accessed from the top; they did not have any windows or doors. The Cistercians empowered their abbeys to establish prisons in 1206. (Pevsner, 1976) Short-term detention was mostly characteristic to Middle Ages, which was hosted by not especially purpose-built buildings or parts of buildings. Different bastions, towers, caves, dungeons of palaces, cells of monasteries and others, spaces connected to the headquarters of the legislative body were used for this purpose. For example, Newgate in London served such a purpose, being one of the three gates to the city. The classification of

prisoners was arranged vertically, the convicted, most of who were strangers, were grouped around different stairs. The gate serving such function had a symbolic importance: the opening leading into the city had also the role of a filter cleaning the dirt. These early prisons were totally chaotic as far as their operation is concerned. (Bender, 1987; Markus, 1993) The system of punishment had to adapt itself to the ideas of the Renaissance, to the new discoveries accompanying the economic-social upswing. The use of loss of freedom as a capital punishment became more and more general, which could not be separated of stronger or slighter physical punishments yet. This also meant the necessary change of Middle Ages methods of detention, mainly because tower-prisons had a reduced capacity. Special, purpose-built facilities were needed, this is the turning point we can reckon the establishment of a new type of building.

The first endeavors to determine the architectural form of prisons were only done theoretically and have survived in fragments. We can find design ideas and functional descriptions in the work of Filarete, who described two different sized buildings: the smaller one was adequate for short-time detentions and was located close to the palace, the bigger one consisted of more cells being adequate for long-time detentions as well as for the classification of prisoners according to their rank and crime. We can notice the plans of Josef Furttenbach in the 16th and 17th centuries that follow the ideas of Filarete adapting them to the expectations of his age. The smaller plan of the two that have survived, made around 1617, shows a simple spatial arrangement: more cells are opening to a central square that is also suitable for work, so that one guard can watch more prisoners. The other plan of Furtenbach is of bigger dimensions, sketches a quadratic building that is also organized around an inner, square core. The central part is encircled by a corridor where different sized cells open from. This can be regarded as the first architectural drafting of the possibility that prisoners be classified according to their social status and the committed crime. The famous workhouses of the age, the Rasphuis in Amsterdam for men (1595) and Spinhuis for women (1597) were to be born based on the model drawn above. The manufactures flourishing in the seventeenth century resulted in the workforce becoming more expensive. This can give an explanation to the introduction of penal labor among prisoners regardless of being beggars, shirkers or criminals. This demand resulted in the enlargement of a building program: space was needed for the employment. The smaller prison plan of Furttenbach with a gangway was already hiding the possibility; it only needed the enlargement of the

corridor into a hall. In the case of the workhouses from Amsterdam, the studies of that age only helped with their functional structuring as both of them had been transformed from monastery buildings. Education through work was completed by religious services, which were held around an altar placed in the middle of the central space.

The functional and operational incoherence of the institutions serving as detention facilities towards the end of the seventeenth century is presented in the work of Cesare Beccaria entitled *Dei Delitti e Delle Pene (Of Crimes and Punishments)* published in 1764, who makes an attempt to a theoretic clarification. The theories of Beccaria were put into practice due to two important circumstances, according to Markus: typhoid epidemic attack and immorality flourishing among the prisoners confined in the same cell. The roots of both problems laid in mass detention and lack of hygiene. All these problems led to the solutions drawn above by Filarete and Furttenbach: first of all the classification of prisoners, separation of genders, detention based on the committed crime could ensure moral hygiene. All these classifications were accompanied by distinctive educational activities: work and religious education. The improvement of the hygiene of the building was attempted by ensuring cleanness and by changing the size of the cells. This is the age when they worked out possibilities for the ventilation of buildings, which have become decisive in the formal development of future prison types.

The ideological change going on in the 18th century, which appoints loss of freedom to be a general punishment, took everybody by surprise. The gap arising from the abolition of different tortures and the re-interpretation of sins punished by death became immediately filled by *detention,* especially due to the American Quakers and the changing European social conditions. We can observe that the reformers of this period were dreaming of distinctive types of punishment which would punish the crime committed and not the individual: stealing is punishable by confiscating, embezzlement by fine, murder by death and so on.[20]

We find imprisonment among the punishments, but only as a possible punishment in case of certain sins: individuals are punishable by imprisonment if they make an attempt on other people's freedom, or they abuse freedom. Imprisonment had had many critics because as a punishment it lost its specific character towards the crime, and its social educational role – due to the absence of the punishment as a public spectacle – could not compete with the imaginable forms of punishment. According to Foucault`s summing-up

> Prison as the universal penalty is incompatible with this whole technique of penalty-effect, penalty-representation, penalty-general function, penalty-sign and discourse.[21]

It is also Foucault who draws our attention to the paradox of the situation: the ideas of Le Peletier and his followers regarding distinctive forms of punishment are in fact about the different forms of imprisonment. Punishing the sanguinary, their suffering would have practically meant confinement in dark cells aggravating it with cutting off light and reducing ration. The lazy ones were put to forced labor, which could be carried out – based on existing models – through detention. Three main techniques of imprisonment were formulated in their theories as methods used in the execution of punishment: *dark-cell, cell* and *prison* in the sense we use it today. Consequently the imagined variety was simplified to imprisonment in general. The forms of punishment used in Europe until then have been particularly quickly replaced, in less than twenty years, by loss of freedom.[22]

What was the reason for this fast and almost smooth change? Knowledge about past models played an important role in this process as well as the desire to eliminate the problems connected to them. The overcrowded institutions of the past, their lack of hygiene, their bad handling, and the continuous organizational and administrative issues all contributed to the development of a new system. Social changes that increasingly demanded equality among individuals, together with the appearance and strengthening of new social strata did not tolerate the defenselessness of human body to power. The developed tension was increased by the existing American and British reforms regarding the execution of punishment. Due to these models, the dominant, centuries-old European legislation was successfully overcome and the despotic forms of operating prisons were abolished.

As the functional change occurred so sudden, the thinkers and architects of the age could not clearly define the formal and functional requirements of the new situation, the only solution was the transformation of the existing buildings and the adaptation of previous models. From critical point of view, the architectural form – following the model of previous buildings – was subordinated to different safety requirements connected to the everyday schedule of the inmates, the surveillance needed for the different times of the day and the classification of prisoners. Nevertheless, the more essential aspects of the *new forms* were *the establishment of a new connection with*

society – and all the chances were given due to the change of forms of punishment that meant the abolishment of the punishment-theatre, which gave way to building up a new, socially more human relationship that would stimulate the possible social resettlement of prisoners –; *planning the life of prisoners for a longer period according to the facilities offered by the building* – as in many cases only the robot-like repetition of everyday events were accentuated, neglecting one of the most basic characteristics of the functions of the building that of the individual being continuously inside and its effect on the individuals, which was gradually making the social reintegration of the "healthy", "converted" criminal, that the system was hoping for, more difficult;[23] as well as *spanning the gap between the prisoners and the free people* – to the same extent with the free people working in prisons (though they took advantage of their privileged situation many times, they were still the only connection to the outer world, even symbolically), with family members, friends (who obliged the prisoner to keep its social connections at their rare visits) – were neglected for lack of groundings and sufficient experience.

The *new function* that was developed has had two faces and interpretations until nowadays: one is an all-pervasive picture showing towards society, while the other is the power educating the individual, the criminal. Its task is the impediment of the idea of crime as well as the repression of crime in society. In the case of the individual we can speak about a more complex task: changing the individual within the walls of the institutions serving for the execution of punishment. These are the two components that result in the tension between the *function* and later in its development, and *form*. We aim to study the historic background of this relationship in the next part in the light of the eighteenth and nineteenth century architectural endeavors.

The conjunction of function and form

As one can notice the use of detention, classification and forced activities are the elements that delineate a new group of total institutions, a group of functional institutions representing state and social power by the end of the seventeenth century. The first building complex having multiple functions, gathering all the total institutions defined by Goffman under one roof was the Hospital General in Paris during the reign of Louis XIV. La Pitie and La Salpêtrière were the most important ones

among the eight institutions of Hospital General until 1684, when a new prison called La Force with a capacity of 300 prisoners was established within La Salpêtrière, which was to operate until the revolution. Though Hospital General played an important role as an institutional grounding in the development of hospitals, asylums, orphanages and prisons, from the point of view of architecture and programs it only had a tangential influence on their development.

The first fruition of the program defined by Hospital General was the San Michele detention centre in Rome, built especially for this reason. (Carlo Fontana, 1703) The building served four functions: asylum, orphanage, prison and hospital. All these functions operated isolated from each other. The institution was based on the Ospizio Generale founded by Pope Innocent XI in 1686 that collected the poor in Rome. It was enlarged from functional point of view with orphanage, workshops and classrooms by Pope Innocent XII. San Michele approved school was built by Pope Clement XI who divided the institution into independent units. In 1734 the prison functioning as a male-prison was enlarged with a female-prison. The two-storeyed building had 20 rooms on each floor connected by a hanging corridor. The working space occupying the total height of the interior space was set in the middle of the building. A weaving-mill was functioning in the cellar of the building, while in the working space of the ground floor there was a spinning-mill. There was an altar at the end of the ground floor, while at the other end there was a fountain. According to the original plans made by Fontana, the altar should have been placed in the middle of the space, this way it would have been visible from any point of the two-storeyed interior space. His statement is supported by the radii drawn on its plans that were starting from the centre. (We will see later on how this kind of space alignment becomes widespread mostly due to the plans of the Panopticum designed by Bentham.) During the day prisoners were working together, for the night they were locked in their cells. Each cell had its own latrine.

Work was done in total silence in San Michele. The inscription appearing in the common working space was also attracting attention: *Silentium.* According to Marcus

> The Silentium prophetically foreshadowed what was coming: discipline, segregation, surveillance, attention to fresh air and sanitation, silence, work and penance. Its three-storey galleried hall was a prototype that survived into the late nineteenth century.[24]

Actually the spatial structure of San Michele, the position of cells, attention focusing to the central space, the position of the altar, the way of surveillance, the way work was organized, the classification of prisoners and the appearance of isolation cells would be found in the prison architecture of the coming centuries. Regarding structure and form, San Michele foreran the more cleared-out building models appearing in the course of history in many ways. The coming prison forms are looking for solutions to the problems that arose there for the first time, though the model defined by San Michele serves as a reference all the time.

The theoretical work of Beccaria published in 1764, and San Michele detention centre designed by Carlo Fontana first of all resulted in the development of the oblong prison type, having an interior yard. The ground-plan of Newgate Prison in London (George Dance, 1768) – block of buildings centered around two interior yards, which was divided by the home of the governor in the middle. (See: 14-15. graph) – carrying on the concept of San Michele, tried to find a solution to guarding exterior spaces and their perspicuity. This is the model that was followed by most of the contemporary Italian detention centers and workhouses. The detention centre of Milan, called Casa di Corezzione (Francesco Croce, 1758-66) and the workhouse of Napoli (Albergo dei poveri, Ferdinando Fuga, 1751) originate from this period. The functional renewal of the detention centre of Milan – the interior yard found with Newgate that also made the classification of prisoners possible, and the closed corridor developed in the centre, the most protected part of the building – laid the basis of a building type that was suitable for the use of a more developed system of punishment.

By the end of the eighteenth century the idea of correction by work degenerated to taking maximum advantage of the free workforce, together with the increase of the population compared to the Middle Ages resulted the overcrowded prisons and detention centers. This prevented any human idea and intention of correction from fulfillment. The isolation of prisoners became impossible due to overcrowded conditions even in those institutions that were originally built with this possibility. The definition of a newer form of building that would process the conclusions of the forms of prisons until then became urgent. The new structure had to answer many problems arising from the increasing number of prisoners. First of all they had to work out a new form of classification and separation that would prove to be both theoretically and practically efficient. Education of prisoners through work and religion had an accentuated role, and it

needed wide, well-controlled spaces. In spite of the increasing number of prisoners, the smallest possible number of guards was desired from the new form.

First only theoretic studies and ideal prison plans were made in order to meet all these requirements. The work of Pierre Bugniet had a prominent role, whose studies written around 1760 played a decisive role in the development of prison facilities. The importance of the ideal prison plans made by Bugniet was first of all based on the gathered experiences and their adaptation to the expectations of a new age. The formal basis of his plans was given by the common working space surrounded by hanging corridors worked out by Fontana, the private cell system defined by Croce and the cell units gathered around a common interior yard that made the classification of prisoners into smaller groups possible. The innovation of Bugniet consisted in the structuring of the space ensuring the common daily activities and these units: we meet for the first time the concept of a concentric prison, gathering around a single point and being controlled from a single point. His success is underlined by the types developed during the coming centuries.

The effect of the plans made by Bugniet on prison architecture was soon appearing. In 1772 the building of the *Maison de Force* in Gent designed by Vilain was started, which reproduced the structuring of the octagonal ground-plan that Bugniet had made. The cell units built around eight spacious interior yards surrounded an octagonal common central work space. The altar was set on the one side of the common central space. The cells situated in the interior yard consisted of different size cells, thus ensuring isolated or group detention. The isolated cells were aligned back to one another in the radial wings starting from the top of the central octagon. The guards could control the central space and every interior yard from the hanging corridors surrounding the central work space. In 1775 the building works of *Maison de Force* were stopped after completing a pentagonal part of the original octagonal building. The completed building could hold 110—1400 people, having by far the biggest capacity among the prisons built until then. Due to the structure of the ground-plan, it ensured the control of prisoners using a reduced number of guards, as well as the total perspicuity inside the prison.

By the end of the eighteenth century many designers joined the achievements of Beccaria and Bugniet. Maison de Force proved the practical execution and operational success for the conclusions of their studies, the formal and operational principles and the structure of the

ground-plan defined by them. One of the most important personalities of that age dealing with prisons was John Howard who after having arrived home from captivity, as the chief sheriff of Bedfordshire consecrated his whole work to the study and development of institutions designed for execution of punishment. He published his first theoretical work entitled *The State of Prisons* in 1777. He analyzed the inventiveness of the ground-plan at Maison de Force, but he did not take over the concentric structure in his conclusions regarding the plan of the ideal county prison, only the structure of the different units facing the interior yard. Though Howard was aware of the fact that no prison reform could be carried out without a proper building, he did not realize the advantages lying in the structure built in Gent especially regarding perspicuity and prompt control. In one of the two presented plans he left part of the ground floor unbuilt in order to eliminate the humidity of cells, thus realizing more interior yards surrounded by arcades. His other plan was the developed version of the Croce Casa di Correzione building, which was exclusively built using isolated cells system. This idea also found with Buignet became the basic question of the correction movement regarding punishing systems at the beginning of nineteenth century.

The evolving British model adds isolation to the principle of work as the main condition for reformation. The scheme was worked out by Hanway in 1775 that supported it with negative arguments: promiscuity serves a bad example in prisons, offers an opportunity for prison-breaking at present, blackmailing and accomplice possibilities in the future. Prison would very much resemble the manufacture if prisoners worked together. The positive arguments: isolation means shock, if the convicted moves away, by getting rid of bad influences can have time for himself, deep inside himself can discover the sound of good, solitary work thus becomes both conversion and the practice of apprenticeship, he not only renews the space of the interests of the homo oeconomicus but also the imperatives of the ethical individual. This apparatus aiming the changes occurring to individuals is known as the reformatorium of Hanway. Howard uses these general principles when the independence of the United States prevents deportations, and is preparing the motion for law regarding systems of punishment. (Foucault, 1975) This is the time when Great Britain decides to build two prisons, one for men and one for women. A committee is set up in London in order to carry out the reform of prisons, which also tried to advance the case by announcing a competition for plans.

We can see outstanding plans both formally and functionally among the works handed in for competition in 1782, which was won by the plans of William Blackburn designed for men prison, and the plans of Thomas Hardwick designed for women prisons. These plans have never been carried out; Blackburn though became the most well-known prison architect of England of that age as the most important follower of Howard. His plans made for Ipswich Prison in 1786 define a new typology of prison architecture from formal point of view: radical design. From structural point of view, the cell wings starting from one point ensured a more efficient control of the guards than the Maison de Force, as even one guard could control the corridors of all the wings. The lengths of the wings were not delimited from formal point of view, as they had been with the polygonal prisons, but their size could be fitted according to local necessities. The radii did not only restructure the interior space and functional relationships, but also solved the structure of exterior yards. The position of yards was another advantage from the point of view of guarding and controlling. The radical design soon became the most popular form of prison not only in Great Britain where Blackburn designed many city prisons with this system (Salford, Liverpool), but also overseas, in the United States.

From formal point of view the radical design was a totally crystallized model. The prisons of the coming centuries that chose the same formal solution, only added functional and operational reforms to Blackburn's scheme. One of the most well-known radical design prisons is the Eastern Penitenciary in Philadelphia (1821-36), which revolutionized the system regarding the execution of punishment, making the European experiences perfect. Eastern Penitenciary is the prototype of isolated cells system, the symbol of destructed and restarted life. In Cherry Hill "the walls are the punishment of the crime, the cell confronts the convict with himself; he is forced to listen to his conscience."[25] Control is focused in the centre, and then divided into levels and wings. Each of the cells aligned along the central corridor has a small yard. Originally every isolated cell had a yard suitable for meditation, but every wing had to be built on storeys because of lack of space. The chapel was also set in the geometrical centre. The eighth wing had administrative function and made contact with the gate building. The designer of Eastern Penitenciary, John Haviland plays up the deterrent design-function of building aiming the neighbouring society, and surrounds the prison with a 10 meter high wall resembling the castles of the Middle Ages.

Haviland got hundreds of assignments after completing Eastern Penitenciary, and even during building it. During the consistent application of the method the architectural frame that was necessary for realizing efficient re-education became clear. Besides deterring from crime and educating to work, the effect that the staff of the institution and the governor could have on the prisoners kept in isolated cells became obvious, not only by restricting abuses but also by developing personal contact. (Markus, 1974) This is the way theories on correction intentions have been fulfilled, which was also known in Europe where they were only adopted in a few institutions. Until building Pentonville Prison there has been no prison with radical design ground-plan resembling the prison of Philadelphia. Pentonville Prison was built between 1840 and 1842 based on the plans of Joshua Jebb, and became a reference for radical design prisons. In the coming decades around fifty similarly structured institutions had been established in Great Britain, and it soon spread in many European countries (Termond, Belgium; Heilbronn, Germany).

The advantages and disadvantages of the radical design are gradually shown in the course of history, due to the frequent application of this type. We can highlight one of its disadvantages that was also known in the time of Blackburn, and led to the development of a newer model marking an era at the end of the 18th century. Although radical design solves the question of central control, it cannot establish a direct visual contact between the guards representing power and the inmates. As we have noticed, the development of prison was in many cases not determined by the nature of crimes or humanitarian ideas, but by the intention of the power keeping people under restraint to gradually hide in the shade. The fact that the system for execution of punishment wanted to hire as few staff as possible had administrative reasons. An organizationally and operationally centralized system is much easier to control for the power. At the same time, reduced number of staff has economic advantages. Although, as we have already seen, Blackburn's radical design was very close to solve this problem. The other fact that power wished to achieve was invisibility, an untouchable presence filling everything, having similar effects to religious power. The person having an answer to this wish was Jeremy Bentham with his Panopticon prison-scheme published in 1787, which concluded all the researches made until then, and shaped its concept based on them. Bentham`s innovation cannot be restricted to formal elements in the case of the Panopticon. As Markus draws our attention to it, Bentham turns over the existing direction of the attention

focusing to the centre of the multi-storeyed interior space (remember the first versions of San Michele, where Fontana set the altar in the middle of the space so that everyone could see it), and directs it from the centre to the hanging corridors, to the cells. This is an essential moment in the relationship of the supervised, influenced by the structure of the building, and the supervisor, as the centre that has had the function of hope becomes the source of fear and control.

Panopticon has never been carried out according to the form designed by Bentham. We see buildings resembling the Panopticon in many cases, but besides their circular or semi-circular design the power-play designed by Bentham has never been fulfilled in its full spatial and functional structure. The monumentality of their design, the feeling of defenselessness of prisoners, the spaces totally unsuitable for common daily activities or mere missing spaces have urged the interior reconstruction of this model and its enlargement with other parts of building. The operational strategies together with the criminological, correctional and ideological strategies of the institutions housing the execution of punishment have undergone continuous changes. Nowadays both from administrative and architectural point of view the design of prisons is a continuous experiment where not only the correct proportion between the different theories should be found, thus defining *function*, but the new social, *architectural* face should also be defined. The above mentioned types (rectangular, system opening to the central interior space or to the interior yard outside the building, radical design, and their mixture) are building types still used today. From architectural and formal point of view, the institutions of the 20th century have only transformed the existing models according to the functional needs. How do we use and transform these building types, how do we contribute to their present program, which are those approaches that may lead to a new formal reform, go beyond the borders of architectural research.

NOTES

1   Rothman, D., *The Discovery of the Asylum: Social Order and Disorder in the New Republic,* Little Brown, Boston, Mass., 1971.

2   Foucault, M., *Surveiller et punir*, Editions Gallimard, Paris, 1975 (*Discipline & Prison: The Birth of the Prison*, Vintage Books, New York, 1977).

3   Ignatieff, M., *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850,* Pantheon Books, New York, 1978.

4   Goffman, E., *Asylums. Essay on the Situation of Mental Patients and Other Inmates*, Anchor Books, New York, 1961, pp. 4-5.

5   "A total institution may be defined as a place of residence and work where larger number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round if life. Prisons serve as a clear example, providing we appreciate that what is prison-like about prisons is found in institutions whose members have broken no laws." *Idem* p. xiii.

6   *Idem* p.7.

7   Rothman, D., *The Discovery of the Asylum: Social Order and Disorder in the New Republic,* Little Brown, Boston, Mass., 1971, p. xiii.

8   *Idem*, p. 128.

9   Foucault, M., *Madness and Civilization*, Vintage Books, New York, 1988, originally published *Histoire de la Folie*, Librairie Plon, 1961.

10 *Idem* p. 5.

11 It is important to mention that there were 6000 people living in Hospital General, 1% of the population of Paris. See: *Idem* p. 43.

12 Foucault, M., *Surveiller et punir*, Editions Gallimard, Paris, 1975 (*Discipline & Prison: The Birth of the Prison*, Vintage Books, New York, 1977), p. 143.

13 The lock-up of tramps and the miserable, the colleges operating by the scheme of monasteries, boarding-schools, which are presented as the most perfect educational systems, the barracks that keep the army in one place and deter looting and violence, the manufactures giving birth to the factory are given as examples that are related to „monasteries, fortresses, closed cities". *Idem* pp. 142-153.

14 *Idem* p.143.

15 Hirsch, A., *The Rise of the Penitenciary: Prisons & Punishment in Early America*, Yale University Press, New Haven, 1992.

16 Meranze, M., *Laboratories of Virtue: Punishment, Revolution and Authority in Philadelphia*, 1760-1785, University of North Carolina Press, Chapel Hill/ London, 1996.

17 According to the classical criminology theory man is a rational human being acting logically and taking logical decisions. According to Rousseau, there is an unwritten contract between the man and the state, which states that man gives up part of its freedom in change for social safety guaranteed by the state.

The classical criminology theory of Rousseau was transformed into methods of execution of punishment by Cesare Beccaria in his book entitled *Dei Delitti e Delle Pene (On Crimes and Punishments)* published in 1764. Beccaria says that the individual can freely choose the way he reaches happiness and the way he avoids pain. According to Beccaria punishment should punish the crime and by doing so the one who committed it. The motifs, personality, gender, age or intellectual health can only play secondary roles in the process of imposing punishment. Beccaria`s views were later corrected by the followers of neoclassical ideologies, and made a distinction between children and the ones mentally retarded and the other criminals, as these people – according to their statements – are incapable of understanding happiness and pain. It was also accepted in this age that the degree of complicity should be also taken into account. (Fox, 1976; Atlas, 1991)

[18]   (Men) "focusing primarily on the relative effectiveness of alternative modes of punishment to control crime." Hirsch, A., *The Rise of the Penitentiary: Prisons & Punishment in Early America*, Yale University Press, New Haven, 1992 , p. 54.

[19]   Foucault, M., *Surveiller et punir*, Editions Gallimard, Paris, 1975 (*Discipline & Prison: The Birth of the Prison*, Vintage Books, New York, 1977), pp. 115-116.

[20]   Le Peletier was one of the reformers who defined the principle of symbolic communication when he submitted a draft for a new law in 1791: "Exact relationship between the nature of crime and the nature of punishment should be established", who was a sanguinary criminal would do hard work, the one who was base should endure immoral punishment. We can find the whole scale of striking punishments in the drafts of law of the age. According to Malby "be aware not to impose the same punishment". Vermeil also had similar proposals. All these are comprehensively presented by Foucault in the above quoted work.

[21]   Foucault, M., *Surveiller et punir*, Editions Gallimard, Paris, 1975 (*Discipline & Prison: The Birth of the Prison*, Vintage Books, New York, 1977), pp. 114-115.

[22]   Imprisonment became widespread outside France in Russia during the reign of Catherine II, and in Austria during the reign of Joseph II.

[23]   This is the reason why many thinkers of that time rejected imprisonment as form of punishment, because they did not find any alternative in order to avoid daily routine in the life of criminals: "There without any work, without any entertainment, in the uncertainty of waiting for the day of being free, the inmate spends restless, long hours, deep in his thoughts that appear on the mind of every sinner." Caleb Lownes, in: N. K Teeters: *Cradle of Penitenciary*, 1955.

[24]   Markus, T., *Buildings & Power. Freedom and Control in the Origin of Modern Building Types*, Routledge, London, 1993, p. 121.

[25]   Foucault, M., *Surveiller et punir*, Editions Gallimard, Paris, 1975 (*Discipline & Prison: The Birth of the Prison*, Vintage Books, New York, 1977), p. 239.

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PUIU LĂȚEA

Born in 1969, in Caracal

Ph.D. Candidate, Department of Anthropology, University of Michigan

Wenner-Gren Foundation dissertation research grant for the project
"Debt and Duty in Postsocialist Romania" (2005)
Among the recent projects: *Transforming Property and Personhood:
Collectivization in Romania, 1949-1962.* Project coordinated by
Katherine Verdery and Gail Kligman (2001-2003)

Several articles on sociology and anthropology
Participation to international conferences and symposia

DECEPTION, DELAY AND DENIAL OF INDEBTEDNESS: PRELIMINARY REFLECTIONS ON FIELDWORK IN OLTENIA

This paper refers to a contingent, but nonetheless important, aspect of a research that begun in 2005 and is now close to an end.[1] The main project focuses on the unfolding of social relations of debt and duty in commercial and other rural social settings in Oltenia, Southern Romania. Since the privatization of retail commerce in 1989, large numbers of people have started buying consumer goods without paying on the spot; this occurs in the absence of any legal provisions. They refer to this practice using the vocabulary of "debt" (*datorie*): "selling on debt" and "buying on debt." Debt relations are marked by the absence of interest, security, witnesses, formal agreements, evident means of sanctioning defaulters, as well as an elastic duration of repayment. The contrast to formal bank transactions – *credit* and *debit* relations – is striking.

It is further significant that "debt" in Romanian is a homonym of "duty" (*datorie*). Even though the homonymy as such does not constitute a guarantee, at least it indicates the virtual connections between monetary and moral registers. Nevertheless, it was the pervasiveness of the social relations of debt and duty, as well as their ordinary character, that made me frame the research project as a study of the local production of social orders. Particularly in rural areas, "buying on debt" is so familiar that people who pay cash for consumer goods are treated with suspicion. If you spend several hours in a commercial outlet, you have a chance to notice people engaged in relatively complex verbal exchanges and the goods that leave the outlet, but less of a chance to see money. One could only imagine money if one notices how carefully the seller writes numbers into a notebook that otherwise doesn't draw any attention.

I took the pervasiveness of debt and duty relations and the way they are communicated (or not) in ordinary interactions as a complex social idiom,

which I studied in two respects: for what it indicates about the continuous evaluation of persons, groups and relations; and as a possible context of intelligibility for broader political, social and economic processes. I specifically studied the way negotiation of debts (amounts and terms of payment) hinges on the tempo and sequencing of interactions. Acceptable motives or excuses are more convincing to the extent they constitute shared temporalities and moralities (past, present or future situations, events and relations). Mastering thus the arts of delay requires continuous effort, creativity and often recalcitrance to state formalities. Moreover, it emphasizes the immense work that people put into rendering debt and duty relations ordinary, that is, acceptable to external institutions such as government agencies.

By studying the pervasiveness of social relations of debt and duty, their operation in larger transactional orders and their temporal constitution, this project addresses the following questions: How is it that what counts for some Romanian analysts as a "credit transaction" is achieved and recognized as a "debt/duty relation" by participants in local settings? What kinds of conversions between debt issues and duty issues are achieved in practice? What notions of person, agency, and responsibility are fashioned within debt and duty relations? To what extent can they mediate between different relations and transactions and synchronize the corresponding time frames? How effective are social relations of duty and debt in providing a foundation of intelligibility for larger – national or global – processes? What do they indicate about the contemporary structuring of "the market" in postsocialism?

Enough said about my main project. In what follows, I will focus on an issue that I had not anticipated when I began my research, and that is my progressive integration in the local chains of debt and duty relations. This refers to a series of relationships that are ultimately fortunate, at least to the extent that they help me understand (and even to feel) with more urgency than I would have from the descriptions of others the temporal unfolding of debt and duty relations as well as the importance of accounts, motives and justifications in the process. Most of all, the experiences I discuss here made me attentive to several questions which I initially (and mistakenly) took for granted or I didn't even bother imagining them: when and how does something begin? Just how does one find him- or herself involved in debt and duty relations? Just how are such relations achieved and how do they unfold? Just how does one know whom to trust and whom not? Just how does one get to be sure somebody is incapable of

deceit under any circumstances? Just how does one start to "feel" she or he is deceived? Just how do some people manage to repeatedly deceive others, with no apparent consequences? Or, more intriguingly, how do people find it impossible to disentangle themselves from debt and duty relations, even if they realize they are being deceived?

The following text runs in two sequences. In the first, I describe some of the relationships in which I found myself entangled almost unwillingly. In the second, I discuss some of the accounts of shop- and barkeepers who, like me, found themselves practicing something they could not fully explain.

1. Just like that, out of the blue, about my debtors[2]

During my first intensive fieldwork in 2006-2007, I was a man of many guises. People associated me with several characters and I will briefly list here some that I was aware of. First of all, I was "one of ours" who had come back "home," at least for a while. Second, I was "one who came from America" and who could presumably explain what "America" was all about. Third, and related to my American connection, I was a "spy." I knew such a quality was often attributed to those who study apparently insignificant objects, specifically to anthropologists, but I had never thought that I, an anthropologist doing ethnographic fieldwork at home, would also become a target of such an underestimation. Fourth, given a few digital devices that I used or was associated with (a laptop, a digital camera and a digital recorder) I was a "journalist" or a "photographer." I'll discuss elsewhere how it was to come back home from America, to be a spy, a journalist or a photographer. Here I will focus on the fifth element: being associated with (American) money.

Anthropologists are mostly quiet about their engagements with money while doing fieldwork. They study others' money, but their own experiences with money remain understated. This is not only about the costs of fieldwork, rates of exchange, learning how to use local currencies, and the like, but also the way money shapes ethnographic experiences. A recent collection of essays focuses precisely on this -- one could say crucial – aspect: the role of money in ethnographic encounters (Senders and Truitt 2007). Against a general tendency among anthropologists, which they refer to as "the denial of commoditization," the editors and authors report their own encounters with money, specifically "moments

when their security – whether granted by superior knowledge, state support or material advantage – failed them" (Senders and Truitt 2007a). Although some of their positions and ideas are hardly tenable, the main point remains valid: it is not only the anthropologist who does fieldwork, but also her money.[3]

I suggest my case was not too different in this respect. I focus on it not to indulge in autobiographical anecdotes, but because the way I was associated with (American) money is relevant to the topic I study. Just like some of the authors mentioned above, I did more than observe, do interviews, gather artifacts or take notes: I was told stories of suffering; I felt indebted to some and I made people feel indebted to me, usually without intention; I bought goods "on debt"; some persuaded me to pay their small debts; a few wanted to enter into business relations with me; I was used as a witness or as collateral in some debt and duty relationships; I lent money and experienced the vicissitudes of recovering money (Senders 2007; Truitt 2007). More than once, I had occasion to understand that I was identified with the U.S. dollar, a currency that many villagers seemed to value more than the Euro, for instance, despite the exchange rates that would have suggested a different hierarchy (Moodie 2007; Truitt 2007). Money shaped my field relationships in many ways, some of which I have only lately became aware of.

In the following, I present several vignettes describing debt relationships in which I found myself entangled. Even though (or precisely because) they were sometimes unpleasant, these relationships gave me the unique opportunity to come close to fusing the observer's and actor's perspective. This is an ultimately disputable claim, but it might be less so, given my special circumstances. As I did ethnographic fieldwork at home, I interacted with people I have known for a long time, some even from my childhood. When I began my research, people I discuss here were already my acquaintances, friends or even relatives. If they had never asked me for money before, it must have been for at least two reasons. On the one hand, my presence in the village had been only episodic for the past fifteen years. For the villagers that I would occasionally meet, I was simply someone who had left the village and who returned, from time to time, to see his parents. On the other hand, while I was a student in Bucharest and Budapest, it was difficult to believe that I had money enough to lend to others. But this time I was coming from "America" and I was planning to spend much more time in the village. These circumstances indicated, almost automatically, that I had a discretionary fund of money (dollars)

and plenty of available time, which made me into an ideal candidate for debt relationships.

In contrast to some westerners (Europeans and Americans), Romanians do not think it inappropriate to ask about others' revenues and expenses, especially those of people who left Romania for working, stealing or studying in other countries. One of the best fishing devices begins with questions that are not only too banal to be rebuffed, but also tickle *strangers*' sense of entitlement to tell stories about living abroad: how is life there, how is the weather, how people are, how expensive food is, how much does one spend per month, how much for rent, how much does a plane ticket cost, and so forth. Once sufficient details are gathered, one can make some kind of estimation and pass one more challenge: "well, if you pay that much, what's the point of going there?" or, more directly, "that means you should have at least that much per month…" Nevertheless, this procedural way of inquiry seemed to be unnecessary in my case. I realized this when I was directly extended invitations to enter into business relations ("You could participate with, let's say, USD 10-15,000…"), asked when I'll buy "an appropriate car" (again, USD 10-15,000) or simply glossed as "a carefree man" (that is, rolling in money) in conversations not necessarily related to my financial possibilities. Last but not least, as I will suggest below, I understood how financially powerful I must have appeared by specifically noticing a question that was recurrently absent when people came to ask me for loans or other forms of help: "do you have money?"

The length and quality of the vignettes are contingent on the different unfolding of the events they describe, as well as my different ways of attending to them at the time. As I didn't plan or anticipate I would have such experiences, I should confess that in some cases I didn't even notice their ethnographic potential. Even though I was studying debt (and duty) relationships, I was looking too far afield to see the ones that directly involved me. I realized I had to be more careful only when I had my first troubles trying to recover the money, troubles that were strikingly similar to the ones that local shopkeepers and barkeepers experienced in their ordinary dealings with customers. It was only then that I started taking fieldnotes, writing down amounts, thresholds, short conversations, justifications and any other details which had become so surprisingly accessible to me.

1.1. Bidelu: *"Would you really do this for me?"*

I will firstly introduce Jack, or "the Spanish guy," as people used to call him for a few years. He was the first person in Dobrosloveni to temporarily migrate for work after 1989, first to Germany, then to Spain. At the beginning, nobody really understood the kind of "work" he did, but many were impressed, even fascinated, when he returned home, almost each time with a different car, a new look, new stories, new consumption habits, as well as new scenarios of indignation about the "backwardness" of his fellow villagers. As a kind of old, and rather prestigious, friend of his, I was one of the few he wanted to spend his time with and, implicitly, a recipient of his stories. Consequently, I had the possibility to understand better than others his life outside the country, as well as to evaluate others' opinions against the background of this understanding. There were a few more potential candidates for his company and stories in the village, but they couldn't stick it out, mainly because of his "character," as they say. Many think that Jack talks too much and favors a pedagogical, sometimes violent, demeanor. As a witness to many such encounters, I would say the problem seems mostly related to the way he takes turns in conversations. One would barely finish the telling of a personal experience that he would jump in and say he had the exact same thing happen to him, only that it was by far more complex, dangerous or exciting, as the case may be. As one villager succintly formulated the issue: "you say you went to the restroom for five minutes, he says he stayed half an hour...." But there is more about him that makes people uncomfortable.

A related, but different, problem has to do with the image he projects about his status and possibilities abroad, especially in the last years, since he has been working in Spain. Several years ago, he said he was a simple worker, but now he claims that he has set up his own company; although nobody was ever aware that the Spanish guy had any skill for construction work, now he talks like a professional; after a period in which his life abroad depended on the monthly wage and some other, rather shady, deals, now the time has come for him to discuss banking, credits and debits, investments, contracts, documents and bureaucracy. This is an obvious difference of scale, which many (including myself) see as an exaggerated boast, possibly a great lie. Consequently, they ridicule him or, at best, they tend to avoid him. Others, more pragmatic, glimpse some kind of opportunity in his bragging statements and swaggering attitude, and so they try get closer to him. If the Spanish guy is doing so well, they

think, it means that working abroad might be easier and more profitable than others make it out to be. Moreover, seeing that he is not a lowly worker anymore, but an employer in his own right, he might help some other co-villagers make the great leap over the border, by giving them employment in Spain and perhaps treating them better than an unknown, foreign employer would.

Precisely this was the reasoning of Bidelu. He is famous in Dobrosloveni as a skilful worker and in particular a very good welder. At the end of the summer of 2005, when Jack returned to the village for a couple of weeks, Bidelu asked him for help with finding work in Spain. To persuade Jack that he was indeed deserving, Bidelu offered "to help" him with all kinds of services, welding the gates and participating in all the stages of the construction of some outbuildings (garage and storehouse) in his courtyard. Not only did Bidelu ask for little money relative to the work he had carried out, but he also undertook to organize some parties at his own home, at which Jack was one of the main guests. I was among the participants in one of these parties and I can say it was unique in many respects. Aside from the abundance of food and drinks – beer, wine, coffee and steaks in excess – Bidelu also created a boisterous atmosphere, singing, dancing, joking and laughing enough to put everyone in an excellent mood. When everything seemed perfect, he was disturbed by some unexpected and rather violent intruders. Seeing that his attempts to calm down the party crashers didn't have any effect, he and some of his closer friends gave them a good thrashing, driving them away by force. After such an episode, one would have expected the party to tone down, but our host thought differently. Instead of returning furious or at least tense from the scuffle, he was all smiles and ready to launch a new challenge: "Gentlemen, what about a barbecue?" It was about two in the morning and we all knew what was in store for us. To be short, Bidelu sacrificed in a spectacular (one could say sadistic) manner four or five chickens from his own household and put them to roast. The party went on until seven in the morning and the guests who managed to hold out to the end found nothing to regret. Jack himself was fascinated. Among others, he videotaped some impossibly funny moments, repeating that he had never seen anything quite like this and that he could hardly wait to show to his Spanish friends what he had been up to during his short vacation. This was the event that almost convinced him that Bidelu deserved to be helped to find work in Spain. I also used my influence on Jack, by trying to persuade him that it would be a good idea to assist Bidelu. The whole issue appeared already settled.

Even though he hadn't received an unmistakable promise, Bidelu began to prepare for the imminent departure.

Several days later, Jack seemed to change his mind. He hinted to others that he was willing to help Bidelu, but only on the condition that he found money for the trip and to survive during his first week in Spain. It was clear to many that this was a fabrication: wasn't Jack driving back to Spain in his own car, anyway? Couldn't he give Bidelu a ride as well? Furthermore, couldn't he host him for a while, until Bidelu would be able to manage by himself? After all, this was precisely the course of action followed by others who had left to work abroad: at the beginning, they were assisted by those already established there, then, after they began to earn money, they paid the debts they had previously accumulated. In this case, Jack was probably trying to get rid of Bidelu, conditioning his departure on an amount of money that he could hardly obtain in a matter of days. The amount in question was about U.S. dollars 350. When it comes to a trip abroad, nobody calculates in the national currency anymore, but directly in U.S. dollars or Euros.

As far as I was concerned, I didn't know any of these details until one evening when I met several acquaintances at an outdoor bar where we discussed the case. Soon after, Bidelu himself happened to come by. He was extremely reserved and tried to gauge from our manner of talking whose side we were on; we found ourselves thus constituted into an *ad hoc* moral community. In comparison to him, we had more influence over Jack, so we could try to convince him that a little more generosity was in order. After all, he had made repetitive claims about his financial potency, so this shouldn't have been too great a sacrifice. It was rather clear that we all were on Bidelu's side; unfortunately, we hadn't also found a solution to his predicament. We could have approached Jack as friends, but only for some personal issue. An argument for Bidelu's case would have most probably prompted a question about our "real" motives.

While we were discussing this hot topic, I had to absent myself for a little while to visit the restroom. I was alone when I left the table, but as I came out of the restroom, Bidelu was waiting for me: his gaze told me the whole story of what was about to happen. He began by saying how he had always considered me a special person and that he appreciated very much that I was on his side, as was indeed apparent after our conversation in the bar. Then he put it bluntly:

Please, you have to help me. You are my only hope. I've decided to do anything for this. I know that we're talking about a great deal of money here and I don't want you to take a risk for me. Nobody but you would do this for me. I'm thinking about a proposal: my father raises two pigs, one for household consumption, the other to sell. Let's go to him and make a handwritten contract, by which he takes the obligation to raise the pig until Christmas, when he will bring it to your parents. In these circumstances, you take no risks. You have my word, my father's word, plus the handwritten contract we'll draw up. I won't forget you all my life. What do you say, will you help me? [4]

This pseudo-quote renders composed and coherent what was a rather emotional, repetitive and disjointed plea. By underrepresenting the oaths and the vows, it also loses most of its expressiveness. Last, it misses my attempts at interruption, as well as Bidelu's insisting to let him say all he had in mind. Thus, after listening to the end, I made a point of focusing on the one aspect that I objected to: the insertion of a pig into the transaction. For reasons that I cannot clarify here, I preferred to play for high stakes. I said I understood that his departure for Spain could be a life changing experience, so that I was willing to help him. Nonetheless, I would prefer to have as few human and non-human beings as possible to deal with. Given that we were both emotional at that moment, I asked him to give me time to think until the next morning. But I insisted that, should my answer be positive, it would be a loan based on trust, period. In other words, no pigs, no relatives.

Although I imagined that I was explicit enough and rather positive, Bidelu became even more anxious than before: "What do you mean, man, you don't believe my father will raise the pig for your parents? We'll go now and talk to him, face to face! And we'll do the paperwork, so it won't be just words..." Our conversation had taken a strange turn. As he told me several months later, my attitude taxed his comprehension to the limits. To the extent that I refused to accept the terms of the transaction as Bidelu had defined them, I took on too many risks. From his point of view, which many other villagers share, I seemed a little crazy: I avoided a relatively safe transaction, extending instead a sort of invitation to deception. Knowing me as a balanced and rather smart guy, he found the whole thing rather unbelievable. So, he took my option as a form of refusal, which he expected me to formulate explicitly in the coming days. The whole situation became comical. On the one hand, I was telling him I would lend him the money, on trust. On the other hand, he would repeat,

hopelessly: "So, you can't help me..." I told him again and again that I was practically ready to lend him that money, but that I would prefer my own terms. At last, he began to get my point and asked me, with tears in his eyes: "Would you really do this for me, man?" So it was that we finally came to an understanding. We returned to the table and everyone present grasped all that had happened. I stayed on for a little while and left, planning to contact Jack the next day and let him know about this development. I wanted to make sure that he wouldn't interpret my gesture with the loan as a shady maneuver against him. In other words, I tried to publicize my intentions, in order to forestall any attempt on his part to voice such suspicion. Slightly embarrassed, he answered that everything was fine from his point of view. Moreover, he gained again the upper hand by making a final rather patronizing claim: he would make sure Bidelu wouldn't betray my trust.

The next day I gave Bidelu the money. We didn't agree on a precise term, but I asked him to repay me as soon as he could. Personally, I had in mind a term of two-three months. The two of them finally left for Spain, and Bidelu sent me the money two months later. For a while he had no choice but to keep close to Jack, whose assistance he paid back in full and more. He then tried to manage on his own and succeeded in doing so when he found work as a welder on a shipbuilding yard. Relative to most Romanian migrants in similar situations, who earned between Euro 800 and 1,600 monthly, his wages were close to Euro 2,800. Nevertheless, in contrast to others who economized a good part of their wages in order to send or bring money home, he hasn't put any money aside for the moment. He (and other people) told me he spends a lot "on women," traveling around, drinking and dancing. Specifically, he made a girlfriend, "a nice Brazilian," as he claims. Twice he was arrested, after inciting various scandalous episodes in public places. Nothing special, as he told me over the phone: "Just imagine, man: you want to relax, you take your girlfriend out to a dance club, and there are some guys who think they can touch her… What do you do in this case?" Ever since he reached Spain, Bidelu has called me periodically, either in Romania, or in the US. Most of the time he reiterates his gratefulness for my help; also, he keeps justifying his rather atypical way of life: "Many say I'm irrational, as I earn much more than others, but I spend everything. Nevertheless, nobody realizes what I experience here. I'm not sure if you could…" For my part, I don't think all work migrants should enact abroad a Protestant ethic that they hardly practiced at home. Indeed, there may be many other experiences worth sampling in Spain. So, I keep saying that I really trust him, but it seems to me that Bidelu finds

this strange. It is as if every time we talk we are replaying our discussion in front of that restroom in Dobrosloveni: too much trust may look like a form of misunderstanding, if not outright disagreement.

1.2. Pique: *"Mr. Puiu, remind me not to forget: I should pay you back that money…"*

When I began my fieldwork (2006), I didn't know Pique very well, or at least not directly. The stories I knew about him were rather disparaging, to the extent that they portrayed him as one of the local masters of the art of deception. Nevertheless, some aspects of these stories turned him into a congenial character for me. Gradually, and by means of common acquaintances, we became closer. He was always very attentive towards me, trying to publicly indicate his respect and attempting to do small services for me, even when I didn't need them. At the time, he was working in a bar that I had decided to visit relatively frequently, as one of the settings of my research. Most often, I hardly entered the bar when he would ask in an observably respectful tone if I wanted anything, a juice, a coffee, or something else. Moreover, from time to time, he would even offer something on the house. Understandably, this kind of gesture implied an act of later reciprocation on my part, but it is important to note that he was more willing than others to invite this kind of interactional engagement.

Nonetheless, we had not had the time to know each other better when Pique came looking for me, together with Dan, a common friend. Pique had a worried demeanor and seemed pressed for time. This was clearly "an emergency." For some time, the carburetor of his *Dacia* car had broken, and just like many others Dacia owners, he didn't want to buy a new one. The Dacia being a brand produced in Romania since the 1970s, after the model of the more prestigious French one Renault, many people prefer to buy used parts and replacements on a kind of *ad hoc* second hand market, in which former or current Dacia owners participate. The procedure is relatively simple: it is enough to know several other Dacia people who can indicate those who might have the parts that you need, for a much lower price than buying them new. As most people are good Dacia mechanics, one can also avoid paying for professional service and so the costs of such a transaction are more than acceptable. Certainly, there are also risks, but from the point of view of many Dacia owners, the second-hand market is the first option to be considered.

Pique's problem was that he had just found a second hand carburetor but, following his argument, it was Sunday and he couldn't withdraw the three million lei he needed from "the bank". Should he wait another day, the deal might not be valid anymore. Indeed, on the second-hand market, the approximate rule is first come, first served. Therefore, Pique asked me to lend him the three million (USD 100), "until Wednesday." He said "until Wednesday" with such a straight face, that I would have felt guilty if I refused to help him buy the car part he needed. Furthermore, Dan, the common friend who seemed aware of the trouble was also witnessing the transaction, and so everything appeared all right. Once I lent him the money, a new request came up: as his guy lived in the neighboring town of Caracal, could I give him a ride so that he could buy the carburetor right away? Pique also offered to pay for the gas. I agreed with the new request, refusing though the money for the gas. The amount of money was not significant, about one or two USD, and I had more to gain (symbolically or even materially) by refusing than by accepting it. To be more precise, the relation is reversed in such situations: one thinks more about the potential symbolic losses of accepting such an amount, and less of the gains that might ensue from a refusal.

I went with the two of them to Caracal, I witnessed the transaction and then, when we returned to the village, Pique pledged one more time: "On Wednesday you'll have the money, man! Or, in case [his emphasis] something unexpected happens, let's say Thursday…" In reply, I said the problem was not a delay of a couple of days, but of weeks or months, and Pique played being disappointed: "Man, we're a serious firm, we're not illiterate…" We were all amused. Several weeks went by, and everyone, myself included, seemed to have forgotten all about this transaction. To be honest, I had no pressing need for that money in the interval we had agreed upon, and Pique was easy to find, should I decide to claim my money. My relative "forgetting" arguably contributed to Pique's disregard for the payment term. Throughout this ambiguous interval, I met him several times and he acted just as he had before, maybe even more respectful than usual: "A beer for you, Mr. Puiu?" If my interpretation was correct, his smile indicated that the beer was somehow attached to our main transaction. I remember I got two or three beers for free, but I also gave Pique a few brandies (his favorite drink), also for free. It was Dan who made me aware at some point that something was going on. He asked me if Pique had returned the loan and, hearing my negative answer, he rapidly calculated how much time had passed since the Sunday in question: about two months. I tried to explain to him that I was also

somewhat "guilty" for this extension, but his remarks made me anxious, and so I decided to ask Pique for my money.

I didn't manage to do that on the next two or three encounters with Pique. I am not entirely certain how things developed, but each time there was someone else around, complicating the situation. When we were alone, he would fend me off with his hospitality. How could I answer the question: "Mr. Puiu, a coffee for you?" by saying something like "Yes, but what about my money?" Once more, I reasoned that Pique was always easy to find and so it was not desirable that I should act inappropriately today, when a much better occasion could come up anytime, maybe a few hours or days later. Nonetheless, Pique must have noticed my relative tension in comparison to the time when I seemed to have "forgotten" about the money, and so he was able to anticipate me. The first time we met with no others around, he took the stance of a more-than-responsible person and said: *"Mr. Puiu, remind me not to forget: I should pay you back that money… I don't want to shame myself…"* It was a formulation that required me to back down, to say something like "no problem, good that you think about that." Moreover, it was precisely the kind of pledge I needed to hear in order to feel that the situation was under control. Strangely enough, I had a feeling that the loan was as if repaid. The next few times we met nothing happened, either because the circumstances conspired again to my disadvantage or because Pique presented the same pose of responsibility, not necessarily ashamed of the delay, but rather tired of himself and determined to return the loan as soon as possible. As most of the time he seemed even more worried than I was, it was difficult for me to add anything over his variations on the "Mr. Puiu, I'll be sure not to forget" theme.

Seven months went by. Seven months, *instead of* three days; or maybe seven months *like* three days! The temptation to write the story of how three days expanded into seven months is great: it is precisely the fine, apparently repetitive, somewhat boring, and almost imperceptible, unfolding of this kind of interval that makes it (and its characters) powerful. Nevertheless, fleshing out such a story would mean to write a different paper, or rather to write the present one differently. I will follow a middle path: keeping in mind the challenge, I will jump to the last part of the interval, which accounts for the closing of the transaction. Pique had to tell me about ten times something like "Mr. Puiu, I'll be sure not to forget: I should pay you back that money…" until I could stop focusing on what he *said*, and look instead at what he *did* by saying it. In other words, he gave me a lesson in pragmatics. It seemed to me that his "I should pay you back that money" was nothing more than a form of not paying back on the spot or

in the imminent future. After realizing this, I waited for a next occurrence, so that I could provoke a different development. I didn't have long to wait: "Mr. Puiu, I told you: I should…" This time I did more than take the formulation as a guarantee that the situation was under control. I asked Pique to stop telling me this and to try his best to just do it. He noticed the change in my mood and perspective, but he recovered well: he would have returned the loan a long time ago, but it so happened that he either lacked the money or the circumstances of our meetings were not right. There was never any intention on his part. This seemed interesting to me and so I tried to inquire further into his circumstances:

> – Puiu Lăţea: I find it hard to believe you did all this with no intention, given that it's been already six or seven months since I lent you the money…
> – Pique: I swear there was no intention on my part. There were times when I didn't have any money… Not even for food and cigarettes!
> – PL: And you stopped smoking, huh?
> – P: Just a few cigarettes… Only what I got from Gigi… [his employer]
> – PL: What about food?
> – P: Bought with my grandmother's money…
> – PL: Ok, what about now? Do you have any money?
> – P: I do. If you don't mind, I'd ask you for a ride tomorrow morning… We'll go to the CEC [a savings bank] and take the money… I have a deposit that I'll liquidate before maturity, even if I'll lose the interest… But I'll give you back your money…
> – PL: When did you deposit the money at CEC?
> – P: A few months ago…
> – PL: Well, couldn't you pay the debt first?
> – P: I wanted to, but you weren't home. This was at the time that you were gone to Bucharest…
> – PL: And couldn't you just keep it until I returned?
> – P: I was afraid I would start spending it…

I felt I was participating in a debate in which it was the very existence of arguments that was important, not their nature. Unfortunately, I declined Pique's invitation, so I don't know where he got the money from. I should confess this was out of pride: even though it wasn't an especially difficult request, I didn't agree to give him a ride in order to recover my money. The next day, I had my money back. Pique apologized for the delay (again: from three days to seven months!) and vowed once more that it was not intentional. I smiled and I agreed with him and, fortunately, we remained

friends for the rest of my fieldwork fortunately, because I still had a lot to learn (and only occasionally something to lose) from this relationship.

1.3. Popescu: *"I'm not* Pique *…"*

Popescu is a man in his late fifties, and this lends meaning to one of his otherwise strange claims about me: "I could be your father..." For many, he is quite a character, particularly because of the theatrical way in which he expresses his strong opinions about co-villagers, political issues, soccer teams and players, agriculture, and the other issues. Whenever he thinks he is right (which happens often) and others disagree with him, he can easily deploy a whole repertoire of gestures, interjections, oaths, curses and swear words. During disputes, his voice is strident, the tone menacing, his face a spectacle in itself and if he somehow manages to talk himself hoarse, he resorts to ample gestures, throws his hat, breaks the buttons of his coat, or even appeals to a sort of simulated degradation ceremony, pretending to spit on his opponents. Contingent on the unfolding of specific situations, he can easily switch between registers, to be serious or joking, to respect or to offend – in short, to be surprising and spectacular at the same time. When he settles on a target, he loses almost any consideration for differences in age, status, or power. The only criteria he seems to be relatively more sensitive to are gender and education, but not even these are foolproof.

His relatives fall under his unforgiving scrutiny, just as easily as the rest of the villagers. I understood some of Popescu's facets at our first meeting. This happened many years ago, when I was nine or ten. I was attending a wedding and I was seated at a long table on the side reserved for men who, inevitably, began a discussion about soccer. Popescu reigned supreme and I'm not sure how it happened that someone proposed a deal: if he was indeed so competent on matters of soccer, he should enter a contest with me. Each of us would ask the other one ten questions about events, results or players from the national or international competitions. If he won, he could go on talking; if he lost, he would not be allowed to say anything about soccer for the rest of the wedding feast. At this point, I must immodestly confess that at the time I was quite knowledgeable about soccer and so my nomination as Popescu's adversary was not exactly fortuitous. Popescu didn't hesitate to expose himself to the risk of being humiliated by a child. Moreover, he made a point of telling me that in those circumstances he had to play seriously: "Puiu, I'm sorry, I could be your father, but…" We sat face to face and his boy, a classmate

of mine, attended full of curiosity. As I also took the contest seriously, I didn't realize how much time we spent debating, but I had the feeling I won rather quickly, to the general happiness of the other wedding guests. Nonetheless, in contrast to the others, I thought the loser of that contest was not Popescu, but rather his son. When he began to realize he was losing, Popescu turned to his son, hopelessly: "Son, you are just stupid!" As one of the few who noticed that counterintuitive and embarrassing phrase, I could hardly enjoy my position as a winner. Nevertheless, the memory of that scene as well as Popescu's constant interest in my intellectual performances helped me understand the immense, even embarrassing kind of respect he had shown me ever since. Moreover, just as in that original encounter, Popescu's admiration often manifested itself to the detriment of those who appeared to be my friends ("How can you, an intellectual, waste your time with these… parasites?"). Fortunately for me, the people who were close to me knew Popescu's excesses rather well, and so they reacted humorously in such situations.

My intricate relationship with Popescu was put to the test a few months after I began my fieldwork, on November 6, 2006 (the calendar is important). First, my friend Dan told me Popescu wanted to talk to me "about something". I didn't realize at the moment, but Dan had already grasped what was about to happen; he was only unable to guess the amount involved in the imminent transaction. I met Popescu and, after reminding me that he could be my father, he asked me to listen to him, because only a person of my stature, intelligence, empathy, and so forth, could trust and help him. For the following five to ten minutes, I had to listen to an intricate family story, about his daughter, who, in case I didn't know, was married and lived in Sibiu (a city in Transylvania), her husband, who was a policeman, a very good fella who he made quite a lot of money, not just from his salary, but also from several secondary businesses including a shop, a car wash, and other, rather shady, deals… and so on, and so forth. Then the request came: a loan of Lei 4 million (USD 135), until November 22, when his next pension was due. I imagined it was my turn to talk now, but I was wrong. Popescu had something important to add, a series of invectives directed at Pique (discussed above), of whose behavior as a debtor of mine he knew more than I could have imagined. From now on, Popescu would recurrently use Pique as a counterpoint to his own imagined character. I couldn't say anything without immediately prompting phrases like "please don't think I'm Pique", "I could be your father, but not a pig like Pique" and so forth.

Therefore, Lei 4 million lent on November 4, to be repaid on November 22. As he was not Pique, Popescu came up with a further proposal: in case he couldn't reach me on the 22nd, he would leave the money with a shopkeeper whose shop I visited frequently. It seemed to me Popescu was irresistible, so I couldn't but lend him the money he asked for. About half an hour later, I met my friend Dan, who asked me rather bluntly: "How much?" As I would often realize afterward, many villagers have excellent methods to recognize and monitor debt relationships as well as to anticipate their future unfolding. A week later, Popescu called me on my cell phone, asking if I could visit him for a few minutes, to discuss something personal. I imagined he had acquired the money sooner than he predicted, and so he would now return the loan. As I arrived at his home, he invited me inside and offered to serve some coffee or perhaps a glass of wine. I didn't have too much time, so I asked him if we could discuss the matter at hand. It was exactly the opposite of what I expected:

– Popescu: Look, this is how it is: I find it difficult to tell you… I need five million more [USD 170]… I can't… I should leave… I need it for this trip…
– Puiu Lățea: Well, I don't know, you ask for quite a big amount, we already have 4 million…
– P: Please don't tell me! I know! You are gold for me! But I can tell you I'm fucked… You are my last hope! I'll leave tomorrow…
– PL: I'm sorry for your situation, but I'm afraid I can't get this amount by tomorrow. I have to go to the bank and this will take time… Why didn't you tell me all this from the very beginning?[5] Maybe I could have…
– P: Enough, Puiu, you don't have to explain it to me! It's your money and it's your business what you do with it…

I understood the last line as a sort of reproach, or at least an indication that Popescu didn't really buy my excuse of not having cash at hand. He vaguely suggested that he was quite sure I had money (which was true), but I didn't trust him enough to extend him another loan (which was also true). I left his house making apologies while he insisted that I had no reason to justify myself. After that, I didn't hear anything from or about him for quite a while. November 22 came and went just like any other day. I went to the shop where he was supposed to leave the money in case he couldn't find me and I found out something interesting: Popescu had come by and announced he would return in order to leave some money for me. He had also used the occasion as an excuse to buy some goods

"on debt" from the shop that he hadn't frequented in a long time, doe to some old, outstanding debts. I was thus obliquely used as a pledge.[6]

Whereas before the transaction I used to see him at least once a week, after November 22 he became invisible. When I saw him again, we were both attending a funeral, standing a few meters apart. He just glanced a few times at me, and nothing more. Next time I saw him in a horse cart, but, as if by chance, he was looking in the opposite direction. We met face to face only on January 12, 2007. I was driving and he signaled me to stop. He had already begun a series of self-deprecatory excuses even before I was able to hear him properly: "I made a fool of myself, I am worse than Pique!" I told him he was not so, but he strongly disagreed. He promised to return the money on his next pension, that is, January 22: "I want you to trust me. I am a serious man, even though this time I did it!" It so happened that I met him again on the very day that pensions were distributed. I told him jokingly that I had an itch in my left palm – a local way of saying I am about to receive money. Suddenly grave, he asked me for a cigarette and began another self-deprecatory discourse, centered on the idea that he was worse than Pique. Although I was rather well acquainted with his dramatic persona, I was somewhat moved by his embarrassment. I insisted again that I didn't believe he was worse than Pique and that my respect for him was not too much affected by this misunderstanding. Nonetheless, it seemed to me he didn't welcome this particular message.

Though he could find me relatively easily, several more days went by before he gave me the money. The first time, he came looking for me on January 26. He did so by himself, without resorting to intermediaries, as he had done when asking for the loan. I listened again to his self-evaluation, having little opportunity to say much myself:

– Popescu: I'm the lowest man…
– Puiu Lățea: But still, it's good we can solve this now…
– P: No, don't try to calm me down… you make me even more ashamed of myself! I am worse than Pique, I never thought I would fall so low after 59 years. And to do this to you especially…
– PL: But, after all, nothing much has happened…
– P: No, no, don't tell me you have nothing against me; it's only normal that you should be upset with me… I don't even know if I'll ever be able to look you in the eye… Perhaps if I hadn't been so ill…
– PL: I am sorry…
P: What, you didn't know? I don't want to make excuses, but I was ill… but this is not the problem. Well, I also had to attend a baptismal ceremony and I needed money for that too…

– PL: That's true, there's always something unexpected…
– P: No! Don't get me wrong: my wife insisted we should attend that ceremony, and I told her I had to give money to Puiu Latea, but you know how these things are, we simply couldn't refuse to attend the ceremony! Finally… Please, count the money now while I'm here! There should be 24x100-Lei notes… I'll bring the remaining 16 bills the day after tomorrow…

This proved to be an intensely intersubjective, hopelessly ambiguous, and highly embarrassing situation. To count on the spot would have been tantamount to collaborating in a reciprocal status degradation ceremony: by checking if Popescu was either a cheater or innumerate I would have exposed to his gaze a too cool and calculative face. As I was quite aware of such complications, I refused the proposal. I only counted later and, to my surprise, I found 20 bills, instead of the promised 24. I was pretty sure I was the victim of the devilish Popescu: he anticipated I wouldn't count on the spot, and so he saw an opportunity to take advantage of me. I tried to cool myself out, thinking that I lost 400,000, but, at the same time, learned a valuable lesson. I was wrong. Two days later, Popescu came to see me again to return the rest of the money. Even though we hadn't settled a specific time for the meeting, he began by reproaching me that I was hard to find, that he looked for me for several hours, and so I was forced to apologize, even though I wasn't convinced of my guilt in the matter. After the already familiar routine – the "I'm worse than Pique" litany – he asked me again to count the money. I refused once more, but this time not out of considerations related to status degradation, but rather out of my disappointment about the intentions I attributed to Popescu. After we separated, I counted the money, hardly believing (or accepting) that something like this could happen to me. To my surprise (and joy), Popescu had given me 20 bills, and not 16 as he had announced two days before. I was happy not so much about recovering the full amount of the loan, but rather because I hadn't been made a fool of, with no possibility of retort. In other words, I was glad Popescu didn't take advantage of my weakness, which he had managed, probably unintentionally, to emphasize. During the following days, I tried to understand everything that had happened. Did Popescu initially try to cheat me, keeping 400,000 out of the 4 million that he owed? Did he consider himself somewhat justified in keeping part of the loan as moral retribution after losing face, only to change his mind later, for some mysterious reason? Or perhaps this was a more banal issue (if indeed there is anything banal in this), with Popescu getting entangled

in his own money, debts, paydays and alternative futures? To be more specific with respect to this last possibility, I thought that after he and his wife had received their pensions, they had, just like many other villagers, less money than the quantum of debts. Thus, they had to be creative: some debts could not be delayed further, others could be postponed for a while; in each case, they had to formulate justifications, carry out negotiations and ask for understanding. The few days after the payment of pensions must have unfolded according to a plan that approximated a logical scheme with several hard constraints as well as many ifs and thens: "we must pay the electricity bill, otherwise the company will disconnect us"; "if I can keep a few hundred thousand out of my debt to the bar, I could pay Petrica, the tractor driver, part of what I owe to him"; "if I don't pay all my debts to the shop, then I can pay half of what I owe to Puiu"; and so on, and so forth. Nevertheless, everything that appeared logical in theory had to be accommodated with the later development of events, and so the immediate future was hopelessly uncertain. I was probably included in two alternative scenarios, one in which I would have received a first installment of 24 bills, another with only 20. It may be that when it came to this installment, Popescu was a bit confused, so that he said one thing but did another. I find this course of events quite plausible, even if I cannot totally ignore the "cheating" alternative.

1.4. Tudor: *"You know why I'm calling? Give me five million!"*

The first phone call from Tudor came during a discussion I was having with Dan, my friend whom you already know from the previous stories. As I didn't have Tudor's phone number in my mobile phone's memory, I didn't know what to expect from this call. "It's me, Tudor…" Not knowing which Tudor, I paused briefly and my silence was heard as a request for further specification: "Sanda's Tudor… Sanda, your cousin!" I distanced myself from Dan out of a sudden need of privacy. Tudor is a distant relative of mine: distant in practical, rather than official, kinship terms. One of my older cousins married him about 20 years ago and followed him to his village, Redea, some 20 kilometers from Dobrosloveni. After a decade, my cousin's brother, who had remained in the parents' house, died in an accident. As a result, my cousin and her husband Tudor moved back to Dobrosloveni: thus, what would have been a case of 'normal' patrilocal dwelling turned into a matrilocal exception. Tudor's move into his wife's parents' house proved to be a less-than-successful transplant:

the extended family, neighbors and other villagers quickly realized that he brought with him very few possessions and too many claims. He started to feel too much at home.

I remember several occasions on which Tudor visited my parents, as well as their subsequent comments. The form of the interaction Tudor proposed was excessive, and my parents (his "uncle" and "aunt") came even to describe him as a parasite (Serres 2007; Nothomb 1998): he outlasts his welcome, staying on more than he should, makes too much noise, consumes more than you would expect, tells stories that you don't want to hear, makes little effort to listen, constantly implies that his family (your close relatives) have hardships and that you should do something about it by virtue of the obligations attendant upon kinship relations. I personally never had much to do with him. He would normally ask me how I was doing, where I live now, how much more I plan to study, and would then give me advice ("Listen to what Tudor says…") about the meaning of life, work and luck, the importance of money, the immorality of "the system" and the morality of people "like us." Fortunately, the fact that I was away from the village for a long time saved me from too much wisdom. When I came back for fieldwork, our encounters inevitably became frequent. I met him again and again, several times at my parents' house: "I came now so that you won't think I come only when I have something to ask…" We met accidentally on the street and I often saw him at some of the bars in the village. In time, he began to call me "cousin," in public but not in private.

Although I usually have trouble putting a stop to our conversations, this time he is very succinct. He doesn't want to keep me too long on the phone: could I lend him some money? Let's say Lei 5,000,000 (US 175)? "Next month, when I get my wages, you'll have your money back!" Despite the fact that it is difficult to lend such an amount, Tudor's tone was firm and his terms clear enough. One would say that the deal was already halfway done. "Please tell me for sure, so that I know what to do… so that I don't ask others…" To gain some time, I tried to tell him that this is a lot of money and I asked him what happened – another way of asking how he will use the money. "I'm going to a wedding…" I tried to introduce a shade of doubt, by asking him what kind of wedding he was talking about. At an ordinary wedding, an ordinary guest offers as a gift an amount of money that is rarely larger than Lei 2,000,000. Tudor had the perfect answer: "this is the wedding of my director's daughter, at the *Primavera* restaurant." I didn't know anything about that director, but I knew *Primavera* was quite an expensive restaurant in the neighboring

town of Caracal. Tudor's arguments seem to fit. I asked him for a little time to think. I was supposed to call him back in a couple of hours.

I went back into Dan's courtyard. Before continuing with the interview, he asked me who had called and about what. I gave him a summary of my conversation with Tudor. Dan listened very attentively, he asked a few questions (whose wedding? when exactly? did he say anything about his wife?) and then concluded tersely: "Don't!" A little surprised, I asked him to elaborate.[7] He was sure it was a fabrication. The wedding might have been a real event, the director's daughter was probably involved, and the *Primavera* restaurant actually existed – none of these things was in question. But how would Tudor return the money next month? With his wages he would have to pay his debts to several shopkeepers and barkeepers. By then, Tudor would call again to let me know that something happened, that things went wrong, so that it is near to impossible for him to pay *this* debt. If I want to have a quarrel with Tudor, I can go ahead and lend him the money: "I keep telling you: if you want to quarrel with someone, all you have to do is lend him some money!" Finally, it's my choice, but I'd better find a reason to turn him down.

There was only one problem. Tudor is related to me on my father's side, and I knew well that my father is usually sensitive to all that touches upon his lineage (*neam*). The history of conflicts in my family could be easily qualified in terms of honor and lineage and I didn't want to initiate one more conflict in such terms.[8] Should I maybe lend Tudor the money so as not to upset my father? I went to my parents' house to find out more. There was no need to ask any questions as they already knew what had happened and how I should deal with it. As I came to know, it was my father who gave Tudor my phone number. He had asked Tudor why he needed it, but didn't get an answer. And it was precisely because Tudor didn't tell him anything that Tudor's motives were obvious: it seems that one of the ways to communicate you want to borrow somebody's money is to keep secret the motives for asking for somebody's mobile phone number. I had only to tell my parents how much, and that was enough for them to resolve the dilemma. "If you want to upset me, give him money!" my father said. "I know what happens: he doesn't have any family obligation to attend that wedding, only a personal obligation! If you give him money, you'll never recover it! Don't give him anything! If you have money to lend, please lend me 5,000,000!" It was exactly what I wanted to hear.

I called Tudor and told him I was sorry, but I didn't have that much money *this month.* I couldn't simply refuse him. I needed an excuse, as I

didn't want to answer the implicit question: "if you have money, why don't you lend *me* some?" If he could wait about a week, I could perhaps lend him several million… He couldn't. My money was safe, even if not for too long. About a month later I was out of the village, when Tudor called again. Where am I, when will I be back? He was quite sad when he found out that I was not around and I wouldn't be returning soon (this last one was a lie I made up on the spot). He would have wanted a loan, maybe three or four million. This time he didn't tell me why; why would he, as long as I couldn't lend him the money? At the very last moment, he had an idea: couldn't I call one of the local shopkeepers I know and ask for this amount of money? They would surely trust me. If I do this, I shouldn't say that the money is for Tudor because he doesn't want people to know about this. I said I couldn't do that by phone and that, anyhow, it would appear rather strange to the shopkeepers: as I'm not in the village, they would understand that the money is not for me and they would ask me for further detail. He got it, he was sorry, and he wished I would return safely.

When I later talked to the people who knew of my deals with Tudor – Dan and my father – they felt their intuitions totally confirmed. Tudor finally borrowed money for attending the wedding last month, and now he is short of money. He received wages (about 6-7 million), but now he has to pay both the wedding money and the debts incurred to local shopkeepers and barkeepers. Both Dan and my father asked me: can I tell them what would have happened had I lent him the money? I tried to say maybe I would have recovered the money a month later, but it didn't work: from where? How? Of course, I had no answer.

My fieldwork in the village lasted for another year, during which I met Tudor several times, maybe once every two weeks. I expected him to ask again for a loan, next month or every time that he found himself in trouble. If he didn't, I imagined I would see in his attitude a certain reserve towards "the cousin" who refused to help him.[9] Nothing of the kind happened. Everything went on as before, except money: the same questions, the same kind of advice, and the same, as genuine as before, smile on his face. After years of entanglement in, and study of, debt and duty relationships, I can hardly explain this apparent non-transformation of our relation. I know other relationships would have continued slightly differently. I can only speculate: like others, Tudor keeps a list, maybe a hierarchy, of prospective creditors (one could say "victims," but it might be too much). The list is activated in times of need and it is continuously updated, after each experience. Being checked off the list doesn't necessarily mean the relationship is terminated. As far as it works, the list as such is more

important than those who figure on it. Eventually, those which are checked off might be re-activated later, in different circumstances.

2. Debts already there?

One of the striking aspects of my conversations with shopkeepers and barkeepers in Dobrosloveni regards the topic of beginnings. I refer not only to the beginnings of their commercial activities, which they recall rather clearly, but also to the issue of **debts**, whose emergence remains rather ambiguous for many of them**.** Almost nobody seems to remember how exactly buying and selling "on debt" started, who were the agents and the patients, if this was something they accepted or if it just happened to them. Listening to those who opened shops and bars at that time, one would say that debts were already there. Below are a few accounts that discuss not only the creation of debts, but also their persistence:

> – When did you start selling on debt?
> – From the very beginning! <u>There was no other way!</u> It's inconceivable that things could be different! There are various situations… A guy comes in, pays cash, and then, just before leaving, he says: "Oh my god, I forgot about the cooking oil! Give me a bottle of oil and I'll bring you the money right away!" But he knows he won't bring you anything right away! This is how it starts. You have to write it down, because it isn't just one person, there are many others like him… When he comes back in a week, you think you get him: "well, you said you'd bring that money…" The reply is enough to make you regret speaking: "what's this? Are you dependent on my money now? Is this possible? Have I moved to another village and forgot to pay you back?" After this, he is very confident for a while, he thinks he deserves much: "give me this, give me that… And put everything on my account!" This is absurd! By "account" I understand that he leaves me an amount of money and I let him know when it runs out. But he says he has an account, only it is my money, you see?
> – I see… But maybe this thing with "the account" is some kind of joke?
> – No! When they say account, they mean it! When he says "I have an account here," it means he has just done me a favor; he bought merchandise worth 400,000 lei: "I have an account of 400,000 with this one!" Moreover, you can say they're stupid, but they know that once they open "an account" of 100,000, you can't refuse them anymore, you can't stop giving in! So, <u>it is blackmail, yes, this is the right term: blackmail!</u> If he has a debt of 100,000 and then you stop selling him on debt, it's a disaster: "So you say no? Fine!" He leaves and starts buying someplace else, and you lose

both the customer and the money. It's something terrible… I don't know how to explain this to you… they aren't very educated, they have many lacunae, but they possess a kind of cunning that helps them take maximum advantage of any situation; you can't outmaneuver them! At some point, they realize you're a certain victim! They pull the strings: "you don't want to sell me on debt? That's fine!" What can you do?

(MB, shopkeeper, started in 1994)

– Did you know about debts when you opened your bar?
– Yes, but my intention was to refuse to sell on debt. Instead of selling on debt, I planned to offer reasonable prices. Nothing on debt! Or almost nothing…
– What do you mean "almost nothing"?
– I suspected I wouldn't be able to refuse my neighbors. Anyhow, I could recover my money from them…
– And what happened finally?
– They forced me to! I got to the point where I had the whole village in my notebook!
– But when did this happen?
– To be honest, from the very first day! I was enthusiastic: "finally, I have my own bar up and running!"

(AP, barkeeper, started in 1994)

– I've been selling on debt since the very first day. I wasn't very happy about it, but I didn't have any choice! At the beginning, they persuade you with little things: "come on, give me on debt, I don't have cash with me right now… I'll bring the money later in the evening…" Or "I forgot the cash in the other pants…"
– What does this mean "I didn't have any choice"?
– Well, it's enough to give to a few, and you're done for! Let me explain: so, they [the customers] have this much on the notebook, let's say 500,000 lei. After a month, they come and bring you 300,000; so it's not the whole amount and they say: "I don't have the money now, but I'll give you the rest next week because there's someone who owes me." In the meantime, they forget and if you try to remind them: "but I already gave you 300,000?" As if… They think that I win no matter what! Many of them believe that everything I sell it's a profit to me: "What do you want? Is it your merchandise or not?" They can't understand that my profit is bound up with those 200,000 that they still owe me. Others say things like these: "I have 200,000, while others have 400,000 on the notebook…" or "I paid you back each month, others haven't paid in months; they're still on the notebook…" As if this was a competition, who is running up more debts on the notebook.

– But how do they know how much the others have on the notebook?
– I think they talk among themselves…
– By chance?
– Yes and no… They also have their own deals. One says: "I can't give you any money because I have a debt at the bar and I am two months behind…" Others overhear: "yes, me too!" For instance, two months ago, at a wedding, Costel said he had a debt at my bar and he was unable to pay me. And the others: "yes, me too, me too, me too!" And next month, nobody came in to pay! I even refused to sell on debt to some of them. I told them: "you either bring me the money or I'll say "good bye" to you!"
– So you can give up on some of them…
– Now it is too late, it's difficult to turn them down. Now, if you refuse them, they treat you as an enemy!

<div align="right">(GS, barkeeper, started in 1995)</div>

– When did you set up the shop and when did you begin to sell on debt?
– I set up the shop on December 2nd, 1995 and I sold on debt from the very beginning. I had announced people that I would, even before opening the store, to draw customers.
– In other words, you knew very well what you were doing…
– In a way… After so many years, this is our great dilemma: whether debt is a good thing or not. You talk to some people: "why do you sell on debt? Stop doing it, tear that notebook apart!" But we are wondering: if we stop selling on debt, will there be any more customers in our shop?
– But you kept accurate records, even from the beginning?
– Well, how could I not? At the beginning, I used to write down each name on a separate sheet of paper. Now, you see the method I have: I write down all the names and leave a blank space under each name; the space depends on how much they usually buy or how often they visit the store. I leave these blank spaces, and when they fill in, I start another notebook.

<div align="right">(GM, shopkeeper, started in 1995)</div>

It is rather certain that some shopkeepers and barkeepers intended to sell on debt from the very beginning (knowing how to do this because they had previously practiced commerce *en gros*, for instance). But it is equally certain that some did so against their will and better judgment. Perhaps they thought they could restrict debt transactions only to "neighbors" and "friends," generally to those who presented more of a guarantee. But the work they do can hardly be limited to intentions, and it takes effort and skill for some people to achieve that.

NOTES

1. I'm currently writing my PhD dissertation on debt and duty in Oltenia, Southern Romania. Although the topic has interested me for a long time, I began my first serious field research in September 2005, first with my own resources and then with the help of grant 7404 from the Wenner Gren Foundation, which covered my expenses for 16 months during 2006 and 2007. Since then, I returned to the region several times, more consistently during the period when I was a fellow of the New Europe College within the *Ștefan Odobleja Program*, between October 2009 – June 2010.

2. The subtitle is inspired by the title of an article by Radu Cosașu, "Așa, deodată, din senin, despre bunica mea," [Just like that, out of the blue, about my grandmother] *Dilema* October 19, 2001.

3. A few other accounts that also touch on similar topics are Firth 1967, Behar 1993, Verdery 1996.

4. When not otherwise stated, the quotes I use in this chapter come from fieldnotes that I took a few hours after the fact. These are fragments of natural conversation, which I had no possibility to record otherwise.

5. This was a lie on my part. In fact, I had the money, but I was afraid to risk such an amount. Both Popescu's fixation on me as well as the sequential nature of his request made me particularly suspicious.

6. In case it is not so clear how exactly did Popescu manage to use me as pledge, I should confess I don't know either. Shopkeepers themselves didn't understand, at least not in real time, what happened: "We didn't really understand what happened. We only heard something about you, about some money, so we thought in this case he'll be serious…" My guess is that it was precisely this ambiguity of the situation that Popescu created and exploited.

7. As I had my own reservations about such a transaction, my surprise had little to do with Dan's verdict and more with his apparent strong conviction.

8. I see the implication: why would my mother's side be different? That was less visible for me, as I used to think (or rather feel) myself as belonging more to my mother's side of the family.

9. I was not the only one who was sure that he took my justifications as a form of refusal.

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ANDREI MURARU

Born in 1982, in Iasi

Ph.D. Candidate in History at "Al. I. Cuza" University of Iasi
Dissertation: *Transnistria War Criminal Trials*

Researcher, Institute for the Investigation of Communist Crimes and the
Memory of the Romanian Exile (since 2006)
Research programs coordinator, Romanian Institute for Recent History
(since 2009)
Counsellor of the General Director of the National Archives of Romania
(2007-2009)

Tziporah Wiesel Fellow, Center for Advanced Holocaust Studies,
Memorial Museum, Washington DC (2010-2011)
POSDRU (European Union Program) Fellow (2008-2011)
Erasmus-Socrates Fellow, Aristotle University of Thessaloniki (2004-2005)

Participation in numerous conferences in Roche sur Yon, Budapest, Berlin,
Prague, Brno, Chișinău, Washington DC

Author of several scholarly studies about the history of the
Romanian penitentiary system, of the Romanian Communist Party,
of the of Romanian secret police

Coordinator of *The Dictionary of the Romanian Communist Prisons, 1945-1967*
(Polirom, Iași, 2008)

LEGISLATION AND WAR CRIMINALS' TRIALS IN ROMANIA[1]

1. Introduction

World War II is unique in Europe's history due to the huge number of individuals who collaborated with, resisted or were punished for the collaboration with the occupier. Today, in the current stage of research, it is impossible to establish precisely the number of those who were affected by post-war justice. It is estimated that we are dealing with several millions, i.e., 2-3% of the population of the states under occupation or allied with Nazi Germany. The punishments for the culprits were multiple: the people's anger, in the last months of conflict,[2] death sentences, prison or forced labor, civic degradation, financial penalties, administrative measures (expulsions, surveillance, deprivation of the right to travel or to live in given areas, deprivation of the right to pension). The most "convincing" forms of post-war justice were the trials organized almost everywhere in Europe.[3]

The issue of the Holocaust and of the adaptation of legislation to punish the war crimes[4] never had, in Romania, a coherent and comprehensive approach. Until 1989, the academic institutions and the committed historiography, as well as the Romanian jurists willingly occulted the topic. Moreover, the access to documents was, for 50 years, restricted, as only few "privileged" persons of the system could have access to the archives.[5] Therefore, there is no approach in today's Romania, regarding the war criminals' trials and the role played by the post-war justice,[6] though some documents from the trials in question have been published over time.[7] The issue, with small exceptions especially related to the major trials (the trial of the Big Treason,[8] the journalists' trial[9] and the tendency of some national-communist historians to try to justify the actions of Antonescu's regime, is still unknown to historians, jurists, political scientists, or sociologists. There are multiple explanations for that: the ideological

monopoly during the communist regime, the long-run inaccessibility of archives, reticence towards the interpretation of events, the lack of adequate conceptual-interpretative strategies, the historians' skepticism as regards the legal implications of the subject, etc.

In the aftermath of the war, the communist leaders hushed up the crimes of the Holocaust. With few exceptions[10] of low intensity and duration, the subject became a taboo for the communist historiography, out of the ideological reasons characterizing the periods covered by the regime of Soviet inspiration.[11] The antecedents[12] from the Soviet Union strengthened the conviction of the Romanian communists that the subject had to be kept carefully hidden.[13] The politically controlled historiography followed an ideological program and those who approached such subjects had to be affiliated to political or military institutions. Moreover, self-victimization and/or the "extra-territorialization of guilt"[14] replaced the reflection on the responsibilities of Holocaust. Over time, the army became the place of strong xenophobic feelings,[15] and the regime supported a pronounced cult of Ion Antonescu.[16]

2. Objectives, sources and methodology of research

In the present paper we are going to make a foray in the issue of war crimes, of legislation and of juridical questions that the punishment of these categories of crimes raised in Romania in the aftermath of the war. Our major goal is to analyze the Romanian juridical framework that proposed the punishment of the Holocaust crimes and generated the incrimination of culprits in court. The main objective is the investigation and clarification of both the political and juridical mechanisms that made possible the punishment of the war crimes, as well as of the political context and of the organizational-juridical strategy of the special courts. In the second part, we will focus on the content of the war criminals' trials, insisting upon their function and role.

The research aims at clarifying numerous aspects that have not been documented by now and at answering the following questions: which was the space and time context in which these trials were organized? Whose was the initiative? How was the statue law regarding the war criminals "built"? Which were the evolution and the phases of the political compensation? How did the legislator understand the elaboration of legislation (as a finalized project or a project in progress)? Which were

the sources of inspiration? How did the Romanian political and juridical systems answer to the challenges offered by other special courts in Europe? Who tried whom and which was the "recipe" of investigation in court? Which were the most important pieces of criticism against legislation and courts? Another important part of the paper will deal with the following aspects: the development of the war criminals' trials, the statistics of trials, their periodization, the technical elements of trials, the juridical support and controversies, the topics of the trials, the accused, the accusation, the defense, the sentences, the disputes on the trials, the tendency to politicize them, the destiny of the convicts, the consequences of the juridical actions.

The ideas presented in this article represent the result of the research made for my doctoral thesis entitled "Transnistria War Criminals' Trials". In order to achieve the objectives mentioned above, I resorted to the rich western literature on the topic of the "Nazi trials" in the post-war period,[17] as well as to the existing archives. In the exploration of the subject, I used collections of documents at the United States Holocaust Memorial Museum (Washington DC), but I have also identified important files at CNSAS or in the National Archives (Bucharest and Cluj). Furthermore, the *Official Gazette* of the time, as well as the volumes approaching the period itself were very helpful to us. In our research, we have followed the path trodden by Donald Bloxham in his interpretative models (*Genocide on Trial*)[18] and Michael Marrus (*Holocaust at Nuremberg*),[19] two authors who developed and conceptualized the rigorous analysis of the juridical systems and of the course of war criminals' trials.

3. Preamble: justice, law and history

Over the last decades, the academic interest for the trials that occurred in the aftermath of World War II has significantly increased. On the one hand, the questioning of the recent past in this direction was due to some minute critical approaches, which underlined the problems of legality. On the other hand, the historical-juridical debate was meant to serve some current challenging events (the foundation of the International Court for Crimes in the former Yugoslavia, of the International Court in Rwanda, etc.), trying to find explanations and at the same time to offer both support and a precedent. Some of the most important questions are particularly interesting: how did the historians interpret the activity of the court and of

the investigators? Which were the consequences of the lack of expertise and of the investigators' inability to find and to condemn the criminals, on the contemporary societies? Which is the relation between historical reality, public perception and the juridical treatment of these trials?[20]

The limited space and objectives of this study exceed the possible answers to the above questions, but we can offer the reader some considerations referring to the relation between justice, law and history.[21] The aim of this preamble is to delimitate our historical analysis from the strictly juridical one and to facilitate the comprehension of our scientific approach. "Doing justice" in a very wide sense, clarifying the past, and analyzing facts that occurred in a certain period of time are the historians' duties. Yet, the post-war challenges, the need for expertise in the limits of law have become essential in clarifying the relation between history and justice, especially in the last decades. Explaining history in a juridical manner could be correct from a legal point of view, but in this case the presentation of facts that happened in the past takes an official, abstract form, quite likely to be deprived of meaning for the public opinion. Yet, the different expectations of the community from the two "instances", law (the judge, the prosecutor) and history (the historian) have sometimes consolidated these firm positions. Thus, important historians expressed their refusal to participate in a collaborative process with the legal system, which unavoidably leads to sentences and punishments.[22]

In this latter category, of the differences of perspective on the cohabitation between the two disciplines, should be included the French historian Henry Rousso who, when rejecting a request to offer juridical expertise in a trial on the crimes that Maurice Pappon[23] committed during war, invoked the "job description", and accused the transformation of history into a court and the adjustment of the due process to the norms of ethics.[24] For Rousso, "history changes consistently, as it is rewritten, so it should not be taken into consideration as legal evidence"; he argues, at the same time, in favor of the necessary distinction between memory and history. Memory is a form of propaganda, while history's concern is the truth. The French historian also underlined that trials are "vectors of the memory" that have no other purpose than compensating for a wrong made in the past; the historian should not be an "agitator of collective memory". While history is possible only after a given period of time passes, justice should be done as soon as possible. For Rousso, the fundamental distinction between history and law is their finality, i.e. truth and justice respectively. The trial in a court is limited in time and by legal provisions,

while the historian has the freedom to use a lot of schemes and methods to build his argumentation. The Pappon trial had a huge audience, generated more or less well-informed debates on the recent past. For the leaders in Paris, as well as for the public opinion, the trial was a real landmark, a moment when France carefully looked back on the actions made during the war in the name of the French State. Even if there were quite vocal critics of the trial (Henry Rousso also accused the "militant memory" and the pedagogical function of the justice approach, see above), one could not deny the educative side of such a debate, the symbolic role played in the construction of the public's sensibility and awareness about the past.[25] Some saw in Rousso's analysis a traditionalist or simplifying theory, while others agreed with the objections to the relation between history and law.[26] Yet, as Mark Osiel notices, Professor of Law at the University of Iowa, if low can produce historical distortion, the reverse is also true, history being able to seriously mislead the act of justice.[27] Law is an answer of the State institutions to the problems of society and, from this point of view, the influence can be mutual.[28] Robert Jackson, chief prosecutor of the International Military Tribunal at Nuremberg, understood the limits of the act of justice from 1945 like that: "We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow".[29]

The nature of the historian's activity has however many elements similar to that of the judge. Both the historian and the legal procedure use the concept of responsibility, but in different ways. The historian, unlike the judge, does not have at his disposal the force of the law, but he has the force of the narrative, endowing the characters with a voice, explaining the choices of the different actors. The intersection of the methods or actions of the historian and of the judge respectively is obvious in many of the phases. Thus, Charles Maier identified some common points of the disciplines:

> Moderation, trustworthiness, common sense, sensitivity to context and the limits of human action, life experience, the capacity to address what is particular as well as what is general… these comprise the catalogue of historiographical and jurisprudential virtues alike.[30]

However, there is also a danger for the synthesis to act toxically, in a unique version, an authoritarianist variant of the past.[31]

Carlo Ginzburg, one of the most famous practitioners of microhistory, compared the judge with the historian, as they are both in search for objective proofs and relevant evidence. But between the two "judges" there are also significant differences in what regards the evaluation and utilization of the *proof*, the most importation notion in all this debate. The historian can often borrow some of the judge's methods, but not the other way around. For instance, if the historian can use the context to recover the past, where the documentary proofs do not exist anymore, the judge is in intrinsic conflict with this method.[32] Ginzburg states he mainly agrees with Arnaldo Momigliano's assertions, though there are differences of perspectives between them:

> The historian works on evidence. Rhetoric is not his business. The historian has to assume ordinary commonsense criteria for judging his own evidence. He must not allow himself to be persuaded that his criteria of truth are relative, and that what is true for him today will no longer be true for him tomorrow.[33]

Erich Haberer showed that the element of interdependency essentially remains historical expertise, without which one cannot conceive, in our case, an investigation of the Nazi crimes. Moreover, Raoul Hilberg states that while the historian is in what he calls the "service of the truth", the judge is "in the service of the administration of justice".[34] Thus, the need for a historical analysis was felt when justice manifested its limits in offering a systematic, contextualized approach, reputed specialists being needed to bring justice and history together.[35] The most famous institutional example took place at the end of the 1950s, in West Germany, where a special agency for the investigation of the national-socialist regime crimes was set up.[36] It carried on a successful activity, managing to launch investigations in at least 13,000 cases by the end of the 1980s.[37] For instance, for the most well known trial at Frankfurt, the Auschwitz crimes trial (1963-1965),[38] the historians (Hans Buchheim, Martin Broszat and Helmut Krausnick from the Institute of Contemporary History in Munich) offered a 300 page expertise with regards to the history of the camp, which was also published. Subsequently, the historians' expertise was often required in court.[39]

A case that occurred in Great Britain one decade ago reopened the debate between history and justice. But this time, as some voices warned, justice was called to clarify history's problems. The trial, described as "history on trial",[40] was entered by David Irving.[41] A controversial

character, author of many writings particularly about World War II, he tried to counteract Deborah Lipstadt,[42] who had accused him of negationism. For the very beginning, he said the case he brought had in view only the freedom of speech, which had been seriously affected, in his case, by the label he had received from the Jews. Over time, this professional label would have turned him, from a successful author into an author all editors and distributors refuse, with no right to speak in public. In the press, the case was vividly disputed, some journalists asserting that the case questioned the freedom of speech itself, others believing that Irving should be ignored (the trial being nothing else but an important moment in raising the notoriousness of a pseudo-historian, a fraud, who trapped in a legal case top specialists) or that the trial is actually bringing the Holocaust's debate (which is a historical, scientific one) to court. The topic of the case made it hard to digest even for the experienced journalists, so that it was labeled as "absurd", "senseless", "bizarre".[43]

David Irving lost the case in Great Britain and was forced to pay a fabulous sum to cover the costs of the trial. The experts of the defense showed, with reports of hundreds of pages, the obvious lacks in Irving's volumes: epistemological problems, fantasy in the examination of the historical texts, tendentious arguments, imaginative quotation of sources and obvious distortion, deliberate elimination of proofs.[44] Yet, the controversies related to the trial, to its significances, as well as to the outcomes of such an action, have continued. David Cesarani, a specialist in the Jewish genocide one cannot overlook, declared that the assertion according to which history was brought in the dock proves a deep misunderstanding of the case, arguing that the factuality of the Holocaust cannot be decided, changed or transformed within a trial. Moreover, Judge Charles Gray stated that the case follows the methodology and historiography used by Irving and not the facts that took place 60 years ago. In spite of all these explanations, no clear separation line could be drawn, the trial approaching both problems.[45]

The brief reflections above played the role of underlining the differences and similarities between history and justice. We also underlined the historian's necessary contribution, the influence that events have, over time, in the elaboration of the legislation, as well as the blunders that can result from distorted interpretation, from the falsification of the past. Moreover, we wished to sustain that our approach aims at participating, through the historian's methods, in the cognizance and understanding of the recent past, by appealing to both legal and historical sources, in a hopefully adequate interpretation.

4. The context and the initiative

Debates on the trying of the war criminals started right during the war, in 1941; the Allies subsequently approached, on different occasions, the problem of the capitulation of Nazi Germany.[46] In 1943, at Moscow, they even considered a summary execution of the Nazi leaders, arguing that the "luxury of a trial" (Cordell Hull, US Secretary of State) would be too much for their crimes. Yet, in the Declaration of Moscow (30 October, 1943), the issue of the war crimes and of their subsequent punishment decided each state's right to judge the Nazi criminals according to its own laws. Subsequently, the delegates of the Allies gathered at London to put together an organizational strategy of the International Military Tribunal,[47] whose main supporter and sponsor was USA.[48] Here, the delegates of Great Britain, of the United States and of the Soviet Union debated the issue of the war crimes, establishing the main categories of crimes: "crimes against peace", "war crimes" and "crimes against the humanity", gathered in article 6 of the declaration. At the same time, the document underlined that the stipulated provisions could not affect the competence and jurisdiction of the local courts already organized or about to be organized.[49] If the crimes could be localized, the perpetrators' trying was the job of the national courts. Once the four allied powers signed at London the "Charter of International Military Tribunal" (8 August, 1945), the foundation of the international court in the American area was decided; it started to work on 20 November 1945.[50] At Nuremberg were accused the "major criminals", and in the other post-1945 trials (i.e. the great majority) were tried the "small criminals".[51] We should also mention that the field literature started to problematize the issue of war crimes even before the world war ended.[52]

In 1943, at Krasnodar, took place the first case against Russian and German citizens, accused for crimes on the Soviet territory, which was the *first trial* regarding crimes committed during World War II. The experience of the Great War and of the show-trials in the '30s, made the Soviets also insist upon the Russian collaborators of the Nazis, the danger they represented being even bigger, in the authorities' opinion, (a fact also reflected in the number of convictions). At the same time, the latest researches emphasized, in spite of the unavoidable evidence regarding the Nazi crimes, the lack of equity of these trials, where the very lax legislation, justice and the issue of collaboration, often used to accuse political enemies (the accusation of "counterrevolutionary activity" was

frequently resorted to) went along with the pedagogic-ideological function, serving domestic and foreign policy interests.[53] For the Allies area, the Nuremberg trials (November 1945-October 1946) were not the first actions brought against the war crimes either. Thus, in different points of Europe, the Allies tried to punish these serious crimes the Nazi committed, but the "betrayers" and the "collaborators" were also had in view.[54] The first trial on the territory controlled by the Allies took place when the war had not yet ended, on 7 April 1945. At Düren (between Köln and Aachen), an American commission condemned a German officer for having killed two American prisoners. In June, another commission investigated and convicted several Germans for having killed a US Army pilot, who had been shot down in August 1944. This way, hundreds of persons were incriminated, in the American and British areas, in front of investigation commissions, before the Nuremberg trial started.[55]

I have made this short introduction to show that Romanian trials from 1945-1946, proceeded by the adaptation of the legal framework, were organized in a very complicated political context, without a precedent and/or a support. Romania, considered a defeated country, joined the allied side almost 9 months before the war ended in Europe, after more than four years spent in the Axis. At that moment, although some trials had taken place, things were not quite cleared-up from the point of view of the juridical formula adopted, of the area of jurisdiction, of the applicable punishments.[56] The competition between USA and USSR manifested at that time, also on this issue, each of the two states founding in 1942 its own commission[57] for the investigation of the Nazi crimes; the "major criminals" were going to be tried separately, as had been established at Moscow in 1943, while the details were settled at London, two years later.[58]

In all the states formerly allied with Germany, the armistice compulsory included (for Romania, the Armistice Convention, 12 September, 1944) a stipulation on the war criminals' trials, in agreement with the Moscow Declaration. In the Romanian case, section 14 from the mentioned Convention stated:

> The Government and the Romanian High Command engages itself to collaborate with the Allied (Soviet) High Command in arresting and suing the persons accused of war crimes.[59]

In Hungary, where the Soviets succeeded in occupying Budapest several months after Romania joined the Allies' side, the armistice signed in January 1945 included a similar article, which was also, and probably not accidentally, the 14th.[60]

For the Soviets, it was very important for the Romanian justice to be transformed in due time to serve the purpose of the regime they were going to install here. Yet, despite all the efforts this could not happen in a very short while, so they chose a compromise solution. Some authors said that the rich Soviet experience of those last years[61] made them eventually opt for the special courts. At the same time, it is not less true that the field of the war crimes punishment is distinct of the legal nature of common law offences. The transition solution quickly proved that each national court reached a different definition of collaborationism.[62] In the post-war period, the distinction between the courts of the states liberated by the Allies and those liberated by the Soviets were insignificant. Here is what the Hungarian historian István Deák has to say about the issue: "The traditional courts were generally too small and too much deprived of credibility to be able to deal with the avalanche of the post-war collaborationist trials. Many judges, if not the great majority, had collaborated with the enemy or at least had faithfully served the defunct and despised regimes, before or during the war.[63] But, while the courts in Italy, France, Austria, and so on have gradually become more traditional in their aspect, the courts under Soviet supervision remained consistently revolutionary ones".[64] It is important to mention that the miscarriages of justice, pointed out in the specialized literature as well, were in all these cases equally numerous.[65]

5. The Romanian legislation on the punishment of war criminals

The legislative measures for denazification represent a distinct chapter in the activity the governments after Antonescu and were enforced since the first days after the *coup d'état*. They aimed at the abrogation of the anti-Jewish statute law, the reintegration of those who had been dismissed for political or racial reasons in the period 1940-1944,[66] the dismissal of the collaborationists from the public positions, the abolition of organizations with Nazi character, the arresting of the former members of the Legionary Movement,[67] the arresting and punishing of those who were found guilty of war crimes. Obviously, these measures represented direct consequences of the Armistice Convention, but also concrete achievements of the political

class in Bucharest, which the totalitarian regimes had kept far from the political stage for almost six years.

The Romanian statute law on the war crimes was elaborated starting with August 1944. In four years (1944-1948), it was submitted to several adjustments and redefinitions, according to the evolution of judicial investigations, but also to the international context; in short, five[68] laws and other eight[69] legislative modifications. It worked for one decade, as in 1955 it was abrogated, in the context of a mimicked de-Stalinization, through a decree meant to amnesty the convicts for war criminal offences.[70] Decree 421/1955[71] was also related to the evolutions in Europe. After the Cold War started, a big number of persons were amnestied / released, the relaxation replaced the sustained measures, on almost exclusively political grounds. By this decree, those who were accused of war crimes, crimes against peace and crimes against humanity were pardoned *de jure* or their punishments were reduced, with few exceptions.[72] Subsequently, these criminal offences were included in the Criminal Code of 1960.[73]

5.1. The arrest of collaborationists and war criminals

The transition from pro-Nazi dictatorship to a democratic regime could not be achieved but through an ample purging process at the institutional level (army, administration, press, education, cultural institutions, Church). If this action was part of the field of *politics*, the arresting and trying of the people guilty for war crimes was the duty of *justice*, though the distinction was not at all clearly defined.[74] Moreover, if we accept Otto Kirchheimer's definition, the trials after the war are part of the political justice field.[75] The vague concept of *collaborationism* was many times applied before the emergence of a legislation, so numerous misunderstandings, illegal actions and a deep suspicion on a significant number of civil servants resulted. Here is what the Romanian minister of Foreign Affairs in the autumn of 1944, Grigore Niculescu-Buzești, stated on the issue of the collaborationism (it is important to say that at that time, arrests were made in the absence of a legislation that would punish collaborationism, even retroactively):

> In our country, it is a different situation [compared to France, where the members of the Vichy government were accused of betrayal, A.M. n.]: the problem of the collaboration with the enemy is not posed here. Romania did not have a different legal government during the war. Our problem is the problem of political responsibility and we must frame it in our constitutional regime.[76]

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However, as Henry Rousso showed, collaboration involves several forms, according to the occupier's purposes. The French historian included Romania in the category of satellite-states of the Reich, strategically allied against a common enemy, but this explains only partially the war in the East.[77]

Since the first month of the post-Antonescu government, orders were issued to arrest the legionaries and the important members of the German Ethnic Group, though they were regarded as illegal since the very moment of their issuing. Mixed commissions, made up of representatives of the public order institutions and political representatives, and subsequently of magistrates too, started the interrogation and selection of the people confined.[78] It is important to notice that these commissions, like other projects that had in view this delicate issue, have never excluded the traditional legal system from among the decision-makers. On the contrary, the political leaders (except for the communist ones) tried to maintain, at least apparently and in accordance to the possibilities of a defeated, occupied state, the legality of the arrest and confinement of the persons *sui generis* suspected of collaborationism. The arrest of the supposed war criminals continued in the months to come, with a lower or a higher intensity, with the inherent organizational lacks and the inertia specific to a state that had been the ally of Nazi Germany.[79] Yet, the legality of the orders was questioned and the identified solution was a peculiar one as well – a special law and clear norms of enforcement[80], given the retroactive character of the measures of confinement.[81]

The arrest of persons beyond a legal framework would have violated, the government officials said, the fundamental rights, as they were stipulated in the Constitution (which had, furthermore, been suspended more than six years before).[82] The debates in the Government showed that the problem of constitutionality was a very delicate one, which the representatives of all parties were aware of. The defining of the terms used to identify different criminal offences, which had not existed in the Romanian law by then, represented another major issue in the debates of the political leaders.[83] During the governments headed by General Constantin Sănătescu (23 August-2 December 1944) lists were made with the former members of the national-legionary and Antonescu governments, in order to make arrests or to start preliminary investigations.[84] Some of the members of the former cabinets (I. P. Gigurtu, Mihail Manoilescu and Valeriu Pop) required to be set free, as they had been arrested several weeks before, without being sued.[85] Different lists (some of them written in Russian) requiring the arrest

of the war criminals arrived at the Government from the Allied Commission in Romania. For instance, the Council of Ministers was requested to arrest General Gheorghe Potopeanu, the former minister of the National Economy in 1941, Constantin Z. Vasiliu, the former secretary of state at the Ministry of the Interior[86] and Major-General Constantin Trestioreanu, involved in the reprisals of Odessa. The arrests were generally operated by the Gendarmerie and the secret service (*Siguranța*) as far as the civilians were concerned, while the military were detained by staff of the Army; measures were also taken against those who were hiding the perpetrators.[87] After the statute law for the punishment of war criminals appeared, trial under arrest was established. The individuals who were suspected of war crimes were to be imprisoned in the penitentiaries of Pitești, Lugoj, Zalău, Gherla[88] and subsequently Dumbrăveni.[89] The legislative incoherence and the postponement of precise regulations led, among others, to successive challenges of the State institutions (Prosecutor's Office, the Capital's Police Prefecture, the Martial Court). These ones disclaimed any competence in the arrest of the war criminals, while the arrested persons were sending numbers of memoirs to the different executive and/or legal authorities, accusing illegal detention, absence of investigations or of warrants.[90]

The subject of the arrest of the former collaborationists and war criminals generated, from the very beginning, disputes between the politically incompatible government partners. In the new context, the Romanian political leaders were forced to cooperate with those who, more than 20 years ago, had made them illegal. Obviously, the members of the Communist Party could not ignore the permanent hunt they had been submitted to, the prison experiences or the status of political sect they had been forced to. Paradoxically, the subject of the Soviet Union,[91] which had separated them for two decades, brought them together. Very soon, the communists used the press to administrate attacks against rival political leaders, transferring the accusations of war crime and collaborationism on those who had been against the USSR policies.[92] If General Aurel Aldea, the Minister of the Interior at that time, was wondering how the war criminals would be tried (as no legal basis existed), the communist minister Lucrețiu Pătrășcanu spoke about sabotage on some Government members:

> We keep them in detention [referring, probably, to Radu Lecca and his collaborators, which were recently arrested, A.M. n.]. We have passed in the Council, last Tuesday, the law on the basis of which we can make

preventive arrests. The Minister of Justice [Aureliu Căpăţână, A.M.n.] kept the draft until Saturday, and when I invited him to come to the Council, he didn't. The idea of sabotage shows through all of this action of his.

As for their investigation, Pătrăşcanu continued:

These people are arrested either for criminal offences, or for offences against the State. *When it comes to finding a man guilty, the Romanian justice does a great job. Don't worry* (emphasis added, A.M.). I know this from my own experience, and not only the lawyer experience.[93]

Therefore, the situation of the war criminals' arrest became a controversial one since the first days after August 23, and it remained a consistent and delicate problems for all post-Antonescu governments.[94] According to General Virgil Stănescu, undersecretary of State for the State Security in the Ministry of the Interior in Cabinet Rădescu, in mid-December 1944, civil and military personalities were arrested without legal forms. Some of the people arrested had been included in the reports of the Council of Ministers, but other people's names could not be found in the Official Gazette, although they were confined.[95] This observation, that innocent people had been deprived of liberty with no previous investigation, was made even by the pro-communist Prime minister Petru Groza.[96]

In this phase of the research, the total number of the war criminals is unknown. The documents will probably never offer the whole list of perpetrators, especially that the debate on guilt cannot be sustained in the absence of some noteworthy interdisciplinary studies, able to weigh the decisional and executive responsibilities. The confinement of the war criminals was an action mainly achieved in the span 1945-1948, and which involves a big number of approaches from the standpoint of the existing complicities, of the political interferences, of the foreign intervention (particularly the Soviet one). But there were also perpetrators who died during the war, or whom the courts could not arrest. Others were acquitted or have never been tried, out of different reasons, mainly related to the post-war social-political context, or because they had killed the potential eyewitnesses.[97]

5.2. The establishment of Romanian special courts

The legal procedures regarding the punishment of the war crimes proved to be a very controversial one, from the standpoint of both its legality and the observance of procedures. Some ambiguous phrasings appeared, generated by the conflict between the democratic parties and the Romanian Communist Party, but also by the lack of experience and of expertise. For instance, in a meeting of the Council of Ministers in mid-December, 1944, when the war criminals issue was vividly debated and when the domestic and the foreign pressures on the Romanian authorities were about to lead to a communication deadlock,[98] the person in charge, undersecretary of State General Virgil Stănescu[99] from the Ministry of the Interior, proved his incapacity to understand and elaborate a definition of the war criminals.

> At my arrival, I found a difficult situation. There were civil and military personalities under arrest and who are still arrested, in relation to whom *I did not find a legal disposition that could justify their arrest and I found no definition of the notion of war criminal. (…) Sirs, I found nowhere a definition of the war criminals. Then, with my jurisdictional bodies, I tried to draft an ante-project that could serve as a guide for the final law* (emphasis added, A.M.).[100]

Moreover, his colleagues did not prove to be more experienced, some of them (Petru Groza, for instance, vice-president of the Council of Ministers, at that time) making references to Winston Churchill's or Franklin Delano Roosvelt's discourses, or sustaining that the Romanian definition of war criminals should be in agreement with the one given by the Allies – probably considering the few details made public through the Moscow Declaration.[101]

This debate proves the major obstacle that the representatives of the Romanian authorities of the time were confronted to. They did not have access to the official documents, like other exile governments (we particularly have in mind here the Polish case) and the only information sources were the press accounts on the approaches the Allies made, at that moment. The absence of an organized framework, the public pressure and the necessity to quickly identify the culprits for the "country's disaster" accompanied the fact that the Government held, for a period, the legislative power as well.[102] Though they followed the press accounts on the situation of the other states,[103] there was no clear image on the

war crimes punishment process, so the Romanian officials had to resort to innovations, as we will see below.

In the other Central European countries, the authorities decided, in a short while, to establish special courts for the war criminal offences trials. Poland was a special case, from many points of view, as the action of justice had to answer here an urgent need of suing the Nazi criminals and collaborators who had committed offences on the Polish territory. First of all, in this case we should notice that the elaboration of the statute law started since 1944, being one of the first Allies' decrees, and significantly covering the criminal offences defined at London as well. Secondly, recent research has demonstrated that the legal investigations and procedures followed the rigor of Western modern justice. Finally the court was an extraordinary one – the National Supreme Court – trying the major criminals and being, to a great extent, different in terms of organization, from the other criminal courts, whose Stalinization was in progress.[104] In Hungary, since January 1945, a system was established, very close to the Romanian one, including special courts (People's Tribunals) and a higher body for the appeals.[105] The same thing happened in Czechoslovakia (one system for Slovakia, another one for the Czech provinces), where, starting with 1945, courts were established, through presidential decrees, for the actions against criminals, betrayers, accomplices, major collaborators, as well as against the persons accused of "offences against the national honor".[106]

Romania also made this step early. On 30 August 1944, the first official debates took place in a meeting of the first post-Antonescu government, about the establishment of an extraordinary court:

> The council decides that as regards the establishment of the special Court that is going to try the actions of the former regime, the foundation would be the project drawn up by the Ministry of the Interior, where delegates from all the parties would be sent to conclude the process.[107]

The project, which is actually the first Romanian attempt to legalize the punishment of war criminal offences, has never been adopted, but it was preserved and it is an extremely solid proof in rejecting the assertions according to which the paternity of the Romanian normative acts in the field was an exclusively a Soviet one. We have discovered this draft, an unedited document, in the unexplored archives of the Legislative Council, the institution required, at the time, to decide on it. Therefore,

initially an investigation commission was intended, in front of which the individuals guilty for the country's disaster were supposed to appear, but this project would have probably breached many stipulations of the Constitution. The commission – made of 10 members, out of whom one chairman, all appointed by the King on the proposal of the Government, and auxiliary staff – should have worked for six months (with possibility of prolongation) with the board of the Council of Ministers, to maintain, probably, the control upon the investigations. The commission was going to establish the "political and criminal responsibilities of the moral and material authors and accomplices". We should notice that the project is seldom quite intransigent for that period, including, in fact, many of the elements that we will find later in the framework-law of April 1945: the commission held all the powers of the examining magistrate, it could take notice *ex officio*, the acts could not be attacked, the warrants were not submitted to confirmation.[108]

In January 1945, through two normative acts (Laws 50 and 51/1945), the research activity on the war crimes was assigned to two courts, outside the local legal framework: the Special Court for the suing of the "guilty for the country's disaster" (with 4 cabinets of examination) and the Special Tribunal for the suing of "war criminals" (with 3 cabinets); the two courts, which have never operated *de facto*, were merged with the adoption of the Law in April 1945, 15 examining cabinets being established, each headed by a public accuser. Two People's Tribunals were created (following the Soviet model implemented, as we have seen, in other European states as well): one in Bucharest (for the Old Kingdom and for those who perpetrated offences abroad, in May 1945)[109] and another one in Cluj (to try the persons living in Transylvania and Banat, "regardless of the place where they perpetrated the offence", in July 1945),[110] though at least two more (at Iaşi and Galaţi) had been planned.[111] After two years, through the regulations of 1947, the trials were investigated at the Courts of Appeals in Bucharest and Cluj.[112] Initially, the term of applicability was 6 months, after the Bulgarian model.[113] Subsequently, by the Law 312 of April 1945, it was prolonged until 1 September 1945, and through successive laws until 31 October 1948, on the request of the Soviet side,[114] who had found out serious lacks in the activity of the People's Tribunal. The normative act of 1948 suppressed any term of applicability of the law, being abolished, as we have said above, in 1955.

The law 312/1945 *for the pursuing and punishing of the persons guilty for the country's disaster or for war crimes*, the main statute that

grounded the legislation in this field, adopted in a new political context, with the installation of the first pro-communist government, was drawn up by different specialists in the period September 1944-April 1945; it was inspired from the unadopted project presented above. We must state that the communist government accelerated the suing and condemnation of the defendants. The delay with which the other governments worked, as well as the non-communication of the denazification measures left the feeling that the former officials wished to tergiversate the action.[115] Here is what Lucreţiu Pătrăşcanu, Romanian minister of Justice, said about the ruling of April 1945:

> This is a political law, but not one outside the criminal law framework;
>
> The whole issue is then placed under the censorship of the Minister of Justice. You can clearly see that the Minister of Justice is responsible for these trials. So there is a guarantee, there is a person in charge, it is the minister of justice, who takes care for the law to be enforced;
>
> …we should mention that competence of the People's Tribunal for everything that is politically repressible at this moment. It [the People's Tribunal] is for the epoch we are now living. This epoch also includes the repression of other criminal offences, for which there is no other court…;
>
> The law, in its substance, is a law of political repression – and nothing more – that should satisfy the popular feeling, the Allies, and everything that we believe in now in Romania.[116]

Therefore, the courts were organized on several subordination levels, the Soviet model of control being insured.[117] Pătrăşcanu again underlined that "the People's Tribunal created for the punishment of the war criminals will be the example according to which we will transform the country's whole justice system".[118]

One of the vital issues is to what extent the Romanian case represents an institutional combination between the military courts and the Extraordinary State Commission in USSR. In 1943 the *Extraordinary State Commission for the reporting and investigation of the atrocities of the German-fascist occupiers and of their accomplices, and of the damages brought to citizens, kolkhozes, public organizations, State enterprises* was created.[119] Kiril Feferman from the University of Jerusalem followed the activity of the Soviet commission and the way in which this reflected the

Holocaust against the Jews on the Soviet territory.[120] The unprofessional manner in which the questionings took place, the field investigations, the quantification of the number of victims often led to erroneous figures on the Holocaust victims in the Soviet area. Furthermore, the Russian researcher Marina Sorokina convincingly showed that the purpose of this soviet body was rather a political and propagandistic one, where the culture of the secret went along with the desire for the product delivered to public opinion rather to serve the interests of the Stalinist regime, and less the legal system and quest the truth. The main objective of the commission was to attentively follow the post-war architecture of Europe and of the Soviet Union, where ideology served Moscow's political interest.[121] The question whether the special court created in Romania was conceived as part of the Soviet experience seems so more legitimate as the grey eminence of the USSR commission was Andrei Vyshinsky. Former general prosecutor of the Republic during the Great Terror, when he staged show-trials,[122] he was appointed by Stalin to deal with the Romanian affairs,[123] being at the same time involved in the activity of the Soviet team at Nuremberg.[124] In the absence of documentary evidence, this hypothesis remains a plausible work variant, given the context and evolutions in this matter.

5.3. The actors of the People's Tribunals: public accusers

The main actors of the People's Tribunals were not the judges, but the public accusers, who replaced the prosecutors. The power of the public accusers was almost unlimited, as they had many assignments (criminal investigation, suing and organization of the accusation) that exceeded those of an ordinary prosecutor. In USSR, where this model had been imported from, the function of the public accuser was a decisive one, given that the defendant eventually admitted all the accusations, in a public confession, declaring oneself guilty and asking for acquittal.[125] The public accuser was thus playing the role of the omniscient, self-confident upholder of justice, the representative of the nation, who exculpates and purifies it at the same time, finding the culprits and the betrayers right within it.

Here are several names that the historians, modestly approaching this issue after 1989, found "terrifying" in relation to the activity carried on in the courts: Dumitru Săracu (waiter-cook, former internee in the Tg. Jiu camp for communist activity, where he seems to have held a function too),[126] Alexandra Sidorovici (engineer), Avram Bunaciu (lawyer, chief

of the public accusers[127] in the first period of the Court), all of them members of the Communist Party, future characters of the communist nomenclature. Yet, the main actors of the trials that the minister of Justice labeled as "verified men",[128] were not at all known at the time, being by far anonymous compared to some of the defendants. The public accusers also benefited by the support of auxiliary staff[129], they could take notice *ex officio*, they could make arrests, raids, and their acts were irrefutable. Usually, the chief public accuser was the one who notified a public accuser, and after that investigations started. Yet, in the absence of a denunciation, says Alexandra Sidorovici, a former accuser, the identification of the perpetrators could be made by attentively consulting the war documents, which made the activity "particularly delicate for us, the accusers".[130]

The first public accusers were appointed in February 1945 by a third non-communist government; a total number of about 40 individuals occupied these functions in the People's Tribunal in the period 1945-1946. Over time, the "inadequate" accusers were replaced by the communists. In some cases, the zeal was not the expected one, other times the dismissals were justified by the guilt of having opposed the investigations and having unjustifiably released part of the accused. For instance, about Ilie Ţabrea, the first chairman of the special court, the communists said that he "discussed with the defendants privately, manifesting his 'repugnance' to the People's Tribunal".[131] Others proved to be ineffective, carrying on other activities, being absent most of the time or being simply incompetent. The communists wanted for these positions trustworthy people "with some training in this field – workers and intellectuals, and who should really work".[132]

Far from being content with their activity, the communists harshly criticized the public accusers on the occasion of an evaluation made two years after the inauguration of the special courts. They even proposed for the accusers to be brought to account for numerous deficiencies in the investigation activity. After having discovered a big number of closed cases and acquitted persons, two investigative commissions were created, including officials of the Control Allied Commission and of the Romanian Ministries of the Interior and of Justice. After two months of investigations, the commission concluded that almost 400 cases regarding 600 persons were closed without sufficient data.[133]

The benches were made of judges appointed by the Minster of Justice from among the professional magistrates, or from the political parties

and organizations that were part of the Government. The head of bench was compulsorily chosen from among magistrates. Among the judges appointed by the first pro-communist government, the name of Alexandru Voitinovici[134] arrests attention, the son of a Jewish confectioner in Iasi, a modest prosecutor who, due to his relations with the communist leaders, was appointed the chairman of the People's Tribunal in Bucharest. Over time, he held important positions in the communist justice system: general prosecutor and subsequently chairman of the Supreme Court of the republic.[135] Some of the public accusers were recruited due to the fact that they had defended the communists in the interwar trials or had facilitated different relations for them, while being imprisoned for illegal activities.[136] Another magistrate was pardoned for having tortured and killed under Antonescu a Jewish student accused of communist actions.[137] Over the years, the former accusers were rewarded by the new regime, receiving different functions in the communist bureaucracy or being awarded for the participation in the People's Tribunal trials.[138] But this did not happen with all of them, though their contribution to the trying and condemning of the war criminals was appreciated at that time. Other were marginalized or even investigated[139] later.

The judges, law experts and especially the public accusers involved in the war criminals' trials (particularly the ones held by the People's Tribunal) were convinced that they participated in a very direct way, in a dual capacity, doing at the same time *justice* and *history*. Their intimate wish, as it shows through the bills of indictment, was to educate the public and at the same time to get involved in the "juridical historiography" (the writing of history from a juridical point of view and the writing of history achieving the legal requirements), using the trials as a forum to demonstrate a pre-established truth.[140] But the People's Tribunal failed in telling the whole story of Antonescu's genocidal project, and the Jewish organizations did not participate – as legal representatives of the victims' biggest community – in the judicial process. The comprehension of a State-organized crime, according to Omer Bartov, must start with the end, bringing to light information and going back towards the causes that made the genocide possible[141] (the approximate way in which Raul Hilberg acted when trying to explain the destruction of the European Jewry)[142], a strategy that, in the Romanian case, missed.

5.4. Competence of the investigation bodies

The first two laws adopted in January 1945, which Pătrăşcanu, Romanian Minister of Justice, subsequently declared he did not acknowledge any more,[143] established the judicial mechanism of the war criminals' trying, adjusted later through the Government Groza law. The accusers were collecting the proofs and drawing up the bills of indictments, on the basis of which were drawn up the registers of the Council of Minister and thus the war criminals were sent to court. Most of the times, the bills of indictment were written in haste, with many lacks, with no judicial strategy and no adequate method. Yet, during the investigations, which started at the end of 1944 but reached their climax in the spring of 1945, many elements and evidence of the Romanian Holocaust were revealed. Subsequently, due to the new law of the procommunist government, the accusers were given many rights (to order arrest, to collect evidence, to raid, to require the authorities to bring to them suspected individuals).

The warrants, issued by the Council of Ministers, could not be refuted. At the same time, the public institutions were obliged to offer all their support for the arrest of the defendants. The trials would follow the normal path of an action in front of the judges, the dispositions of the criminal Code being applicable to the extent to which they did not oppose the stipulations of the law. For the convicted there was only one way to appeal, to the Highest Court of Appeal. Subsequently, by derogation of the law, it was established for the appeals to be tried by the Supreme Court in the recess too, and for the head of the court to be present in the appeal trial.[144] The control on the debates was guaranteed by the meeting notes, briefly issued by the court.

The statute of 1947,[145] the first document ratified by the Chamber of Deputies with regards to the war crimes was written after several defects were revealed, as a result of the previous investigations, but also as a result of the obligations assumed in the Peace Treaty. The text of the law was actually recomposed, including the definitions of the London Convention in the patterns of the previous rulings. By hastening the trying of the perpetrators, the Romanian authorities reached several objectives: they prevented a possible delivering of the war crime suspects to the United Nations; they avoided the reestablishment of a special court in order to be able to integrate these trials in the activity of the ordinary courts, of the "professional magistrates",[146] they met Moscow's desire not to create a new People's Tribunal.[147]

The new law established that the actions should be tried by the Court of Appeal, and the notice should be taken by the General Prosecutor with the Government's approval, a restriction eliminated after one year.[148] The Executive could therefore decide on the release of the defendants, but only after the finalization of the investigations. If the cause was pleaded in the absence of the defendant, his appeal in 30 days since the sentence was given had as a consequence the retrying of the cause. One of the most important stipulations of the statute, which was actually redefining the whole history of war crime investigation in the aftermath of the war, stated that the previously closed investigations could be reopened, "even on the sole ground of the proofs in the file".

5.5. Crimes and punishments

The constitutional decree on the basis of which were issued the statutes regarding the punishment of war crimes stipulated that the new courts had the authority to establish "criminal and political responsibilities".[149] This ambiguous phrase and the lack of expertise of the Romanian lawmaker, as we have seen above, gave birth to criminal offences that had not existed by then in the criminal law ("war profiteer", "guilty for the country's disaster", "guilty for the country's disaster by committing war crimes"), after what in 1947, the criminal acts were defined in agreement with the international documents. It is important to mention that in all cases, the punishments varied from 5 years of correctional prison to life forced labor, and for the war criminals the law stipulated the existence of the death sentence as well. The court could, at the same time, decide on the civil degradation and the confiscation of wealth; there were also established punishments for the accomplices, concealers, favorers, instigators and co-authors.[150]

As some jurists estimated, the laws were ill-conceived, so many of the culprits could not be identified in accordance to the provisions of the statute. The legal unification in April 1945 was particularly visible in the analysis of two categories of defendants (the "war criminals" and the "guilty for the country's disaster"). The criminal offences defined on the basis of this statute (312/1945) can be ordered into three categories: "1) the participation in war against USSR and the Allies; 2) inhuman treatment (from forced labor to extermination) applied to war prisoners, to the civilians in the conflict areas, or resulted from political or racial reasons; 3) fascist-legionary propaganda". The legislator clearly aimed at several distinct professional categories, which could be accused of these serious

criminal offences: the military, the journalists, politicians and magistrates. It is important to say here that the punishing of propaganda, identifiable in different articles that allowed the suing of the journalists, opinion leaders, intellectuals, civil servants who had supported the national-legionary and Antonescu's regimes, was not formulated at the International Tribunal of Nuremberg".[151] Here is what Romanian Prime Minister Petru Groza declared, in Mai 1946, about the faults had in view:

> …we *provided a political and collective responsibility* of all those who formed the Antonescu government. We did not anticipate some or other people's guilt from a collective standpoint. […] *We are judges from a political standpoint.* The People's Tribunal is just an *executive body.* […] If we talk about 'major responsible people' then *it is incumbent on us again and we must establish who are the responsible people* and this is what we, the government, establish, collectively (emphasis added, A.M.).[152]

Many sources speak about major political tensions in relation to the promulgation of the legislation that established the juridical framework for the war criminals' trying.[153] King Michael confessed to the USA political representative to Bucharest that "he fought the government for three weeks" and that he managed to make numerous revisions to the law draft, among which: the admission of the death sentence only for war criminals, the right to appeal to a higher court, the elimination of an article that gave the courts the right to try offences like disturbing the peace, the application of law for a determined period.[154]

5.6. Controversies regarding legality and Constitutionality

From the very first trial, the defendants went to the Highest Court of Appeal, the only one they could turn to. Initially, there were three reasons that could be invoked and afterwards only two: "the wrong composition of the court" (non-observance of the number of 9 judges and/or their incompatibility) and "the wrong application of law" (other punishments than the ones provided by the law and/or the exceeding of the limit provided by the statute).[155] The court rejected each time as unfounded the appeals regarding the non-constitutionality of the 1945 law, and some authors spoke of the pressures put on the judges.[156] The fact remains that the magistrates were deprived, at the time, of immovability and stability, which could become an act of constraint.[157] Sometimes, the defendants'

attorneys invoked other reasons for the appeal as well, which were equally rejected: the bench's incompetence or lack of independence, the fact that the public accusers had not been sworn in or were not part of the judicial body, that the investigations had started before the formation of the court, that the death sentence was instituted (for criminal offences others than the ones provided by the Code of Military Justice during war), that the wealth of the defendant's family members could be confiscated too,[158] that the right to appeal was limited, that the principle of non-retroactivity was broken (for the law itself, but also because the term of applicability of the statute had been prolonged after its expiation as a result of the "royal strike"), that acts of commandment of military nature were submitted to jurisdictional control, that the principle of the separation of powers was violated (the arrests were ordered by the Council of Ministers) or that the law had been passed as the result of a report signed by the Minister of Justice, and not at the Government's proposal.[159]

Some jurists asserted that the 1945 law on the war criminals was elaborated on the basis of the modification of a constitutional decree (special laws for the hearing and sentencing of war criminals).[160] This fear existed even for the first government officials after Antonescu, though Romania was in a constitutional prejudicial provisional state[161]. Yet, its writing was dictated by the commitments the country had made in front of the Allies and also by the domestic pressures, mainly directed by the communists.[162] The provisions were also regarded as anti-constitutional because they breached given articles of the fundamental law (the interdiction to establish special jurisdiction, the interdiction to establish the wealth confiscation punishment, etc.).[163] Avram Bunaciu, chief public accuser maintained however that the statute was constitutional, because the special court heard given facts, not given trials or given persons, suggesting thus that they were not *special* but *specialized* courts. As for the exception of non-constitutionality regarding the establishing of the death sentence, he concluded that "a punishment cannot be non-constitutional". The law, the chief public accuser continued, represented, in fact, the observance of the government's commitment to search for and punish the persons guilty of war crimes.[164] Furthermore, the constitutional decrees took up only partially the provisions of the constitution of 1923, and the first decree was regarded as incomplete, as long as the imperative requirement in the Armistice Convention regarding the hearing of the war criminals had been assumed by the Romanian State after it passed.[165] In

fact, even the legality of the death sentence became subject of debates in the Romanian Council of Ministers.[166]

Among the criticisms against the Government's decisions regarding denazification there was also the one regarding the inexistence of the notification from the Legislative Council. The criticism can also be found in the appeal submitted to the supreme court of justice by the defendants of the first group of war criminals.[167] The institution in question – the Legislative Council – was created on the basis of the 1923 Constitution (art. 76) with the purpose to make sure, by issuing the consultative notifications, that the laws are legal and constitutional. "A body of legislative technique" whose functioning was ruled in 1925; the Council also survived in the period 1938-1944, being the "only body that tried and sometimes managed to moderate the legislative excesses".[168] Not only the communists tried (they abolished the Legislative Council in 1948[169]) to avoid the legal function of this institution, but other members of the Government too. The first laws regarding the punishment of the war crimes promoted by the Rădescu Cabinet were not even submitted to notification.[170] The explanation was that only some of the clauses of the 1923 Constitution were taken on in the 1944 Constitution, and the one on the notification of the Legislative Council was not one of them.[171]

One thing we find worth mentioning is that the pretended opposition of the different figures (groups, parties) in the Council of Ministers – as the communist propaganda attacked[172] – referred strictly to the legality of the acts drawn up by the new Government. The democratic culture was the one that grounded the fears that the constitutional modifications are beyond the legal framework, which could have generated significant legal and political problems. For the rest, their firmness in the issue of the arrest and punishment of war criminals cannot be doubted.[173] The confusion skillfully fuelled by the communists on the dichotomy "democrat *vs.* fascist"[174] was proved a little later, when the members of the historical parties were accused of "having installed the fascist dictatorship".[175]

Aside from its novel role in incriminating the war crimes (by then, no investigation on the launching of a war of aggression had been finalized), another special court, in a different part of Europe – the court of Nuremberg – was criticized for many lacks.[176] For instance, the principle *Nullum crimen sine lege* was not entirely observed, and the court did not debate the acts committed by the Allies.[177] As Michael Shafir noticed, denazification is today based upon a myth[178] that has grown over time, making failure a synonym of success.[179] Thus, what happened in Romania

(problems of constitutionality, of law enforcement, the lack of credibility of the courts that tried the war criminals, etc.) was often put down to Romania's sovietization. Things are not as simple, and the answer cannot be but a nuanced one, as the causes mostly represent a problem of the Romanian laws on war criminals, like in all similar cases after World War II.[180] We should also say that the breaching of the constitutional provisions was made not only in the case of the war criminals' hearing and punishing laws, but also in the case of other fundamental statutes for the organization of the Romanian post-war State. As we have shown above, these were generated by the exceptional measures that the transition from a dictatorial regime to a democratic one required, by the transition from the state of war to the state of peace, by the necessity to punish crimes of such ampleness in the absence of a precedent and of legislation, by the acute political conflict.

6. War criminals' trials

6.1. Statistics and periodization of the trials

In order to better understand the role and activity of the People's Tribunals in the period 1945-1946, as well as that of the ordinary courts that tried later the war criminals, we should appeal to statistics. Unfortunately, the research in the field presents nowadays only disparate details on the quality and quantity of the trials. The specialists were not interested in these quantitative details, though their role seems vital to us, and the documentary evidence is not totally missing. Although the special courts were abolished at the end of the June 1946, sentences were handed down after that date too in the pending trials. Furthermore, after 1947, the cases were taken over by the Courts of Appeal, and starting with 1955 (after the abrogation of legislation) the persons accused of war criminal offences were, after a short release, rearrested and tried for the offence of "fight against the working class". If we try to find the number of those who were tried by other States, the picture gets even more ambiguous. All these details complicate the research and limit us, for the moment, to exposing some possible figures.

Some authors maintained that until May 1946, so shortly before its abolishment, the People's Tribunal in Bucharest had heard 15-16 groups of war criminals, i.e. several hundreds of persons.[181] According to a

bureaucratic evaluation, at the beginning of April 1947, therefore two years after the adoption of Law 312/1945, 657 persons had been heard by the Courts in Bucharest and Cluj, as a statistics on the confiscation of the assets of those persons shows, with the note that not all the people convicted received this reparative punishment too.[182] But the most detailed statistics reveals that until 1949 at Cluj (People's Tribunal and the Court of Appeal) 909 persons were convicted and 70 were under trial, and in Bucharest (the same courts), 805 had been convicted and other 148 were under trial.[183] The court of Cluj generally gave harsher sentences than the one in Bucharest, most of the trials being about the atrocities perpetrated during the Hungarian administration of Northern Transylvania.[184] The punishments applied in Romania show that the overwhelming majority of the individuals identified received many years in prison, in agreement with the high rate of sentences in the east of the continent. These figures demonstrate that the Romanian justice found very few guilty persons, compared to some European justice systems, where the number of the convicts amounted to thousands or tens of thousands. For instance, in Hungary, over 16,000 persons were convicted.[185]

A special debate should be held on the situation of the Romanian citizens convicted by other states. Between July 1941 and December 1946, over 70 Romanian war criminals were sentenced by military courts on the territory of the Soviet Union.[186] In 1955, the Romanian authorities took over from the Soviets, with no further indications, 193 Romanian war criminals, sentenced by military courts, and our legal system acknowledged the past sentences. These persons were also subjects of the Decree no. 421/1955, some of them being released, while others had their punishments reduced to half.[187] After a few years, in 1958, in the Romanian prisons there were 117 war criminals.[188]

The Romanian trials started in 1945 and ended ten years later, when the special statute law was abrogated. Subsequently, the sentences did not serve any more the purpose of finding out the truth and punishing individuals for their war criminal offences, but rather the will to eliminate those who were regarded as the enemies of the new regime. Jean Ancel tried to draw up a phasing of the trials, identifying three main stages (23 August 1944-6 March 1945; 6 March 1945-30 December 1947; 30 December 1947-1955); the time boundaries were defined in accordance with the changes of the political regime and with the monopolization of the State institutions by the communists.[189] We only partly agree with this division, preferring a phasing that would combine the internal and external

political evolutions with the legislative ones and with the justice's action, following Norbert Frei's model.[190] In this case, the phasing would look like that: a) the early phase – incipient legislative measures, arrests and the draft of a special court (23 August 1944 – April 1945); b) the mature phase – the finalization of legislation, intense investigations and arrests and the occurrence of the most important trials under the Soviets' pressure (April 1945-1947); c) the late phase – trials of no special intensity (with the exception of the pogrom of Iasi trial), followed, in the last stage, by the releases (1948-1955). However, we must state that while in Europe the last war criminals were released in 1989,[191] in Romania the last convicts left prison in 1964.

6.2. The topics of the trials

The trials organized by the end of the '50s were, without exception, collective trials. The first ones played a pedagogic role, hearing acts incriminated by the legislation that had just been elaborated by the Government: participation to war against the USSR and crimes in the occupied territories or in the territories that the Romanian army had entered (Bessarabia, Bukovina, Transnistria, Crimea, etc.), inhuman treatment of given categories of people (forced labor, deportation and extermination of Jews from the territories that belonged to Romania or USSR, the imprisonment of communists in different camps, etc.), propaganda in favor of the dictatorial State and in the defense of Nazi Germany's ideology and actions (the journalists accused of "fascist and Hitlerite" propaganda and of having supported Antonescu's regime, civil servants involved in propaganda, etc.). The ones tried were journalists accused of propaganda and support for the pro-Nazi regime, commandants and personnel of the camps in Transnistria, former employees of the State intelligence, persons accused of having organized and participated in the pogrom of Iasi, members of the Antonescu administration, etc. The Romanian Minister of Justice, Lucrețiu Pătrășcanu, described the procedure by which the groups of war criminals were made up:

> I considered it right for the justice to be administered not on the basis of categories, but simply on situations. At the root of this group [Antonescu group, A.M. n.] lie objective criteria. I thought I must form a category of those who were permanently on the ministerial benches.[192]

The future leader of the Romanian communists, Gheorghe Gheorghiu-Dej, also confirmed the procedure: "Of course they could be sent to court all together or in groups. For a better technique of the actions, they thought it advisable to make up groups."[193] But most likely, the criteria that the formation of the groups of defendants was based on, were procedural (objective) and/or political (subjective) ones: the Transnistria trials, the "major criminals" trial, the journalists' trial, the Gendarmerie trial, the Iasi pogrom trial, the SSI trial, etc. Subsequently, in the '50s, the trying of war criminals in groups was given up.

The first trial played an important pedagogical role, hearing crimes from the occupied territories (i.e. Odessa), the deportation and extermination of Jews from Bukovina, the abuses on the communists imprisoned at Tg. Jiu, the situation of the internees and inhabitants of Transnistria (camps and ghettoes in Vapniarka, Bogdanovka, Dumanovka, Mostovoi, Moghilev, etc).[194] The trial started in May 1945 and lasted for 8 days. There were 46 defendants, indicted in the 72 pages of the bill.[195] Among the defendants, there were generals and high rank officers of the Romanian Army, the former military county chief of the city of Odessa (Gen. Nicoale Macici,[196] whose name was also the name of the group), the former governor of Bukovina (Gen. Corneliu Calotescu), etc. The oldest of the defendants was 57, and the youngest 34. 12 persons were missing. This was a huge trial, which involved impressive resources: almost 500 witnesses (100 for the defense and 400 for the prosecution), thousands of pages of documents. The defendants received penalties from capital punishment (Nicolae Macici[197] and other 27) to 2 years of prison, civic degradation and confiscation of wealth. The death penalty was commuted to life in prison.[198] Behind the closed doors, the member of the Romanian Government talked one year later about the possible outcomes of the commutation of punishments, the Prime minister arguing that this decision had rather humanitarian causes.[199]

6.3. The trial of the Antonescu group

The most important trial was the one in which the former head of State, Ion Antonescu, and other 23 close collaborators were heard.[200] The Marshal and the group were tried at Bucharest and not at Nuremberg, as a result of the commitment made by Romania at the Armistice Convention. In this 16th trial of the People's Tribunal, 16 defendants received the capital punishment, and eventually only 4 were executed. 23% of the

charge focused on the Holocaust (the process of romanianization and its outcomes on the Jews, the pogrom of Iasi, the massacres of Odessa, the deportation to Transnistria, the extermination camps). The estimation of the number of victims included the 10,000 Jews for the pogrom of Iasi and tens of thousands of deportees to Transnistria, with no official figure. Ion Antonescu admitted, in the trial, that between 150,000-170,000 Jews were deported to Transnistria.[201] The trial modified the perspective on the Marshal's endless loyalty towards Hitler; the trial depositions also brought out to light the failure and the limits of Antonescu's regime.[202] However, the Army regarded the Marshal's arrest as an action against Romania.[203] Furthermore, the fact that the political leaders present in the trial took up Antonescu's cause was just a page of propaganda. In reality, as the documents in the file show us, almost all of the political representatives openly condemned Antonescu's regime.[204]

Some of the ministers of the Romanian Government tried to speak up for given persons from this group (for Dumitru Popescu,[205] for instance, former Minister of the Interior between 1940 and 1944), while other members of the Executive considered that only the People's Tribunal had the right to settle the case.[206] Much emphasis was placed on the idea that the trial, besides being a priority, was a mainly political one, presenting the acts of the "major war criminals", persons identified by the Government alone. Furthermore, the communists opposed the possibility for the trial to last as much as the Nuremberg one regarded as "interminable". Image also played an important part in the proceeding, which was seen as a palpable action that might convince the Allies of the good intentions of the Romanian authorities as regarded the war criminals' indictment.[207] Thus, after 10 days (6-17 May 1946), Antonescu and his main collaborators received the sentence, the four executions being the only capital punishments ever applied in Romania in relation to war criminal offences.

6.4. The organization of the trials

The research on the war criminals' trials in Romania is, as we have shown above, still at the beginning, but we could however draw some conclusions. Generally, the defendants vehemently denied the accusations and blamed each other, trying to exculpate themselves. By doing that, they only offered the prosecutors serious, irrefutable and solid proofs of their guilt. The defendants were often submitted to confrontations, with either other defendants or witnesses for the prosecution. Generally, the short,

unequivocal answers gave the prosecutions no possibility to use them in any way.[208] On the whole, the defendants and the witnesses for the defense were unconvincing in their arguments. The defense lawyers rarely managed to weaken the arguments of the adversaries. Most likely, the public accusers were not more convincing in the list of serious accusations they brought. This was due to the lack of credibility of the court, but also to the fact that common people had not learnt about the existence of the hundreds of thousands of victims, not even after Antonescu's regime collapsed.[209]

The indubitable proofs of the perpetration of the war crimes mainly resulted from the accounts of the witnesses and from the documents collected by the investigators. We could say that, from our standpoint, most of the convicted were certainly guilty, while the rate of the individuals who were unjustly convicted or received unjustly big penalties was a small one. Even if some of the accused admitted part of the treatment they had applied to the deportees, the major massacres were not assumed. But the survivors' testimonies and the documents of the institutions of public order and of the Army made the difference. Yet, the witness-victims were not included in the proceeding, as they should have been, the politicization of some trial re-victimizing, in fact, the former deportees.[210] In few cases, the judges were convinced of the innocence of the some defendants. Without exception, the people tried in their absence received maximal penalties, compared to the other defendants. Furthermore, the accused frequently mentioned, as exculpating arguments, the involvement of the Germans, the orders they had received, and few used oblivion as excuse.[211]

The witnesses brought by the defendants did not always speak about facts related to the indictments, but other actions too, which favored the defendants.[212] It often happened for the witnesses for the defense to be unable to answer concrete questions. They declared they were not present in the actions accounted by the accusers, offering ambiguous data.[213] On the other hand, the witnesses for the prosecution who held functions in the leading bodies of the Jewish communities made elaborated, detailed declarations. They presented enough data to evaluate, for instance, the situation before and during the deportation. The breaches, the robberies of the Romanian authorities and, particularly, the important details about the crimes against the Jewish population made the atmosphere during the trials.[214]

The survivors of the deportations came back to the country before the war ended and could thus preserve their stories about their Transnistria

experience. In spite of the physical and psychic traumas, some of them had the power to recollect or even write down the details of their deportee life in a compact community. So can be explained, for instance, the recollection of common details about violent events.[215] How close those accounts were to reality and how was memory affected by the express need of recollection (the precise requirements of the investigators) is an analysis to be done. But we must notice that the testimonies taken shortly after the events in question, namely the ones made during the trials, have a higher degree of relevance and fidelity than the ones made after decades.[216] Therefore, the depositions of the former deportees were, at the time of the trials, important evidence in the hierarchy of guilt.

The accused and their defenders raised the problems of the procedural deficiencies in the organization of trials, such as: the non-hearing of the witnesses for the defense, the non-confrontation of the witnesses for the prosecution with the perpetrators, the interdiction to contact the lawyers, the time limitation for the defense during the proceeding, misstatement of the witnesses' position, media lynching, etc.[217] Some of the culprits denounced expeditious investigations or, in some cases, the absence in the examinations of given witnesses, who had sent, instead, written depositions.[218] The defendants sent many memoirs to the chief public accuser during the investigations, stating that they had not been informed about the accusations, that they could not study the file or that they could not get in touch with their family to hire a lawyer. Some of the accused asked for documents from different archives which did not exist anymore and which might have exculpated them.[219] At the same time, the accused sent many memoirs from prison requiring either for the presented documents to be carefully analyzed, or for more witnesses, or they were proposing different further elements to be added to the examinations made by the accuser.

The abominable crimes and massacres occurred under Antonescu's regime (1940-1944) in Romania led to the disappearance of a significant part of the Jewish community. These crimes took place in the territories incorporated in the Romanian state or under its administration: Bessarabia, Bukovina and Transnistria. The deportation and extermination were enforced by the Romanian authorities, who were responsible for the disappearance of 350,000 Romanian Jews during the Holocaust.[220] For these crimes, the war criminal trials found very few guilty individuals. One of the causes for this, besides the political and legal ones, was the lack of evidence, subsequently acknowledged by the public accusers. Moreover, the failure of the judicial process was confirmed by the Soviet

authorities, but also by the former Romanian public accusers.[221] The reasons for that were diverse (interventions[222], at the highest level, for the release of the arrested Army heads and magistrates, including through the Soviet Generals' intervention; the unjustified acquittals; the organizational deficiencies; the defective strategy of arresting only the major perpetrators and instigators; the Soviets' indifference towards the requirements related to the witnesses and documents from the Soviet territories); the assessments are that over 70% of the war criminals managed to get away unpunished.[223]

The conclusions that Alexander Victor Prusin reaches, who dealt with the trials that took place in the Soviet Union, help us understand the similarities with the trials that took place in Bucharest in the period 1945-1946. There are many common elements between the courts of the two States: the selection and accusation according to the degree of representativeness; sentences for most of the accused; the selection and grouping of the accused according to their activities during the war, in a certain region; the submission of the accused to long and numerous examinations (sometimes at night, especially in the case of those culprits who were regarded as very important ones, like in the case of the "Antonescu group"); the peripheral role played by the defense attorneys, who could not get in touch with the culprits but during the hearing and could not closely examine the witnesses; the attention the trials were paid in mass media; the selection of the audience; the creation of atmosphere during the trials, etc. In both cases, the bill of indictment particularly insisted on the war of aggression against USSR and on the atrocities perpetrated in the war territory against the Soviet citizens. Of course, there are differences in details too, one of these being the nationality of the convicts – in the Soviet trials (especially in the ones at the end of the war) most of the convicts were German war prisoners. Another important difference is the public confession,[224] chosen by most of the USSR culprits and rarely or not at all found in the war criminals' trials in Romania in the period 1945-1955.[225] From our standpoint, in Romania there were no "show-trials", and this was the significant different, that entitles us not to place the Romanian trials under the Soviet umbrella until the end of the 1950s.

6.5 The destiny of the convicts

After imprisonment, the convicts[226] were not dealt with in groups any more, as one might think (and as they had been tried), but individually, according to different ideological criteria or to the conduct they had in prison. Most of them were treated in a severe manner, the communist regime being not willing to limit penalties until 1955/1962-1964,[227] when they were amnestied. Some of the people released in the mid-1950s were subsequently rearrested and tried for the same acts, being accused this time of "fight against the working class". An interesting and quite defining, at the same time, fact for the arbitrariness of the communist legal system was that the trying was made on the basis of the same evidence as in 1945, and in some cases, the one who sentenced them, after 10 years (in 1955-1957) – Alexandru Voitinovici, the chairman of the Supreme Court of the Socialist Republic of Romania – was the former chairman of the People's Tribunal in Bucharest. The appeals made by the defendants, maintaining that they had been tried for the same facts and on the basis of the same evidence, were rejected by the supreme court, on the grounds that the law impeded it to evaluate the proofs in the file and therefore to quash the sentence.[228] In reality, many of them were released only after almost two decades in prison.[229]

Many times, the surveillance continued after the release too, though they were over 65, and could not be regarded as dangerous any more.[230] On the other hand, the reconciling gesture made by the communist regime (the pardon granted by State decrees)[231] continued after the release too, especially in the case of the former military: the release of personal military record with the rank they had before arrest[232] or the right to pensions (in the late 1960s). We should mention that this did not happen only in the case of the war criminals, but also of many former political prisoners. But rehabilitation was a process of negotiations, where concessions and compromises (letters sent to the former prison mates, texts about the achievements of the communist regime, autobiographies where they agree to declare themselves guilty for the war offences, etc.) were made in exchange for civil rights and for a frail social integration. The informative surveillance in the case of some of them proved that, in spite of the proofs of 're-education' written and rewritten in prison or after release, the anti-Semitism did not disappear. In some case, the relationships between the former comrades and participants in Antonescu's genocidal project continued.[233]

6.6. The role and the function of trials

The function of the war criminal trials was understood in a dual manner: on one hand, the communist historiography and legal literature glorified the role of the courts, on the other hand, the reactions after 1989 completely rejected[234] the idea of justice that the special court should have done. In reality, in our opinion, these trials should be examined and studied thoroughly, in order to be able to reach pertinent conclusions, while the interpretation should consider the phases shown above, the political context and the legislative modifications. Moreover, the political disintegration, the huge social problems, the inheritance of the collaboration – all of these influenced the post-war trials. Here is the opinion of the American historian Devin O. Pendas: "Eastern European Nazi trials were thus marked by a complex web of political instrumentalization and efforts at genuine justice that can be disentangled only on a case-by-case basis – if then".[235] At the same time, like Donald Bloxham notices, there is an incongruity between the way in which these trials were organized at the national and at the international level, and especially in the manner in which crimes were understood and punished.[236] Justice often appears to be, when analyzed by the specialists who criticized its deficiencies and lacks, illusory or even absent. Moreover, the palpable results of the trials rarely met the public's great expectations. Most probably, in Romania there was no true desire of the public to convict the perpetrators. The pressure on the courts was obvious in many cases, and, at the same time, the act of justice did not manage to convince whether the target was to find out the truth and to punish the culprits or just to make a necessary action in the reconstruction of the States.

One of the great gains of the trials organized in the aftermath of the war, in both the Soviet Union and the States under German occupation or allied to the Reich, was the information and testimonies collected, which gave, for the first time, an outline of the genocidal project and of the crimes chain. In spite of all of the factual errors, of the errors in the assessment of the number of victims or in the identification of the direct perpetrators, this type of documents remains a first-hand one in the investigation of the Holocaust. The trial proved the involvement of the military authorities in the atrocities occurred in the occupied territories (the organization of ghettoes and of forced labor camps, the wearing of racial symbols, the supervision of and participation in the massacres). The courts also emphasized the involvement of the army in the conscious and

consistent violation of the international laws. For some of the Generals or high rank officers, the authorities could not identify direct evidence. Yet, the incrimination was made by establishing that the massacres/atrocities took place in their jurisdiction (eyewitnesses spoke about the major crimes occurred in the jurisdictions where they held the highest military rank and therefore the decision was entirely theirs).[237]

Arguments in favor of the utilization of these documents were also brought by Tanja Penter, who finds them important because: a) they include significant details on different places and on the life in ghettoes and camps (sometimes these sources are the only written testimonies about the existence of concentration camps); b) they include information on the profile of collaborators and their motivations; c) they express the perception and possible definition of collaborationism. The documents of the trials are not unbeatable, as they do not tell us, for instance, who was executed without a sentence, who was unjustly indicted or who was not indicted at all.[238]

The war criminals' trials represent an inestimable source of information that asks to be contextualized and completed with other sources; they offer an important perspective on the criminal legal system, as well as on the Holocaust. At this moment, when research is at its beginnings, we cannot draw very precise conclusions on the veracity of the act of justice for all Romanian trials, but as we underlined above, for each trial apart. But the Soviet sources offer important indications, even for a "grey zone", a complex phenomenon, which received little attention from the historians in general and not at all in the Romanian historiography. The declarations – by which we could discern the motivations of collaboration – should be examined very carefully. Thus, the nationalist attitudes seem to play a less important role than they were initially thought to, while pragmatism and material benefits seem to prevail. Anti-Semitism might also have an important connotation, though it was rather peripherally treated in the trials (an attitude that is more related to the Soviets' ambivalent vision after the war, with the universalization of the Holocaust in order to minimize the Jewish suffering).[239]

Like Victor Alexander Prusin noticed, in the war criminals' post-war trials no faked proofs were used because there was no need to, unlike in the Great Terror. The crimes were obvious, the perpetrators were known, the juridical support had been constructed meanwhile, and no "tricks" were necessary to make the justice system work. Like the trials in the Soviet Union, the trials in Romania played an important ideological role,

as the construction of legitimacy needed a tribune, where the messages to the domestic or foreign enemies could be sent from. The politicization of the major trials was a phenomenon that comprised all of the states under the Iron Curtain. Moreover, the trials were used by the new power (the communist parties in general) to demonstrate (especially to the foreign partners, and particularly to Moscow) that it was determined to convict the war criminals, like the conventions of the armistice established, and to hinder any domestic coalitionist attempt with the (ideological) adversaries.[240]

In spite of all the advantages that the examination of the war criminals' trials presents, there is a risk for the many pieces of the genocidal puzzle not to be ever brought out to light, in spite of the specialists' insistence. Far from being perfect, the criminal system of Nazi inspiration created the impression of a modern crime machinery, commanded from outside. A toxic experience of "making history" and a series of rationalizations/ capitalizations and rulings of the language, transformed the bureaucrats into innovators (in the crime field) and characters who can ingeniously solve problems. As Cristopher Browning shows, laws and formal rulings, all have melted, over time, into a strong opaque/tacit network of secret directives, vaguely authorized, orally communicated, with no further explanations and order; the implication invested the mere bureaucrat with power – becoming, beyond laws and clear orders, an "issue of consonance and synchronization". The implied consensus was demonstrated in many studies on local phenomena/massacres. Yet, the parameters and objectives regarding the Jews' extermination came from the centre, where the general lines of actions were drawn up.[241]

The significance of the war criminals' trials that took place in Romania is completely different from the ones in France, for instance. Unlike the trial of the "Antonescu group", Maurice Pappon's trial, the Vichy official, had an impressive audience, resulting in real debates on how France faces it own past. The French action played an important educational part and an assumed symbolic role.[242] As we have seen above, the very complicated context in which the major war criminals' trial took place in Romania, the politicization, the lack of transparency, the ideological mark, made impossible the definition of Antonescu's genocidal project. The story of the evil was only partly and unconvincingly told, because the emphasis on the war in the East, the abstractization of victims, the toxic mixture between politics and history were causes of the State organized amnesia. But under this thick crust of amnesia, an anti-Russian feeling

and nationalism developed, preserving and at the same time feeding on the idea that the trials were organized by Moscow in order to punish the Romanian people.[243]

7. Conclusions

In the end, we will present several of the conclusions of this research. We started by trying to question the relationship between justice and history, stating that our examination of the past is not a legal, but a historical analysis, with its specific sources and methods. The hearing and sentencing of the war criminals, started before the end of the world war, remained, despite some important moments like the Nuremberg trial, unfinished, and, beyond the myth, proved to be rather a failure. Beyond the official cooperation, the Allied had a deeply different understanding of the way in which justice had to be done in order to find out the truth and to punish the culprits. Thus, the Soviets applied the golden rules of popular justice, transforming the trials into judicial plays on stage, meant to serve the political regime and propaganda, while the Allies tried to offer the defendants the possibility to use their civil rights to defend freedom. Forced, in the internal and international context, to take similar measures, Romania initiated a process of denazification at least as controversial as the one that took place in the states or occupied by or allied with Nazi Germany. The Romanian officials did not have the necessary expertise or the access to the documents that were being drawn up at the time. The Soviets' pressures and interference often came up against the Bucharest officials' intention to maintain the legality of the measures of denazification.

The legislation on the war crimes was an exceptional one of Soviet inspiration, but given the extraordinary character of the facts, it required special offences and procedure of suing and sentencing. Deprived of credibility, the ordinary courts could not try such actions, and the newly created ones were quickly accused of partisanship. The main statute law, promulgated in April 1945, was finished by the communists, with many lacks, so a lot of modifications were needed in the decade to come. Yet, the initial project was created by the governments in which the communists were a minority, which proves the Romanian political leaders' intention to indict the culprits.

The war criminals' trials took place under the Soviets' pressure, the stake being that of punishing those who were guilty of the campaigns from the Russian territories. The legal proceedings brought to public light the permanent dispute between nationalists and communists. Given these aspects, the issue of the Jews' annihilation became a secondary one, most of the Romanians perceiving in these trials the Soviets' retort to those who defended their country.[244] The trials organized in groups by the two People's Tribunals and subsequently by the Courts of Appeal benefited by an unusual body of magistrates for the Romanian legal system, who sometimes managed to solve the tasks they had assumed. The procedural deficiencies resulted from the public accusers' dilettantism and from the legal competences of the new investigational bodies. Moreover, the legislation gave birth to criminal offences that had not existed, by then, in the Romanian criminal law. The culprits raised important problems of legality and constitutionality, problems that could be found, given the exceptional character of facts, in the case of most of the special court created in post-war Europe.

The collective trials in Romania took place in three distinct phases, in the span of one decade (1945-1955), the last war criminals being released in 1964. The statistics of trials show that in Romania, until the end of the '40s, between 1,500 and 2,000 persons were convicted – a small rate compared to the other European States, while the number of Romanian citizens convicted for war offences by other courts in USSR or Europe amounted to several hundreds. The procedures in the Romanian courts investigated the participation in war against the USSR, the crimes in the occupied territories, deportations and massacres.

If the first trial (the "Macici group") played a pedagogical function, the "Antonescu group" sentenced the "major criminals" in Romania, without managing to fully clarify the structural issues of the Romanian Holocaust. In general, in the trials organized in Romania, neither the defendants nor the accusers were credible in their statements, and so the suspicion of guilt of the accused was maintained; but the witnesses and the documents made the difference. Reasons for the small number of convicts compared to the other European States were not only the deficient performing of the Court and of the public accusers, but also the Soviets' interferences and lack of cooperation. Furthermore, the celerity required by the officials and the absence of procedures actually led to the violation of many legal norms, most of the procedural lacks affecting, first of all, the accused. Yet, there are some differences between the trials organized in Romania and

those organized in the USSR (for instance, the nationality of the accused, the absence of public confession, the organization of the defense). Until the end of their lives, the convicts were harshly treated by the communist regime and, with few exceptions, were regarded as dangerous.

Considered exclusively in the perspective of politicization, the function of the trials in Romania was wrongly interpreted. The shortcomings of documentation and contextualization affected the perception on the role of the Romanian special courts, which did not manage to go beyond the paradigm according to which the Soviets tried the Romanian leaders for having attacked the Soviet Union. Despite all of the demonstrable errors, the trial documents offer us many elements about the special justice and Holocaust. Whether the trials in which persons accused of war crimes were heard, served or did not serve the act of justice, as Tanja Penter wonders, is a question with a rather contradictory answer. On the one hand, because there were authentic criminals sentenced to severe punishments, while others, just as guilty, received milder punishments due to a series of palliating circumstances, and on the other hand because innocent people paid dearly the errors of the legal system. So another very important question to be asked is how many of them were convicted for political reasons and how many because of the miscarriages of justice. The flexible procedures and laws also left much freedom to the special courts.[245] Most of the specialists think now that while in Western Europe the trials were generally fair (the legislation, the legal conditions for the organization of the defense, the attention paid to the victims), in the States under Stalinization, the trials were, especially in the late '40s, politicized, and the judicial act corresponded rather to the Soviet model of justice. Between the Soviet case and the trials heard in the areas of Western occupation or in Western Europe, lies the untold story, a story with many questions, of the states of Eastern Europe (Romanian case included).

Beyond the main component – object of scientific reflection – the investigation and research of the post-war trials could also hold an important public function. Once the documents edited, serious interdisciplinary research undertaken and debates and academic polemic started, the topic might lead to a deeper self-examination process on the recent past and responsibilities, as it happened in Germany at the end of the '50s-'60s.[246] In Romania, there existed and still exists a historiographic paradox related to the subject: on the one hand, the topic did not arrest the academic attention of specialists; on the other the debate could not take place in the absence of studies. Therefore, the public included the

subject in the "taboo" chapter, remembering only a few controversial details of the "Antonescu trial" (the accusations on the war in the East, the politicization of the trial, the execution, etc.). Even among the specialists in the recent past, the references to post-war justice have often taken the form of exhaustive references.

As we have shown above, after the communist regime collapsed many of our compatriots asserted that Moscow staged these trials and tried the Romanian patriots. Our opinion is that, despite the law breaches and the procedural defects, most of the people tried and convicted, even if they were few, were authentic criminals. Unfortunately, the trial did not manage, however, to reveal but very few of the abominable facts, of the massacres or extermination actions. There are many explanations for that, and, to quote Yehuda Bauer, these trials did not manage to bring in the foreground ideology – the main cause of the Holocaust.[247] We do agree with the opinion that, though post-war trials in Romania had an obvious tendency towards politicization, they occurred in a complex political context, with a judicial support similar to that of the other special courts in Europe.

NOTES

[1] I am greatfull to Prof. Dennis Deletant who kindly read this article and made important suggestions. All eventually remaing errors are entirely of the autor's.

[2] For France, for instance, Peter Novick estimated that the number of the people killed (before and after the liberation) amounted to 10,000-15,000 persons, though the assessments go from several hundreds to 120,000 (Peter Novick, *The Resistance versus Vichy. The Purge of Collaborators in Liberated France*, Chatto & Windus, London, 1968, p. 202-208).

[3] For details, see István Deák, Jan T. Gross, Tony Judt (eds.), *Procese în Europa. Al doilea război mondial și consecințele lui*, translated by Lucian Popescu, Editura Curtea Veche, București, 2003, p. 16-17.

[4] In this paper, I used the concept of "war crimes" in a wider sense for a better fluency and coherence of the discourse, although, as will see below, the Romanian legislation defined the perpetrators during war in different ways: "war criminal", "war profiteer", "guilty for the country's disaster" and "guilty for the country's disaster by commiting war crimes". We must say that these notions, which do not exist in international law, could be used in the absence of jurisprudence and of a global legislation. The Romanian laws were conceived in the span October 1944-April 1945, with 4-10 months before the judicial explanations officially adopted by the Allies (Charter of International Military Tribunal, 8 August 1945). By the agreement signed in the capital of the United Kingdom, the offences were clearly delimitated and defined, to make possible the indictment of the individuals who had perpetrated crimes in the name of the Axis ("crimes against peace", "war crimes" and "crimes against humanity"). It is only in 1948 that the Romanian statute law integrated the categories of crimes stipulated by the London Convention.

[5] Dennis Deletant, *Aliatul uitat al lui Hitler. Ion Antonescu și regimul său. 1940-1944*, translated from English by Delia Răzdolescu, Editura Humanitas, București, 2008, p. 12-13. One of the books that were meant to (re)open the subject of the Holocaust is the volume about the pogrom of Iași, A. Karețki, M. Covaci, *Zile însîngerate la Iași (28-30 iunie 1941)*, prefaced by Nicolae Minei, under the aegis of Institutul de Studii Istorice și Social-Politice de pe lângă CC al PCR, Editura Politică, București, 1978. The authors lend credence to the idea that the pogrom was enforced by the German troops, the Legion members and soldiers who acted deliberately, with no institutional involvement of Romanian army units. Here is an excerpt from the volume: "The German wild troops were joined by isolated Romanian soldiers who, with no order and out of their own will, started to enter the houses, attics and cellars, to arrest and to rob" (p. 75). Ancel opined that one of the purposed had in view by the publication of the book was to mislead the Romanian

historians who did not have access to documents (Jean Ancel, "Pogromul de la Iași din 20 iunie 1941", in Wolfgang Benz, Brigitte Mihok, *Holocaustul la periferie. Persecutarea și nimicirea evreilor în România și Transnistria în 1940-1944*, transl. from German by Cristina Grossu-Chiriac, Editura Cartier, Chișinău, 2010, p. 64. About the event in the summer of 1941, see Jean Ancel, *Preludiu la asasinat. Pogromul de la Iași, 29 iunie 1941*, Iași, Yad Vashem, Polirom, 2005; Radu Ioanid, "The Holocaust in Romania: the Iași Pogrom of June 1941", in *Contemporary European History*, 2, 2 (1993), p. 119-148; Haiya Feder Naftalyi, *Iași Context: the Pogrom of June 1941 and its Aftermath*, University of Texas at Arlington, PhD, 1998.

[6] A few bibliographic references: Venera Teodorescu, *Activitatea primului guvern revoluționar democratic (martie 1945-octombrie 1946)*, in *Studii și materiale de istorie contemporană*, 3, 1978, p. 107-112; *Procese '46 – Sentințe '49 – Recursuri*, in *Revista 22*, no. 48, 2-8 December 1997; Ioan Opriș, *Procesul ziariștilor „naționaliști" (22 mai-4 iunie 1945)*, Editura Albatros, București, 1999; Cristina Păușan, *Justiția populară și criminalii de război*, în *Arhivele Totalitarismului*, vol. 7, nos. 1-2, 1999; Andreea Andreescu, Lucian Năstase, Andreea Varga (eds.), *Evreii din România (1945-1965)*, Centrul de Resurse Pentru Diversitate Etnoculturală, Cluj-Napoca, 2003, p. 311-325 (Central National Historical Archives, Bucharest – hereafter called CHNA, collection CC of RCP – Cancelarie, file 13/1947, f. 2-13); International Commission on the Holocaust in Romania, *Raport final*, president: Elie Wiesel, editors: Tuvia Friling, Radu Ioanid, Mihail E. Ionescu, Editura Polirom, Iași, 2005, p. 319-337; Dinu C. Giurescu (ed.), *Istoria Românilor. Vol. IX: România în anii 1940-1947*, under the aegis of the Romanian Academy, Editura Enciclopedică, București, 2008, p. 569-581 and others.

[7] The works, unequal in terms of scientific value and historical approach, that we are going to deal with in a separate paper, include documents from the trials organized by the People's Tribunals in Bucharest and Cluj. See Matatias Carp, *Sărmaș. Una din cele mai oribile crime fasciste*, preface by Lucreţiu Pătrășcanu, București, Socet et. Co, 1945; Idem, *Cartea Neagră. Fapte și documente. Suferințele evreilor din România: 1940-1944*, vol. I-III, București, Socec & Co./ Societatea Națională de Editură și Arte Geografice "Dacia Traiană", 1946-1948 [2nd ed., Editura Diogene, prefaced by PhD Alexandru Șafran, 1996] (the documents from the war criminals' trials were included in the 2nd (focusing on the Iași pogrom of June 1941) and 3rd (entitled "Transnistria") volumes; the book was planned to have four volumes, but the last one, entitled "North Transylvania", has never been published; Petre Țurlea, *Monumente non grata. Falși martiri maghiari pe pământ românesc*, Editura Bravo Press, București, 1996; *Antonescu: Mareșalul României și răsboaiele de reîntregire*, testimonies and documents edited by Josif Constantin Drăgan, București, Centrul European de Cercetări

Istorice Veneția, Fundația Europeană Drăgan, 1991; Petre Țurlea, *Ip și Trăznea. Atrocități maghiare și acțiune diplomatică românească. Studii și documente*, Editura Enciclopedică, București, 1996; Alesandru Duțu, Florica Dobre, *Drama generalilor români (1944-1964)*, Editura Enciclopedică, București, 1997; Alesandru Duțu, Florica Dobre, *Distrugerea elitei militare sub regimul ocupației sovietice în România*, vol. I: 23 August 1944 - 28 December 1946, vol. II: 1 April 1947, Institutul Național pentru Studiul Totalitarismului, București, 2000-2001; Vasile Pop (ed.), *Istoria Ardealului privită prin documente. Crime și criminali de război. 1940-1944*, Editura Alfa, Iași, 2002 and others.

[8]   We mainly have in view the volumes edited by Marcel Dumitru-Ciucă, *Procesul mareșalului Antonescu*, Saeculum, Europa Nova, București, 1995, vol I-III. Different editions of the volume *Procesul marii trădări naționale* (Editura Mihai Eminescu, București, 1946) were published after 1990 with or without critical apparatus.

[9]   Ioan Opriș, *op. cit.*

[10]   One of the notable exceptions was Matatias Carp, who used many documents from the war criminals' trials in his book *Cartea Neagră*. Unfortunately, immediately after publication, the volumes were sent to the special collections of libraries, being prohibited to the public.

[11]   Adrian Cioflâncă, "«Gramatica disculpării» în istoriografia comunistă. Distorsionarea istoriei Holocaustului în timpul regimului Ceaușescu", in *Anuarul Institutului de Istorie "A.D.Xenopol"*, tom XLII, 2005, p. 627-644 (a similar variant was published in the *Final Report* of the International Commission on the Holocaust in Romania, ed. cit., p. 341-354).

[12]   *Cartea Neagră*, prohibited in the Soviet Union in 1948, subsequently published in the West, was published in an abbreviated form in Romania too: I. Ehrenburg, V. Grosman, Lew Ozerow, Vl. Lidin, *Cartea neagră asupra uciderilor mișelești ale evreilor de către fasciștii germani în timpul războiului de la 1941-1945 în regiunile ocupate din Uniunea Sovietică și în lagărele de exterminare de pe teritoriul Poloniei*, I, Editura Institutului Român de Documentare, București, 1946. The whole story of *Cartea Neagră* in *The Unknown Black Book. The Holocaust in the German-Occupied Soviet Territories*, edited by Joshua Rubenstein and Ilya Altman, introductions by Yitzhak Arad, Ilya Altman, and Joshua Rubenstein, translated by Cristopher Morris and Joshua Rubenstein, published in association with the United States Holocaust Memorial Museum, Indiana University Press, Bloomington and Indianapolis, 2010, p. xix-xxxix. The book is particularly important because it was edited immediately after the war ended, most of the interviews being taken by the writers Ilya Ehrenburg and Vasily Grossman in different languages (Russian, Yiddish, and Ukrainian).

[13]   John Klier, "The Holocaust and the Soviet Union", in Dan Stone (ed.), *The Historiography of the Holocaust*, Palgrave Macmillan, New York, 2004, p.

276-295; Zvi Gitelman, "Soviet Reactions to the Holocaust, 1945-1991", in Lucjan Dobroszycki and Jeffrey S. Gurok, *The Holocaust in the Soviet Union. Studies and Sources on the Destruction of the Jews in the Nazi-Occupied Territories of the USSR, 1941-1945*, with a foreword by Richard Pipes, M.E. Sharpe, Armonk, New York-London, 1993, p. 3-27; see also the studies of Lukas Hirszowicz, "The Holocaust in the Soviet Mirror", in *Ibidem*, p. 29-59; William Korey, "A Monument Over Babi Yar?", in *Ibidem*, p. 61-74.

[14] Adrian Cioflâncă, *op. cit.*, p. 636.

[15] See, for instance, the papers published by the Center for Studies and Research in History and Military Theory, directed by Ilie Ceauşescu, brother of the secretary-general of the Romanian Communist Party (RCP). The volume edited by Mihai Fătu, Mircea Muşat (eds.), *Teroarea horthysto-fascistă în nord-vestul României: septembrie 1940-octombrie 1944* (Bucharest, 1985) is one example in this direction; the volume was also published in English: Mihai Fătu, Mircea Muşat (eds.), *Northyst-Fascist Terror in Northwestern Romania: September 1940-October 1944*, Bucharest, 1986. Among the authors and collaborators to the volume, there were: Ion Ardeleanu, Gheorghe Bodea, Mihai Fătu, Oliver Lustig, Mircea Muşat, Ludovic Vajda, Vasile Armina, Vasile Bobocescu, Ion Calafeteanu, Ladislau Fodor, Olimpiu Matichescu, Ion Pătroiu, Gheorghe Unc. The editors justified the publication of the volume, besides the ordinary need to learn what happened in the period in question, by warning that "hostile elements, impregnated with revenge, revisionist ideas, defected from the P.R Hungary and living in different western countries, are spending their time falsifying the truth about the historical rights of the Romanian people in Transylvania" (p. VI).

[16] A person who was close to dictator Nicolae Ceauşescu, Iosif Constantin Drăgan, settled down in Italy, sympathizer of the Legionary Movement, published, in obvious agreement with the policy of the regime of Bucharest, four volumes of documents: Iosif Constantin Drăgan (ed.), *Antonescu. Mareşalul României şi războaiele de reîntregire*, vol. I-IV, Editura Nagard, Veneţia, 1986-1990. After 1990, Drăgan continued his revisionist initiative (see *Antonescu: Mareşalul României şi răsboaiele de reîntregire*, testimonies and documents edited by Iosif Constantin Drăgan, ed.cit.).

[17] For a review of the field literature, see the excellent article written by the American historian Devin O. Pendas, "Seeking Justice, Finding Law: Nazi Trials in Postwar Europe", in *The Journal of Modern History*, 81 (June 2009), p. 347-368.

[18] Donald Bloxham, *Genocide on Trial. War Crimes Trials and the Formation of Holocaust History and Memory*, Oxford University Press, 2001.

[19] Michael R. Marrus, "The Holocaust at Nuremberg", in *Yad-Vashem Studies*, vol. XXVI, Jerusalem 1998, p. 5-41.

[20] Patricia Heberer, Jürgen Matthäus (eds.), *Atrocities on Trial. Historical Perspectives on the Politics of Prosecuting War Crimes*, published in

association with the United States Holocaust Memorial Museum, University of Nebraska, Lincoln, 2008, p. xiii, xx-xxi; Devin O. Pendas, *op. cit.*, p. 349-351.

21   The idea of this preamble came from Adrian Cioflâncă's article "Istorie și justiție. Un model german pentru «procesul comunismului»", in *Caietele Echinox. Vol 13: Gulag și Holocaust*, Cluj, 2007, p. 121-13.

22   Charles Maier, "Doing History, Doing Justice: The Narrative of the Historian and of the Truth Commission", in Robert I. Rotberg and Dennis Thompson, *The Morality of Truth Commissions*, Princeton University Press, Princeton and Oxford, 2000, p. 269.

23   Maurice Pappon was a high ranking official of the Vichy regime, and in this capacity he authorized the imprisonment and deportation of a big number of Jews. Subsequently, Pappon was Police prefect in Paris, under Charles de Gaulle and Finance minister under Giscard d'Estaing. For his actions, he was sentenced, in 1998, to 20 years in prison (see Richard J. Glosan, *The Pappon Affair: Memory and Justice on Trial*, translations by Lucy B. Golsan and Richard J. Golsan, Routlege, New York-London, 2000).

24   Henry Rousso, *The Haunting Past: History, Memory and Justice in Contemporary France*, Philadelphia, University of Pennsylvania Press, 2002.

25   Nancy Wood, "Memory on Trial in Contemporary France: The Case of Maurice Papon", in *History & Memory*, no. 11/1999, p. 41-76.

26   Richard Evans, "History, Memory and the Law: The Historian as Expert Witness", in *History and Theory*, no. 41/2002, p. 326-345; see also "Istorie și justiție. Un model german pentru «procesul comunismului»", ed. cit.

27   Mark Osiel, *Mass Atrocity, Collective Memory and the Law*, Transaction Publishers, New Brunswick, New Jersey, 1997, p. 84.

28   Devin O. Pendas, *op. cit.*, p. 367.

29   Norbert Ehrenfreund, *The Nuremberg Legacy: How the Nazi Crimes Trials Changed the Course of History*, Palgrave Macmillan, New York, 2007, p. 31.

30   *Apud* Mark Osiel, *op. cit.*, p. 84.

31   Charles Maier, *op. cit.*, p. 269-270.

32   Carlo Ginzburg, *The Judge and the Historian: Marginal Notes on a Late-Twentieth-Century Miscarriage of Justice*, Verso, New York, 1999; Idem, "Checking the Evidence: The Judge and the Historian", in *Critical Inquiry*, vol. 18, no. 1/1991, p. 79-92; Donald Reid, "The Historian and the Judges", in *Radical History Review*, No. 80 (spring 2001), p. 135-148.

33   *Apud* Carlo Ginzburg, "Checking the Evidence: The Judge and the Historian", p. 91.

34   Erich Haberer, "History and Justice: Paradigms of the Prosecution of Nazi Crimes", in *Holocaust and Genocide Studies*, vol. 19, no. 3/2005, p. 487-519.

[35]   Erich Haberer, *op. cit.*; Donald Bloxham, "From Streicher to Sawoniuk: the Holocaust in the Courtroom", in Dan Stone (ed.), *op. cit.*, p. 397-419.

[36]   Zentrale Stelle der Landesjustizverwaltung zur Aufklärung nationalsozialistischer Verbrechen.

[37]   Rebecca Wittmann, *Beyond Justice: The Auschwitz Trial*, Harvard University Press, Cambridge, 2005, p. 31.

[38]   About the Auschwitz trial, see *Ibidem*, as well as Devin O. Pendas, *The Frankfurt Auschwitz Trial, 1963-1965: Genocide, History, and the Limits of the Law*, Cambridge, Cambridge University Press, 2006.

[39]   Rebecca Wittmann, *op. cit.*, p. 3.

[40]   Deborah Lipstadt, *History on Trial. My Day in Court with David Irving*, Harper Collins Publishers, New York, 2005; D.D. Guttenplan, *The Holocaust on Trial*, W.W.Norton & Company, New York-London, 2001.

[41]   The British historian David Irving is a good speaker of German; he researched, for three decades, according to his own declarations, the German, British and American archives. He has never been the holder of a diploma (he attended, for several years, the courses of London University, but has never graduated), but it did not stop him from writing over 30 books on controversial historical topics. His notoriousness rose to such an extent that in the '80s-'90s he became an appreciated and well sold author (in the 1960s-1980s, David Irving published his books at successful publishing houses, including Penguin Books and Macmillan). He wrote biographies of the Nazi leaders and approached controversial war topics. He maintained that Hitler did not know, until the end of 1943, about the Jews' extermination, which was the result of his subordinates' anti-Semitism; he wrote that Winston Churchill would have ordered the assassination of the Polish General Władysław Sirkoski or that the bombing of the German city of Dresda resulted in more victims than the figures circulated in historiography. Another book, *Uprising!*, labelled the Hungarian revolution of 1956 as an anti-Jewish revolution, given that the communist regime would have been directed by the Jews. He even opined about Anna Frank's diary saying that it was a fake. He wrote a book on the Nuremberg trial (David Irving, *Nuremberg: The Last Battle*, Focal Point Publications, London, 1999). He built his career availing himself of the courtrooms sometimes, looking for notoriousness by different actions brought against editors or authors that he accused of calumny. His legal problems appeared in the '80s, when he was arrested and expelled from Austria, with no right to enter Germany, Canada and Australia. He prided himself on the exhaustive study of archive documents and has always attacked the historians, on different occasions, saying that they would copy each other's books, while he was the only specialist in the Nazi regime that went right to the sources. However, Irving explicitly stated sometimes and implied many other times that not even his historical method is an infallible one, given that the selection of documents is a

subjective choice. Generally, the critics who pronounced themselves on his works had quite diverse opinions. Some specialists praised him for the documentation and interpretation, others accused him of speculations, ill will or misunderstanding of the historical facts. His conclusions have always seemed to be on the edge between sensationalism and serious researches, being pretty often regarded as tendentious and irresponsible. Over time, specialists called the attention on the factual mistakes or the way in which sources were quoted (Richard Evans, *Lying about Hitler*, Basic Books, New York, 2001, p. XI-XIV, p. 1-39).

42   Deborah Lipstadt, *Denying the Holocaust: The Growing Assault on Truth and Memory*, New York: Plume, 1993.

43   Richard Evans, *Lying about Hitler*, ed. cit., p. 22-28, 35-37.

44   "Judgment in the case of David John Cadwell Irving and Penguin Books Limited & Deborah E. Lipstadat", Royal Courts of Justice, 12 April 2000.

45   Richard Evans, *Lying about Hitler*, ed. cit., p. 37.

46   War crimes were the subject of several documents and declarations of the officials of the allied governments in the period 1941-1943. The Anglo-American Declaration of 25 October 1941 was followed by the Soviet one (25 November 1941) and the one of 13 January 1942. At the beginning of the next year, in London, the allied government decided on the initiative to create an investigation commission for the identification of the war crime culprits.

47   Raul Hilberg, *Exterminarea evreilor din Europa*, vol. II, tranl. from French and English by Alexandru and Magdalena Boiangiu, Editura Hasefer, București, 1997, p. 175-217; Yves Ternon, *Statul criminal. Genocidurile secolului XX*, translated by Ovidiu Pecican, Liliana Popovici, Iuliana Doboși, edited and with a preface by Ovidiu Pecican, Editura Institutul European, Iași, 2002, p. 33-42. For the full text of the Declaration of London, see Michael R. Marrus, *The Nuremberg War Crimes Trial 1945-46. A Documentary History*, Bedford Books, Boston & New York, 1997, p. 51-57.

48   Telford Taylor, *Nuremberg and Vietnam: An American Tragedy*, Quadrangle Books, Chicago, 1970, p. 14.

49   Michael Marrus, "The Holocaust at Nuremberg", ed. cit.

50   Several titles in this field: Joe J. Heydecker, Johannes Leeb, *Le Procès de Nuremberg*, Buchet-Chastel-Correa, Paris, 1959 (last Romanian version: *Procesul de la Nürnberg*, transl. by Adela Motoc and Ileana Bărbat-Sgarbură, prefaced by Ioan Grigorescu, Editura Orizonturi, București, 2006); Eugene Davidson, *The Trial of the Germans: Nuremberg 1945-1946*, Macmillan, New York, 1966; Bradley F. Smith, *Reaching Judgement at Nuremberg*, Basic Books, New York, 1977; Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir*, Knopf, New York, 1992; Whitney R. Harris, *Tyranny on Trial: The Trial of the Major German War Criminals at the End of World War II at Nuremberg, Germany, 1945-1946*, Southern Methodist

University Press, Dallas, 1999; Robert E. Cannot, *Justice at Nuremberg*, New York & Graff Publishers, New York, 2000; Lawrence Douglas, *The Memory of Judgement. Making Law and History in the Trials of the Holocaust*, Yale University Press, New Haven, London, 2001; Cristoph Burchard, "The Nuremberg Trial and Its Impact in Germany", in *Journal of International Criminal Justice*, 4/2006, p. 800-829; Eugene Davidson, Patricia Heberer, Jürgen Matthäus (eds.), *op. cit.*

[51] Arieh J. Kochavi, *Prelude to Nuremberg: Allied War Crimes Policy and the Question of Punishment*, University of North Carolina Press, Chapel Hill and London, 1998, p. 107-110; Priscilla Dale Jones, "Trials of war criminals: general survey", in Israel Gutman (ed.), *Encyclopaedia of the Holocaust*, vol. 4, Macmillan Publishing Company, New York, 1989, p. 1489.

[52] A few examples in this direction: Sheldon Glueck, *War Criminals, Their Prosecution and Punishment*, New York: Knopf, 1944; Donald R. Taft, "Punishment of War Criminals", in *American Sociological Review*, vol. 11, no. 4/1946, p. 439-444; Quincy Wright, "War Criminals", in *The American Journal of International Law*, vol. 39, no. 2/1945, p. 257-285.

[53] Ilya Bourtman, "«Blood for Blood, Death for Death»: The Soviet Military Tribunal in Krasnodar, 1943", in *Holocaust and Genocide Studies*, vol. 22, no. 2, fall 2008, p. 245-265. See also *Procesul judiciar în afacerea bestialităților săvârșite de cotropitorii germano-fasciști și de complicii lor pe teritoriul orașului Krasnodar și al ținutului Krasnodar în perioada ocupației lor temporare (14-17 iulie 1943)*, Editura în Limbi Străine, Moscova, 1943.

[54] Donald Bloxham, *Genocide on Trial*, ed. cit., p. 3.

[55] We mention here the trial of the personnel of Bergen-Belsen camp (October 7, in front of a British military court), the trial of the doctors accused of having killed, by lethal injections, 45 Poles and Russians (October 8), the trial of 40 persons accused of involvement in the thousands of murders at Dachau (November 16), the trial of 44 former SS members (11 of them received the capital punishment) for crimes at Bergen-Belsen and Auschwitz (November 17, in front of a British military court) (Richard Bessel, *Germany 1945: From War to Peace*, Simon & Schuster UK Ltd, 2009, p. 206-208; Giles MacDonogh, *After the Reich. The Brutal History of the Allied Occupation*, Basic Books, New York, 2007, p. 459-461).

[56] For the whole debate at the end of the war on this issue, see the particularly interesting volume signed by Arieh J. Kochavi, *op. cit.*

[57] The Americans and the British, together with the other exile governments, went on the variant United Nations War Crimes Commission, while the URSS preferred its own body, Soviet Extraordinary State Commission.

[58] See Patricia Heberer, "The American Military Commission Trials of 1945", in Nathan Stoltzfus and Henry Friedlander, *Nazi Crimes and the Law*, Cambridge University Press, 2008, p. 43-45; Arieh J. Kochavi, *op. cit.*, p. 107.

59 *Monitorul Oficial*, part I, yr. CXII, no. 219, vineri, 22 septembrie 1944, p. 6373.

60 Radolph L. Braham, "The National Trials Relating to the Holocaust in Hungary", in *Lessons and Legacies IV. Reflections on Religion, Justice, Sexuality, and Genocide*, edited and with an introduction by Larry V. Thompson, Northwestern University Press, Evanston – Illinois, 2003, p. 130-131; Peter Kenez, *Hungary from the Nazis to the Soviets: The Establishment of the Communist Regime in Hungary, 1944–1948*, Cambridge University Press, New York, 2006, p. 142 (note 4).

61 George Ginsburgs, *Moscow's Road to Nuremberg. The Soviet Background to the Trial*, Martinus Nijhoff Publishers, The Hague/Boston/London, 1996, p. 26.

62 One of the best contemporary historians, Tony Judt, posed these judicial dilemmas this way: "…all that newly re-constituted institutions of government must take upon themselves the task of punishing the guilty. Here the problems began. What was a 'collaborator'? With whom had they collaborated and to what end? Beyond straightforward cases of murder or theft, of what were collaborators' guilty? Someone had to pay for the suffering of the nation, but how was that suffering to be defined and who could be assigned responsibility for it? The shape of these conundrums varied from country to country but the general dilemma was a common one: there was no precedent for the European experience of the preceding six years" (Tony Judt, *Postwar: A History of Europe Since 1945*, Pimlico, London, 2007, p. 44).

63 Lucrețiu Pătrășcanu, Romanian minister of Justice in 1945, regarded the old courts (especially the military ones) as "compromised". His opinion was shared by the Romanian political leader Iuliu Maniu, president of the National Peasant Party (in the context of the debates in the Council of Ministers on the Law for the purging of the State apparatus); the latter declared in the Executive meeting on 26 September 1944 that "This is the only way to do it now too [eliminating from the system those persons who had administered justice in the span 1938-1944, A.M. n.], because we cannot appoint judges those who are now brought to court. This is an absolutely impractical procedure" (Central Historical National Archives, collection Presidency of the Council of Ministers – Records, file 3/1945, f. 438-439; file 2/1944, f. 142).

64 See István Deák, J. T. Gross, T. Judt (eds.), *op. cit.*, p. 25.

65 Tony Judt, *op. cit.*, p. 58.

66 "The Law-Decree no. 641 for the abrogation of the anti-Jewish legal measures" (*Monitorul Oficial*, yr. CXII – no. 294, 19 decembrie 1944, p. 8233-8239); "The Law-Decree no. 58 for the reinstatement of the Jewish chemists and the placing of the chemists who were refugees" (*Monitorul Oficial*, yr. CXII, no. 20, 26 ianuarie 1945, p. 502-504).

[67]   CHNA, collection Ministry of the Interior – Miscellanea, file 29/1944, f. 19-39; *Monitorul Oficial*, part I, yr. CXII, no. 219, vineri, 22 septembrie 1944, p. 6373.

[68]   Law no. 50 / 21 January 1945 for the identification and punishing of war criminals and profiteers; Law no. 51 / 21 January 1945 for the identification and punishing of war criminals and war profiteers; Law no. 312 / 24 April 1945 for the pursuing and punishing of the persons guilty for the country's disaster or for war crimes; Law no. 291 / 18 August 1947 for the identification and punishing of the culprits of war crimes or crimes against peace and humanity; Decree no. 207 / 20 August 1948 for the modification of articles 1, 2, 3 and 7 and the abrogation of article 12 of Law no. 291 / 18 August 1947 for the identification and punishing of the culprits of war crimes or crimes against peace and humanity.

[69]   Law no. 535 / 12 July 1945 to amend article 14 in Law no. 312/1945; Law no. 647 / 14 August 1945 regarding the administration and liquidation of goods confiscated on the ground of Law no. 312/1945; Law no. 61 / 8 February 1946 to amend Law no. 312/1945; Law no. 455 / 22 June 1946 for the investigation and trying of offences under Law no. 312/1945; Law no. 599 / 3 August 1946 for the expansion of enforcement of Law 535/1945; Law no. 647 / August 1946 for the modification of Law no. 647/1945; Decree no. 6 / 23 April 1948 for the modification of art. 5 and 6 of Law no. 291/1947; Decree no. 39 / 27 May 1948, for the modification of art. 5 from Law 291/1947.

[70]   The decree abrogated Law no. 291/1947 and Decree no. 207/1948.

[71]   The Decree also appeared in the sense of pardoning persons sentenced for political crimes (crimes against the State).

[72]   Buletinul Oficial al Marii Adunări Naționale a Republicii Populare Romîne, no. 27, 24 septembrie 1955, p. 261-262.

[73]   Grigore Rîpeanu, "Imprescriptibilitatea infracțiunilor contra păcii și omenirii", in *Analele Universității București – Științe Juridice*, yr. XIX, no. 1/1970, p. 79-89.

[74]   For instance, in Law no. 293/1945 for the reorganization of the Romanian Commission for the Enforcement of the Armistice, the enforcement of paragraph 14 (the arrest and trying of persons accused of war crimes) of the Armistice Convention was the task of the political group of the Commission, and not of the juridical one (*Monitorul Oficial*, yr. CXIII, no. 90, 18 aprilie 1945, p. 3211).

[75]   Otto Kirchheimer, *Political Justice: The Use of Legal Procedure for Political Ends*, Princeton University Press, Pinceton, New Jersey, 1961, p. 6.

[76]   CHNA, collection Presidency of the Council of Ministers – records, file 3/1944, f. 134.

[77]   Henry Rousso, *La collaboration*, MA Editions, Paris, 1997, p. 7-9.

[78] The Law-Decree no. 18, "on the establishment of commissions for the provisory watch and selection of the members and sympathizers of the former Legionary Movement" (*Monitorul Oficial*, yr. CXIII, no. 8, 11 ianuarie 1945).

[79] CHNA, collection Ministry of the Interior – Miscellanea, file 33/1943, vol I, f. 283, 298-299, ; vol. II, f. 6, 72, 75, 80-81, 109; collection Presidency of the Council of Ministers – the Military cabinet [Constantin] Sănătescu and [Nicoale] Rădescu, file 1429, f. 51-52; Ioan Chiper, Florin Constantiniu, Adrian Pop (eds.), *Sovietizarea României. Percepții anglo-americane (1944-1947)*, Editura Iconica, București, 1993, p. 105-106.

[80] CHNA, collection Ministry of the Interior – Miscellanea, file 29/1944, f. 19-21, 28-39.

[81] The journal of the Council of Minister by which the arrest of the first group of war criminals was decided, states (article 2) that the Government, by its decision, "ratifies all freedom depriving measures provisionally taken before 29 January 1945 against the persons mentioned in the present journal" (*Monitorul Oficial*, yr. CXIII, no. 38, 16 februarie 1945, p. 1105-1107).

[82] CHNA, collection the Presidency of the Council of Ministers – Records, file 3/1944, f. 134.

[83] *Ibidem*, collection Ministry of the Interior – Miscellanea, file 29/1944, f. 33; collection the Presidency of the Council of Ministers – Records, file 2/1944, f. 196-197.

[84] *Ibidem*, collection Presidency of the Council of Ministers – the Military cabinet [Constantin] Sănătescu and [Nicoale] Rădescu, file 1429, f. 51-67.

[85] *Ibidem*, collection Ministry of Justice – Judicial office, file 98/1944, f. 80.

[86] Here is the argument that the Soviets offered to the Romanian Government for the arrest of Constantin Z.Vasiliu (Secretary of State in the Ministry of the Interior in the span January 1942 - August 1944): "The substitute of the minister of the Interior in Romania and chief of the Gendarmerie. Chief of the so-called Committee of trophies, which were stolen from the cultural institutions of the city of Odessa" (*Ibidem*, collection of the Presidency of the Council of Ministers – Records, file 5/1944, f. 64).

[87] *Monitorul Oficial*, yr. CXII – no. 296, 14 noiembrie 1944, p. 8299 (included in Law no. 651 "for the punishment of the culprits of sabotage on the enforcement of the armistice convention").

[88] *Monitorul Oficial*, yr. CXII – no. 264, 14 noiembrie 1944, p. 7353.

[89] Decision no. 60.580 / 20 December 1945 (*Monitorul Oficial*, yr. CXIV, no. 2, 2 ianuarie 1946, p. 14).

[90] CHNA, collection Presidency of the Council of Ministers – Records, file 5/1944, f. 62-67.

[91] Vladimir Tismăneanu, *Fantoma lui Gheorghiu-Dej*, preface by Mircea Mihăieş, transl. by Mircea Mihăieş, Alina Ghimpu, Ioana Ploeşteanu, Diana Roţcu, Laura Sion, Editura Univers, Bucureşti, 1995, p. 26-27.

[92] Marin Bucur, "'Epuraţia' – purificarea politică a societăţii civile româneşti – clauză a armistiţiului şi pretext al declanşării terorii staliniste", in *Revista istorică (de istorie)*, 1993, 4, no. 7-8, p. 677.

[93] CHNA, collection Presidency of the Council of Ministers – Records, file 2/1944, f. 148.

[94] *Ibidem*, file 5/1944, f. 71-72.

[95] *Ibidem*, f. 62, 67.

[96] *Ibidem*, file 3/1945, f. 321.

[97] Michael Mann, "Who are the Perpetrators of Genocide « Ordinary Men » or « Real Nazi »? Results from Fifteen Hundred Biographies", in *Holocaust and Genocide Studies*, vol. 14, no. 3, 2000, p. 337-338.

[98] CHNA, collection Presidency of the Council of Ministers – Records, file 5/1944, f. 69, 71.

[99] Virgil Stănescu was born on 23 February 1903 at Văleni (county of Muscel, Romania). A Brigadier General, Stănescu held the function of sub-secretary of State for order and security with the Ministry of the Interior during the Constantin Sănătescu (II), Nicoale Rădescu and Petru Groza cabinets. He was replaced on 2 June 1945. In the 1946 elections, he run for and got a position of Deputy of Dâmboviţa and Bucharest with the Block of Democratic Parties; in 1948 he occupies the position of secretary general of PNP (Gheorghe Crişan, *Piramida puterii: oameni politici şi de stat, generali şi ierarhi din România (23 august 1944-22 decembrie 1989)*, vol. I, argument by Gheorghe Buzatu, 2nd ed., revised and expanded, Editura Pro Historia, Bucureşti, 2004, p. 329).

[100] CHNA, collection the Presidency of the Council of Ministers – Records, file 5/1944, f. 62, 67.

[101] *Ibidem*, 68-69.

[102] The Government held, in the span August 1944-November 1946 the legislative power as well, issuing law-decrees that were promulgated by being sanctioned by the Sovereign, as Decree 1627/1 September 1944 stipulated (*Monitorul Oficial*, yr. CXII – no. 202, 2 septembrie 1944, p. 6232).

[103] CHNA, collection the Presidency of the Council of Ministers – the Intelligence, file 47/1944, f. 77-87, 90, 93, 99, 101-105, 147-178, 201, 287-298; file 49/1944, f. 158, 162-164; file 52/1944, f. 88, 97, 105-106, 128, 131, 188; file 61/1944, f. 379-381.

[104] Alexander Victor Prusin, "Poland's Nuremberg: The Seven Court Cases of the Supreme National Tribunal, 1946-1948", in *Holocaust and Genocide Studies*, vol. 24, No. 1, 2010, p. 1-25.

[105] Radolph Braham, *op. cit.*, p. 131, 133.

[106] Benjamin Frommer, *National Cleansing. Retribution against Nazi Collaborators in Postwar Czechoslovakia*, Cambridge University Press, Cambridge, 2005, p. 3, 7.

[107] CHNA, collection the Presidency of the Council of Ministers – Records, file 1/1944, f. 6-9.

[108] *Ibidem*, collection Legislative Council, file 469/1944, f. 1-11.

[109] *Monitorul Oficial*, yr. CXIII, no. 109, 17 mai 1945, p. 3993.

[110] *Monitorul Oficial*, yr. CXIII, no. 153-154, 10-11 iulie 1945, p. 5836, 5855.

[111] The Minister of Justice argued, at the time, for the necessity to establish several courts for the "purging to be as complete and quick as possible". The court of Iași should have, most likely, tried the perpetrators of the pogrom of June 1941, and the court of Galați the authors of the massacre occurred there in June 1940 (Lucrețiu Pătrășcanu, *Scrieri, articole, cuvântări. 1944-1947*, Editura Politică, București, 1983, p. 77).

[112] *Monitorul Oficial*, part I, no. 189, 18 august 1947, p. 7423-7425.

[113] Andreea Andreescu, Lucian Năstase, Andreea Varga (eds.), *op. cit.*, p. 314.

[114] CHNA, collection CC of RCP – Administrative-Political Department, file 5/1947, ff. 1-4. We are grateful to our colleague Mihai Burcea, who kindly made this document available for us.

[115] *Ibidem*, collection the Presidency of the Council of Minister – Records, file 3/1944, f. 54, 91-92.

[116] *Ibidem*, file 3/1945, f. 427-440 (Meeting of the Council of Ministers on 31 March 1945, during which the law-decree regarding the punishment of war crimes passed).

[117] Peter H. Solomon, "Courts and Judges in Authoritarian Regimes", in *World Politics*, volume 60, Number 1, October 2007, p. 125-126.

[118] Lucrețiu Pătrășcanu, *op. cit.*, p. 76.

[119] For the same topic, see also: *Comunicatul Comisiei Extraordinare de Stat pentru Stabilirea și Cercetarea Crimelor comise de Cotropitorii Germano-Fasciști*, Editura Partidului Comunist Român, București, 1945; *Procesul judiciar în afacerea bestialităților săvârșite de cotropitorii germano-fasciști și de complicii lor pe teritoriul orașului Krasnodar și al ținutului Krasnodar*, ed. cit.; *Procesul bestialităților săvârșite de cotropitorii fasciști germani în orașul și regiunea Harcov, căzute sub vremelnică ocupație (15-18 decembrie 1943)*, Editura în Limbi Străine, Moscova, 1944.

[120] Kiril Feferman, "Soviet investigation of Nazi crimes in the USSR: documenting the Holocaust", in *Journal of Genocide Research*, 5(4)/2003, p. 587-602.

[121] Marina Sorokina, "Toward a History of the Investigation of Nazi Crimes in the USSR", in *Kritika: Explorations in Russian and Eurasian History* 6, 4 (Fall 2005), p. 797-831.

[122]   See Arkadi Vaksberg, *The Prosecutor and the Prey: Vyshinsky and the 1930's Moscow Show Trials*, translated from Russian by Jan Butler, Weidenfeld and Nicolson, London, 1990.

[123]   According to Burton Berry, Andrei Vyshinsky said, in his meeting with King Michael on 28 February 1945, that General Rădescu protects the fascists. A few days later, in another discussion between the American official and Vyshinsky, the latter emphasized that one of the new Cabinet's tasks was to "fight fascism" (Ioan Chiper, Florin Constantiniu, Adrian Pop, *Sovietizarea României*, ed. cit., p. 113, 118).

[124]   Marina Sorokina, *op. cit.*, p. 826-829.

[125]   Ilya Bourtman, *op. cit.*, p. 253-254; Alexander Victor Prusin, "«Fascist Criminals to the Gallows!» The Holocaust and Soviet War Crimes Trials, December 1945-February 1946", in *Holocaust and Genocide Studies*, no. 17/2003, p. 15-16.

[126]   United States Holocaust Memorial Museum, Washington DC – hereafter called USHMM, RG-25.004M, Rola 20, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 8], f. 77.

[127]   *Monitorul Oficial*, yr. CXIII, no. 108, 16 mai 1945, p. 3958; no. 126, 6 iunie 1945, p. 4711.

[128]   CHNA, collection the Presidency of the Council of Ministers – Records, 3/1945, f. 427-440 (the meeting of the Council of Minister on 31 March 1945, during which the law-decree regarding the punishment of war crimes passed).

[129]   *Monitorul Oficial*, yr. CXIII, no. 101, 3 mai 1945, p. 3655; no. 109, 17 mai 1945, p. 3993; no. 155, 12 iulie 1945, p. 5921; yr. CXIV, no. 34, 9 februarie 1946, p. 991; no. 144, 25 iunie 1946, p. 6539; no. 145, 26 iunie 1946, p. 6585.

[130]   CHNA, collection CC of RCP – Administrative-Political Department, file 8/1947, f. 16-18. We are grateful to our colleague Mihai Burcea, who kindly made this document available for us.

[131]   CHNA, collection CC of RCP – Administrative-Political Department, file 73/1945, f. 5. We are grateful to our colleague Mihai Burcea, who kindly made this document available for us.

[132]   *Ibidem*, ff. 4-5, 7.

[133]   CHNA, collection CC of RCP – Administrative-Political Department, file 5/1947, f. 1-4.

[134]   *Monitorul Oficial*, yr. CXIII, no. 138, 21 iunie 1945, p. 5195.

[135]   The son of Adam and of Iulia (born Zierhoffer), Alexandru Voitinovici was born on 6 August 1915, at Paşcani, Romania. According to a caricaturist of the period, Godell, the future chief prosecutor of SRR was the son of a very famous confectioner in Iaşi who had his laboratory in Piaţa Unirii (for details, see Godell, *Viaţă de caricaturist: ziua vesel, noaptea vesel, nicicând trist…*, Editura Sirius, Bucureşti, 1991). In 1933, Voitinovici graduated the High

school within the Pedagogical Seminary in Iași; in the span 1933-1937, he attended the courses of the Faculty of Law of the University of Iași, working as a lawyer, and one year after graduation he was admitted in the Bench as a judge, and, starting with 1942, as a prosecutor. In 1945, he was appointed chairman of the People's Tribunal in Bucharest. Gheorghe Zane, who was Al. Voitinovici's teacher at Iași, describes him in his memoirs as a hard-working young man, who did not welcome very enthusiastically the new dignity. His friendship with Lucrețiu Pătrășcanu in 1946 seems to have helped to his appointment as chairman of the People's Tribunal. Voitinovici lived, in 1945, in an apartment building in Piața Amzei in Bucharest (Gheorghe Zane, *Memorii: 1939-1974*, Editura Expert, no place indicated, 1997, p. 120). In the span 1947-1948, Voitinovici occupied different leading positions in the ministry of Foreign Affairs and in the Ministry of Justice. He was general prosecutor of Romania between 1948-1952, and then he was appointed (1953-1954) prime-deputy of the general prosecutor. The functions in the Bench went on, to the one of chairman of the Supreme Court (1954-1967) and president of the College of jurisdiction and of the public ministry with the Higher Court of Audit (1973-1977). Member of RCP and then of the Central Council of the Association of Jurists in the Socialist Republic of Romania, Voitinovici was awarded many decorations for his activity. Under the pseudonym of Al. Voitin, Voitinovici published different literary creations. At 19 (1934), he published the first volume of poetry, as well as articles in different magazines like *Lumea*, *Iașul*, *Cuvânt liber*, *Manifest*, *Clopotul*, *Adevărul literar și artistic*, etc. He participated at Iași, together with other intellectuals, in the circle and magazine meetings of *Însemnări ieșene* (1936-1940). It is from there, says Vasile Mârza, that he was later recruited in the party (CHNA, collection CC of RCP – Personnel, file M/1269, f. 136-137). In the'60s-'70s, he published several plays, among which the trilogy "Oameni în luptă", "Procesul Horia", "Judecata focului", „Avram Iancu sau calvarul biruinței", as well novels, volumes of poetry or memoirs. In the last years of his life he retired from public life, being marginalized by Ceaușescu's regime for his affiliation to Dej' guard. Alexandru Voitinovici died on 1/5[?] September 1986 (the obituary of the former chairman of the People's Tribunal in Bucharest was made by the Central Council of the Association of Jurists in the Socialist Republic of Romania, "Alexandru Voitinovici", in *Revista Română de Drept*, 1986; Mircea Duțu, *Istoria Înaltei Curți de Casație și Justiție*, Editura Economică, București, 2007, p. 422).

[136] CHNA, collection State Council, file 9/1955, f. 56-61. We are grateful to our colleague, Mihai Burcea, who kindly made this document available to us.

[137] Andreea Andreescu, Lucian Năstase, Andreea Varga (eds.), *op. cit.*, p. 323, n. 8.

138   See, for instance, the case Oconel Cireş, former prime president of the High Court of Appeal and Justice and prime president of the Supreme Court (1 April 1945-20 September 1948), in the period, therefore, where were heard the appeals of the individuals sentenced by the People's Tribunals (*Ibidem*, file 9/1957, f. 453-456. We are grateful to our colleague, Mihai Burcea, who kindly made this document available to us).

139   CHNA, collection CC of RCP – Personnel, file R/73, f. 1-199. We are grateful to our colleague, Mihai Burcea, who kindly made this file available to us.

140   Erich Haberer, *op. cit.*, p. 493 (see also n. 24); USHMM, RG-25.004M, Roll 19, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 1], f. 21-21v.

141   Omer Bartov, "Seeking the Roots of Modern Genocide: On the Macro- and Microhistory of Mass Murder", in Robert Gellately, Ben Kiernan (eds.), *The Specter of Genocide. Mass Murder in Historical Perspective*, Cambridge University Press, 2003, p. 75-96.

142   Raul Hilberg, *op. cit.* vol. I, translation from French and English by Dina Georgescu, vol. II.

143   Dinu C. Giurescu, *Uzurpatorii. România: 6 martie 1945-7 ianuarie 1946*, Editura Vremea XXI, Bucharest, 2004, p. 233-234.

144   *Monitorul Oficial*, yr. CXIII, no. 155, 12 iulie 1945, p. 5910; yr. CXIV, no. 178, 3 august 1946, p. 8320.

145   *Monitorul Oficial*, part I, no. 189, 18 august 1947, p. 7423-7425.

146   CHNA, collection Presidency of the Council of Ministers – Records, file 6/1947, f. 9-14, 73-74.

147   Andreea Andreescu, Lucian Năstase, Andreea Varga (eds.), *op. cit.*, p. 320.

148   CHNA, collection State Council – Decrees, file 7/1948, vol. I, f. 61-64. We are grateful to our colleague, Mihai Burcea, who kindly made this document available to us.

149   *Monitorul Oficial*, yr. CXII – no. 235, 11 octombrie 1944, p. 6580.

150   Alexandru Volanschi, "Noţiunea crimei de război în teoria şi practica dreptului român" in *Justiţia nouă*, no. 10, yr V, 1949, p. 1179-1190.

151   International Commission on the Holocaust in Romania, *op. cit.*, p. 324.

152   CHNA, collection Presidency of the Council of Minsiters – Records, file 1/1944, f. 261-262.

153   *Ibidem*, file 1/1944, 2/1944, 3/1944, 5/1944, 1/1945, 2/1945, 3/1945, 4/1945, 5/1945, 6/1945, 7/1945, 12/1945, 13/1945, 1/1946, 5/1946, 10/1946, 6/1947, 9/1947, 10/1947, 12/1947.

154   Dinu C. Giurescu, *Uzurpatorii*, ed. cit., p. 238-239.

155   "Crime de război", in *Justiţia nouă*, no. 9/1949, yr. V, p. 1037.

156   Details in Dinu C. Giurescu, *Uzurpatorii*, ed. cit., p. 247 (see also note 9).

[157] Eleodor Focşeneanu, *Istoria constituţională a României (1859-1911)*, 2nd edition, Editura Humanitas, Bucureşti, 1998, p. 98.

[158] About the punishment of wealth confiscation, the communist authorities later stated that it represented a reparative penalty and not a complementary punishment, being applicable even in the case of the defendant's death ("Crime de război", in *Justiţia nouă*, no. 5/1950, yr. VI, p. 656; no. 9/1949, yr. V, p. 1037-1038).

[159] USHMM, RG-25.004M, Roll 20, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 8], f. 76; Mircea Duţu, "Cazul mareşalului Antonescu. Un proces legal, sub semnul stării excepţionale", in *Lumea,* no. 6/2009, p. 46-51; Traian Broşteanu, "Constituţionalitatea Legii pentru sancţionarea criminalilor de război şi a vinovaţilor de dezastrul ţării", in *Justiţia nouă*, decembrie 1945, yr. I, no. 1, p. 21-26 (Broşteanu suggested that he himself would have written down the rejection of the appeal made by the first group of war criminals).

[160] Eleodor Focşeneanu, *op. cit.*, p. 93.

[161] Cezar Mâţă, "Comunizarea instituţiilor de stat şi administrative în România: 1944-1947" in *Studii şi materiale de istorie contemporană*, new series, vol. II, 2003, p. 115.

[162] CHNA, collection Presidency of the Council of Ministers – Records, file 3/1944, f. 135-145.

[163] This problem was raised by the lawyers for the defence during the first war criminals' trial too (the Macici group) at the People's Tribunal, on 14 May 1945, (USHMM, RG-25.004M, Roll 19, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 2], f. 72).

[164] *Ibidem.*

[165] Traian Broşteanu, *op. cit.*, p. 21-26.

[166] CHNA, collection Presidency of the Council of Ministers – Records, file 3/1944, f. 174-175; file 1/1945, f. 6.

[167] Traian Broşteanu, *op. cit.*, p. 22; CHNA, collection Legislative Council, file 9/1945, f. 146.

[168] CHNA, collection Legislative Council, file 15/1945, f. 4, 4v.

[169] Decree no. 3 on 22 April 1948 for the abolishing of the Legislative Council.

[170] CHNA, collection Legislative Council, file 9/1945, f. 89.

[171] At the ad-interim minister Dimitrie D. Negel's remark that the law on the purge does not have the approval of the Legislative Council, Grigore Niculescu-Buzeşti, the Foreign Affairs portfolio holder, casually replied: "So what, we don't need it" (*Ibidem*, collection Presidency of the Council of Ministers – Records, file 3/1944, f. 179-180).

172   Vasile Budrigă, "Aspecte din lupta pentru democratizare pe cale revoluţionară a aparatului de stat local (primării, prefecturi) în perioada 23 august 1944-6 Martie 1945" in *Revista de istorie*, 1989, 42, no. 7, p. 657.

173   CHNA, collection Presidency of the Council of Ministers – Records, file 3/1944, f. 130-143; Dinu C. Giurescu, *op. cit.*, p. 251-252.

174   Keith Hitchins, *România: 1866-1947*, 2nd ed., Editura Humanitas, Bucharest, 1998, p. 506.

175   Gheorghe Onişoru, *Operaţiunea Tămădău: desfiinţarea Partidului Naţional Ţărănesc (1947)*, with an introduction by Florin Constantiniu, Editura Institutului Naţional pentru Studiul Totalitarismului, Bucureşti, 2008, p. 103.

176   Jeremy Rabkin, "Nuremberg Misremembered", in *SAIS Review*, 19.2 (1999), p. 81-96.

177   David Chuter, *War Crimes: Confronting Atrocity in the Modern World*, Lynne Rienner Publishers, London, 2003, p. 66-67. For other legality questions that were raised, see Arthur L. Goodhart, "The Legality of the Nuremberg Trials", in Guénaël Mettraux, *Perspectives on the Nuremberg Trial*, Oxford University Press, Oxford, 2008.

178   Tony Judt, *op. cit.*, p. 41-62; John H. Herz, "The Fiasco of Denazification in Germany", in *Political Science Quarterly*, vol. 63, no. 4/1948, p. 569-594.

179   Michael Shafir, " 'Nürnberg II?' Mitul denazificării şi utilizarea acestuia în martirologia competitivă Holocaust-Gulag", in *Caietele Echinox. Vol 13: Gulag şi Holocaust*, Cluj, 2007, p. 87-104, p. 87-104.

180   Eleodor Focşeneanu, *op. cit.*, p. 94.

181   Alesandru Duţu, Florica Dobre, *Drama generalilor români (1944-1964)*, ed. cit., p. 14; Idem, Alesandru Duţu, Florica Dobre, *Distrugerea elitei militare sub regimul ocupaţiei sovietice în România*, vol. I, ed. cit., p. 53-74 (Romanian Military Archives, collection Office of Military Justice, file 3712, f. 180-189); Mircea Duţu, "Cazul mareşalului Antonescu", art. cit., p. 49.

182   CHNA, collection Ministry of the Interior – General Inspectorate, Administrative Region IV Bucharest, file 235/1947, f. 80.

183   Alexandru Volanschi, *op. cit.*, p. 1190.

184   International Commission on the Holocaust in Romania, *op. cit.*, p. 319-320.

185   Radolph Braham, *op. cit.*, p. 134; Devin O. Pendas, "Seeking Justice, Finding Law", ed. cit., p. 354-355.

186   Ilya Bourtman, *op. cit.*, p. 262 (n. 8). See also the Soviet Decree of 19 April 1943, Karel C. Berkhoff, "Dina Pronicheva's Story of Surviving the Babi Yar Massacre: German, Jewish, Soviet, Russian, and Ukrainian Records", in Ray Brandon, Wendy Lower (eds.), *The Shoah in Ukraine. History, Testimony, Memorialization*, published in association with the United States Holocaust

Memorial Museum, Indiana University Press, Bloomington and Indianapolis, 2010, p. 295.

[187]   CHNA, collection State Council – Decrees, file 516-559/1957, f. 47-57. We are grateful to our colleague, Mihai Burcea, who kindly made this document available to us.

[188]   Of the 117 persons who had received a definitive sentence, 23 received punishments between 5 and 10 years, 79 between 10 and 15 years and 15 over 15 years (Dumitru Lăcătuşu, Alin Mureşan (eds.), *Casa terorii: documente privind penitenciarul Piteşti (1947-1977)*, Editura Polirom, Iaşi, 2009, p. 377 (National Administration Penitentiary Archive, collection Secretariat, file 9/1957-1962, vol. III, inventory 1, f. 179)).

[189]   Jean Ancel, "Trials of war criminals: Romania", in Israel Gutman (ed.), *op. cit.*, p. 1516-1518.

[190]   Devin O. Pendas, "Seeking Justice, Finding Law", ed. cit., p. 357-364.

[191]   We refer here to the famous case "Four from Breda", called after the name of the Dutch prison where they were imprisoned. Ferdinand Hugo aus der Fünten and Franz Fischer were the last Nazi war criminals who left the penitentiary of Breda in 1989.

[192]   CHNA, collection Presidency of the Council of Ministers – Records, file 1/1944, f. 266.

[193]   *Ibidem*, f. 267.

[194]   USHMM, RG-25.004M, Roll 19, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 1], f. 2-3v, 4-39.

[195]   See, in this direction, the booklet with an obvious propaganda purpose published at the time: *Poporul acuză. Actul de acuzare, rechizitoriile şi replica acuzării în procesul primului lot de criminali de răsboi*, Editura Apărării Patriotice, Bucureşti, 1945 (the booklet was entirely reproduced in *Documents Concerning the Fate of Romanian Jewry during the Holocaust*, selected and edited by Dr. Jean Ancel, vol. VI (War Crimes Trials), The Beatle Klarsfeld Foundation, f.l., f.a., p. 57-113).

[196]   General Nicolae Macici, a brilliant product of the Romanian school of Infantry, was initially sentenced to death and subsequently to life in prison for having directed the reprisals at Odessa. Arrived the next day after the explosion of the Romanian military head quarters, he hasted the intensity of the reprisals (by hanging, shooting, burning), quickly reaching the amount of 25,000 dead persons. Macici expressed his discontent as for the measures taken until his arrival by General Constantin Trestioreanu in the evening of 22 October 1941, i.e. the hanging of a number of Jews and communists in the public markets: "you're some cowards, some cravens; by this hour, Odessa should have been upside down" (USHMM, RG-25.004M, Roll 20, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 6], f. 161v). In the fall of 1944, Macici led Army I on the front of Hungary, fighting by the Soviets' side, on the middle course of Tisza. The

Soviet General I.M. Managarov (commandant of Army 53) congratulated him for feats of arms in Hungary. In World War I as well, Macici had stood out on the front, being awarded the Mihai Viteazul Order 3rd class for the success he had had with a company of machine-guns in the battles at Merişor and Vulcan, in September 1916. In April 1945, Macici was arrested, and one month later he was sentenced for war crimes (Alesandru Duţu, Florica Dobre, *Drama generalilor români (1944-1964)*, ed.cit., p. 166-172; Victor Niţu, *General de corp de armată Nicolae Macici*, access online at http://www.worldwar2.ro/arr/?language=ro&article=94 (11 April 2010)). Details on the image of the General in Dinu C. Giurescu, *op. cit.*, p. 255-257; Gheorghe Vartic, "Generalul Nicolae Macici, un viteaz în «Memorialul durerii»" in *Revista de istorie militară*, 1995, no. 1, p. 36-39.

[197] USHMM, RG-25.004M, Roll 20, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 6], f. 204.

[198] *Monitorul Oficial*, yr. CXIII, no. 123, 2 iunie 1945, p. 4597.

[199] Prime minister Petru Groza, in the meeting of the Council of Ministers on 2 May 1946: "We, as a Government, were forgiving, so to say, towards one group of war criminals, towards the first group. This cannot be regarded as a good thing or a bad thing in the perspective of the process of democracy. I myself am still thinking whether I was right or wrong to commute punishments. Generally, as a human being, one has the satisfaction of not having decided for anyone to die and from this standpoint my consciousness is clean. [...] I did not acquit anyone, I just commuted the punishment. I don't know whether I did a good or a bad thing. We will wait and see if this gesture of the government was appreciated as it was, or if it was interpreted as a sign of weakness, and if it resulted in any forms of strengthening or weakening democracy in our country. This is an open issue. I would not want to reckon it up already, as a negative result." (CHNA, collection Presidency of the Council of Ministers – Records, file 1/1944, f. 261; see also file 5/1946, f. 47-48; file 6/1947, f. 12).

[200] About the Antonescu trial, many booklets, articles, documents and volumes were published. Several examples are: *Călăii în boxă! Ion şi Mihai Antonescu în faţa justiţiei Poporului. Demascarea trădătorilor. Cum a fost vândută ţara. Textul complext al actului de acuzare*, Editura Institutului Român de Documentare, 1946; *Antonescu: Mareşalul României şi răsboaiele de reîntregire*, ed. cit.; Gheorghe Buzatu (ed.), *România cu şi fără Antonescu. Documente, studii, relatări şi comentarii*, Editura Moldova, Iaşi, 1991, p. 331-339; Marcel Dumitru-Ciucă (ed.), *op. cit.*; International Commission on the Holocaust in Romania, *op. cit.*, p. 322-331; Dennis Deletant, *op. cit.*, p. 262-277. See also the particularly important volume of documents edited by Radu Ioanid (ed.), *Lotul Antonescu în ancheta SMERŞ, Moscova, 1944-1946: documente din arhiva FSB*, edition edited and prefaced by Radu

Ioanid, translation of documents from Russian by Radu Părpăuţă, Editura Polirom, Iași, 2006.

201 *Ibidem*, p. 320, 326-328.

202 Andreas Hillgruber, *Hitler, Regele Carol si mareșalul Antonescu: relațiile germano-române: (1938-1944)*, translated by Maria Alexe, 2nd ed., bio-bibliographic study by Stelian Neagoe, Editura Humanitas București, 2007, p. 36.

203 Răzvan Paul Bolintineanu, "Marina se împotrivește condamnării Mareșalului", in *Revista de istorie militară*, 1995, no. 1, p. 54 (in the same direction, see Victor Bădescu's account, in *Magazin istoric*, no. 12/1993).

204 Mircea Duţu, "Cazul mareșalului Antonescu", ed. cit.

205 Another name, about which some ministers (among whom Petre Bejan, Minister of Industry and Commerce) expressed doubts as for his criminal quality was Ion Marinescu. Here is what Lucreţiu Pătrășcanu, minister of Justice, was saying: "We are talking about Ion Marinescu, who was minister all over Antonescu's governing, starting with 29 May 1941 to 23 August 1944. He was minister of the National Economy, then minister of Justice, a man that has permanently sat on the ministerial bench, he signed the declaration of war against the USSR, he participated in the pro-Hitlerite policy to help the Germans. Each man, each criminal has his good acts in his life. In any criminal you will find a gesture of kindness and humanity. This does not mean that his good acts can exculpate his crimes." In Dumitru Popescu's case too (former Minister of the Interior under Antonescu) Pătrășcanu has the same reply, maintaining that he had participated in the decision-making, having held "political responsibility as a co-participant in Antonescu Government's policies". About the former minister of the Interior under Antonescu, Gorza admitted that he had played a small role, but he also stated that each Government member was responsible. Groza also stated: "*Sirs, I believe we are not objective enough.* We send to court Genral Popescu, but we also send all Antonescu's minister, with no exception, the ministers and the sub-secretaries of State, while some of them have guiltier consciousnesses" (CHNA, collection Presidency of the Council of Ministers – Records, file 1/1944, f. 256, 262-263).

206 *Ibidem*, f. 206-207, 244-248.

207 *Ibidem*, file 1/1944, f. 206-268.

208 See, for instance, the account of confrontation between Gheorghe Grigorescu, former commandant of the sector of gendarmes in Berșad, and witness Niculae Neagoe (USHMM, RG-25.004M, Roll 29, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40013, vol. 3], f. 122).

209 With the exception of several booklets that were quickly withdrawn from circulation, the public did not have access to documents and accounts about

the trials and their content. In 1947, a few issues of *România Liberă* tried to take some "images" from the unknown Transnistria.

[210] Maria Bucur, *Heroes and Victims: Remembering War in Twentieth-Century Romania*, Indiana University Press, Bloomington and Indianapolis, 2009, p. 156.

[211] USHMM, RG-25.004M, Roll 29, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40013, vol. 3], f. 130.

[212] *Ibidem*, [MAI, operative archives, file 40011, vol. 5], f. 189v.

[213] *Ibidem*, f. 194, 196.

[214] See, for instance, Solomon Zalman's declaration, lawyer, former president of the Community of the Jews in Dorohoi (*Ibidem*, f. 247-248v).

[215] For instance, many witnesses remembered the murder of a local (Ukrainian Jew) near a given fountain that Gheorghe Grigorescu, former commandant of the sector of gendarmes in Berşad, used to walk around with the pistol in his hand, terrorizing the Jews (this accusation, like many others, was confirmed by the witnesses: Ghizela Roslich(?), Zaharia Halfiu, Roza Lasar(?), Zissu Schahter, Mates Bernhard(?), USHMM, RG-25.004M, Roll 29, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40013, vol. 3], f. 133-136v, 138 f, v).

[216] Rebecca L. Golbert, "Holocaust Sites in Ukraine: Pechora and the Politics of Memorialization", in *Holocaust and Genocide Studies*, vol. 18, No. 2, Fall 2004, p. 211/212.

[217] USHMM, RG-25.004M, Roll 22, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 34], f. 5-5v

[218] *Ibidem*, Roll 20, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 7], f. 205.

[219] *Ibidem*, Rola 19, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 6], f. 6.

[220] International Commission on the Holocaust in Romania, *op. cit.*, p. 387.

[221] Andreea Andreescu, Lucian Năstase, Andreea Varga (eds.), *op. cit.*, p. 311-325; CHNA, collection CC of RCP – Administrative-political department, file 5/1947, ff. 1-4.

[222] CHNA, collection Presidency of the Council of Ministers – records, file 6/1947, f. 74; file 9/1947, f. 20-24, 50-53; file 10/1947, f. 26-29, 68; USHMM, RG-25.004M, Roll 30, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 21401, vol. 4], f. 54-55.

[223] Andreea Andreescu, Lucian Năstase, Andreea Varga (eds.), *op. cit.*, p. 311-325.

[224] There were cases when defendants confessed things they had not done. For instance, defendant Gefreiter Arno Düre in the Leningrad trial, confessed that he participated in the murder of the "Pole, Russian and Jewish officers" in the forest of Katyn. The "confessor" received only 15 years of forced labor, in exchange for his "comprising" declaration, the author suggests, escaping

thus the capital punishment (Alexander Victor Prusin, "«Fascist Criminals to the Gallows!»", ed. cit., p. 15, see also n. 74).

[225] *Ibidem*, p. 1-30.

[226] We have reached these intermediary conclusions after having studied several personal records of the war criminals: National Council for the Study of the Securitate Archives, Bucharest – hereafter called NCSSA, collection Informative, file I 019569; I 252956; I 257205; I 257206; I 257207; I 257208, vol. 1-2; collection Criminal, file P 000241; P 013937, vol. 1, 2; file P 257207.

[227] USHMM, RG-25.004M, Roll 22, Romanian Information Service-Bucharest (SRI) records, [MAI, operative archives, file 40011, vol. 34], f. 1-23.

[228] "Crime de război", in *Justiția nouă*, no. 2/1950, yr. IV, p. 261; no. 5-6/1949, yr. V, p. 629.

[229] See, for instance, the cases of some former defendants of the "Macici goup": Grigore Trepăduș, Gheorghe Zltescu, Romulus Ambruș (CHNA, collection State Council. Decrees, Decree 411/1964, positions 1680, 1648, 3159, in Dorin Dobrincu, Andrei Muraru (eds.), *Supraviețuitorii. Decretele de eliberare a deținuților politici din România (1962-1964),* in mauscript).

[230] Generally, the informative surveillance was ordered in the case of most of the individuals released after the decrees of the Council of State (ANCSSA, collection Informative, file I 257208, vol. 2, f. 101). In the documents, the former war criminals were also called political prisoners, as they had been released in the mid-'50s, for political crimes (*Ibidem*).

[231] The release of the political prisoners was decided in the early '60s, by the Romanian Communist Party, and enforced by the Council of State, who passed a series of decrees on the "pardon for the rest of penalty". The decrees, issued in the span 1962-1964 include almost 20,000 names with complete identification data (last name, first name, date and place of birth, the name of the parents, the number, quantum and court who gave the sentence, the offence and the article in the Criminal Code), as well as the notes of substantiations. We cannot know yet the number of those who were sentence for war crimes and released on the grounds of these decrees. Here are the numbers of the decrees: 1962 (Decree 3/1962; Decree 291/1962; Decree 293/1962; Decree 294/1962; Decree 295/1962; Decree 482/1962; Decree 772/1962); 1963 (Decree 5/1963; Decree 263/1963; Decree 322/1963; Decree 504/1963; Decree 505/1963; Decree 551/1963; Decree 696/1963; Decree 767/1963; Decree 768/1963); 1964 (Decree 176/1964; Decree 310/1964; Decree 411/1964); CHNA, collection Council of State; decrees in Dorin Dobrincu, Andrei Muraru (eds.), ed. cit.

[232] We must state that not all the former convicted were reinstituted (ANCSSA, collection Informative, file I 257208, vol. 2, f. 75).

233   For instance, in the case of the first group of war criminals (the Macici group, 1945), the relationship between Constantin Trestioreanu and Stere Marinescu continued after release as well.

234   See, for instance, Dinu C. Giurescu (ed.), *Istoria Românilor. Vol. IX*, ed. cit., p. 569-570; *Procese '46 – Sentinţe '49 – Recursuri*, art. cit.

235   Devin O. Pendas, "Seeking Justice, Finding Law", ed. cit., p. 355.

236   Donald Bloxham, "From Streicher to Sawoniuk: the Holocaust in the Courtroom", in Dan Stone (ed.), op. cit., p. 399.

237   Alexander Victor Prusin, "«Fascist Criminals to the Gallows!»", ed. cit., p. 11-15, 18-19.

238   Tanja Penter, "Collaboration on Trial: New Source Material on Soviet Postwar Trials against Collaborators", in *Slavic Review*, 64, no. 4, 2005, p. 782-790.

239   *Ibidem.*

240   Alexander Victor Prusin, "«Fascist Criminals to the Gallows!»", ed. cit., p. 15-21.

241   Cristopher R. Browning, "German Killers. Orders from Above, Initiative from Below, and the Scope of Local Autonomy – The Case of Brest-Litovsk", in Idem, *Nazi Policy, Jewish Workers, German Killers*, Cambridge University Press: 2000, p. 116-118; Idem, "German Technocrats, Jewish Labor, and the Final Solution: A Reply to Götz Aly and Susanne Heim", in Idem, *The Path to Genocide: Essays on Launching the Final Solution*, Cambridge University Press, 1992, p. 72.

242   Nancy Wood, *op. cit.*, p. 41-76.

243   Dennis Deletant, *op. cit.*, p. 14.

244   International Commission on the Holocaust in Romania, *op. cit.*, p. 325.

245   Tanja Penter, *op. cit.*

246   In the case of the two German states, the reactions, like the assimilation of the recent past were different. Although the debate on the manner and span in which took place this decisive transformation in the assuming of history is far from being ended, yet, the "democratization of memory" in Germany remains an important topic for the researchers of the Holocaust (Anthony D. Kauders, "Democratization as Cultural History: or, When Is (West) German Democracy Fulfilled", in *German History*, no. 25 (2007), p. 251-257; Annette Weinke, "The German-German Rivalry and the Prosecution of Nazi War Criminals During the Cold War, 1958-1965", in Nathan Stoltzfus and Henry Friedlander, ed. cit., p. 151-172).

247   Yehuda Bauer, *Rethinking the Holocaust*, Yale University Press, New Haven and London, 2002, p. 7.

ALINA SILIAN

Born in 1976, in Bucharest
Ph.D. Candidate in Social Anthropology, Central European University, Budapest
Dissertation: Identity Politics, Knowledge Production and Governmentality: The Romani Politics of Difference in Romania

CEU/FCO Chevening Scholarship for postgraduate study at the University of Oxford, UK (October 2006 - June 2007)
Individual Research Grant, The Wenner-Gren Foundation for Anthropological Research (2006-2007)
Ph.D. Research Grant, CEU, Budapest (2005)
Academic Achievement Award for First-Year Doctoral Students, CEU (2005)
Nationalism Studies Program's Award for "The Best Written Master Thesis", CEU (2002)

Conference participations in The Netherlands, Portugal, Austria, Italy, Hungary
Articles and studies published both in Romania and abroad

ACTIVE CITIZENSHIP?
THE POSSIBILITIES FOR A ROMANI
GRASSROOTS REDEFINITION

In a book published in 1999 and revised in 2004, political scientist Daniel Barbu made an insightful observation about the carrying out of politics in the post-1989 Romania and which unfortunately continues to be true: the lack of a *common and equitable societal project* and of the *societal politics* through which such a project to be reached, all of these dubbed as "the absent republic". By drawing a qualitative difference between the demos as a people and the demos as a society, Barbu stated: "The central problem of the transition would be then the following: who are the Romanians and how do they grant each other ethical-political recognition? Are Romanians just a people? Or do they somehow make up a society? Do they compose a political community made up of citizens (*politeia*, *res publica*)? Or do they only represent the generic denomination of the inhabitants of the Romanian state?" (Barbu, 2004: 10, emphasis in the original)

It is my contention that the Romani politics of identity in post-1989 Romania – the focus of my larger research project – cannot be analyzed separately from the processes and transformations that took place in the Romanian society. And therefore the inability of Romanians to direct politics towards the shaping of a common societal project, as Barbu contended, was one of the several factors discussed in this paper, which determined the Roma activists to take up human rights approaches, victimization and ultimately projectification paths, rather than develop a republican-citizenship understanding of Roma in society.

The affirmation of Romani ethnic identity in different European countries has been broadly explained from several mutually accommodating perspectives: in terms of pressure and incentives coming from international institutions (Vermeersch); as failure or at best limited success on the part

of Roma elites in creating responsible citizens or as failed nationalism (Barany, Kapralski, Klímová, Vermeersch); by the most skeptical realists, as successful maneuvers by governments bartering subsidies and positions for votes (Oprescu, Pavel and Huiu); or as an almost natural development from the formation of ever extending networks of reciprocal support among the Roma (Matras). No matter which of these aspects is emphasized most, every time a restrictive normative model of politics is being imposed over practice which is thus doomed to never live up to the expectations of the master narrative.

My paper challenges these narratives by first questioning their implicit assumption of a given and recognizable Gypsiness. If to the anthropologist interested in the workings of ethnicity as an organizing principle in post-communist Eastern and Central Europe, "the Roma issue" emerges today as one of the most evident and somewhat trendy subjects, it has not always and everywhere been the same throughout Europe though. While ethnic belonging seems to be one of the most "natural" grounds for political mobilization today, I would like to argue that "making politics out of Gypsiness" should be regarded, at least in the Romanian case, as disconcerting and original as, say, "making politics out of retroviruses", as Bruno Latour dubs the unconventional AIDS activism. Second, my analysis diverts from the mainstream understanding of politics as mainly elections, participation in governing, or social movements. My heuristic approach consists in the investigation of aspects of the Romani politics by looking at the nexus of knowledge production, governance and participation. I contend that in order to understand the working of the political in everyday life we need to look at the imbrications of several processes: how institutions set the tracks or possibilities of people's participation, forge subjects and contribute to the waving of the social fabric; the way people participate in the world, how they try to negotiate and assert their own terms of participation, or how they advance claims on the polis on the account of fulfilling the required criteria of inclusion etc.; what epistemologies are used and produced in these processes; and how affects are mobilized and nurtured.

My research comes in the emerging tradition which questions the ubiquity and persistence of ethnic or national identity (Hall, Handler, Brubaker and Cooper), deconstructs group and individual realism (Brubaker, Somers) and warns against methodological nationalism (Wimmer and Glick Schiller). In particular, my research shares affinities with the recent project of Engin F. Isin and his collaborators on *Acts of*

Citizenship. Criticizing the sociological approach which views "shared values and cultural identity as the basis of the societal fabric", Isin replaces the production and maintenance of order and discipline as object of sociological investigation with the rupture and the breaking of the order, not the subjects, but the act itself, or rather the assemblage surrounding the act. "Acts of citizenship" are then according to Isin "those acts that transform forms (orientations, strategies, technologies) and modes (citizens, strangers, outsiders, aliens) of being political by bringing into being new actors as activist citizens (claimants of rights and responsibilities) through creating new sites and new scales of struggle" (Isin: 39).

I open the paper with the case study of a host of Roma NGOs associated in a network. The members of the Working Group (WG) entrusted with the elaboration of the vision and strategy of their network reached a conundrum which they had a great difficulty explaining. They phrased it in citizenship terms: how comes that although they have full legal membership in their countries, still they felt they did not enjoy all the social, economic and political rights entailed in this status. Throughout the several meetings in which I took part, and in which they tried to uncover what went wrong in the process, active citizenship (in fact a mixture of urban and social citizenship) emerged as the ordering principle of the political vision that they were trying to elaborate. So I will first reveal the process by which the members of the Roma grassroots network developed simultaneously both an understanding of themselves as "activist citizens" (Isin: 39) and a political vision for the Roma communities with which they worked. Then, in the second part of the paper, I will elaborate on two of the factors which have played a major role for the last twenty years in preventing Roma to frame their politics in terms of citizenship: the hegemony of nationalism in shaping both politics and society, and the looming specters of the troubled relationship of Roma with the workings of communism.

In media res: knowledge-making in a Roma social movement

In December 2006 I was invited by a network of Roma grassroots organizations from several European countries (hereafter referred to as the Network) to participate in the meetings of a quite exclusive Working Group which had the task to develop the vision and the mission of the Network. More technically put, the Working Group was set up in order

to elaborate the third chapter of the Network's Strategy. The first chapter, about the organization as a network – purpose and principles –, and the second one, about lobbying for the Network at European level, were almost ready.

The grassroots organizations came from Bulgaria, Romania, Albania, Macedonia and the Netherlands, and all of them in their turn supported numerous other organizations in their countries. That is, except for the Dutch organization which had directly helped the 'network members' get started in the first place. As a matter of fact, the Dutch were starting to recognize that they were reaching a turning point in their existence, the approaching moment when they would have to let the Roma organizations "take ownership", and, at the same time, the high time to redefine their own mission and fate. By encouraging the organizations they had been working with to form a network and manage it as their own game, the Dutch thought they would rule themselves out, as the time to let go had arrived. With the introspective process of self-definition they initiated through the Working Group though, they also eventually came to a new understanding of themselves as a *de facto* equal partner of the Roma organizations. They most certainly had lived for a long time with the tension of being in the giver's position while simultaneously trying to overcome the colonialism inherent in this.

One of the early defined rules of the game was the clarification of the roles we were supposed to play: facilitators, participants and ghost-writer. They were messed up almost as soon as they were agreed upon. The brainstorm engulfed everybody almost immediately, and everybody would take turns every now and then to draw attention to our jumping ahead or getting carried away, or just to trace back the concatenation of arguments in the heated discussion in order to figure how we got where we were and what exactly we were trying to say.

I was to be *the Ghostwriter* of this Working Group on Empowerment & Mobilization. I was supposed to put to use my alleged academic writing and research skills to help clarify fuzzy concepts and bring to light the taken-for-granted knowledge which was embedded in my colleagues' practice. How the very idea of the need for a ghost-writer in the WG developed is pretty opaque to me. To my extreme relief it was made very clear from the very beginning that I was not to play the expert's role. As an aside, actually nobody was 'the' expert in the group, and this produced an exhilarating democracy-in-practice effect, a procedure probably worth assuming more consciously and programmatically for the dynamic of

the group. Rather than a ghost, I was a Devil's disciple, a person with some academic writing skills who could ask for clarifications whenever concepts looked fuzzy or who could ask questions in order to help reveal the knowledge embedded in my colleagues' practice and which was already accepted as commonsensical. My secondary mission was that of a scholar-chronicler: "If the Network wants to be visible," I was told, "it should be on researchers' agenda as well, it should be written about."

The Dutch – as a matter of fact a Dutch lady and a Romanian Rom – were in theory the facilitators, while they were very much aware that their involvement beyond objective bystanders in a process they themselves had nurtured and bred:

> *I will try to clarify our roles. Our first role is to facilitate the discussion. Well, sometimes we … So we try to limit ourselves to this role by asking questions and by trying to keep the discussion to the topics which are on the table … ye, based on the program … to categorize it, to systematize it. […] But at the same time we know ourselves [in the sense that we have worked together for a long time], we are into the discussions, but we … we try to limit ourselves. Yes, this also because we're too much involved, to step out.*

While everybody else was urged to feel free to express whatever crossed their minds about what they did as organizations, no matter how hectic, the facilitators would have to capture everything and render order into chaos: "So maybe you can start to describe what you already do … And just feel free, you don't have to be very organized, so just let the flow of what you already do … we will try to catch it [on flipchart]" One of the facilitators would always re-phrase and synthesize what was being discussed and record it on the flipchart. Most of what was trusted to the paper was immediately translated for everybody, checked for any distortions made sure it captured the meaning properly. I would say that if the facilitators had any obvious 'interst' at all, that was to channel the discussions towards more explicit political claims. For example, listing what activists did was not enough; they had to also justify the relevance of what they did in terms of justice, and most importantly unearth the seeds for mobilization they might be already planting by coincidence: "Why we're doing this? That's the question. And one way to answer this is that we give the Roma the possibility to stand up. That's a start, but there are

other things." The facilitator had his own agenda here: to dig out some belligerent ethos.

Unfortunately I was not there when the decision was taken on how to best go about drafting the Strategy. Still I would venture guess that the people who gradually got involved in this Working Group formed a faction within the Network, and their relationship to *knowledge* is key to their becoming a splinter group.[1] They were the ones who pushed knowledge as a basis for political action. First they managed to confront the position of the Romanian organization which would rather solve matters less fussy and more professionally by having an expert write down the Strategy in no time. Then, in order to develop an action plan about how the organizations could act together "in the framework of the Network", the Working Group members decided to start by defining the common ground, that is, describe and analyze what was that they did. The result expected at this stage was a "body of knowledge", politically charged from the very first question that elicited it: "… we promote an alternative, we think we are different than the mainstream Roma organizations and we should more clearly describe why we're different and what's that makes us different, because it helps us to counterbalance this European focus." It was this particular knowledge, and not financial resources, connections to powerful people, institutional opportunities, or the force of numbers, that, they believed, set them apart from the other players in the field, or anyway should be used to differentiate them from the rest. In this concatenation of arguments, the next logical step they envisioned was the development of a grassroots Romani movement based on this alternative they enacted: "And then we should also describe better this Roma movement, this grassroots movement. Yes, so what kind of position we have in the [bigger Roma] movement."

The European level was an ever present, yet ambiguous term of reference from the very beginning. It was something that lied over there, ahead or above, at a precipice distance from the grassroots, a "gap to be bridged" by the lobbyist whom they employed in order to represent them in relation to EU institutions and international organizations. But at the same time, European was what other "mainstream Roma organizations" did, "a European focus to be counterbalanced" by the Network "alternative". Against the stream and removed from the sites of power – this is in a nutshell how the Working Group members would describe their activity. While the Network grew out of the experience exchanges between the organizations, the setting up of the lobbyist position put pressure for

further development of a common unified political vision of the member organizations. This inverted chronology was revealed by the Dutch facilitator in the introduction she made to the raison d'être of the Working Group: "a third chapter should balance the lobby […] and […] bridge the gap between European focus and the focus of the Network members to work on community level and regional level." While in most of the official accounts of the beginnings of the Network, we are presented with a 'natural development', the participants acknowledged that with the hiring of the lobbyist they also had to provide a unitary version of what it was that the Network members were doing and how this represented an alternative to a hegemonic approach to Roma throughout Europe. Although there was some hesitation about the actual success of such an enterprise as bringing a grassroots alternative into European institutions – "So actually this is a very difficult step to make. Yes, because it's … I don't think we'll succeed to bridge it … actually" –, the participants were not deterred from their belief in at least producing such a political vision.

Although only twice present in person at the eight meetings of the Working Group in the two years of its activity, the lobbyist, a Romanian Rom, was a vivid presence in the discussions. He was always evoked with admiration for his diplomatic abilities, expertise and easygoing manner of approaching and interacting with important people. But at the same time, Working Group members were experiencing an acute feeling that they were not succeeding to get their ideas through to their own lobbyist before reaching the agendas of European decision makers. The lobbyist was a person with a strong mind of his own who needed an institutional setting like the Network within which to carry out his own ideas. In the case of the Network, he was the charismatic person who branded the institution with his own figure. This is why his way of acting brought about some not entirely verbalized tension. The expectation was that he would use his expertise to mould ideas-in-practice from partner organizations into a policy-intelligible language. Yet he had his own agenda, and to many people ignorant of the members organizations, the Network *was* in fact the lobbyist and nothing more.

Not part of the dynamic of the Group, the lobbyist missed out several essential developments among its members which he completely failed to acknowledge. First, his idea of getting Roma involved was about working with strong characters with a mind of their own, expected to perform, identify concerns and come up with technical solutions. He was completely insensitive to the reflexive process of introspecting the social

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production of Roma with which the Working Group members had actually forged their brotherhood ties. By silencing this cognitive and affective reflexivity he downplayed the conditions for the emergence of the organic intellectuals the participants valued so much. He reduced the grassroots activist to a provider of concrete material like examples of good practices to the expert. He imagined another structure, part of the Network, but not grassroots, that was meant to produce knowledge, while the grassroots were seen as the "experimental garden" which would implements and test policies developed by the policy centre. With the "garden" denomination, the grassroots were saved the role of the laboratory: grassroots would not do analysis or thinking but they would apply and draft reports of case studies to be used for public exemplification, denying thus precisely the conditions for the development of organic intellectuals. The lobbyist's stress on expertise originating elsewhere than in the organizations' practice led to the sparkling of mistrust among the Working Group members who feared they were being used just for show, to supply the 'crowds' or 'communities' needed to give representative legitimacy to one person.

I think the lobbyist failed to see the political awareness the Working Group members developed, and how reflecting on their own practice changed them into something they could not quite know how to name, but which they liked, and seemed hold enough perspective and importance to make them dream of their own Platform of knowledge:

This is where we see that we can contribute, this is where we see our comfort zone, in the knowledge platform. Because when we implement we get very tired during the implementation, we work very hard for the implementation, but we need something that we can rely on that will take the things on a step forward. […] But not as the next step in the sense of having a program, but as the next step in terms of producing knowledge. This I like very much! Because this means that you will be on the local level … but not on the local level to count how many bricks were in the community centre or how many people are coming to the meeting, but you will really focus on the process, the process you were involved in for so many years. But really try to identify the best way of mobilization, the best way of empowerment, the best way of connection with other people, with the scientists and so on. It helps you to think what are the ways that you should design your projects, your proposals, what kind of allies you should find in your country. And besides it puts in a very good position as expert organization. Because, let's be honest, so far we have been seen as doers in the countries: doing things, and taking examples. Ok. It's very good what is happening with the income generating activities and

the women centres in Bulgaria. Wow! Very good example! Let's present it in the Network meeting! That was all! There were some discussions about them in the meeting but not real thinking from the people. This is something with which we can really make a change in the things we want to do. That's why we are inspired, that's why we are committed to this. So you don't see it as a daily work, you see it as … how should I explain?! (Albanian activist).

The lobbyist was also blind to the qualitative difference the "ownership of processes and society" the members of the Working Group were advancing and the OSCE type of "Roma having ownership of the policies focusing on them" He ignored that the latter implied a selection process, by which only certain Roma, not all of them, would occupy key positions in governmental structures and that they may be in no way distinct from their fellow Romanians, Bulgarians, etc. The fact that they are Roma does not rule out opportunism when there is rumor of resources, whereas in the process some Roma are empowered while others are silenced, especially the ones who fear getting trapped in grey relations verging corruption, or getting to be blamed by other Roma. Such an 'involving Roma policy' would remain in the same logic of 'your own people', defined in ethnic terms, not as belonging to the same polis. Not to mention that once they talk about identifying social, economic or security problems in/with Roma communities, finding and directing resources, implementing projects and expecting things to change, it's largely irrelevant if Roma are or not involved in the process, they would only become experts and accomplices in the same master narrative.

Contrary to this rampant culture of expertise, the members of the Working Group represent organizations which over the years were involved in processes of community development. In practice they struggled to invest in human capacities and social structures with the aim of initiating a painfully long process that would make Roma act like "de facto, not only de jure, citizens". They did not develop this 'vision' of intervention from EU policies or political science books. From the very beginning they were *in media res*, in the middle of the things, which means that they had to face and deal with 'implementations' of EU and national programs for Roma on the ground. This is how they gradually came to an understanding of what they stood for and what their mission was, but also of what EU policies meant in practice. For example, they think that the current framing of Roma as a European concern merely

strengthens the popular perception of Roma as problems and dependent receivers of social policies. Following the goals of the European Lisbon strategy important sums of money are being directed towards solving the unemployment, housing, health or education problems of Roma. Apart from the current construction of Roma as a social problem, the Working Group also criticizes the kind of citizens EU tries to produce through its brand of "active citizenship". The members heavily debated how in the name of political engagement, Roma activists throughout Central and Eastern Europe concentrated their energy towards occupying positions at state level either through elections or by pressing governments to create offices or adviser positions for Roma.[2] The limited concessions states made for Roma such as representatives in parliaments and some 'lonely riders' in local administrative structures are usually associated with the myth of a functioning democracy in order to put forward the false message to the majority that Roma have been granted all the civil liberties and that their current requests ultimately represent threats to the other citizens.

The idea was to design an alternative to what they perceive the current Roma movement. They attempted to articulate a social and political vision, based not so much on documents of international institutions, but rather on empirical observation and on the distance they take from their own practice, their 'way of doing things. 'Active citizenship' emerged as the ordering principle of their political vision for Roma. Experienced initially as a sudden epiphany by all the members of the group, the realization put them into even greater difficulty: how comes that although they have full legal membership in their countries, still they felt they did not enjoy all the social, economic and political rights entailed in this status. How to explain the disjuncture between their legal status as citizens and the wanting practice of citizenship?

The WG heuristic is, pretentious as it may sound, a genealogical one, which connects the reflexive process of 'un-doing themselves' to the larger structures and mechanisms of inequality in society. They pondered over the processes of subjectivation, they retraced them from personal experiences and revealed power relations at work. It is not a theoretically assumed stance, it has to be dug out from the myriad of ambiguities, inconsistencies, and in the end it hardly comes out from the message put together 'for the outside'. They used case studies like the ones about Mothers' Centers I will talk about later on not as examples of good practice, or of Roma participation but as insights into the processes of becoming aware of everyday politics. That does not mean they downplay the importance of

other factors, but they also try to recover a silenced one. Obviously agree with the common narratives about Roma being the ones who lost most in turning from communist economy to capitalism, and about the structural factors that led to their exclusion and poverty. And, at the same time, none of them denies the importance and urgency of the current projects for improving the quality of life in Roma quarters, supported through European structural funds, like access roads, electricity, running water, sewage, and schools. But they think there is more to activist stance than quantifying improvements, just as there is more to citizenship than the narrow EU approach which defines it in terms of paying taxes, participation in the labor market, and voting in elections.

One of the earliest manifestations of "citizenship" in the Working Group's vacillations was the wish for the dream-work. The brainstorm had started with the participants trying to contain in a nutshell what their activities stood for. The transitive-verb sentences with Roma as direct object of their actions: "we activate people" or "I see our role first as an organization that supports the Roma to do things by themselves" caused some early uneasiness to the anthropologist schooled in the 'Foucault tradition'. It looked like the classical subject-object relation motivated by the wish to change or improve other people by acting upon them in order to persuade them to act by themselves. My hasty scientific diagnosis was to be immediately clouded by Neda's add-on. With a deep sigh and a short puzzled silence, Neda thought she had to take us back one step in order to put the social 'activation' enginery into some perspective. She began in Bulgarian: "I see our role first as an organization that supports the Roma to do things by themselves. … It happens in a different way. The question is somehow … we have kind of long term vision for the Roma." She switched to English as if wanting to get more quickly and persuasively to the audience: "We do this because we have this long term vision about Roma. But the Roma don't understand this. The Roma … accept our help … I don't know, to … to solve some problems, everyday problems. They don't understand, still they don't understand our long term vision."

My first wish had been Neda and Krasimir to have talked about a common effort of figuring out together with their partner organizations what that remote dream might be. It then turned out that their approach was not as clearly proselytizing as it sounded: persuade people to share a vision and find ways to act accordingly. They had actually started from the premise that everybody had some dreams about a better world and their place in it, and all they had to do was to explore those 'visions'. Yet

they were to become disillusioned with the mundane answers they got, and frustrated that they would have to convince people that that there was something else worth struggling for except a brand new car or a, be it second-hand, Mercedes, to show off with, or a fairy-tale wedding that would make them the talk and envy of the entire community. So there they found themselves back not even to square one, but before it:

> Neda (in Bulgarian): *At the moment we are trying to find Roma that are attempting to look in the future. There are very few. Most of the people deal with their daily problems. What I noticed precisely is that I just try to tell them, dream, dream on. (Lili switches to English) The Roma don't have dreams, they have very simple dreams.*

Despite their sometimes misleading choice of words, Neda's and her colleagues' almost obsessive return to the overriding idea of a "long term vision or dream for Roma" was less about the content of one particular 'dream' or its temporal dimension. Actually quite a lot was being expected from the "5 people, not more" Neda wished to find in each community her team approached. First they would have to be willing to think in the long-run, and be crazy enough to commit themselves to a long-term process for the realization of that remote 'dream'. Second, the 'dream' to which they would pledge allegiance had to be society-related:

> Neda (in English)*: And a dream that does not connect just to their everyday life, to their families, just families, but to their position in the society. This is our dream. It is not very complicated, but …*
> Luisa (consenting)*: ye, ye … to enlarge the dream beyond family.*
> Kasimir (in Bulgarian): *At the same time we face the fact that it is difficult for us to find people that think further. It is very difficult to find people who think in long term. It is very difficult to come out of the framework of their everyday dreams. This is why we look for these 5 people or even one person in the communities [we work with] or in any community, to have a dream.*

The 'dream' had a certain degree of generality and would have to work like a double-head arrow: on the one hand it had to be a vision of a better life that was related also to living together in society, and on the other hand, a vision that could connect one's aspirations to this larger society, that would allow Roma to recognize themselves as part of society, and make them "claim ownership" to this common life.

Away from academia or any powerful centre of knowledge the Working Group produced insights that challenge all matured discourses about Roma so far. Very few activists, if any, challenge the current construction of Roma as a social problem and dare ask European Union what kind of citizens it tries to produce through its brand of "active citizenship" dogma. And even fewer frame the 'issue' as Roma having to succeed to be in practice what they are legally entitled to, that is, equal partners in dialogue for a re-envisioning of their societies.

The knowledge produced through the Working Group is not representative in the conventional sense of summing up all practices and experiences of the partner organizations. The heuristic process itself did not consist of a very close systematic analysis of every instance of organizational practice. It rather took a spiral shape that started with some intuitive selection of concepts perceived as relevant, followed by the effort to define their content by invoking examples deemed significant and trying to make sense of them and rework their essential elements into 'theory'. Moreover, the bearing of the knowledge mobilized in order to make concepts like *stigmatization*, *diversification* or *empowerment* meaningful for the organizations' political purposes does not necessarily lie with the fact that it is grounded in local, specific situations – although, admittedly, some would deem it legitimate precisely because the speakers have worked directly with 'natives' in local communities and thus have the authority to give voice to the concerns of the powerless. The representativeness of this body of knowledge is to be weighed against a different set of criteria. Here is an example from the first meeting of the Working Group, a discussion which was repeatedly taken over during the next get-togethers.

Trying to explain his opinion about how stigma works, the Romanian Rom imagined three mirror images, one of which belonged to the Roma who so strongly internalize this collective blame that they themselves start to believe in it and accuse the other fellow Roma of all traditionally sanctioned evils. At this moment Neda precipitated towards the drawing and with her index finger tapping loudly on the flipchart she confessed in an emotional outburst: "It is me! Actually it is me! Really!" The process by which this *embodied knowledge* was finally turned into a representation or explanation of Roma's positions in society, took many turns for two more days, and was marked by even more emotional flare-ups. It was finally condensed in an account in which no primacy was given to discrimination, social issues, access to resources or any other types of

doctrinaire discourses. Why do Roma of all ethnic groups face such huge social problems? Because they carry this stigma with them, they either accept it as a normal yardstick of their lack of value or hide from it by denying their ethnic identity. While for the outsiders the account has an explanatory value, for the Roma who shared their experiences in the meetings it represented the process by which they worked out their consciousness of their being in the world.

Afterwards, the concern became how to replicate such moments of realization in other contexts and with other people.

> Neda: *For me 'development' is a way to support the happening of small changes in the community which will be accepted naturally by the community. This is how is happening with the kindergarten in Senovo for example. The people actually were not aware that they made change but they are happy because someone paid a lot of attention to their children. Before that there wasn't any attention to them.*
> Andrey (challenging the actual occurring of 'development' as defined by Neda): *They just accept the results of that change.*

What Neda actually says here is that 'there is no recipe, no training, about how to get political awareness started.' And without this important ingredient anything else is foreign imposition. Such a project like the kindergarten is comfortable for the activists too because they don't have to expose their intentions. But at the same time they fail to reach their objective, to incite some wish for change.

About a year later Neda decided to carry out some research among several mothers' centers they helped create in several Roma communities in Bulgaria and then she extended the research to their colleagues in Albania. Heart-broken about what she found in Bulgaria and absolutely excited about the developments in Albania, Neda could not figure out eventually what had triggered the political awareness in latter case and how such a process could have been replicate in the former case. In Bulgaria, Neda realized, the women they worked with, had internalized their subordinated position in society to the extent of not acknowledging at anymore and happily contributing its perpetuation.

The happening that raised Neda's question marks about what they were really achieving with the mothers' centers took place during one of her visits. The women had not succeeded to obtain a place from the local council for their activities but that had not discouraged them. One

of them made available her garage and there the women could meet together with their children whom they helped with their homework. As it a mainly 'Bulgarian street', the neighbors had started to become anxious about what looked like a meeting place for gypsies. To ease their mind and comply to the Bulgarians' expectations, the Roma women had mobilized their kids to clean the street and thus appease a bit Bulgarians' concern and resistance to the use of a private house on 'their street' for Roma community-related activities. When Neda visited the Center, some of the old Bulgarian women noticed the commotion and came to see who was the important person visiting the gypsies. They talked very highly about the Roma women and their efforts of educating their kids. After the Bulgarians left, the Roma were so excited about the praise they had received that their immediate reaction was a promise to themselves to go do the cleaning for the Bulgarians. Neda was mortified: she was witnessing the reiteration of the subordinated position of the Roma who willfully participated in it by strengthening the expectation Bulgarians had of Roma: to be the ones who take care of the dirt: "Actually the Bulgarian woman gave a good evaluation of the Roma women's work and they were so impressed that they reacted in the way they were used to, that is, to go and serve her, to clean her house. And of course she accepted." (Neda angrily)

Once started, Neda could hardly be stopped: she had a long list of how these women acted from a subordinated position all over again. Neda asked them if they had presented their work with the kids from mahala not only to the people from their neighbourhood, but to the school teachers as well, if they had contacted them in order to keep up to date about their kids' progress in school. The Roma women's reaction was that they felt in no position to approach a school teacher and anticipated their rejection: "But who are we to talk to the teachers? They will say, here is this gypsy woman again coming to bother us." Another example of the same type of behaviour was the meeting with the mayor of the village when they tried to negotiate for a building for the Centre. In the beginning the mayor refused to talk to a bunch of Roma women who were not even organized in a formal NGO. When the women were helped to get organized in an NGO they still were not aware that the new structure was a powerful resource and that being organized in this way they became actors with legitimacy Once again they doubted they stood for something or somebody to be listened to and taken seriously by teachers or local authorities: "Who are we for the others to listen to us?" Neda saw the problem with the fact that women did act, but that happened only inside the community, not

outside as well: "It's high time now that they start acting in the bigger society as well." Assessing the social texture of the mothers' centre Neda concluded: "There isn't anybody with high capacity among these women, unfortunately, they are very ordinary women from the mahala. But they are very dedicated, they really want to do something. They really wanted to make their voice heard, but they didn't know how. " But at the same time she could not help notice that there something that went much deeper than mere technicalities: the Roma women "seemed to derive their power from the graciousness of the Bulgarians, they seemed to derive their fulfilment from the fact that the Bulgarians accept them".

Coming back to Barbu's observation with which I opened this paper, the imbrications and mutual strengthening of Roma's internalized subaltern positions and Bulgarians' expectation that they act accordingly, has ultimately to do with the criteria on which the members of a people "grant each other ethical-political recognition" and only when these grounds for recognition are settled, can Romani grassroots carry out their ethnopolitics in societal terms. In the next section I will narrow the discussion to Romania in order to show some of the facets of the hindrances of such a common societal project.

Putting the case study into perspective

Romani ethnopolitics has been decisively influenced by two factors: a hegemonic narrative of national identity which left no place for a civic conception of nationalism, and a popular moral distinction between Roma and non-Roma with strong political consequences inasmuch as it constructs Roma as undeserving citizens. This moral unworthiness is qualitatively different than the one of another minority in Romania, the Hungarians, whose position can be said to be effected out of the working of the nationalizing state. Actually Romanians and Hungarians speak the same type of nationalism to each other. While Romani nationalism has been a political desideratum for many of the Romanian Romani elites and not only after the fall of communism, I treated it as only one of the several contending discourses about Roma and I am interested in revealing the factors which determine Roma elites to choose this path over any other. At the same time, it is not a negligible fact that the narrative of nationalism has been employed not only at the level of popular perception, but in academic writings as well, as a framework of analysis and eventually

of assessment of Romani political mobilization. As a result, authors like Zoltan Barany talk about the failure of elites to design appealing symbols, to mobilize history in order to determine individuals to identify themselves in a vertical relationship with an encompassing totality, the nation, to which they are expected to relate through a common myth of origin, and thus overcome internal factions and clan allegiances.

The leading role that Hungarians have played in the struggle for minority rights in Romania has set some strong limits on the social imagination of Roma elites. The competing nationalisms of Romanians and Hungarians have foreclosed the effectual advancement of the interests of the Roma community. Not endowed with a national narrative that would fit the pedigree of the other two main contenders, the Roma have always been presented as short of the main modern characteristic, a national identity forged in the immemorial depths of history and connected to a national territory.

In order to define the demos in whose name Roma elites were asking to be recognized as an ethnic minority, Roma seemed to have no choice but to meet this compelling narrative of nationalism. In 1990 it was the Rom sociologist and activist Nicolae Gheorghe who first brought the idea of a *current Romani ethnogenesis* to the wider public in Romania. It represented in fact the proposal for a civic form of nationalism which was doomed to fall on deaf ears, given the ethnic nationalism which was hegemonic in the Romanian public space at the time. "So far," Gheorghe contended in an article published in *Social Research* in 1991, "the large and diverse communities of Romanies, scattered all over Eastern Europe, *are experiencing a process of ethnogenesis: they are moving from the situation of despised marginal communities and persons, as tsigani, to the situation of an acknowledged ethnic minority, as Romanies.* This status involves a relation of equality, of partnership with other ethnic communities, in a political context evolving (or supposed to evolve) toward democracy, pluralism, and tolerance for cultural diversity." (Emphasis added)

The idea of *Romani ethnogenesis* was presented to the Romanian press during a roundtable discussion caused by the publication of the results of a study carried out by the Bucharest-based Institute for the Study of Life Quality regarding the social situation of Roma in Romania.[3] The newspapers which reported the event offered no clarification whatsoever as to what the sociologist meant by the concept, but swiftly treated the idea with contempt, self-sufficiency and malice: "the Roma claim to be

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a minority who hasn't been born yet!" Due to the ambiguous wording, it was not clear from the articles whether the Roma were openly denied the status of a national minority or whether the journalists only scorned the idea of a people being formed under their own eyes at the dusk of the 20th century as a droll sociological concoction. Either way, the effect was the same: the de-legitimation of Romani political mobilization through the imposition of a nationalist interpretative frame. To conceive that a people is shaping a collective expression nowadays seemed just beyond logic to the Romanian journalists well entrenched in the nationalist mythology of the Romanian people born out of the merging together of Dacians and Romans two thousand years ago in the Carpathian-Danubian-Pontic space.

For Gheorghe though, it was obvious that in order to compete for resources "Romanies are confronting the need to identify themselves in collective terms, to crystallize and to 'spell out' their ethnic identity *in relation to current sensibilities* and symbols at the national and transnational levels" (emphasis added). In these circumstances, "the process of building Roma ethnicity is structured mainly as a political process. … In such a context, Roma identity signals a political rather than a folkloric-cultural identity. Culture moves to politics. … The field of ethnicity is in a clearer way the field of ethnopolitics." In trying to impose this philosophy to the emerging Roma nationalism, Gheorghe was I think an emancipatory visionary but unfortunately completely obscure to most of his political fellows. 'Cultural manifestations' were not the empowering force the newly emerging unified voice of the Roma minority needed. It was not through songs, and dance, and festivals that Roma could achieve an ethnic consciousness, but through the realization that in spite all differences, they were all caught in a similar struggle against marginality: "Ethnic communities take shape as response to stimuli which induce a process of ethnogenesis." He was already talking social movement, societal structural transformation rather than policy achievements.

By holding these ideas Gheorghe was on the very same wavelength with a small group of Romanian intellectuals who talked about joining Europe as a political and societal program expressed in terms of the return to Europe or neo-'48ism (*neopaşoptism*). The most prominent of them were Adrian Marino, Stelian Tănase and Gabriel Andreescu. It was an effort to retrieve from history elements of symbolism and political culture like a conception of political citizenship based on equality before law, and civil rights and liberties, in which the new project could be rooted. While the political principles and values of the 1848 revolution re-entered

the political debates after the 1989 revolution in relation to the emerging discourse of Europeanization as a social and political alternative for post-communist Romania, several Roma elites also endowed the '48 moment with symbolic power by referring to one of its most important outcomes – the emancipation of gypsies from enslavement. In what follows I would like to shortly refer at how the dis-enslavement was recuperated as one of the defining moments of the Roma history.

The evidence I am bringing here come from a roundtable discussion held in 2006, as a celebration of the 150 years that had passed from the Declaration about the emancipation of the Roma slaves.[4] The meeting, which took place almost 15 years after Gheorghe wrote what might be called a manifesto for a Roma movement, brought together different generation Roma activists, some of whom had already changed sides, that is, they were now employed in governmental structures. The ones who really set the terms of the debate were Gheorghe's generation activist, Vasile Ionescu, and the Romanian reputed historian Viorel Achim, the author of the only book about the history of Roma in Romania.

I am not going into the details of the debates about the origins and nature of gypsy slavery in the Romanian principalities. As a matter of fact, they were quickly dismissed during the discussion with a short remark by the Romanian historian who warned that Roma were not the only segment of the population that was enslaved, that sometimes their living conditions were not so bad and that the phenomenon was not that widespread as the claim goes today. There are several interesting points that came out of the debate.

First, none of the discussants or presenters described the liberation of the Roma from slavery as intrinsic part of a crucial moment for the development of the Romanian modern state. An integrated presentation could have led the discussion towards asking what an inclusive citizenship could actually mean and where, along the process, the promise to its values had been broken. It was only in the slightly disconcerted concluding remarks that Ionescu reflected on the nature of citizenship Roma might want to aspire to. But his thoughts died out as if spoken to himself as they had no reverberation in the audience:

> The question is, if we Roma want to exist, whether we should follow the idea of minority rights and then we should negotiate our citizenship. No matter what we may dream at, the fact remains that Romanians have first rank citizenship … I mean, if we try to nuance things a bit … that is, they

are what is called state creators, and only after that come the Hungarians, the Germans and the others. That is, right now, Roma still don't have a well defined identity on whose terms to negotiate its position.

Needless say that, following the pattern set by the use of holocaust in writing Roma history, most of the Roma present agreed on a self-victimizing interpretation and complaint about the lack of an assumed guilt on the side of Romanians: "It is obvious I think", the same Vasile Ionescu added, "that the current disastrous situation that Roma face today, racism and anti-Gypsyism, have their roots exactly in this lack of an inner shiver on the part of the Romanian people towards their own history, towards the way they betrayed their brothers, be they Jews, be they especially Roma." Yet he left unexplored precisely the nature of the brotherhood between Romanians, Roma and Jews.

Met with the historian's skepticism about a direct causal relationship between slavery and the current marginalization of Roma, the activists had hardly any choice but to frame the slavery episode in terms of active memory of hardships and dishonor. Structural factors and social relationships of production left aside, slavery was still essential for the history of Roma, the Roma activist Delia Grigore argued, as a vivid memory of lived humiliation:

I don't think we can talk about a lack of consequences of Roma slavery in the present when it is very possible that our grandparents who still live today may have had parents or grandparents who were slaves. We are talking 150 years from the emancipation, two generations. So it is very close to us and the consequences are very important from a collective mentality point of view; if not from a socio-economic point of view, at least from the perspective of self-stigmatization and being stigmatized by the others. I also don't think we can talk about soft slavery as long as people were weighed, sold by the kilo in market places to the amazement of the foreign travelers who could read such notes in local newspapers like: I sell fit for breeding gypsy young woman. So we will not have rest in our undertaking for the revealing of history of Roma, slavery included until we set a governmental commission for the study of slavery just as there was one for the study of the holocaust. We will also demand an institute for the study of slavery just as there was one for the study of the holocaust. And we will demand a monument in the honor of the Roma slaves just like the one commemorating the holocaust.

The most perplexing position though, which curiously met no opposition, was expressed by the Romanian historian. With a firm stance against the mobilization of the dis-enslavement episode in the construction of the Roma identity, Achim openly expressed what I think is the most widespread and commonly embraced opinion among Romanians, that is, that the liberation of Roma was yet another of the numerous occasions in which Roma have been given a hand but proved morally and civically unworthy of this help:

> Since 1840-1850s there have been several moments in the social history of Romanians when Roma, who were already citizens, have been given a certain chance. The dis-enslavement is certainly one of them. The same, during the 20th century, a process of social modernization took place and communism, well, we cannot say that assured everybody with an equal social status, but it did try to produce a certain social equalization and in part it succeeded. So there have been at least two moments in the history of Romania when there were provided the conditions that could lead to the modernization of this population. And every time, a small part of the Roma population did respond to these incentives. What we are discussing here, the problems with slavery and the ones during communism, we are actually referring to that Roma population which did not respond to these … and what happened in Romania is valid for other countries as well.

The series the Romanian historian referred to is usually supplemented nowadays by other examples like the National Strategy of the Romanian Government for the Improvement of the Situation of Roma or the Decade for Roma Inclusion. History repeats itself in the sense that the processes that led to rendering this population futile or burdensome are not explained. The social production of marginality is not investigated. Instead of investigating the juncture between local social relations, actions of the state, the domination of capital, even today sociologists who write reports on Roma inclusion refer to whether Roma have identity and property papers or not, if they are tax payers, and if they are active on the labor market. The burden or the responsibility for the never changing marginality is placed on Roma themselves who are pictured as a population who is repeatedly given chances to integrate or include themselves in society and although some of them benefit from these opportunities the majority of them prefer to lead a parasite life.

Roma are thus condemned to the status of morally undeserving citizens of Romania who cannot afford the luxury of historical amnesia in the

production of a national history. No matter what, they will be constantly reminded that they have always been given and never raised to the height of the expectations.

Conclusions

I have chosen this research scenario because it helps us put into perspective the partial view of Romani activists and get more of a bird's eye view of their practice without falling into the common trap of finding blame with them, that is, finding them short of democratic practice (Rostaş), incapable of inspiring nationalist feelings among 'their own' (Barany, Kapralski), or, in a more Foucaultian take, further contributing to the subjectivation of Roma themselves (van Baar). It would have been a history of skidding and failure, while I was looking for a Hacking-inspired sociology of knowledge – "understand how we think and why we seem obliged to think in certain ways" – combined with an extended case study method (Burawoy).

This case study shows how and why the political claims born out of Roma's everyday participation in society fail to make it into the mainstream politics arenas, whereas claims derived from more abstract regimes of justification take the foreground in the ever multiplying sites of claiming justice for Roma. Much of the research addressing the relationship between local practice and such international organizations like the EU (or the World Bank, for that matter) looks at the multiplication of sites and actors who engage with these policies in a myriad of possible manners: endorse or use them selectively; schematize and caricaturize them by reducing them to mere jargon displayed to attract resources; know them only from hearsay or even critically resist them. Instead of using such a vertical, top-down approach which investigates how key concepts from EU policies are used in practice and how they impact on real people's lives, I use a more processual and genealogical approach.

NOTES

1. That not all members of the Network were interested in the process set in motion by the Working Group is also evident from the almost null turnover of members from other organizations at the seven meetings of the Working Group despite being invited to participate.
2. This is also the preferred domain of analysis by political scientists when it comes to ethnopolitics in Europe and to the Roma movement in particular. They usually analyze these attempts in the framework of political opportunity structure approach (POS).
3. The study was published as a book, Zamfir, E., and Zamfir, C., Eds, *Ţiganii între ignorare şi îngrijorare* [*Gypsies between ignorance and concern*], Alternative, Bucureşti, 1993.
4. I have the recordings of the meeting courtesy of my colleague Petre Matei.

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ANDREI FLORIN SORA

Né en 1980, à Bucarest

Historien, docteur de l'École des Hautes Études en Sciences Sociales et de l'Université de Bucarest (2009)
Thèse : *Servir l'État roumain. Le corps préfectoral, 1866-1940*

Boursier de l'Agence universitaire de la Francophonie (2003-2007)
Directeur de projet pour une recherche financée par le Conseil national de la recherche scientifique de l'enseignement supérieur dans un programme consacré aux jeunes doctorants (2007-2008)

Participation à des colloques et journées d'études en Roumanie, France et Allemagne
Auteur de plusieurs études sur les fonctionnaires publics et sur les institutions étatiques roumaines.

ÊTRE FONCTIONNAIRE « MINORITAIRE » EN ROUMANIE. IDEOLOGIE DE LA NATION ET PRATIQUES D'ÉTAT (1918-1940)

Suite aux victoires enregistrées par l'Entente à l'automne 1918, la Roumanie est entrée une fois de plus dans la guerre, aux côtés des Alliés. Au cours de l'année 1918, les Roumains ont pris le pouvoir dans les nouvelles assemblées locales et ils ont déclaré l'union avec la Roumanie en Bessarabie le 9 avril 1918 et en Bucovine le 28 novembre 1918. En Transylvanie l'union avec la Roumanie s'est faite suite à une grande assemblée populaire, majoritairement roumaine, organisée à Alba Iulia le 1er décembre 1918. Les résolutions établies à ces occasions décrétaient le droit de l'usage de leur langue maternelle par les minorités dans l'administration et dans la justice et la représentativité par rapport à la population dans le Parlement et au gouvernement du pays[1]. La création de la Grande Roumanie est devenue un objectif accompli suite aux Traités de Paix de 1919-1920.

Cette nouvelle construction étatique a posé le problème de l'administration de régions qui auparavant avaient connu un autre système juridique et qui avaient hérité des fonctionnaires non roumains ayant prêté serment à un autre État. Les autorités étatiques roumaines ont été confrontées au maintien de plusieurs régimes administratifs[2], ainsi qu'à l'existence d'une très forte hétérogénéité du personnel administratif du point de vue du niveau d'instruction, du type d'éducation juridique, du niveau de connaissance de la langue roumaine. De surcroît, les élites roumaines ou non-roumaines qui avaient approuvé l'« union » de leur province avec la Roumanie pensaient conserver leur autonomie et leur poids au niveau local. En août 1940, l'administration roumaine comptait parmi ces fonctionnaires non seulement des Allemands, ce qui est assez compréhensible si on tient compte du contexte international, mais

également des minorités considérées dangereuses pour l'État roumain, les Hongrois par exemple.

Les sujets comme l'histoire des minorités ethniques et confessionnelles en Roumanie, leurs rapports avec l'État roumain et les politiques étatiques dirigées contre ces communautés ont fait, dans les deux dernières décennies, l'objet de quelques études essentielles. Des recherches fécondes sur ces sujets appartiennent aux chercheurs étrangers, beaucoup d'entre eux nés en Roumanie ou avec des origines roumaines : Irina Livezeanu[3], Mariana Hausleitner[4], Dietmar Müller[5], Carol Iancu[6], Hildrun Glass[7]. Nous rappelons aussi des contributions enrichissantes des chercheurs roumains : Vasile Ciobanu[8], de Vasile Puşcaş[9], de Gheorghe Iancu[10] de Adrian Liviu Ivan[11] ou de Lucian Leuştean[12]. Même si elles ne se réfèrent que de manière accidentelle à notre sujet, les contributions de Hans Christian Maner[13], Armin Heinen [14] ont influencé la recherche sur la Roumanie de l'entre-deux-guerres.

Notre recherche vise plusieurs objectifs. Premièrement, il nous semble nécessaire d'analyser les politiques nationalistes de l'État roumain à l'intérieur de son administration et d'étudier les changements intervenus dans le statut professionnel des fonctionnaires minoritaires. Un deuxième objectif est d'observer comment les décisions prises à Bucarest ont été adoptées et adaptées au niveau local. Un troisième objectif consiste à analyser les réactions des acteurs impliqués dans le processus de « roumanisation » de l'administration : Roumains ou non-Roumains. Cette démarche tente autant d'observer l'évolution du statut des fonctionnaires non-roumains, mais aussi par l'intermédiaire d'un tel sujet, de surprendre les tensions à l'intérieur de l'administration roumaine: l'inconstance des politiques gouvernementales. Nous voulons réaliser une analyse de l'administration roumaine de l'entre-deux-guerres par l'intermédiaire de l'étude des fonctionnaires minoritaires. Même si notre étude a vocation à se pencher sur l'ensemble de la fonction publique, certaines catégories de fonctionnaires seront privilégiées : il s'agit des agents du gouvernement au niveau local (les préfets, les sous-préfets, les chefs d'arrondissement et les notaires). Ces « serviteurs de l'État » devaient être l'image du gouvernement, en conséquence ils étaient censés être parmi les premiers fonctionnaires soumis à la politique de nationalisation de l'État roumain.

Le statut des minorités en Roumanie

En 1920, par rapport à l'année 1914, le territoire et la population de la Roumanie ont presque doublé (295.049 km^2 et une population de plus de 14,6 millions d'habitants en 1919[15] ; 18 millions d'habitants en 1930[16]). La création de la Grande Roumanie a modifié le poids numérique des Roumains dans l'ensemble de la population. Après 1918, dans plusieurs régions, les Roumains constituaient la minorité : de sorte que, si avant 1916 les minorités ethniques et confessionnelles ne représentaient qu'environ 8%, en 1920 elles comptaient presque 30% de la population entière[17]. D'après le recensement de 1930, la composition ethnique de la Roumanie était la suivante : Roumains 71,9%, Hongrois (7,9%), Allemands (4,1%), Juifs (4%), Ukrainiens (3,2%), Russes (2,3%), Bulgares (2%), Gitans (1,5%), Turks (0,9%) etc[18].

Le statut des minorités en Roumanie et, en quelque sorte, la présence des minorités dans la fonction publique dépendent aussi du contexte international et des conditions demandées à la Roumanie suite aux traités de Paix. Pour toute la période étudiée, mais à des degrés différents, les politiques de l'État roumain vis-à-vis des minorités ethniques ont du tenir compte de l'avis des Grandes Puissances et des protestes des pays voisins, dont la population était minoritaire en Roumanie. La radicalisation dans les années 1930, de la politique législative et administrative à l'égard d'une partie de ces citoyens non-roumains se synchronisait avec celle d'autres États européen et elle n'a pas déclenché de vives protestations des Grandes Puissances contre la Roumanie, comme une telle politique pouvait le faire une décennie auparavant.

Pendant de la Conférence de Paix de Paris (1919-1920), au 1er mai 1919, une commission a été créée, appelée la *Commission des nouveaux états*[19], chargée de la rédaction des traités au sujet des minorités[20]. De tels traités, avec un contenu similaire, ont été signés par les nouveaux États ou par ceux qui avaient agrandi leur territoire suite à la Grande Guerre et qui se confrontaient avec la présence de fortes minorités ethniques[21]. L'État roumain a signé le Traité des minorités 9 décembre 1919 (ratifié par le Parlement roumain en septembre 1920) [22], garantissant la citoyenneté roumaine aux habitants des provinces rattachés à la Roumanie, l'égalité en droits des minoritaires avec la population majoritaire, l'autonomie religieuse[23]. Les traités de paix et les traités des minorités ont prévu que les conflits sur la question des minorités ethniques devaient être analysés

par des tribunaux arbitraux mixtes, par la Cour Permanente de Justice internationale de Hague et par le Conseil de la Société des Nations.

Dans la Grande Roumanie, l'accès aux fonctions publiques se faisait en respectant les réglementations en matière et également la Constitution de 1923 qui énonçait dans plusieurs articles que les citoyens roumains étaient égaux, sans tenir compte de l'ethnie, confession, statut social[24]. Le gouvernement national-libéral n'a pas inclus dans le texte de la Constitution de 1923 tous les droits des minorités spécifiés dans le Traité des minorités qui venait d'être signé[25]. Ainsi, la Constitution de 1923 ne fait pas référence de manière explicite aux droits des minorités ethniques. Par la loi sur l'obtention et la perte de la citoyenneté roumaine du 24 février 1924 (La loi Mârzescu) entre 80 et 100 mille Juifs ont été privés de la citoyenneté roumaine[26], ce qui contredisait les assertions du Traité des minorités de 1919.

Le *Statut des fonctionnaires publics du 19 juin 1923* a confirmé l'égalité des droits entre Roumains de naissance et naturalisés[27]. Cette loi a uniformisé les conditions d'admission accordant le droit d'être fonctionnaire public « sans distinction de sexe » aux citoyens roumains majeurs (ayant plus de 21 ans), « capables de travailler du point de vue de la santé et n'ayant souffert aucune condamnation honteuse»[28]. Le candidat (homme) devait avoir accompli le service militaire et bénéficier des droits civils et politiques. D'autres conditions générales d'admission dans la fonction publique étaient l'obligation de prêter le serment de fidélité au Roi et aux lois du pays[29] et l'obligation de connaître la langue roumaine.

Le Statut des fonctionnaires publics de 1923 a constitué un pas en avant, notamment dans la réglementation de la stabilité et par le fait que cette loi « a servi comme une arme de défense devant le contentieux administratif, contre les gouvernants contrevenant à la loi »[30]. Les années 1920 ont apporté une professionnalisation de la fonction publique, néanmoins, ces acquis n'ont réussi que partiellement à rompre avec une administration politisée, corrompue, où trônaient les relations clientélistes. En lignes générales, la loi de 1923 a apporté aux fonctionnaires publics provenant des minorités ethniques une plus grande sécurité. La date de l'adoption du Statut est assez importante pour le destin collectif et individuel des fonctionnaires appartenant aux minorités ethniques : à partir de 1921-1922, l'accès aux fonctions publiques devient plus limité par rapport à la période d'après guerre, la pression de Roumains pour obtenir des postes détenus par des minoritaires étant assez forte. L'obtention de la stabilité

déclenchera un phénomène d'enfermement, marqué par la limitation des entrées dans le corps. En outre, la période d'après la promulgation du Statut a été marquée par les tentatives des gouvernements de l'éluder, y compris dans les cercles nationalistes, sur le motif que la fonction publique doit être détenue seulement par des patriotes roumains.

Une loi sur les minorités a été maintes fois demandée par les dirigeants des minorités ethniques. Les minorités espéraient obtenir par une telle loi plus de droits : l'usage de la langue maternelle dans l'administration, dans la justice, dans l'enseignement public, la représentation proportionnelle au Parlement, dans les conseils locaux. Des projets de loi ont été rédigés ou au moins esquissées en 1927, par le gouvernement national-libéral (PNL) et, après 1928, par le gouvernement du Parti national-paysan (*Partidul Național Țărănesc*, PNT). Une action réussie du PNT a été de créer des structures gouvernementales qui s'occupent des minorités ethniques : en février 1930 a été créé l'Office pour les études des minorités ethniques, dans le cadre de la Direction de la Presse et des Informations, subordonnée au Conseil des ministres. Le gouvernement suivant, dirigé par Nicolae Iorga (1931-1932), a créé un Sous-secrétariat d'État pour les minorités, auprès de la Présidence du Conseil des ministres, nommant à sa tête Rudolf Brandsch (avril 1931-octobre 1932), chef de file des Allemands (1919-1935), et le hongrois Arpad Bitay comme conseiller ministériel[31]. Le Sous-secrétariat d'État pour les minorités cesse de fonctionner sous le gouvernement libéral de I. G. Duca de décembre 1933, pour réapparaître pendant le régime autoritaire de Carol II. Une direction pour les minorités a fonctionné dans les années 1930, auprès le ministère des Cultes et des Arts, remplacée en août 1938 par un Commissariat général pour les minorités, auprès la Présidence du Conseil des ministres.

La chute des administrations russe, autrichienne, hongroise a provoqué la fuite surtout des fonctionnaires non-roumains allogènes ou peu liés à ces provinces. On se garde d'indiquer des pourcentages ou des chiffres, mais en termes numériques nous pensons qu'il ne s'agit pas d'une trop forte émigration : les plus touchées ont été les hautes dignités, ainsi que celles dépendant des autorités centrales. Beaucoup de fonctionnaires ont donné leur démission sans quitter la province. Le départ des anciens fonctionnaires, leur démission ou licenciement, le pourcentage et le poids des Roumains dans les nouvelles nominations ont varié d'une région historique à l'autre et même d'un département à l'autre. Une cause d'inquiétude pour les (anciens) fonctionnaires des administrations déchues a été le problème de la réglementation du droit de pension, la

crainte que le nouveau régime n'aille pas satisfaire les revendications légitimes étant grande. À l'exception de la Bessarabie, le gouvernement de Bucarest n'a pas réussi trop rapidement à étendre son contrôle : le maintien ou le licenciement des fonctionnaires minoritaires à pris en Transylvanie et en Bucovine la forme des luttes pour le pouvoir au niveau local. La pression des individus du Vieux Royaume (« regăţeni » / « regnicoles ») pour accéder à des dignités publiques dans les nouvelles provinces a été plus forte en Bessarabie et moins évidente en Bucovine et en Transylvanie, la réussite de cette percée des « regnicoles » a été inversement proportionnelle avec le pouvoir de l'élite locale roumaine, son expérience politique et administrative et des connexions antérieures qu'elle avait établit avec Bucarest.

Il faut souligner l'existence d'une division entre, d'une part, les agents du gouvernement de l'administration centrale ou les services extérieurs et, d'autre part, les fonctionnaires des collectivités locales (la commune rurale ou urbaine, le département). Si les premiers étaient payés par le budget de l'État et se subordonnaient au gouvernement, les derniers étaient payés par le budget local, se subordonnant aux organismes locaux (le conseil communal ou le conseil départemental). Dans la Roumanie de l'entre-deux-guerres les fonctionnaires et les employés des établissements publics à caractère commercial et industriel (les plus importants étant la Direction des Postes et des Télégraphes, la Société des Chemins de fer) étaient considérés, du point de vue légal, des fonctionnaires publics.

Des conditions pour être fonctionnaire public : la prestation du serment de fidélité et connaître la langue officielle de l'État

En 1918, les autorités provinciales roumaines qui ont pris le pouvoir ainsi que le gouvernement de Bucarest ont demandé aux fonctionnaires de prêter serment de fidélité à l'État roumain et au Roi. Le refus de prêter serment a provoqué leur licenciement et la perte des droits de retraite, il a été exprimé surtout par des fonctionnaires hongrois, même si beaucoup d'entre eux sont restés en Transylvanie. La difficulté des nouvelles autorités locales (roumaines) à respecter cette condition ou même l'oubli des autorités roumaines d'exiger le serment sera une cause pour demander et obtenir, dans les années 1920, dans beaucoup de cas, le licenciement de ces fonctionnaires, les minoritaires étant les plus touchés. À partir de 1923,

le Tribunal arbitraire siégeant à Paris a commencé à recevoir les demandes des anciens fonctionnaires hongrois licenciés par l'État roumain pour ne pas avoir prêté serment de fidélité ; ceux-ci étaient mécontents du fait que leurs droits de pension et leur ancienneté n'étaient pas reconnus. Sans prononcer aucune décision à ce sujet, une décennie plus tard, en 1934, le Tribunal arbitraire s'est déclaré incapable d'émettre des sentences sur cette problématique[32]. Néanmoins, en 1929 une partie de ces mécontentements a été satisfaite par le gouvernement roumain[33].

L'usage de la langue maternelle dans la vie publique était une demande très forte des minorités ; dans ce cas-ci, la Roumanie s'est dotée de l'apparence d'une bonne volonté[34]. Au niveau local, cette qualité a été requise dans beaucoup d'administrations peu de temps après la conquête du pouvoir par les Roumains, dés 1918-1919. La première loi qui a demandé la maîtrise de la langue roumaine date de 27 juin 1920[35], renouvelée les années suivantes.

Si l'usage de la langue minoritaire était interdit dans les organismes du gouvernement central et dans l'armée, plusieurs lois donnaient ce droit devant les instances de justice (par l'intermédiaire d'un interprète) et devant l'administration locale (l'article 398 de la loi d'unification administrative du 13 juin 1925, l'article 136 de la loi administrative du 27 mars 1936)[36]. La loi administrative de 1936 admettait l'emploi de la langue minoritaire dans les conseils communaux[37], mais cette réglementation était annulée par la politique nationaliste commencée à partir 1933.

Même si en Transylvanie l'usage de la langue roumaine dans l'administration est devenu obligatoire peu de temps après la conquête du pouvoir par les conseils dirigeants[38], la langue roumaine ne s'est pas imposé dans tous les départements. La langue hongroise continuait à être utilisée dans l'administration dans les régions habitées majoritairement par les Hongrois (notamment dans les départements de Trei Scaune, Ciuc et Odorhei). De surcroît, un rapport du préfet de Târnava Mare du 31 mai 1920 mentionnait que dans de nombreuses occasions, dans l'administration, la langue hongroise a été remplacée non par la langue roumaine, mais par la langue allemande[39]. Une situation semblable était en Bucovine et en Bessarabie, notamment dans les administrations communales[40]. Dans ces deux provinces, l'affluence des roumains du Vieux Royaume ou même du Transylvanie a été plus forte, fait qui obligeait les fonctionnaires minoritaires à s'entendre dans la langue que les nouveaux venus connaissaient mieux.

Le règlement d'application du Statut des fonctionnaires de 1923 faisait un peu plus de lumière sur cette question : les personnes occupant une fonction publique à la date de publication de ce règlement devaient passer au cours de l'année 1924 un examen qui atteste de leur niveau de connaissance de la langue officielle ; ceux déclarés non admis allaient être licenciés, mais ils pouvaient s'inscrire à nouveau à cet examen et essayer de rentrer dans l'administration[41]. Cette loi a été mise en pratique à partir d'octobre 1924, quand a commencé à organiser des examens pour tous les fonctionnaires (non-roumains) d'État, dépendant du ministère de l'Intérieur, les fonctionnaires départementaux et communaux des provinces unies avec la Roumanie en 1918[42].

L'application de la législation sur le niveau de connaissance de la langue roumaine n'a fait que peu de victimes dans les années 1920. Des examens ont été organisés tout au long des années 1920, ainsi que dans les années 1930. Dans l'intervalle 1928-1933 les contrôles visant la maîtrise de la langue de l'État par les fonctionnaires minoritaires semblent perdre de leur acuité. S'ils n'ont pas fait l'objet d'un licenciement - en Transylvanie provoqué d'habitude par les élites locales roumaines - ou s'ils n'ont pas été conduits à poser leur démission avant la mise en application du Statut du 19 juin 1923, les fonctionnaires appartenant aux minorités ethniques ont conservé sans trop de difficulté leurs postes. À partir de 1934, les contrôles sur le niveau de connaissance de la langue roumaine parmi les minoritaires semblent s'affirmer. Dans une note officielle signée par Dimitrie Iuca, sous-secrétaire d'État du ministère de l'Intérieur, les préfets étaient informés d'une série de mesures contre les fonctionnaires minoritaires « dans le haut intérêt de la défense nationale » :

I. Dans l'administration de la préfecture et du municipe on ne fera à partir de maintenant aucune nomination de fonctionnaires appartenant aux minorités
II. On ne fera aucun avancement des fonctionnaires minoritaires.
III. Jusqu'au 10 septembre prochain on organisera un examen de langue roumaine pour tous les fonctionnaires minoritaires, la commission sera formée de :
Le préfet du département, comme président
Le directeur du lycée, s'il est Roumain
Le professeur de langue roumaine
Les fonctionnaires minoritaires qui, après 15 ans, n'ont pas appris la langue roumaine, seront licenciés, leur place sera prise à partir du 1er octobre par des fonctionnaires d'origine ethnique roumaine.

 IV. Messieurs les préfets enverront au ministère de l'Intérieur un rapport confidentiel dans lequel ils demanderont le transfert dans les départements du Vieux Royaume de tous les notaires minoritaires travaillant dans les régions attachées.

Dans les départements des régions attachées on ne fera aucune nomination de notaire minoritaire.

Nous vous demandons de nous informer confidentiellement sur la mise en application de ces mesures au 15 septembre [43].

Ces mesures avaient été demandées par l'État Majeur de l'Armée. À la date du rapport de l'État Majeur, son chef était le général Ion Antonescu (du 1er décembre 1933 au 11 décembre 1934), futur dirigeant du pays pendant la Deuxième Guerre mondiale (de septembre 1940 à août 1944), connu comme un nationaliste. Néanmoins, il est sûr que le gouvernement libéral ne serait pas opposé à une telle décision. En ce qui concerne la nomination et l'avancement des fonctionnaires minoritaires, ces demandes n'ont pas été appliquées. Il faut préciser que le renouvellement des fonctionnaires était limité, les nominations étant assez rares. Il y avait une liste d'attente, ce qu'on appelait à l'époque « le cadre auxiliaire » - des fonctionnaires sans poste, en attendant un poste, équivalent avec leur grade, dans ce temps payés à moitié. Cette forme hybride a été préférée par le gouvernement national paysan, pour des raisons budgétaires, conséquence de la grande crise économique.

La « mission » d'organiser un « examen de langue » semble constituer une surprise pour ceux qui devraient organiser ce concours, les préfets et les maires des communes urbaines, ainsi que pour l'administration centrale du ministère de l'Intérieur, celle qui devait indiquer les modalités de passage d'examens, notamment les sujets possibles. On pense que ces défauts étaient dus au fait que l'évaluation du niveau de connaissance de la langue officielle a été abandonnée vers la fin des années 1920. En dépit de ce niveau déclaratif, on observe que le ministère de l'Intérieur était assez permissif et n'avait pas encore une méthodologie bien précise. La parole du préfet qui défendait ses fonctionnaires appartenant aux minorités en affirmant qu'« ils connaissaient tous la langue roumaine » pouvait être suffisante[44]. En outre, le préfet de Satu Mare envoya la liste des notes reçues par les fonctionnaires examinés, voulant savoir à partir de quel qualificatif un candidat était déclaré admis[45].

Un nouveau dialogue entre l'administration centrale et les préfectures a été entamé en 1935 et 1936, au sujet d'un examen de langue visant

essentiellement les chefs d'arrondissement (préteurs), fonction moyenne mais très importante dans la structure administrative territoriale. Dans cette période, le contrôle du niveau de connaissance de la langue d'État s'est renforcé, ainsi que les modalités d'organisation de l'examen. Cette fois-ci l'examen était organisé au niveau national, à Bucarest. Les supérieurs directs des fonctionnaires et les professeurs roumains locaux ne faisaient plus partie de la commission d'examen. Ces dispositions ne faisaient qu'accroître la rigueur de l'examen et provoqueront une protestation des préteurs appartenant aux minorités ethniques ainsi que le mécontentement de leurs supérieurs, les préfets, qui rappelèrent que les intéressés avaient déjà été admis à un examen semblable. Minoritaires ou non, les fonctionnaires ne voulaient pas passer cet examen : la crainte d'un échec était grande. L'examen consistait en une épreuve orale et une autre écrite. Les épreuves écrites posaient les plus grands problèmes : on a du rédiger un texte sur un sujet donné comme: « le secrétaire, facteur culturel dans sa circonscription », « la nécessité de connaître la langue officielle de l'État », « la vitalité de l'État roumain », « la plus belle journée de ma vie », etc. Parmi les onze candidats, neuf ont été déclarés admis, pour ceux collés à l'examen, une nouvelle session a été organisée. Un seul candidat a échoué à toutes les épreuves: le préteur de Recaş (en Banat), Ernest Weiss qui essaya de convaincre l'administration centrale de sa fidélité à l'État roumain, faisant appel au soutien des notables locaux pour annuler son licenciement probable, mais sans succès[46]. Weiss détenait depuis vingt ans, sans interruption, la fonction de chef d'arrondissement de Recaş.

Suite aux décisions du Conseil des ministres du 1er aout 1938, à partir de cette date l'examen de langue roumaine n'était plus demandé pour les fonctionnaires qui avaient déjà passé un tel examen, ainsi que pour ceux qui étaient titulaires d'un diplôme obtenu dans les écoles roumaines[47].

Les langues étrangères connues constituent une rubrique des dossiers personnels des fonctionnaires. À cette rubrique, pour ceux d'origine ethnique autre que roumaine, figure comme langue étrangère leur véritable langue maternelle[48].

L'argument ethnique dans l'accession à la fonction publique

Jusqu'au début des années 1930, les Roumains ne réussissent pas à contrôler tous les conseils communaux et urbains importants : les Allemands et les Hongrois profitent de leur nombre ainsi que de l'influence

exercée antérieurement. Cette impuissance conduit à une limitation des entrées et des promotions des fonctionnaires roumains dans les administrations locales, notamment celles des grandes villes. La conquête des conseils municipaux des villes de Transylvanie par exemple se fera avec l'aide d'autres minorités[49].

Au sein de la catégorie des fonctionnaires occupant les plus hautes fonctions dans l'administration territoriale nous avons identifié plusieurs cas : des préfets d'origine arménienne (les frères Calust et Hristofor Asvadurov en Bessarabie, V. Mamigonian, préfet de Putna), des préfets hongrois (Arpad Ernyeyi préfet de Ciuc, Gabriel Mihalyi, préfet de Maramureş, Arpad Apati préfet de Storojineţ, etc.) ou le Suisse Julian Peter. Dans le Dobroudja du Sud, l'aroumain Tascu Pucerea, proche du PNL, préfet de Durostor de 1922 à 1926 et de 1933 à 1937, jouissait d'une grande influence. Il y a plusieurs chefs d'arrondissement et nombreux notaires appartenant à des minorités ethniques : des Allemands, des Hongrois, des Serbes, des Bulgares, etc. Dans l'administration centrale de Bucarest, au milieu des années 1920, on retrouve l'allemand Victor Hugo Starrak parmi les inspecteurs généraux administratifs du ministère de l'Intérieur, de 1934 à 1944 cette dignité étant détenue par l'allemand Rudolf Brandsch.

Dans le gouvernement de Bucarest, les ministres issus de communautés « minoritaires » ne sont pas si nombreux et en général ils ont un autre statut, étant originaires et formés dans le Vieux Royaume. Dans deux cas seulement un membre du gouvernement a été nommé en tenant compte de son ethnie, celui de Rudolf Brandsch et de Hans Otto Roth, dirigeants politiques de la minorité allemande, qui ont détenu la fonction de sous-secrétaire d'État pour les minorités respectivement de 1931 à 1932 et de juillet à septembre 1940.

Un leitmotiv de l'époque parmi les Roumains nationalistes ou parmi ceux qui postulaient pour un poste, ainsi que pour certains gouvernements, était le patriotisme des Roumains de souche qui s'opposait à la déloyauté des minorités ethniques (y compris des fonctionnaires minoritaires) Roumains de souche[50]. Dans les luttes pour le pouvoir au niveau local, pour obtenir ou rester dans un poste public, la relation établie avec les minorités pouvait influencer les carrières des fonctionnaires. Les délations contre les fonctionnaires « qu'ils ne sont pas assez patriotes » ainsi que l'insistance d'un fonctionnaire sur le fait d'être « un bon roumain » ou un roumain de souche sont plus usuelles pendant les gouvernement libéraux et le régime autoritaire de Carol II, que sous le gouvernement national-

paysan. Les postes publics détenus par les minoritaires étaient convoités par les Roumains de ces régions et, également, par les Roumains du Vieux Royaume. Les accusations étaient faites notamment comme une conséquence de la lutte pour le pouvoir au niveau local entre les différentes factions politiques qui ne tenaient pas toujours compte de l'ethnie. Nous rappelons que pour certaines communautés ethniques, comme les Hongrois, le fait de servir comme fonctionnaire dans l'administration roumaine était perçu comme une sorte de dégradation.

Entre 1922 et 1923, à la tête du département d'Odorhei s'est trouvé le lieutenant-colonel de réserve Valeriu Neamţu, transylvain, mais non originaire de cette région. Le nouveau préfet est entré rapidement en conflit avec des membres de l'élite locale roumaine et avec son adjoint direct, le sous-préfet Vicenţiu Răuca Răuceanu. Le sous-préfet croyait avoir toutes les qualités pour accéder à cette fonction : roumain nationaliste[51], originaire de ce département (autochtone), ancien *prim-pretor* sous le régime autrichien-hongrois (un bon administrateur) et, surtout, président de l'organisation locale du parti libéral au pouvoir, qualité qui le légitimait du point de vue politique. Ne trouvant pas de soutien dans l'administration centrale du ministère de l'Intérieur, ni parmi les dirigeants du PNL, Răuca Răuceanu a démissionné de l'administration. Dans une lettre du 14 février 1922, parmi ceux accusés par Răuceanu de faire partie de la camarilla du préfet figurait le préteur Stupariu accusé d'être « pro-hongrois » et donc coupable de trahison envers sa patrie[52]. Quelques mois plus tard, un nouveau conflit dans l'administration du département de Odorhei a surgi entre le préfet Neamţu et le prim-préteur Stupariu : accusations réciproques étaient lancées, y compris celle d'être trop proche des Hongrois. Les représailles et les accusations contre Stupariu étaient faites par le nouveau sous-préfet, mais l'auteur était assurément le préfet. L'adresse du sous-préfet au Ministère accordait beaucoup de place à des reproches faits par deux habitants (Mihail Lazlo et Pavel Gyorfas), qui dénonçaient le fait que Stupariu, prime-préteur de Cristur, « avait chanté l'hymne hongrois, avait des amitiés étroites avec les chauvinistes hongrois de Cristur et, à l'occasion de la réforme et dans d'autres situations, il avait soutenu les intérêts des Hongrois au détriment des intérêts des Roumains »[53]. À son tour, le préfet Neamtu fut critiqué par le chef de la Sûreté locale, à cause de ses sympathies pro-hongroises : « Le préfet passe trop de temps avec les Hongrois, ils participent ensemble aux fêtes dans plusieurs locaux publics, en chantant des chansons hongroises, parmi lesquelles figure également l'Hymne National Hongrois »[54]. Quelques mois plus tard, le

chef de la Sûreté retira sa déposition contre le préfet[55]. En ce qui concerne le conflit qui opposa le préfet Valer Neamțu au prime préteur Stupariu[56], l'administration de Bucarest lui mit fin en licenciant ce dernier, remplacé dans le poste de chef d'arrondissement, suite à la recommandation du préfet, par le Hongrois Iosif Lengyel[57]. Bucarest a pris position et a nommé dans la fonction de préfet l'ancien sous-préfet Vicențiu Răuca Răuceanu. Même s'il changea plusieurs départements, Iosif Lengyel était encore prime-préteur en juillet 1940[58], bénéficiant de la confiance du gouverneur (rezident regal)[59].

Dans le département de Trei Scaune, en 1935, le nouveau préfet, libéral lui aussi comme le précédent, utilisait l'argument nationaliste pour écarter le directeur de préfecture en fonction et pour faire nommer un de ses proches. L'administration centrale s'est opposée très fortement à ce changement. En conséquence, le préfet se servit d'un argument très important à cette époque-là : Iosif Pop « par son attitude anti-roumaine déterminée par des liens de parenté anciens, ne nous a pas satisfait dans l'exercice de ses responsabilités », en ajoutant même que « par son attitude il a saboté des actes administratifs, de sorte que son maintien comme directeur produit une situation impossible dans une région minoritaire hongroise où nous avons autant d'intérêts nationaux roumains»[60]. Finalement, « le pro hongrois » Iosif Pop, fonctionnaire stable, a été transféré dans un autre département.

Ces exemples ne sont pas singuliers: les notabilités locales roumaines se sont trouvés en conflit les unes avec les autres, avec des allogènes de la région, ou des non-roumains afin de s'assurer le pouvoir dans l'administration. L'administration de Bucarest a joué le rôle d'arbitre de ces conflits au niveau local, étant obligée à son tour de tenir compte de plusieurs attributs: fidélité politique et réseaux, origine ethnique et même la pression de l'opinion publique. La présence des minoritaires dans le PNL, ainsi que le maintien des fonctionnaires minoritaires est due aussi au fait que, pour beaucoup d'hommes politiques roumains, l'acceptation parmi eux des gens appartenant à d'autres minorités étaient une conséquence directe d'une prise de conscience qu'ils font partie ensemble d'une élite (noblesse, élite intellectuelle, haute bourgeoisie etc.).

À côté de la fidélité au parti politique au pouvoir, graduellement le nationalisme devint un autre argument fort, qui devait être pris en compte par l'administration centrale, plus précisément par le ministère de l'Intérieur: les délations dans la presse à l'adresse des fonctionnaires non-patriotes peuvent provoquer plus facilement que d'autres accusations

(comme celle de corruption, comportement inadéquat dans la société) de vifs mécontentements parmi les membres de l'élite politique mais aussi au sein de l'opinion publique. Un article paru en 1937, pendant le gouvernement libéral, dans le journal de droite *Curentul* a déclenché une enquête de la part des Services secrets roumains (*Siguranţa*/Sûreté générale), visant le préfet de Storojineţ, en Bucovine. Le titre de l'article était explicite : « C'est ça la vérité ? Est-ce que le préfet de Storojineţ est hongrois ? ». Suite à une lettre de la part d'un officier supérieur qui avait choisi de rester anonyme, on accusait le gouvernement de mauvaise administration, parce qu'il ne tenait pas compte des intérêts de l'État, et « d'avoir abdiqué face aux minorités », donnant comme exemple le cas du préfet Apaty[61]. L'officier argumentait que dans l'éventualité d'une invasion contre la Roumanie, ou d'un conflit armé, les premiers ennemis seraient des « minoritaires », appartenant à l' « espèce » la plus dangereuse[62]. Nous pensons que le gouvernement national-libéral connaissait bien la nationalité de Arthur Apathy (Apati), préfet depuis novembre 1933. Néanmoins, Bucarest a demandé « des investigations discrètes et un rapport détaillé sur le passé » du préfet[63]. La réponse du chef régional de la Sureté générale est parvenue plus de deux semaines après, confirmant que le préfet « est le fils de Iosef Apati, d'origine hongroise et religion catholique et de Rose Salzman, de religion juive, passé au catholicisme ». Le préfet Apati s'est marié à une roumaine et s'est converti à la religion orthodoxe en 1921. Le fonctionnaire de la Sûreté de l'État donnait son verdict : « Notre enquête a prouvé que, dans son entière activité comme préfet du département de Storojineţ, M. Arthur Apati a montré qu'il est *un bon roumain*, en exerçant son activité au milieu de la population ukrainienne, majoritaire dans ce département ; il a soutenu et a encouragé la cause des Roumains, comme un vrai roumain »[64]. La fidélité politique était ainsi plus importante que l'origine ethnique, mais la situation aurait été différente si Apathy avait exercé la fonction de préfet dans un département habité dans un large pourcentage par des Hongrois.

L'arrivée au pouvoir en novembre 1928 du PNT a été perçue par beaucoup d'habitants de Transylvanie comme une grande opportunité pour faire leur entrée et s'élever dans la hiérarchie de l'administration centrale à Bucarest, ou simplement dans l'administration locale de cette province. Les minoritaires aussi ont pensé que leurs chances augmentent : des anciens fonctionnaires d'avant 1918 ont demandé leur (ré)intégration dans les services de l'État roumain[65]. Même si le gouvernement national-paysan n'a pas répondu positivement qu'à petite partie des demandes des

minorités, l'écart par rapport aux libéraux est important**.** Ainsi, par la loi sur les retraites de 1929, les anciens fonctionnaires qui n'avaient pas prêté serment à l'État roumain ont vu leurs droits reconnus : leur ancienneté dans les autres administrations que celle roumaine a été reconnue, ainsi que leurs droits de retraite. Cette loi a été considérée par les libéraux comme une trahison de la part des Roumains du PNȚ.

Renforcement du processus de roumanisation dans les années 1930

À partir de 1933, date qui coïncide avec le retour au pouvoir du PNL, ainsi qu'avec la croissance de l'influence du roi Carol II, on observe que l'administration centrale ou locale est devenue plus sensible au courant nationaliste roumain. En même temps, plusieurs voix de l'Armée ont commencé à attirer l'attention sur le péril de la présence dans l'administration des minoritaires ethniques. Plusieurs raisons contribuent à ce changement de la politique à l'égard des minorités. Premièrement, c'est le contexte international avec la montée du nationalisme, notamment dans des pays comme l'Italie ou l'Allemagne. Des mouvements de droite et d'extrême droite se sont développés en Roumanie aussi. Deuxièmement, par sa politique visant d'accroître son influence, Carol II ne fait pas beaucoup pour limiter la roumanisation de l'administration, profitant d'elle pour affirmer son pouvoir, même si autour de lui il y a beaucoup de non-roumains, y compris des Juifs. Troisièmement, par comparaison avec la décennie antérieure, le Parti National Libéral est cette fois-ci fort au niveau local, de surcroît, nombreux de ses partisans demandaient un débouché, un emploi. On ne doit pas oublier l'importance de l'armée pour la société roumaine et ses rapports avec l'administration: les hauts officiers sont des nationalistes, les postes de commande de l'armée roumaine sont détenus dans leur grande majorité par des Roumains du Vieux Royaume.

Une adresse du 29 janvier 1934 de l'État Major de l'Armée pour le Conseil supérieur de la défense du pays vient montrer la crainte ressentie au sein de l'armée que la présence des minorités ethniques dans les services de la Société roumaine des Chemins de fer puisse nuire à la défense du pays. Le péril étranger et la trahison des Roumains appartenant aux minorités ethniques ou de ceux animés par des sentiments antinationalistes devenaient un argument pour demander leur licenciement. La seule raison était le grand nombre des minoritaires, comme employés, chefs de gare

(319 minoritaires sur 1188), y compris à la tête de plusieurs directions de la Société[66].

Dans une circulaire ministérielle (no. 9846), envoyée aux préfets par Dimitrie Iuca le même jour que celle sur l'interdiction de ne plus employer des fonctionnaires minoritaires dans l'administration publique, nous trouvons une explication officielle pour la politique anti-minorités. La note mentionnait qu'à la suite d'un rendez-vous au Ministère avec les préfets des départements de Transylvanie, de Bucovine, de Bessarabie et de Dobroudja, la majorité d'entre eux « ont montré que leur activité administrative était perturbée par le sabotage systématique de la part des fonctionnaires minoritaires téléphonistes »[67]. La solution envisagée par le Ministère était que les fonctionnaires minoritaires des PTT des provinces unies en 1918 soient transférés dans le Vieux Royaume, pour « qu'ils ne deviennent pas une menace pour la sûreté nationale »[68]. Nous ne savons pas si cette mesure a été appliquée, une mutation massive des fonctionnaires appartenant aux minorités ethniques dans des provinces habitées en majorité par des Roumains ne s'est pas produite. Néanmoins, plus de deux ans après, sous le même gouvernement libéral, parmi les fonctionnaires circulait la rumeur que cette mutation, générale, sera adoptée[69].

À la fin des années 1930, des mesures ont été prises contre les minorités ethniques et confessionnelles dans plusieurs pays européens. La législation roumaine est devenue elle aussi plus restrictive. Le gouvernement Goga-Cuza de novembre 1937-février 1938 et le régime autoritaire de Carol II n'ont pas fait qu'accentuer la politique de « roumanisation » de l'administration. Le 21 janvier 1938 a été adopté le décret-loi par lequel le droit à la citoyenneté roumaine de ceux qui avaient reçu la citoyenneté roumaine entre 1919 et 1920 était mis en discussion. Le gouvernement Goga-Cuza argumentait que dans cette période beaucoup de Juifs en provenance de l'ancienne Russie avaient obtenu la citoyenneté roumaine sans en avoir le droit, en profitant de la corruption de l'administration roumaine. Suite à cette loi, un tiers de la population roumaine a perdu la nationalité roumaine. La Constitution de 1938 prévoyait que les futurs ministres soient des citoyens roumains, au moins depuis trois générations ; toutefois les anciens ministres étaient exemptés de cette règle[70]. Une autre loi importante est la loi du 20 janvier 1939, modifiée le 26 juillet 1939, qui portait sur « l'obtention et la perte de la nationalité roumaine », par laquelle on réglait les procédures de naturalisation et on interdisait aux Roumains naturalisés d'être nommés dans de hautes fonctions publiques. Le décret-

loi du 4 mars 1938 sur la suspension de l'inamovibilité et de la stabilité des fonctionnaires publics et de l'inamovibilité des magistrats pouvait avoir lui-aussi des répercussions sur les fonctionnaires minoritaires, mais à notre avis son attribution principale était de combattre les adversaires politiques du régime autoritaire de Carol II.

Dans les années 1930, une constante de la vie politique roumaine est l'immixtion progressive du roi Carol II (1938-1940), processus qui aboutira à l'établissement d'un régime autoritaire (1938-1940) et à un système de parti unique, le *Front de la Renaissance Nationale*. Au parti unique ont adhéré les organisations des minorités ethniques, qui ont été organisées en sections distinctes. Dans le *Front de la Renaissance Nationale* a été créée la fonction de commissaire général des minorités, fonction détenue par le roumain Silviu Dragomir[71]. Les minorités ont donné des représentants dans les organes centraux du Front, le Directorat et le Conseil supérieur national[72]. La grande partie de ces dirigeants des minorités énumérés ci-dessous ont été élus sénateurs et députés du Parlement de 1939 (Hans Otto Roth, Elemér Gyárfás, etc.) sur les listes du Front, la seule organisation politique ayant le droit de faire des nominations. Encore une fois l'État roumain faisait figure du respect de la démocratie et, dans notre cas, des droits des minorités. L'adhésion de représentants des minorités au régime de Carol II a créé des tensions et des dissensions à l'intérieur des organisations de ces minorités.

À cause de la crainte d'une invasion étrangère le régime autoritaire de Carol II des années 1938-1940, ne s'est pas limité à la radicalisation des politiques étatiques uniquement contre la communauté juive, mais aussi contre d'autres minorités ethniques et confessionnelles et même contre des Roumains, mais qui appartenaient aux cultes néo-protestants, plus connus comme adeptes de sectes ou *pocăiți* (repentis). Comme auparavant, le premier espace qui devait être épuré des éléments nocifs à l'État était l'administration. Un document qui montre ce mouvement officiel contre ses propres citoyens est une lettre confidentielle signée par le préfet de Brașov, le colonel Tocineanu, adressée aux chefs d'arrondissement et aux maires, par laquelle on demandait le licenciement des fonctionnaires adeptes des sectes. On suppose que cet ordre était une recommandation de l'administration centrale, et qu'il a été appliqué également dans d'autres départements[73].

Fin de septembre, début octobre 1939, quelques semaines après l'invasion de la Pologne, le ministère de l'Intérieur, en accord avec l'État Major de l'Armée, décida de transférer à l'intérieur du pays les notaires

communaux appartenant aux minorités ethniques de la frontière de l'ouest[74]. Face à un transfert à des centaines de kilomètres de distance de leur domicile et inquiets peut-être de ne pouvoir s'adapter au nouvel lieu de travail, une grande partie des fonctionnaires concernés ont essayé d'y échapper ou, au moins, de changer la décision. Ainsi, Zsolnai Adalbert, notaire dans le département de Bihor, fut transféré dans le département de Constanţa. Sachant que sa nationalité était la cause du transfert, ce fonctionnaire apporta aux autorités étatiques des actes prouvant qu'il n'était pas d'origine hongroise, mais d'un père slovaque et d'une mère roumaine, et de confession orthodoxe[75].

La perte de la Bessarabie et du nord de la Bucovine en faveur de l'Union Soviétique a forcé l'administration de Bucarest à réévaluer la situation des préteurs et d'autres fonctionnaires minoritaires[76]. À la veille de la Seconde Guerre mondiale, le nombre de non-Roumains dans l'administration publique avait diminué, quelle que soit l'ethnie considérée : hongroise, serbe, allemande, juive. Les Juifs ont été les plus touchés, mais ils détenaient une position périphérique dans l'administration, étant employés en général dans de petites fonctions. L'État roumain avait renforcé sa politique d'expectative et de contrôle envers les minorités ethniques et confessionnelles. Le licenciement était un processus de longue haleine. Le pouvoir de Bucarest se mit à établir des listes des fonctionnaires territoriaux de l'administration centrale du ministère de l'Intérieur.

Un dossier créé par le ministère de l'Intérieur porte sur « les fonctionnaires hongrois qui sont partis volontairement dans le territoire cédé à la Hongrie »[77]. Parmi ceux-ci on mentionnait aussi quelques fonctionnaires allemands. Le manque de témoignages pertinents de ceux concernés, ainsi que les informations issues des archives roumaines sur ce sujet ne permettent pas de savoir comment s'est réalisé ce départ. On suppose qu'il s'agit d'une contrainte de la part des autorités étatiques roumaines ou plutôt d'une possible vendetta de la part de la population ou de l'administration locale. N'oublions pas qu'une partie de ces fonctionnaires étaient originaires de la région qui, suite au diktat de Vienne du 30 août 1940, a été absorbée par l'État hongrois[78]. On a recensé 443 fonctionnaires d'origine hongroise qui, avant novembre 1940, ont choisi « volontairement » la Hongrie. La majorité de ceux qui apparaissent sur ces listes étaient des salariés de la Société des Chemins de Fer. On retrouve aussi de notaires (45 individus), de prêtres, de médecins de circonscription, d'agents de police.

Conclusions

Durant l'entre-deux-guerres les minorités ethniques et confessionnelles restent représentées dans l'administration locale, mais en diminution constante. Les autorités roumaines, locales ou celles de Bucarest, ont « roumanisé » l'administration par une technique très simple : lors des recrutements pour les postes de l'administration, les Roumains avaient la première chance, et non seulement parce qu'ils connaissaient mieux la langue d'État. L'État roumain n'a pas su ou n'a pas voulu s'approcher les minorités ethniques. Cette direction aurait en effet impliqué le partage du pouvoir, au moins au niveau local, et donc fantasmatiquement de permettre à des ennemis potentiels de saboter l'édifice étatique.

Les autorités roumaines se sont montrées plus soucieuses envers les petits fonctionnaires non-roumains des Postes et des Chemins de Fer, et les quelques moyens et hauts fonctionnaires minoritaires de ces sociétés, qu'envers les représentants du Roi et du gouvernement au niveau local : des préfets, des sous-préfets, des chefs d'arrondissements, des notaires. Cela est explicable par : la crainte du nombre de la part des nationalistes et des gouvernements roumains, les différences existantes entre les petits fonctionnaires et employés et les moyens et hauts fonctionnaires minoritaires proches des Roumains par d'autres liens que la Nationalité (origine sociale, affinités intellectuelles, relations d'amitié). Pour ces raisons aussi notre étude établit une distinction nette : entre les politiques nationalistes au niveau local et celles portées au niveau national.

Même si l'idée de roumanisation de l'administration publique fit son apparition dans le discours public dès les années 1920, il ne s'agissait pas encore d'une politique d'État. Ce processus a été limité par la lenteur de l'administration roumaine, par les changements successifs de gouvernements et par la présence au niveau local des amitiés et des relations au-dessus des querelles ethniques. Les combats pour le pouvoir au niveau local dépassent les clivages ethnique ou confessionnel pour se porter entre partis politiques ou groupes d'intérêts. L'argument nationaliste est un aspect important dans la nomination et le maintien des agents du pouvoir central au niveau local, mais à notre avis l'État roumain n'a commencé à l'utiliser d'une manière organisée et bien ciblée contre ses fonctionnaires minoritaires qu'au milieu des années 1930. Un des traits du « nouveau régime » instauré du point de vue légal par la Constitution de février 1938 a résidé dans l'accentuation du nationalisme d'État, y compris par la « solidarisation » des Roumains contre les minorités ethniques et

confessionnelles. Des dérapages existent durant l'entre-deux-guerres, mais ils sont provoqués plutôt par des intérêts personnels : le manque de patriotisme étant une raison pour écarter du service public dans son ensemble, des gens incommodes. L'étude des fonds du ministère de l'Intérieur nous permet d'affirmer qu'à partir de 1933-1934 l'État a renforcé le processus de roumanisation de l'administration. Jusqu'en décembre 1933 ce processus ne s'est pas déroulé selon un plan centralisé, il s'est porté plutôt au niveau de luttes pour le pouvoir local. Pourtant, ni après 1938 nous ne pouvons parler d'une politique d'exclusion de tout élément minoritaire, mais plutôt d'une tendance qui s'est accentuée.

Pour la période d'avant 1937, on peut facilement identifier deux types de comportement du gouvernement face à la présence des minorités : d'une part, celui du gouvernement national libéral ainsi que d'autres gouvernements dominés par des hommes politiques du Vieux Royaume, notamment le PNL[79], et d'autre part, celui du gouvernement national paysan. Néanmoins, le PNL ne peut pas être considéré comme nationaliste au sens strict. Comme le PNT, le PNL a établi des cartels électoraux avec certains groupes politiques appartenant aux minorités. De nombreux membres de ce parti au niveau local étaient des minoritaires ; sur ces listes, ils ont été élus députés ou sénateurs : des Hongrois, des Juifs, des Turcs, des Allemands. Si les gouvernements dominés par des hommes politiques du Vieux Royaume ont encouragé la « roumanisation » de l'administration, pendant le gouvernement national-paysan ce processus s'est affaibli.

Quand la politique gouvernementale a favorisé la présence de fonctionnaires appartenant aux minorités ethniques dans l'administration locale, les élites et les fonctionnaires locaux roumains ont cherché à s'opposer à cette politique. En revanche, en sens inverse, les mesures prises à la fin des années 1930 qui visaient la réduction du nombre des fonctionnaires « minoritaires » ont été plus d'une fois sabotées par des fonctionnaires roumains, y compris par des préfets, qui ont exprimé dans beaucoup de cas leur confiance en tel ou tel fonctionnaire qui, au delà de sa nationalité, était présenté comme un « bon Roumain ».

NOTES

[1]   Les décisions d'union des nouvelles provinces ont été sans délai approuvées par l'État Roumain au cours de l'année 1918, *Codul General al României*, vol. IX-X, Bucarest, pp. 252-253.

[2]   Jusqu'au 1er janvier 1926, jour de l'entrée en vigueur de la loi administrative du 14 juin 1925, dans la Grande Roumanie ont fonctionné, plus ou moins, quatre régimes administratifs (pour chaque province), auxquels on peut ajouter le cas particulier de l'état de siège.

[3]   Irina Livezeanu, *Cultural Politics in Greater Romania. Regionalism, Nation Building and Ethnic Struggle, 1918-1930*, Cornell University Press, Ithaca et Londres, 1995.

[4]   Mariana Hausleitner, *Die Rumänisierung der Bukowina: Die Durchsetzung des Nationalstaatlichen Anspruchs Grossrumäniens 1918-1944*, Oldenbourg Verlag, München, 2001.

[5]   Dietmar Müller, *Staatsbürger auf Widerruf. Juden und Muslime als Alteritätspartner im rumänischen und serbischen Nationscode. Ethnonationale Staatsbürgerschaftskonzeptionen, 1878-1941*, Harrasowitz, Wiesbaden 2005.

[6]   Carol Iancu, *Les Juifs en Roumanie (1919-1938). De l'émancipation à la marginalisation*, Louvain, Paris, 1996. Nous renvoyons ici l'édition roumaine : *Evreii din România, 1918-1938. De la emancipare la marginalizare*, Hasefer, Bucarest, 2000.

[7]   Hildrun Glass, *Zerbrochene Nachbarschaft: das deutsch-jüdische Verhältnis in Rumänien: (1918-1938)*, Oldenbourg, München, 1996.

[8]   Vasile Ciobanu, *Contribuții la cunoașterea istoriei sașilor transilvăneni*, Hora, Sibiu, 2002.

[9]   Vasile Pușcaș, *Universitate, societate, modernizare. Organizarea și activitatea științifică a Universității din Cluj* (1919-1940), deuxième édition, Eikon, Cluj-Napoca, 2003 [1995].

[10] Gheorghe Iancu, *Ethnic Minorities from Romania in Documents from Nations' Society (1923-1932)*, Argonaut, Cluj-Napoca, 2002.

[11] Adrian Liviu Ivan, *Stat, majoritate și minoritate națională în România (1919-1933). Cazul maghiarilor și germanilor din Transilvania*, Eikon, Cluj-Napoca, 2006.

[12] Lucian Leuștean, *România, Ungaria și Tratatul de la Trianon, 1918-1920*, 2002; R*omânia și Ungaria în cadrul „Noii Europe"[1920-1923]*, 2003, les deux livres parues aux Éditions Polirom de Iași.

[13] Hans Christian Maner, *Parlamentarismus in Rumänien : 1930-1940. Demokratie im autoritären Umfeld*, Oldenbourg Verlag, Munchen, 1997, traduit en roumain en 2004.

[14] Armin Heinen, *Die Legion „Erzengel Michael" in Rumänien : soziale Bewegung und politische Organisation : ein Beitrag zum Problem des*

      internationales Faschismus, Oldenbourg Verlag, Munchen, 1986, traduit en roumain en 1999.

[15] Irina Livezeanu, *op.cit.* p. 8.

[16] *Enciclopedia României*, vol. I, Bucarest, 1938, p. 134.

[17] *Apud*, Irina Livezeanu, *op. cit.*, p. 9.

[18] *Enciclopedia României …*, p. 148.

[19] Cette Commission ne comprenait que les représentants des Grandes puissances victorieuses : les États-Unis d'Amérique, la Grande-Bretagne, la France, l'Italie, le Japon.

[20] Dans le texte final du Pacte de la Société des Nations ne figuraient pas expressément le droit des minorités, Gabór Hamza, *Anuario da Facultade de Dereito da Universidade da Coruña – Revista jurídica interdisciplinar internacional*, 11, 2007, p. 351.

[21] Les États étaient : la Pologne, la Roumanie, la Tchécoslovaquie, le Royaume des Serbes, des Croates et des Slovènes et la Grèce.

[22] À cet accord se sont ajoutés des clauses insérées dans le texte de traités de paix de Saint-Germain en Laye, de Neuilly et de Trianon.

[23] Le texte du traité est reproduit dans Ioan Scurtu et Liviu Boar (éds.), *Minorităţile naţionale din România, 1918-1925: documente*, Archives Nationales de la Roumanie, pp. 167-173.

[24] « Constituţia din 1923 », articles 5, 7, 8, in Ioan Muraru, Gheorghe Iancu, Mona-Lisa Pucheanu, Corneliu-Liviu Popescu, *Constituţiile române – Texte. Note. Prezentare comparativă*, Regia Autonomă „Monitorul Oficial", Bucarest, 1993, p. 72.

[25] Charles King, *The Moldovans: Romania, Russia and the Politics of Culture*, Stanford University Press, Stanford, 2000. Nous renvoyons ici l'édition roumaine : *Moldovenii: România, Rusia şi politica culturală*, Editura Arc, Chişinău, 2002, p. 37.

[26] Carol Iancu, *op. cit.*, 2000, p. 102.

[27] Jean Popovici, « Admiterea naturalizaţilor în funcţiuni », in *Revista de Drept Public*, XV, 1940, no. 1-2, p. 156.

[28] Loi du 19 juin 1923, art. 5, in *Statutul funcţionarilor publici*, Bucarest, 1923, p. 4.

[29] *Ibidem*, art. 6, p. 4.

[30] *Revista administrativă*, IX, no. 10, 1er juin 1930, p. 139.

[31] Lucian Nastasă, Levente Salat (dir.), *Maghiarii din România şi etica minoritară (1920-1940)*, Centre des ressources sur la diversité culturelle, Cluj, 2003, p. 286.

[32] Gheorghe Iancu, « Noi informaţii referitoare la problematica minorităţilor naţionale din România interbelică », in Vasile Ciobanu et Sorin Radu (éds.), *Partide politice şi minorităţi naţionale din România în secolul XX*, vol. I, Éditions de l'Université « Lucian Blaga » de Sibiu, Sibiu, 2006, p. 17.

33 Ioan Scurtu et Ioan Dordea (éds.), *Minoritățile naționale din România, 1925-1931 : documente*, Archives Nationales de la Roumanie, Bucarest, 1996, pp. 146-147.

34 Une vison proche du point de vue officiel du gouvernement dans cette problématique est présentée par Julien Peter, d'origine suisse, mais partisane du nationalisme roumain: « L'emploi des langues minoritaires dans l'administration », in *Revue de Transylvanie*, 3(1936/1937), numéro 2, pp. 188-198.

35 À la suite d'une décision du 27 juin 1920, adoptée par le Conseil des ministres, les fonctionnaires des provinces intégrées (Bessarabie, Bucovine, Transylvanie) devaient prêter serment à l'État roumain dans un mois et ils disposaient d'une année pour apprendre la langue roumaine, s'ils voulaient conserver leur poste, sinon « après ce terme ils ne pourraient plus bénéficier des droits professionnels déjà reconnus », *Monitorul Oficial*, numéro 69, 29 juin 1920, p. 2454.

36 Viorica Boteni, *Les minorités en Transylvanie*, Les Éditions A. Pedone, Paris, 1938, p. 58.

37 *Legea administrativă și regulamentul de aplicare al legii administrative*, Bucarest, 1937, art. 136, p. 54.

38 Le décret II, publié dans *Gazeta oficială* du 14/27 janvier 1919, art. 9, repris par Aurel Galea, *Formarea și activitatea Consiliului Dirigent al Transilvaniei, Banatului și ținuturilor românești din Ungaria (2 decembrie 1918 – 10 aprilie 1920)*, Tipomur, Târgu Mures, 1996, p. 448.

39 Archives Nationales Historiques Centrales, Bucarest (ANHC), fonds *Le Ministère de l'Intérieur. La direction de l'administration centrale* (330), ds. 158/1920, f. 213 r.

40 En 1928 le préfet de Cetatea Albă se plaignait du manque des fonctionnaires qui connaissent bien le roumain, ANHC, fonds *Le Ministère de l'Intérieur. La direction de l'administration centrale* (332), ds. 440/1928, 8 r.

41 Le règlement du 23 novembre 1923 visant l'application de la loi du 19 juin 1923, *Statutul ...*, art. 31, p. 30.

42 ANHC, fonds *Le Ministère de l'Intérieur. La direction de l'administration centrale* (332), ds. 282/1928, f. 4 v.

43 Circulaire ministérielle, ANHC, fonds *Le Ministère de Intérieur*, p. I (754), f. 1, ds. 291/1934, f. 1 r., v.

44 Télégramme du préfet de Cahul, *Ibidem*, f. 7.

45 *Ibidem*, f. 18.

46 *Ibidem*, f. 101 – 105 r., v.

47 La décision numéro 1750 bis du Conseil des ministres, art.20, in *Monitorul Oficial*, numéro 178, 4 août 1938, p. 3595.

48 C'est le cas du dossier personnel du notaire de la commune de Leș dans le département de Trei Scaune, Anton Domokos, de confession reformée, qui déclarait connaître comme langues étrangères l'hongrois et l'allemand,

Direction des Archives Départementales de Braşov (DADB), fonds *La Préfecture du département de Braşov. Le Service administratif*, ds. 16/1938, f. 7-8 r., v.

[49] A Sighisoara le conseil communal et la fonction de maires sont conquis par les Roumains seulement en 1934 et grâce à leur alliance avec les Hongrois contre les Allemands, Nistor Cristescu, *Muncă Românească. Administraţia Consiliului comunal al Primăriei Sighişoara (1934-1937)*, Sighişoara, 1937, p. 33.

[50] A. Fotake, ancien chef du bureau administratif dans la préfecture de Tulcea envoya en février 1922 un télégramme au ministère de l'Intérieur, par lequel il sollicitait l'annulation de sa destitution. Son argument principal était : « … Je suis Roumain, et des Roumains il y en a peu dans ce pays. Même dans la Préfecture nous avons beaucoup d'employés étrangers qui s'efforcent de causer des ennuis aux fonctionnaires roumains. Si les politiciens de Tulcea ne désirent pas ma présence dans ma région natale, transférez-moi où bon vous semble parce que je suis sûr du fait qu'en ma qualité de Roumain je suis nécessaire à mon pays … », ANHC, fonds *Le Ministère de l'Intérieur. La direction de l'administration centrale* (331), ds. 476/1922, f. 54-55.

[51] Pour bien se mettre en valeur, Răuca Răuceanu mentionne même que : « le seul défaut qu'on me reproche est que je ne suis pas aimé par les *secui* … un homme sans tache, Roumain de souche, né avec la Grande Roumanie ». ANHC, fonds *Ministère de l'Intérieur. La direction de l'administration centrale* (331), ds. 198/1922, f. 2 r., v.

[52] *Ibidem*, f. 2 r.

[53] ANHC, fonds *Le Ministère de l'Intérieur. La direction de l'administration centrale* (331), ds. 687/1922, f. 7 v.

[54] *Ibidem*, f. 9 v.

[55] *Ibidem*, f. 14.

[56] *Ibidem*, f. 11.

[57] *bidem*, f. 13 v.

[58] ANHC, fonds *Ministère de l'Intérieur*, p. II (755), ds. 119/1940, f. 127 r., v.

[59] *Idem*, ds. 97/1940, 102 r. ,v.

[60] *Idem*, p. I (754), ds. 8/1935, f. 97 r.

[61] *Curentul* du 30 août 1937, *apud* ANHC, fonds *Le Ministère de l'Intérieur. La Direction générale de la Police* (2350), ds. 228/1937, f. 1.

[62] *Ibidem.*

[63] ANHC, fonds *Le Ministère de l'Intérieur. La Direction générale de la Police* (2350), ds. 228/1937, f. 1.

[64] *Ibidem*, f. 5 r., v.

[65] Ce fut le cas pour le Hongrois Bedő Béla qui, onze jours après la formation du gouvernement PNT, en novembre 1928, demanda au Premier ministre Iuliu

Maniu - et non pas au ministre de l'Intérieur, Vaida Voevod, comme il aurait dû le faire normalement - d'être réintégré dans son ancienne profession : celle de préteur, ANHC, fonds *Le Ministère de l'Intérieur. La direction de l'administration centrale*, (332), ds. 185/1927, f. 42.

[66]   ANHC, fonds *La Maison Royale*, vol. III, ds. 2/1934, f. 1-4.

[67]   NHC, fonds *Le Ministère de l'Intérieur*, p. I (754), f. 1, ds. 291/1934, f. 2.

[68]   *bidem*.

[69]   Par une note du 20 mars 1937, non signée et sans le cachet du bureau d'enregistrement du ministère de l'Intérieur, l'inspectorat régional de police de Chişinău informait Bucarest d'une vague de mécontentement des fonctionnaires minoritaires au sujet de la rumeur que ceux-ci seraient « transférés en masse » dans d'autres régions. ANHC, fonds *Le Ministère de l'Intérieur. La Direction générale de la Police* (2350), ds. 257/1937, f. 10.

[70]   « Constituţia din 1938 », art. 67, in *Constituţiile romîne...*, p. 109.

[71]   Radu Florian Bruja, *Carol al II-lea şi Partidul Unic: Frontul Renaşterii Naţionale*, Junimea, Iaşi, 2006, p. 71.

[72]   *Ibidem*, pp. 72-74.

[73]   DADB, fonds *Préture de l'arrondissement Feldioara*, ds. 3/1938, f. 19.

[74]   ANHC, fonds *Le Ministère de l'Intérieur*, p. II (755), ds. 28/1940, f. 110.

[75]   *Ibidem*.

[76]   De surcroît dans les territoires cédés à l'Union Soviétique, Bucarest reçut des informations qui montraient que beaucoup d'habitants avaient acclamé l'arrivée de l'armée russe, y compris les fonctionnaires roumains en poste.

[77]   NHC, fonds *Le Ministère de l'Intérieur*, p. II (755), ds. 98/1940, passim.

[78]   Ce dossier contient deux listes rédigées par les autorités roumaines entre octobre et novembre 1940, suite aux informations reçues de la part des préfectures, mairies, de la direction générale de la police et d'autres autorités.

[79]   L'un des plus critiques chercheurs sur la politique de « roumanisation » en Transylvanie, Elemér Illyés considère le PNL comme le principal responsable de l'oppression des minorités et de la privation de leur droits, n'exemptant pourtant le PNŢ d'une telle tendance, Elemér Illyés, *National Minorities in Romania. Change in Transylvania*, Boulder, New York, 1982, p. 74.

ÁRON ZSOLT TELEGDI-CSETRI

Born in 1976, in Baia Mare

Ph.D., Babeș-Bolyai University, Cluj-Napoca (2009)
Dissertation: *The Political Philosophy of Immanuel Kant*

Research travels in Germany (2003, 2004-2005, 2010)
Conferences and workshops in Romania, Germany, Italy
Studies, conferences and translations in the history of philosophy,
German idealism, Kantianism, philosophy of time, existential philosophy,
political philosophy, cosmopolitanism

TEMPORALITY AND POLITICS IN KANT

The aim of this study is to bring together – in a somewhat panoramic, but plausible manner – two of the main interests of Kantianism, as it emerged in recent exegesis: temporality and politics. In spite of the differences between and within the two fields of interpretive study, we consider that the topics central to them can be reduced to a small number of issues that are intimately related, thus offering a coherent line of critical interpretation, as follows.

Temporality is a recurrent hallmark of the Kantian tradition, needing no special inquiry as to its legitimacy; however, a short overview of its contents seems necessary. The passage towards politics unavoidably involves practical temporality, different from the temporality understood within the metaphysics of the subject as presented in the first Critique. The idea of *life*, being the link between theoretical and practical philosophy, between the rational and the acting subject, presents itself as the first focal point of the discussion.

Whereas the main interest of Kantian politics, on the other hand, seems to be its cosmopolitan purpose, this being clear from the outset as a consequence of universalism, its pragmatic side, however, namely, Kantian anthropology, remains an ambiguous issue all along the interpretive tradition. Here, Michel Foucault's seminal work is called for, as a fruitful intersection of political and existential interests.

Last, we give a hermeneutical account of the historical language-play in *Towards Perpetual Peace*, in order to exemplify Kant's political authorship as a pragmatic activity – as an example of the very intersection of philosophical theory and political practice *qua* discursive performativity.

1. The systematic place of temporality in Kantian thought

Temporality reveals of the critical grounding of Kantian epistemology (sometimes denoted as metaphysics of knowledge, sometimes ontology).

We are talking about a construction from the bottom up, rather of the assumption of premises that find their meaning only during the argument – that is, of a systematic construction.

Time, as a focal term of the system doesn't find its meaning without the other crucial terms, such as sensitivity and spontaneity, apperception, perception, respectively experience. However, in addition to its dynamic role in the system, it has a character of a *datum* that has been difficult to bypass even by the most talented commentators. In this respect, it operates against the system as a final fact of human existence denoted as the subject, something that cannot be interpreted any further – however, everything depends on it. The most difficult problem of the first Critique, the transcendental deduction of the categories, is – if it is – solved by the structure of temporality denoted as the schematism. Due to the epistemological nature of the problem, the "objective" character of time, as the main condition of possibility of knowledge cannot be denied.

This idea legitimizes knowledge in the sense of the mathematical natural sciences - whose categories are "derived" – but it also limits it to this type of knowledge, other possible types being excluded. Thus, the transcendental cannot be known, and the immanent will comply with the logic of time, becoming *phenomenal* – i.e., empirical, real, but without any other own rational (*noumenal*) structure, except that of time. In other words, only empirical knowledge qualifies as knowledge, others are mere illusions.

Temporality within theoretical philosophy

What time and temporality *are* for Kant, in contrast with their *role* in ordering knowledge, is an issue connected to the structure of the subject. Time, together with this structure can be, again, called "objective", as a given property, common to all, intelligible and *a priori*. Objectivity in this case is not connected to experience and its objects in a direct manner, but to the structural openness of the subject to possible experience: *Anschauung.* I do not hasten to use the term in translation since the primary meaning derived from the verb *schauen* - to look, to watch - would be immediately covered by the semantic element of a sixth sense, transcendent, instinctive, irrational – the translation being, namely, the term "intuition". From the meaning of "vision", inherent in this type of openness, we must retain the orientation to an exteriority, to an own "world", without which all transcendental philosophy would turn into a pure speculation out of conceptual structures – called rationalism.

Time is the primary form of openness to the world as sensitivity. Space orders – is the form of – the same sensitivity considered in its exteriority, that is, insofar as it relates to objects. Sensitivity means, however, affectedness of the subject by the object, a presence of the world to me, and in this respect, has an interior aspect, considered without relation to the object. The form of sensitivity in an internal sense is time, which is more general and more primordial than space, since it orders the purely subjective affects as well, being also the condition of my self-affection – thus even of self-consciousness and of thinking.

We can here witness Kantian existentialism, observed in the gesture of the temporal turn concerning the subject, by which it becomes finite, embodied, "thrown" into the world by definition, and as such, deeply determined precisely by what appears to be non-rational: by animal, sensitive nature. Even if we do not go so far as to deduce reason itself from this bodily nature, we can agree with the idea that thinking might have a "life", that it could be linked to nature – that is, it does not land directly from the transcendent into the heads of philosophers.

Temporality from a practical point of view

Human existence, of course, is not directly and analytically constituted from nature – animals do not exist in the human sense – but from the consciousness of the contradiction between this very consciousness and its world. Time, as a common ground of the consciousness-of-the-world and consciousness-of-itself is therefore the *par excellence* bearer of the human paradox, born from its rational nature.

The form of time being universal, it constitutes the common ground of the consciousness-of-the-world that is subordinated to the self-consciousness of each subject, thus having an epistemologically mediating role, conferring a public character to the knowledge structured by it. However, as a self-consciousness that is in conflict with its world, human existence is radically individual, separated from other beings, a self that is itself in contrast with other selves-in-themselves, something apparently private. The I, as the principle of the unity of experience, that should always be the experience of a single subject, is a pure abstraction, a Cartesian *cogito*, but becomes, in an active sense, a transcendental *apperception* – the presence for itself of the active subject, dynamic self-awareness, the act of thinking that perceives itself as such. Its status is, in this form, the status of an intelligible being, which, being identical for all such beings, is that of universal self-consciousness.

The freedom of the subject, postulated in ethics, does not reveal, therefore, of its transcendence, but precisely of its universal form, not communicable as such, however intelligible, that is the active source of the organization of experience – as something autonomous, motivated strictly from the inside according to its own law – that is, motivated by the *interest of reason*. The perspective of practical philosophy is therefore inherent in that of theoretical philosophy.

This explains the legislative status of reason in epistemology: it is always-already a legislative power, active, not descriptive, passive. Therefore, the epistemological problem is always-already a problem of legitimacy, and not of analysis.

The practical perspective is modally different from the epistemological one: the organizing activity of reason can be regarded as being in time itself, directed towards the laws of nature, thus objective and necessary. It can, on the other hand, be seen practically, from the perspective of freedom, becoming noumenal, rational, and autonomous.

2. Towards the problem of the political

This systematic grounding of the normative metaphysics of knowledge in a critical approach succeeds in encompassing the whole of the problematic of Kantian theoretical and practical philosophy. In his late period, however, Kant's thought acquires a new orientation, signaled by the emergence of explicitly political issues (religion, culture, history), on the one hand, and by an increased public sensitivity of the author, on the other – a kind of "application" of the critical system. This change can be observed in the introduction of a heterogeneous perspective in the discourse, in conflict with the basic orientation of criticism, namely, the perspective of a social reality, historically present and pragmatically constituted. The conflict is expressed through the paradoxical idea that, although social and political institutions – laws – should be possible to be thought in an *a priori* way, the specific manner in which they are factually constituted doesn't pertain to pure reason, even practical or ethical, but to an independent rationality, specifically political, which can be methodically differentiated, but not appropriated by philosophical criticism.

The paradox consists – before the emergence of a political philosophy in the sense we are familiar with today – in the very need and simultaneous impossibility of a political philosophy. In other words, although Kant has a theory of law, of the state, of international relations, still, these being

a priori, they do not allow him to capture the very essence of politics in the sense of pragmatic political action aimed at precisely by his own conception. Moreover, this approach produces an ambiguity within the critical discourse, in the sense that the empirical-historical *datum* of a legal order becomes, in a certain sense, the transcendental condition of *a priori* justice, orthogonally overturning the primary methodological structure of Kantianism – towards some type of proto-Hegelianism.

Temporality in politics

This ambiguity leads so far, that the Foucaultian[1] analysis of finitude, in the recently published Introduction to Kant's Anthropology, can speak of an apparent reversal of primordial temporality through anthropological temporal structures that are, in their turn, in time! Namely, he is speaking of "originary" temporalities in contrast with the "fundamental", epistemic one, which occur in time, and through self-establishment, present themselves as being always-already present. Foucault attempts to dismiss these temporalities, and to return to the "fundamental", but runs the risk to be, in turn, contaminated by them, and thus to relapse into relativism.

What could be the temporal sense in which political philosophy might find its critical limitation?

In order to reconstruct the terms of the question, we will need to question the link between philosophy and politics in an epistemological sense. Although political rationality is autochthon, having its own mechanisms and implicit goals – and we emphasize the firmness with which Kant distinguishes them from those of pure reason - there exists, on the one hand, a common meeting surface between the two, on the other, a reciprocal orientation of them, the two of which co-define them in the manner of a difference in complementarity. Politics aiming for the pragmatic goal of perpetuating its own existence over time, and philosophy, for the practical interest of reason in the epistemological ordering of the world, both are based, in the epistemic sense, on the power of judgment. The politician must possess, in addition to his pragmatic, action-oriented commitment, a power the power to judge the *right moment* for this action, and his judgment is formed on the epistemic horizon of practical experience. Being driven and limited by action, this judgment is still deficient in the epistemological sense, even violating the universalizing rules of reason, by the case.

On the other hand, the politician being in turn a rational human being, he is subject also to the dictates of practical reason in an equivocal way, even in the full sense, the categorical imperative being valid against him as well, so that instead of becoming a political moralist, a simulacrum of naïve goodwill, he should become a moral politician. The ambiguity of the two norms – one of expediency in action and another of morality in judgment – represents such a radical rational task, that its eventual perfect fulfillment can be denoted by Josef Simon as "the critical activity *par excellence.*"[2]

The obligation to associate

The power of judgment, as the common source of the two domains of knowledge, has the effect of legitimizing the philosophical critique of political action. Furthermore, the separation of their orientation, that is, the active, law-giving productivity of political action, completely independent of philosophy as a theoretical field, produces a practical limitation of moral-philosophical normativity in what concerns the political field. Namely, once committed, political action becomes factually normative in the legal sense, and this is why there cannot be – with certain exceptions – moral reasons for denying this normativity. Thus, disobedience to law, or at the extreme, conspiracy to revolutionary change by force against a given legal order is, for Kant, strictly prohibited.

But the paradox thus produced does not come from a source alien to philosophy. Rather, it is the expression of an internal tension, activated by the turn towards the new topics, but one that pertains to the rationally finite constitution of the knowing and active subject. Namely, through its animal, living nature, man is essentially vulnerable, being thus pushed towards association with others, which explicates, if it does not define, man's finite constitution, signaled by temporality. This instinct, internalized through the self-representation of the subject, is what Kant calls the unsocial sociability of man.

The instinct of association is, on the other hand, an inherent interest of reason as well. The obligation to exit the state of nature, the movement towards a common social world ordered by laws that are commonly accepted – Kant's appropriation of the Rousseauian social contract – is a rational law co-fundamental with moral law. The interest of reason to order the world, and its self-representation in the form of universal subjectivity, would not allow an interpersonal world dominated by the chaos of pure force. Thus, the search for law in the exterior sense of a juridical law,

having the power of empirical constraint, is a necessity of reason, and not a pure contingency of nature.

Thus, juridical laws must be rational themselves, because they have been legitimized by reason's necessity. Moreover, there will be a priori deducible laws – so-called natural laws – which will grasp nature in an immediately rational form, giving it legal power. Kant's examples are of the order of family law - legality of sexual relations between a man and woman in the form of marriage - but in the minimalist sense, he says, there will need to be at least one law to transfer political power to a person or a group. We understand that the basic juridical law is exactly the transfer of power from the subject of legislation to one representative of society – and the necessity of this law is purely rational.

Law and culture

The rational ordering of human nature in the actual sense, though necessary, is constituted in an *a posteriori* way. This contradiction is reflected even within the person, in the sense of the subject of the law. The person is, on the one hand, the noumenal, free and rational subject of theoretical philosophy, on the other hand, the living, finite and embodied subject of factual social existence. Specifically, Kant argues that even the person's mere agreement to law (always necessary, at least in the passive sense, for the rationality of the law) would not be possible if the person would be considered a unitary and durable substance, as a mere living being, the part of nature. The agreement to law, through which I recognize its rationality, respectively the acceptance of its practical efficiency, of its external coercive power, would contradict if we considered them as belonging to one and the same subject. I, who agree with the law, cannot conceive of myself without contradiction in my reasoning as someone who could break the law – who could, therefore, be punished – the very conception of constraint being, therefore, impossible. Therefore the legal person is doubled: the free subject reasons and the natural subject is punished.

The tension between the „foreign" nature and the „own" reason within a life subject to laws is mediated by *culture*. Only mediated, because the legal subject is always deficient from the practical point of view – there is always need for a social appropriation of interests (for some *other* aimed at, but not necessarily present) and of an instituting political action (a *third,* the carrier of domination) for its establishment. Thus, the „foreign" nature is domesticated in an *a posteriori* way, according to socially

accepted norms, through the free play of faculties, through which it finds forms – *Gestalten* – in which it may agree with reason – „as if" it already were rational in itself. The social-cultural modeling of the empirical, phenomenal self refers to a universal reason that shapes human nature in a historically normative way, which is however deficient in terms of the primary interest of reason (objective knowledge): the first is law, culture follows; sociability remains unsociable.

On the other hand, the inter-subjective life of culture creates a world of social substance within legality, which is apparently „natural". The animal, individual nature of each person becomes, through cultivation, a *quasi* common nature, possibly occulting, on the one hand, the rational status of the laws, on the other, the mediating status of culture.

The nature thus quasi-established seems so real in the eyes of some interpreters[3], that its forms of appearance – the products of culture – are declared "phenomena", having thus an epistemic role – that is, they become objective. Thus – having a social essence – they can be interpreted as being an interpersonal, historical-contingent reconstruction of subjectivity, a subjectivity that, consequently, will need to lose its universality expressed in the form of temporality. Originary temporalities instead of fundamental temporality seem to be imminent – phenomenology can obtain the status of ontology.

3. Introducing the concept of life to the discussion of politics

It remains to ask whether in this situation, introducing a fundamental concept of life can have an explanatory role. We are talking about Volker Gerhardt's[4] attempt to reinterpret the Kantian philosophy as a *critical philosophy of life*, a gesture that is inscribed, without the tendency to deny this fact, into the recent shift of interest from natural sciences towards life sciences. We signal in advance both the exegetical and the systematic gain of this interpretive endeavor in many of the most acute issues of Kantianism, a gain that appears, however, in some cases a solution through cancellation of the question – a *coup de grace*.

Life would have a double effect: on the one hand, in the form of an animal existence of the human individual, on the other, in the form of a cultural life as a *Lebenswelt* of meanings, construed as extensions of the living *conatus* inherent in reason. Thus, Gerhardt may name reason the "organ of life", a paradoxical statement that is, however, justified by Kant's conception of the human species as being *rational* by its very

nature. The rational animal would be rational *qua* an animal, and reason would be identical with the living will of the species – indirectly, of the whole living kingdom – to self-perpetuate. Politics would possibly lose its methodological relationship of difference towards philosophy, being perfectly understandable as a hub, a nodal point of life-forces.

We must remind, however, of the purely hypothetical way in which Kant speaks of reason as a natural capacity of the human species. Nature cannot be known in itself; hence the emergence of reason in the sense of a productive freedom cannot be projected into it. If, however, such a projection is permitted, this is due to the morally based teleological argument, and it is no more than a hypothesis, impossible to be actually confirmed.

The autonomy of reason in contrast with life should be reaffirmed against such an endeavor. The universal self-consciousness cannot be reduced from the noumenal, free, fundamental representation to an originary, active, living one, it must remain, before its public appearance and its empirical modeling in a social space, an end in itself, an absolute transcendence.

But with this qualification in mind, we may approve the interpretation of Gerhardt, largely well-founded textually. The qualification will, still, have a critical effect that will be presented in the form of an analogy between the fields related through the concept of life, namely, that of culture and of the individual, of politics and philosophy, of animal and of rational life.

And if we understand critical thinking in Kant's own sense, that is, in the sense of the public use of reason, an idea which bears in itself the specifically political interest, namely, the reformist-illuminist interest of reason, than we will understand rationalist agnosticism together with the politically engaged rhetoric, the objectivistic orientation together with the teleological argumentation, the limitation to the empirical-scientific knowledge together with the humanist impulse.

Shared temporality under the concept of life

In a public use, reason is presented in its liberty, not only in the epistemological sense, but in the actually social one. I cannot be rational, Kant says, without being able to always think from the perspective of another person as well. This view, however, is not immanent to reason but in its public form, private reason being limited by individual interests and specific individual requirements. The gesture of addressing a public, beyond

the speaker's private status, establishes a simultaneity as an extension of his/her self-consciousness. Namely, by this gesture, the individual nature present for self-consciousness in the form of temporality is proposed as a member participating in a shared self-consciousness – under the form of a common temporality. The proposal cannot be objective – for this it lacks precisely the subject that is just aimed at. It is rather a gesture to open a game – in analogy with the game of knowledge, but with no „nature" to be known. „Nature" would be constituted only by the free consent of the other subjects to participate in the game, who would accept the proposed temporality as the form of a shared self-consciousness. This sharing would possess a necessarily symbolic character, opening temporality to the dimension of a spiritual life, of a *nature present in its transcendence*.

Given the agnosticism of critical philosophy, however, the proposed game remains of a moral and not directly political character, and the participation in it, of an existential and not religious order. Bringing in front of the public the living, perspectively constituted nature of the philosophical author bears the mark of a personal authenticity of the work. Kant's critique presents, in this respect, a real problem of biographical hermeneutics, being subject to and, at the same time, provoked by state censorship, a fact that raises questions both about the message itself, at times hidden behind rhetorical forms, and about the relevant public and its political situatedness. The living Kant is difficult to recover, but a detailed research regarding his life could provide new data for the exegesis.

4. A sketch of Kantian cosmopolitanism

In order to be able to start out to Kant's actual political philosophy on the above prepared grounds, we need to examine the way in which his thought is still active today, so that we may ask authentic questions as concerning his theory.

As the Hungarian philosopher József Himfy[5] presents, besides the debates in Germany, that have begun in the `60s, and concern Kant's practical philosophy, in the Anglo-Saxon world there have emerged exegetical interpretations with a direct impact on political theory, namely, by authors within the Rawlsian tradition, such as Onora O`Neill and Thomas Pogge. In Germany, exegesis has been oriented, in turn, towards contemporary topics, entering a dialogue from their own perspective with political theory; thus, authors as Reinhardt Brandt, Georg Geismann or Otfried Höffe have published within this topic.

Although in a close discussion with the tradition, these endeavors lead to an ambivalent understanding of the theses from the Kantian corpus, often using the spirit of the author against his letter. Most typically, the theses concerning the desirability, and respectively, the impossibility, of a global state are both equivocally supported on the grounds of Kantian writings, leading to an ambiguity that is argumentatively exploited in both directions: for example, Habermas sustains the idea of a global state, Rawls that of a free collaboration between states.

The same ambivalence may be seen in the use of arguments extracted from the oeuvre of the author both in favor of individual rights, as well as for the authority of states or communities that methodologically precedes these rights. Thus, Rawls treats states as quasi-individuals, *a fortiori* presupposing their relative primordiality against their citizens, being criticized by Pogge, who opts for a method that would directly aim at the dignity of the individual. Even David Held[6], one of the most cited authors in the literature on cosmopolitanism, builds on the social sense of Kantian philosophy understood as a public use of reason, giving a fundamental interpretation that is still existentially deficient.

The concept of a world as central to Kant's politics

Exactly because these problems are not self-evident anymore in the Kantian context, it is recommended to step back to the motivational essence that founds the Kantian moral, juridical and political discourse: this being what he calls philosophy in a cosmopolitan sense, namely the existential vocation of philosophy in promoting the liberty of everyone for the good of humanity as a whole – including future generations. Otfried Höffe[7] speaks of a philosophy in cosmopolitan sense in Kant as being founded epistemologically through the concept of a *world* of the knowing subject, which is already universal, allowing the universalization of a *nature* humanity is a part of in the practical sense; thus, philosophy places man into a rational and wholly shared cosmos. This author, however, doesn't use the existential load this perspective comports, the definition becoming self-legitimating. Namely, the philosopher, herself a human being, is situated on the existential-cognitive horizon of temporality, as we can see in the long tradition of phenomenology and hermeneutics of an existentialist inspiration. Finitude must come into contact with reason, all the more, the more intimate the existential situation of the use of reason is for the philosopher – as in the case of philosophy in a cosmopolitan sense.

Thus, we need a re-thematising of the problem, in existential terms, through which philosophy itself is to attain its limits as concerns its capacity of self-legitimizing.

Anthropological interests in Kant's politics

Only through a such re-thematising is a relevant dialogue with other fields to be expected, which are, in turn, inscribed within the same project of philosophy in a cosmopolitan sense, having arisen, even expressly so, from the same enlightenment tradition that has been shadowed by the rival tradition of romanticism. As the Canadian anthropologist Nigel Rapport[8] proposes, coming back to an authentic sense of anthropology today that is to honor the dignity of the human being is possible only through coming back to a cosmopolitan perspective, based on authors such as Kant, respectively, through the universalizing epistemological grounding of human experience – an idea in which we may observe exactly the critical epistemology in a Kantian sense that allows construing its practical philosophy – including the political one – as we know it. Thus, Rapport argues for regaining a Kantian cosmopolitan anthropology – a project that has not yet been taken seriously, let alone carried out. This project would consist, ontologically, in defining the human being beyond its historical-empirical determinations, methodologically, in the counter-reductionism of individuality in order to find „the objectivity of the subjectivity of man", and morally-politically, in empowerment of the individual beyond its societal circumstances. Thus, claims Rapport, the social sciences could reach the end of the enlightenment project: the attention given to the capacities of everyone.

Kant's recently re-published *Anthropology* – a new version based on students' notes, more complete than the one published by the author – may offer especially fruitful perspectives in respect of the project stipulated by people like Rapport. Moreover, the introduction written by Michel Foucault[9], also unpublished until recently, puts the work into a context that is already political-philosophical. As Holly L. Wilson[10] shows, the aim of the anthropology lectures of was exactly to offer students a cosmopolitan education, thus becoming an application exactly of "philosophy in a cosmopolitan sense". Reinhardt Brandt[11] motivates that the cosmopolitan dimension involves, within the Anthropology, the problem of the vocation of man as man, whereas the answer to this problem is of the order of a religiosity that is both Stoic and Christian.

Susan Meld Shell[12] shows that the idea of happiness changed in Kant's thought throughout the development of his Anthropology lectures, namely, from one motivated by joy to one motivated by pain. The change occurs within the problematic of the practical embedding of theoretical philosophy, and has implications concerning morals and politics. Moreover, the key concept the change revolves around is exactly the concept of life, the mediator between the moral and the acting subject, between theory and practice, between spirit and mind.

Foucault's account of Kant's Anthropology

In his posthumously published Introduction to Kant's Anthropology, Michel Foucault tries to reconstruct – on clearly Heideggerian grounds – a genuine sense of temporality in Kantian terms, a challenge that has not been met by Heidegger himself – according to his own testimony – in his enterprise to interpret the Critique of Pure Reason in an existentialist manner.

The stake of the interpretation is double: on the one hand, recovering the sense of existential temporality in Kant that Heidegger in fact elaborated on (partly) Kantian inspiration, but in a way that also accounts for the systematic place of the mere epistemological (i.e., non-historical) temporality present in the first critique. On the other hand, the goal is re-coupling this version of Kantianism to the type of anthropology-oriented thought that is proper to both Heidegger and Foucault.

A text that has been controversial as to its origins, critical meaning and systematic place, Kant's *Anthropology from a Pragmatic Point of View* is the misbegotten offspring of critical philosophy. In fact, it is the published version of Kant's lectures on anthropology, the popular course that brought intense advertisement to his system, being much more accessible and educative. Its intention coincides with this, being meant as a tool of cosmopolitan education and preparation for worldly wisdom, a display of the practical orientation behind the system itself and an application of its contents. However, the relationship between the *a priori* thrust of the three Critiques and the "pragmatic", worldly, descriptive – hence *a posteriori* – stance of the lectures is unclear, especially in respect of the impact of the latter on the former. Thus, Foucault's endeavor to interpret the text in a philosophical, moreover, a philosophically constitutive manner is a dangerous one – and a correspondingly sizeable act of courage, only rewarded by the publication of his great book, *Les mots et les choses*, based on the very same investigations sketched in his Introduction.

Politics in Foucault's account

The term *politics* only appears at the end of the Introduction, in the title of one of the contemporary applications of Kant's anthropological thought. However, among the central topics of the text we can find forms of social association as they appear in his epoch, and namely, as considered from the point of view of freedom. Moreover, one of the main motivations of the Anthropology, as Foucault explains, is the controversy concerning Kant's philosophy of right. Indeed, the discrepancy between freedom as described by the *a priori* structures of the subject in morality and the dictate of rightful association appearing in the philosophy of right stands in the background of the discipline, the genuine question remaining not whether this should be the proper terrain to discuss politics in Kant – it should – but in what consists its bearing on the whole and the structure of critical philosophy. In other words, the forms of political association and its practices is a question that fits in the logic of a pragmatic anthropology – of the analysis of what man can make of himself – but it is not clear what kind of necessity, hence what kind of philosophical status this analysis possesses, insofar it is different from the normative fields of a philosophy of right, of history, teleology, etc.

Delimiting the elements of a Kantian political theory

As an example of an original Kantian political theory, we propose Volker Gerhardt's reconstruction, which shows that at the basis of *Towards Perpetual Peace* the grounds of such a theory are formed. As an explicit theory, it disqualifies from the outset the paraphrased interpretations that seek a hidden political meaning in non-political themes in Kant. The question that stands at the basis of such a theory sounds like this: what is a political entity? The specificity of the answer will be found in the gesture of grounding the political problematic (exemplarily: of world peace) onto the idea of the rights of man. This gesture describes, according to Gerhardt, the autochthon existence of the theme of politics, this being defined as the special problematic of demonstrating a concordance between the reality of history and the autonomous (moral) evolution of humankind.

Politics can be described as the self-definition of a human society. Since the political has empirical conditions, but refers to normativity, these two dimensions meet under the sign of the term *eternal*, or of what is beyond the difference of the phenomenal and the noumenal. The doctrine of an obligation to participate in history, beyond personal morality, is inscribed

into this meaning of a theory of political culture. This theory is linked to the Greek tradition of self-knowledge, in the sense of a self-definition of persons, co-originary with the self-definition of the political community it pertains to. Thus, Kant can define the state as the society over which nobody else can command but itself.

Kantian peace

The idea of peace is considered by Gerhardt to be the central idea of European political thought, beginning with antiquity. The institution of legality is synonymous with an original act of peace between individuals, which explains the fact that the political is based on the intention of pacification, as an internal condition of any political will. The claim of truth that links the political sphere to the moral one consists just in understanding this original ground, in assuming this agreement that conditions both fields. Given the way in which the interdependence of states in modernity paces the problem of peace onto a global plane, the institution of peace – and thus, of the political sphere understood as the process of the formation of rights – is extrapolated to the universal level of the rights of man, as a citizen of the world as a whole. This thematic change modifies the way of contextualizing political action, as Gerhardt explains, towards understanding external political action of the state as its internal condition. This is why Kant may trace states as quasi-individuals within a political super-community, in which they mutually depend from each other analogous to individuals who sign a social contract. The deepening of this idea leads to the reinterpretation of the very concepts of internal and external, these becoming simple concepts of relation, whereas peace reaches a primary position against them, understood as a limit condition of politics as such. The analysis thus extracted from the Kantian text is named by Gerhardt a functional analysis of politics.

5. A hermeneutic interpretation of Kant's political authorship

In his excellent biography,[13] recently published in Romanian,[14] Manfred Kühn agrees that Kant's theory of politics is essentially found in the essay *Towards perpetual peace*. The author presents us the biographical background of the emergence of the writing as being marked by the struggle with state authorities, including an explicit moment of confrontation between the power and the philosopher: we are speaking

of the letter dated the 1st of October 1794, signed by the notorious Johann Christof Wöllner, Minister of Religious Affairs (among other functions), but issued at the special order of Frederick William II, it which it is ordered to him to refrain from religiously themed writings, under the threat of „unpleasant measures". We also learn that Kant's interest turned to these issues precisely for political reasons – we must mention that after the era of ideological tolerance of Frederick the Great, his above named nephew adopted an oppressive policy, using dogmatic-religious correctness as a criterion of political correctness, as a pretext for censoring the Enlightenment movement.

To this tension – to which Kant responded stoically, accepting his position and returning to silence regarding religion – have added the events of 1795.

The historical background

Prussia withdrew from participation in the war against France through the Treaty of Basel (5 April 1795). A reason of joy for Kant, but also for concern about the meaning of this peace. Joy on the reason of sympathy for revolutionary France and the coincidence of his thought with the purposes of the revolution (insofar as these could be regarded as the emblem of Enlightenment), and also on the reason of the consciousness concerning the hardships of war for his fellow citizens. Concern because peace was concluded after the agreement that, until definitivation, France can keep the territories west of the Rhine, including Belgium, which was an Austrian claim, this being an implicit guarantee that France would tolerate invasion of Bavaria by Prussia. There is even a secret condition that, if France did not withdraw until the finalization from the left side of the Rhine, where Prussian territories were to be found, Prussia would be tolerated by France in the case of an invasion of other German territories. Moreover, on October 24, 1795, Poland was finally divided between Russia and Austria, and Prussia agreed to the treaty. For a philosopher, this means not only a clear political, moral or legal flaw, but also an intellectual one: peace so conditioned, that is, having an obvious element of bad faith, to the extent that it is consciously directed towards war, is not peace, just an extended truce. Kant does not give a newspaper article as a response. He does not thematise war, the peace treaty concluding it, the parties who sign it or any of the treaty's details. He writes (in August 1795 – republished, with a minor modification, in 1796) a "pamphlet" – a little ironic work –

of a philosophical, universalizing type. The irony lies primarily in the presentation of writing: the title taken from the wall of an inn – in turn taken from the entrance of a cemetery, probably – an explicit reference to the idea of death; the structure taken from the peace treaty that served as a writing opportunity: anticipatory and final paragraphs, and in the second edition adds even a secret paragraph (sic!) (and which is no longer secret, of course, being written and published herein); ironic elements of different types in the text, from a *clausula salvatoria*, invoking a harmless intent, in manifest contradiction with the contents of the critical writing, through boasting the power of wisdom unto the cold irony in main argument, that is, the idea of humanity being compelled by nature's secret plan.

Interpreting *Towards Perpetual Peace*

The theoretical contents of the writing is – to the extent that it can be separated from the meta-textual rhetoric which I just referred to – of the order of a political philosophy, almost in the contemporary sense. Among the points of interest we must remind of the proposal for cosmopolitan law as a guarantee of peace – replacing the right of peoples; the autonomy of philosophy against politics; publicity (*Publizität*) as the sole criterion of political correctness, the obligation to expression of opinions. We should note, as Kühn suggests, the universality of these theoretical elements, their transcendence against the momentary situation in which they were born, and to which they react. In this respect, by integration of the nucleus of political philosophy into the *oeuvre* as a whole, says Kühn, we can reach the standpoint that – at least in its practical side – transcendental philosophy translates, ultimately, as a political idealism.

Returning to the writing *Towards perpetual peace*, we can formulate the first question that defies a literal interpretation. If the writing is already in its contents, explicitly and textually, of a critical nature (in the contemporary sense: as a formal questioning of a theme or a situation), why does it receive an ironical-rhetorical form? What kind of positioning, intent, what message does this kind of speech conceal?

First, we need to establish that the answer this question aims at cannot be of the order of a cryptic content, hermetical or mysterious in any way. Although the age is that of glory of secret societies – having largely Enlightenment purposes, in fact – a secret meaning simply overpasses the power of plausible interpretation from a distance of two centuries. Moreover, the whole Kantian philosophy standing under the sign of

transparency, of light, of explicating meaning through the labor of critique, the elusive character of the hermetic hypothesis seems, on purely intuitive grounds, wrong.

However, the paradoxes resulting from the statically read irony requires an explanation of the play through which they can find their meaning in a rather dynamic way. There is therefore a hidden level of meaning, not in the manner of codification in a cryptic language, but that of „wild" meanings, which appear as the products of the performative situation where the text can be relocated. They may not be fully recovered, but the force fields they are inscribed in can be approximately reconstituted, towards the formation of a plausible hermeneutical horizon.

As an example of such a reconstruction, we will bring the interpretation of Volker Gerhardt concerning the paradigmatic role of philosophy regarding the formation of public space – articulated precisely in the secret paragraph of the *Towards perpetual peace* – an interpretation in which irony plays an explanatory role, thus providing examples of the forces that act in the questioned rhetorical game.

The key to understanding the role of philosophy in a public use

The premises of Gerhardt's argument lie on a background that can be understood only related to the whole of the Kantian work. The well-known, common legal metaphors of the work are, besides being a simple way of expression, bearers of the essential character of Kantian philosophy, especially of its theoretical part: the public nature of the entire foundation of epistemology – this idea being also the key element of the argument. In science, truth is – or at least should be, according to the proper sense of what science means – searched for, articulated and evaluated, or in Gerhardt's words: produced, in a dialogic, democratic, and above all public way.

As a first premise derived from this background, we understand why in the secret paragraph Kant expresses in a tone of indubitability the fact that philosophers, once allowed to speak freely, will indeed do this, and they will even do this in an objective manner. Specifically, theoretical philosophy as a discipline is concerned precisely with the conditions to produce any scientific truth; in this respect, it is not only objective but also the publicly engaged, because not only its object, as in the case if science, but even its most intimate way to be is bound to a public space, open and objective, of the highest order. So the philosopher as a philosopher will reflect political questions from the same position where

he reflects the scientific ones: from the critical position. The certainty of public expression signed by the philosopher is based therefore on his simple professionalism.

The second premise concerns the way in which free human rationality is constituted in its external aspect, in the sense of a rational public expression. The concept here has only a negative role: to the extent that free reason cannot be limited by anything but itself, it will not be found, nor recognized, but in the confrontation of its various expressions, by different agents. The entitlement to the qualification of rational agent, creator of public opinion, does not come from anywhere else but from this very public space, and even after the expression of alleged rational intentions.

The problem of the primacy of philosophy does not seem obvious, and even if the question itself seems justified, we can easily believe in a positive response given to it by Kant. Volker Gerhardt gives the example of the Roman institution to make decisions related to war. Already in earlier times, there was a college of priests in Rome (*fetiales*) to assess the desirability of the respective war; in addition, the oracles were also consulted. Moreover, the final decision to go to war or not belonged to the people.

In a similar way, we can think of different examples from Plato to Hegel in which the class of philosophers is considered as the class of gray eminences. We could understand, therefore, that the philosopher from Königsberg refers to a kind of committee, organization, class, or group of advisers, in any case, an institutional group that would unite philosophers within the structure of power, but at the same time would give them the role of representatives of the popular will.

But, obviously, this is not the case. As we understand from the text, philosophy cannot be institutionalized in any way between the bounds of power. The only guarantee observed in the explanation to preserve objective impartiality on its behalf is epistemological autonomy. It is, on the other hand, in principle compromised by the necessary loyalty in the frame of any institution.

It becomes hence interesting, even amazing for Kant to claim that philosophers are precisely those assumed and entitled to develop critical activity concerning power – once it is stipulated that they would do this anyway, by their nature. We must remember, however, for the correct understanding of how Kant talks, the fact that this assertion is to be found precisely in the „secret" paragraph of Towards perpetual peace. As shown by Gerhardt with great inspiration, the sophisticated irony of the pamphlet is proving to have great explanatory power here. That is, first, the writing

was intended for publication, thus the "secret" has an ironical character, by analogy with the secrets contained in the international diplomatic treaties, thus having a critical focus directed against censorship that would silence precisely what essentially requires publication.

The play of irony in *Towards perpetual peace*

The masquerade to which Kant is inviting the authorities is to pretend that they do not know what is just being communicated to them. The irony leads to paradox; in any direction it would be interpreted. If the secret is considered a secret, hence if the power shows no sign of accepting the message of the paragraph, then it should not allow philosophers, and neither to Kant, to speak freely in public. Thus, the whole writing should be censored, the secret message, deleted, which makes the challenge inexistent beforehand.

There remains, therefore, only the interpretation in which the secret is not considered a secret. In this case, its role changes: it becomes a pure underscore that power should guarantee free expression, without qualification. It must accept the call towards this guarantee „in secret", that is, without counter-arguments, in silence. Volker Gerhardt explains that by giving up the idea of secret we arrive here by way of the simple exclusion of the wrong version, namely just to the idea of public space.

In Gerhardt's formulation: the secret paragraph is self-dissolved in *de jure* sense (i.e. the right to reduce free expression to silence is itself in right reduced to silence), so that *de facto* the public space can remain open (no longer limited by censorship, this having already been annihilated by the ironic paradox).

Already by this part of the argument the idea of a presumed primacy of philosophy has been relativized: given the irony, the theme of a possible institutionalized class of philosophers cannot be taken on face value. Hence it remains to ask what is the role it still retains in the discourse. If at this point of the argument we complete the above presented conceptual scheme (*de jure – de facto*) with the description of the essence of philosophy as a paradigm of free, public, objective rationality, then we must reach the conclusion, that in this case we are talking of philosophy only as of a paradigmatic or exemplary case: that which refers to philosophy here *de jure*, that is, the fact that it is (in right and by its essence) a rational and objective discourse, and must, hence, be left uncensored, *de facto* will be just as true concerning any discourse that may in principle be considered

as part of the same rationality – the public space being already prepared by philosophy to receive any other discourse and to introduce it into the dialogue that forms rational truths.

In this sense, then, we may observe free human rationality, for which philosophy is paradigmatic, but in its concrete, given aspect, that in which it is being formed. It is irrelevant, as we have seen, who exactly speaks in this public space, insofar as one speaks as a private person (public author, in the Kantian sense) and not from a public office (having private obligations, in the Kantian sense). Philosophy manages, through the force of irony, to free the public space *for anyone, hence for everyone.* From the secret, only silence remains, from censorship, only tolerance. And if the secret achieves tolerance, this latter must concern everyone, as exponents simply of some opinions, who will be evaluated as to their rationality only later on.

Although the argument seems complex and subtle, being difficult to follow, the reconstruction of Volker Gerhardt is legitimated by this very complexity of the rhetorical play from within Kant's text, a complexity that in turn is imposed by the specific historical circumstances of the birth of this writing. Kant does not mean to anger the censor, on the other hand he cannot remain silent in a period when he is himself consistently censored. The ironical way to construe his argument is in fact a rational endeavor to start a dialogue with the representatives of power, who are apparently irrational.

The play around the idea of a secret

We have thus learned of the way in which the ironical play allows Kantian writing to achieve what could not have been achieved through a simple theorizing of public space: it achieves to free public space from censorship, and this in a real manner, insofar as it can propose a philosophical text that has a sharp critical edge as a valid position within the frame of a dialogue thus proposed.

This performance however turns on the tiny fact that we might be inclined to ignore: the text managed to be published! In this sense, we must understand that the game was from the outset a power game, and not a writing game: as Kühn shows, Kant was much too famous to be possible to censor him voluntarily and without explanation, hence he was writing from the outset from a power position.

This direction of understanding the performative nature of the text may be considered as being plausible and well arguable as based on the historical information we possess. It remains, however, to ask: does the idea of the secret not allow at least, even counter-intuitively, an understanding, however minimalist, of a hermetic nature, that is, a cryptic reference to something that is, indeed, a secret? Such an interpretation can be found in the highly informative article of John Namjun Kim,[15] who argues that we may understand the criterion of publicity in the Towards perpetual peace (any political action is correct if and only if its carrying out necessitates a public character), *mutatis mutandis*, as a prudential incentive (hence one that is less than moral) to act in secret where it is impossible to act in public.

The American author goes so far as to formulate the hypothesis of a „private public" around Kant, being allowed to do this by the fact that a great number of his learned interlocutors were parts of secret societies, however enlightened ones, the mode of existence of which seems to correspond to this very hypothesis. In this reconstruction, Kant's allusion – published only in the second edition, after the republican-motivated liberating revolts in Polish territories freshly annexed to Prussia – to the idea of the secret would be translated as an incentive to encourage the conspirators, but also as a threat against those in power.

We can approve this interpretation only in the sense that it brings the element of force within the performative-textual game. We must, on the other hand, refute it, insofar as it is based, in the first place, on a tautological understanding of the criterion of publicity, which would sound this way: if your action necessitates to be kept secret, it means that it must be kept secret. Moreover, the presence of the strong Kantian thesis, according to which this action would become intrinsically wrong, cannot be overlooked, without reducing the author to inconsistency.

Of course, the naturalist theory of history in Kant clearly stipulates the meta-subjective qualification of revolution. In the moment when it begins right and morality lose any validity – the law of the jungle prevails. This fact does not mean, however, the approval of the force of nature under the cover of a revolutionary ideology – confer communism – but is tantamount to a criticism brought to a political class that ignores the possibility of an accumulation of natural forces that could lead to the cessation of any legal order.

Again, as we learn from Kühn, this political class was itself organized in a conspirative manner! Wöllner, being of personal constitution a religious

fanatic, was himself a Mason, and turned to rosicrucianism, took over by infiltration a major lodge of the Masons in Prussia, threatening others with takeover, even drawing the easy-to-manipulate king to enter the lodge, using both the secret organization and the state power in a voluntary manner. The „Rosicrucian clique of Frederic Wilhelm", as named by Kühn, under the fear of a revolution started by the Enlighteners, has prosecuted any form of free thought under the pretext of religious orthodoxy (i.e., correctness), a doctrine that was actually tantamount to rosicrucianism imposed as a half-official state ideology. The intellectuals, persecuted, have been, in turn, drawn to enter secret circles in order to be able to express themselves in a dignified and rational manner.

Conclusion

If the philosopher from Königsberg had written the apology of the latter societies, he would have approved, if not in contents, at least in form, the conspirative fashion of the highest level due to which he was suffering himself! Can we believe a self-falsification of the author in those told about publicity as a criterion of political correctness, and in the same time a self-defiance as a censored author, thirsty to be able to write publicly in an authentic manner?

If we interpret the criticism of the secret as being directed simultaneously towards the conspirative power and the resistance against it, we understand through it, on the one hand, a criticism of the private interests served by public means (state power taken over by private circles – politically incorrect, hence, secret), on the other, the criticism of secret resistance, a resistance understood as a self-censorship of those who wish to express themselves, but do not dare to do so publicly.

And if we transpose this criticism unto the background prepared by Gerhardt, with the note that the writing passed censorship – an event of great surprise for the contemporaries! – we may declare that the author has won an actual battle, he has opened, through performatively presented philosophy, a space of public expression, and has even won, through mobilizing to dialogue, a battle against those who have resorted to obscure methods when trying to participate in the enlightenment effort.

NOTES

[1]   Cf. Foucault, Michel: Introduction à l'*Anthropologie*, in E. Kant, *Anthropologie du point de vue pragmatique*, Paris, Vrin, 2009. The publishing of Foucault's translation and introduction has been a novelty of the late years of research, lacking a canonical literature as yet. Thus, it remains an important goal of further study, especially in the context of a renewed interest in the meaning of the Anthropology lectures.

[2]   Simon, Josef**:** *Kant. Die fremde Vernunft und die Sprache der Philosophie* Walter de Gruyter, Berlin - New York 2003. Athough criticized for an idiosynchratic interpretation, Simon's work remains one of the examples of a great interpretive tradition – via the *oeuvre* of Kaulbach. Its primary merit is bringing together the social-philosophical and language-philosophical aspects of Kantianism – in a novel understanding.

[3]   Kaulbach, Friedrich: *Studien zur späten Rechtsphilosophie Kants unde ihrer transzendentalen Methode,* Königshausen und Neumann, Würzburg, 1982. The work of a classic author, this book offers clear inshights into the continuity between Kant's theoretical and legal-political philosophy, in a highly systematic manner.

[4]   Gerhardt, Volker: *Immanuel Kant. Vernunft und Leben.* Reclam, Stuttgart 2002. The culmination of Gerhardt's revolutionary interpretive activity, his essay-styled book is a constant source of fruitful reconceival of Kant in the age of globalization and ecology. Not well seen by the scholarship, his argument is still a demonstration of high talent and insight.

[5]   Himfy József: *Kanttal, Kant ellenében. A világköztársaság mint a világbéke garanciája* (With Kant, against Kant: the World Republic as a Guaranteed of World Peace) Kellék, Kolozsvár / Cluj, nr. 24. 2004). The Kant issue of the Hungarian-language philosophical journal is a collection of weighty articles stemming from Hungarian Kantianism, having both German and Anglo-Saxon influences, adding a sense of critical canonicity lacking from many philosophical cultures.

[6]   cf David Held in Brock, Gillian and Brighouse, Harry (eds.), *The Political Philosophy of Cosmopolitanism*, Cambridge University Press, 2005. A seminal volume, the Cosmopolitanism collection serves as a point of departure for those who wish to understand contemporary cosmopolitanism – with the name of Kant always lurking in the background.

[7]   Höffe, Otfried: *Kant's Cosmopolitan Theory of Law and Peace*, trans. Alexandra Newton, Cambridge, 2006. Höffe's work has been most influential and appreciated in contemporary cosmopolitanism insofar it – unlike most others – brings a systematic grounding of his own cosmopolitan political theory in the Kantian, the early modern and the Aristotelian traditions.

[8]   Rapport, Nigel: *Anthropology as Cosmopolitan Study* in Anthropology Today, 2006. Rapport is just one of the many voices from outside philosophy calling for a cosmopolitan regrounding of the human sciences.

[9]   cf Foucault, Michel: Introduction à l'*Anthropologie*, in E. Kant, *Anthropologie du point de vue pragmatique*, Paris, Vrin, 2009. See above (note 1).

[10]   Wilson, Holly L: *Kant's Pragmatic Anthropology, its Origin, Meaning and Critical Significance.* SUNY, Albany, 2006

[11]   Cf Brandt, Reinhardt: *The Guiding Idea of Kant's Anthropology and the Vocation of the Human Being* in Jacobs, Brian and Kain, Patrick (eds.): *Essays on Kant's Anthropology*, Cambridge UP, 2003. The collection of essays is a starting point in the research of Kant's Anthropology, encompassing viewpoints from very different-minded scholars. However, it is the first necessary step towards canonizing an agreement.

[12]   Meld Shell, Susan: *Kant's "True Economy of Human Nature": Rousseau, Count Verri, and the Problem of Happiness* in: in Jacobs, Brian and Kain, Patrick (eds.): *Essays on Kant's Anthropology*, Cambridge UP, 2003. A highly informed article, Meld Shell's study draws on dynamic changes in Kant's thought, opening the possibility for a grounded interpretation of the controversial issue of the Anthropology.

[13]   Kühn, Manfred: *Kant. A Biography.* Cambridge University Press, Cambridge, 2001. Having himself an interest in Kant's Anthropology, Kühn is first of all a source of an imaginative revival of Kant's intellectual life, on the background of the historical events of his era and his personal history.

[14]   Kühn, Manfred: *Kant, o biografie.* Polirom, Iaşi, 2009. A late translation, it is still highly welcome.

[15]   Kim, John Namjun: *Kant's secret article: irony, performativity, and history in Zum ewigen Frieden.* The Germanic Review, June 22, 2007. I would like to thank the author for privately sending me his excellent article.

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AURELIA VASILE

Née en 1977 à Măicănești

Doctorante en cotutelle, Université de Bourgogne (Centre Georges Chevrier) et Université de Bucarest
Thèse : *La cinématographie roumaine pendant la période communiste. Représentation de l'histoire nationale*

Documentaliste Maison des Sciences de l'Homme, Dijon
Chargé de TD à l'Université de Bourgogne : *Histoire sociale au XX siècle en Europe Occidentale*
Membre de l'Association française de recherche sur l'histoire du cinéma

Colloques et conférences internationales à Paris, Arles, Dijon, Bucarest, Alba-Iulia
Nombreux études et articles publiés dans des revues et des recueils d'études en France, Roumanie, Autriche

LA CRÉATION CINÉMATOGRAPHIQUE
DES ANNÉES 1960 AU CROISEMENT
DES LOGIQUES POLITIQUES,
BUREAUCRATIQUES ET SOCIALES

Les années 1960 connaissent des fluctuations politiques et sociales importantes : changement de vision politique interne et internationale, restructurations administratives étatiques et politiques, réévaluation des hiérarchies sociales. Le tout début de la décennie hérite du climat glacial installé dès la fin des années 1950 qui se manifeste par une coercition endurcie de la ligne politico-culturelle et un retour aux pratiques dogmatiques d'avant 1953. A l'exemple d'autres milieux culturels, la cinématographie paye aussi son tribut. Ainsi, entre avril et octobre 1958, aucun nouveau film roumain ne voit l'écran. Bien que la construction du Centre de Production Cinématographique de Buftea vienne juste de s'achever et offre les conditions pour une production de 10 films par an au minimum, le rythme de travail est en-dessous de celui des années 1927-1928, quand la cinématographie ne disposait pas d'un studio viable[1]. La tension règne sur les plateaux de tournage, les scénarios font l'objet de réécritures multiples, tandis que les films changent souvent de réalisateur, d'où le retard des termes de production. En même temps, sur le plan des relations internationales, en vertu de l'idéologie de « coexistence pacifique », s'installe dans la deuxième moitié des années 1950, un dialogue entre l'Est et l'Ouest fondé sur différents types d'échanges industriels et culturels[2]. Au niveau du cinéma, l'objectif principal était la promotion du film roumain sur le marché occidental, mais en retour, la Roumanie devait s'engager à diffuser les films de l'Ouest, selon un principe de réciprocité[3]. Ce phénomène prépare un renouveau des goûts du public et également un bouleversement de la production interne obligée de répondre à des exigences plus complexes jouant entre les demandes du public et celle du parti.

Dans une deuxième phase, la politique roumaine connaît un nouveau climat qui se matérialise par l'éloignement de la vision centraliste de Moscou et par la promotion d'une voie nationale de développement qui culmine avec la déclaration d'indépendance de 1964. L'expérience vécue pendant les années 1950 et surtout les ravages répressifs de 1958 provoquent des attitudes de méfiance, de résignation, d'autocensure et de docilité. Catherine Durandin peint dans des termes romancés, le tableau de la société des « belles sixties » :

> La génération des militants et des fanatiques, qu'ils aient été prosoviétiques, procommunistes ou antisoviétiques pourchassés et résistants, se tait. Ce n'est pas qu'elle ait disparue pour céder la place à des hommes nouveaux, mais elle s'est installée : elle a mûri et cherche à éviter pour elle et ses enfants le retour des purges et des éliminations physiques. […] Les intellectuels vont trouver des postes dans les instituts de recherche, les musées et les bibliothèques et tenter de regagner le temps perdu par leurs carrières brisées. Les paysans déportés au temps de la collectivisation regagnent les villages où ils trouvent des emplois dans les coopératives. L'expression publique d'une mémoire de résistance et d'opposition est interdite. Le pouvoir a gagné[4].

Le relâchement de la terreur, mais également l'obéissance et la prévenance avec laquelle répond la population, apportent une certaine normalité au fonctionnement de la société.

1. Objet d'étude, interrogations, méthodes, sources

La question qui nous préoccupe par la suite est de comprendre, de l'intérieur, les rouages du processus de création cinématographique et la manière dont s'articulent les éléments politiques, sociaux et purement artistiques dans ce cadre durant les années 1960. Nous tenterons de mettre en exergue les traits des acteurs participants au processus de production, ainsi que les connexions qui se produisent à l'intérieur du champ et l'influence du politique dans le développement de la cinématographie.

L'industrie cinématographique est un domaine fortement centralisé, très proche du pouvoir politique, tant par le rôle qui lui est désigné, que par son emplacement physique (les principaux établissements décisionnels demeurent dans la capitale ; le Studio « Bucureşti », les maisons de production, la direction de la cinématographie dans le cadre du ministère

résident dans le siège du journal officiel *Scînteia*). L'immixtion des idéologues dans les questions artistiques comporte des degrés différents d'intensité, mais le parti fait sentir sa présence de manière ininterrompue jusqu'à la fin du régime. C'est pourquoi, nous tenterons d'analyser la logique du pouvoir politique, ses attentes en rapport avec le cinéma et les mesures administratives ou coercitives mobilisées pour attendre son but. Cette démarche « par le haut » est censée apporter des éclaircissements concernant le possible décalage entre les décisions et les directives prises au niveau du parti et leur mise en œuvre. Pour que le tableau soit complet et l'analyse des stratégies de pouvoir soit opérationnelle, il est important d'investiguer en outre, ce que Pierre Sorlin appelle, « le milieu du cinéma ». Il le définit comme « ensemble social de production culturelle » à savoir,

> un groupe de personnes qui travaille sur un produit déterminé (le film), dont la compétence est admise par la formation sociale à l'intérieur de laquelle elles sont insérées et qui subjectivement se définissent vis-à-vis de l'ensemble de production par la place occupée dans le processus de fabrication, vis-à-vis de la formation sociale en général par l'appartenance au groupe qui a le monopole légitime de la réalisation filmique[5].

Ainsi, la production cinématographique doit être vue, non seulement comme un acte isolé de fabrication, mais comme un « ensemble de facteurs sociaux qui accompagnent la mise en chantier, la construction, la circulation des objets[6] ». Un rôle important pour la compréhension des forces qui marquent le champ revient aux éléments biographiques, vus non comme une succession de statuts figés, mais « sous l'angle de la trajectoire[7] » permettant de la sorte une vision plus claire sur les logiques et les motivations professionnelles et sociales des acteurs impliqués.

Nous allons mener notre analyse à partir de quelques éléments théoriques de la sociologie bourdieusienne, à savoir « le champ » entendu comme « champ de force agissant sur tous ceux qui y entrent et de manière différentielle selon la position qu'ils y occupent[8] », mais également comme lieu de tensions, de contradictions, de conflits, de négociations et d'accommodement, selon « le modèle du champ magnétique[9] ». Adapté au cas français et occidental, le système de Bourdieu nécessite un réajustement aux spécificités des sociétés socialistes, fait remarqué par de nombreux analystes. Katherine Verdery propose une redéfinition de l'espace social de distinction, circonscrit chez Bourdieu entre les

axes du capital économique et du capital culturel, qui comporte, dans les régimes socialistes, deux coordonnées : *status* politique et autorité culturelle[10]. Ces éléments théoriques constitueront des repères d'analyse pour l'identification des positions sociales et pour la mise en relief des différentes stratégies comportementales dans le milieu de la production cinématographique roumaine durant les années 1960.

Le corps documentaire, sur lequel est fondée cette étude, est composé de plusieurs types de sources, dans la plupart des documents écrits. Nous consignons dans un premier temps les sources produites par les structures centrales du parti au sujet de la politique culturelle et en particulier cinématographique : le fond *CC al PCR. Secţia Cancelarie*, le fond *CC al PCR. Secţia Propagandă şi Agitaţie*, préservés au sein des Archives Nationales de Roumanie. Les documents sont des plus divers allant des discours politiques et listes de directives aux bilans, statistiques financiers et listes de mesures. Ils comprennent également les sténogrammes et les comptes-rendues des réunions du Secrétariat du parti, du Bureau Politique et de la Commission Idéologique au regard de la culture, ainsi que les sténogrammes des rencontres entre les officiels du parti et les professionnels du cinéma. Ensuite, pour étudier l'activité institutionnelle de la culture et du cinéma ont été dépouillés des documents variés produits par les établissements culturels centraux (le Comité pour la Cinématographie, le Ministère de la Culture, le Comité d'Etat pour la Culture et Art, le Conseil de la Culture et de l'Education Socialiste) et conservés aujourd'hui par les Archives du Ministère de la Culture. Le croisement des documents produits par les deux types d'institutions permet de voir la dynamique des idées et des propositions, les désaccords et les convenances des hauts fonctionnaires du parti, l'évolution de la vision sur la culture. Les types de documents produits par les plus hautes instances du parti et d'Etat reflètent de manière générale la vision officielle sur la cinématographie et font valoir le niveau d'intentionnalité des politiques centrales. Ils mettent en évidence certaines règles de fonctionnement des institutions et le cheminement formel d'un produit artistique. Afin d'apporter un autre regard sur le système de production, il nous semble indispensable de connaître la manière dont les acteurs sociaux s'adaptent aux demandes et influencent les décisions. C'est pour cela que nous avons recouru aux sources qui ne sont pas forcement un produit institutionnel. Il s'agit de témoignages, discussions, entretiens publiés ou simplement racontés. A cela s'ajoute la documentation issue des archives du CNSAS (Conseil National pour l'Etude des Archives de la Securitate) concernant des dossiers informatifs qui révèlent certains aspects

du processus de création, ainsi que les relations socioprofessionnelles qui se lient autour de la production du film.

Cette étude ne se propose pas d'épuiser le sujet, qui se prête plutôt à un travail ample et de longue haleine (dû à la recherche et à l'analyse des sources écrites et surtout orales), mais comme une esquisse préparatoire, comme une base de réflexion pour un approfondissement futur.

2. La cinématographie dans la vision officielle, entre courants réformistes et conservateurs : 1962 et 1968

La caractéristique principale du paysage filmographique de la seconde moitié des années 1960 réside dans la combinaison de deux visions conceptuelles : d'un côté, la mise en œuvre d'un cinéma dépourvu de mission politique ostensible, variant du film divertissant au film intimiste, position défendue par les professionnels du cinéma et par quelques officiels du parti, et de l'autre, les exigences de certains dirigeants du parti de produire des films illustrant les avancées de la société socialiste dirigée par les communistes. Ces deux tendances s'affirment dans les débats réunissant les cinéastes, les administratifs et les politiques et semblent dominer à tour de rôle la vision sur la mission du cinéma. Dans une première phase, jusqu'en 1968, les politiques cinématographiques continuent la voie libérale instaurée au début de la décennie : réalisation des superproductions grâce aux collaborations internationales, importation des films étrangers à grand succès, promotion d'un cinéma roumain divertissant utilisant autant que possible les codes occidentaux, déroulement des projets « d'auteur ».

Toutefois, cette tendance est contrebalancée par la position dogmatique de certains idéologues du parti. Ceaușescu lui-même oscille entre les deux orientations. Il n'est pas sans signification que l'ouverture de la première réunion de la Commission Idéologique, structure créée pour renforcer le contrôle du parti sur la culture, le 23 mai 1968, est consacrée aux cinéastes. Malgré l'esprit de liberté qui se dégage de l'ensemble de discussions, les conclusions formulées par Ceaușescu à la clôture de la réunion ne laissent aucun doute quant à sa vision sur la mission du cinéma :

> Je suis totalement d'accord […] au sujet du rôle particulièrement important du film dans le travail de création de l'homme nouveau dans notre société, d'éducation de notre jeune génération, de formation de cet homme-là

constructeur du socialisme, de cet homme-là qui est appelé à créer la société la plus juste […][11].

Aux problèmes d'ordre administratif, financier et social soulevés par les professionnels du cinéma, Ceaușescu oppose la question de l'insuffisance de l'orientation politico-idéologique qu'il considère comme la véritable entrave au développement de l'industrie cinématographique. La politique des importations des films occidentaux faciles et divertissants qui attirent un nombre plus grand de spectateurs que les productions locales apparait dans le discours officiel comme un mal profond qui conduit le peuple sur le chemin de la décadence et de l'abrutissement[12].

Au milieu des cinéastes, Ceaușescu se montre intransigeant. D'ailleurs même les responsables idéologiques, Paul Niculescu-Mizil ou Dumitru Popescu, défendent une approche orthodoxe de la forme et du message du film. En revanche, dans un cadre plus restreint, lors des réunions avec les membres du Secrétariat ou du Comité Exécutif du parti les prises de position se diversifient et les participants se divisent entre ceux qui soutiennent une ligne idéologique étroite et ceux qui cherchent à valoriser le potentiel mercantile et divertissant du cinéma. Parmi ces derniers, le premier ministre Ion Gheorghe Maurer plaide pour la marchandisation du film dans une pure logique capitaliste : « Le film doit rapporter de l'argent, il doit rapporter cet argent même s'il a un objectif très éducatif. Quel qu'il soit, il doit rapporter. Le film doit être réalisé pour rapporter de l'argent. De même, le documentaire doit être fait pour mettre les gens en situation de vouloir le voir et de payer pour le voir[13] ». Si à la rencontre avec les cinéastes Ceaușescu ne fait aucune concession sur le terrain idéologique, lors des réunions avec ses officiels du parti il semble plus convaincu de la nécessité d'assurer les rétributions des professionnels en fonction des recettes obtenues[14] et accepte ainsi, indirectement, une certaine forme de compromis avec les demandes élémentaires des spectateurs. Plus encore, Ceaușescu insiste explicitement sur l'importance du film *mainstream* non seulement pour des raisons financières, mais surtout pour préserver un équilibre dans le répertoire cinématographique et pour satisfaire le goût du public :

> Il faut faire des films avec contenu, mais il ne faut pas tomber dans l'autre extrême et faire disparaître les films musicaux, les comédies, les films de type occidental dans leur ensemble. Non pas dans le sens idéologique, mais dans le sens d'avoir aussi des films faciles qui abordent non seulement

des problèmes politiques, mais aussi les problèmes simples de la vie, les relations entre les gens, l'amour […]. Il ne faut pas avoir que des films à caractère politique, car les gens écoutent toute la journée des conférences et des discours, mais ils veulent aussi voir autre chose[15].

La coexistence des deux points de vue qui s'annulent et se complètent à la fois conduit à une certaine forme d'ambigüité au niveau de l'implémentation des décisions officielles. Les créateurs et les producteurs ont pu tirer profit de cette situation par le biais d'une relecture subjective des discours équivoques prononcés par les leaders du parti.

3. Fonctionnaires dans le milieu cinématographique : instances intermédiaires entre politique et création

Hauts-fonctionnaires étatiques

En dépit du rôle directif des dirigeants du parti, le développement effectif de la cinématographie, par des décisions, validations, promotions, revient surtout aux fonctionnaires étatiques qui opèrent tant avec les instructions idéologiques formulées aux échelons supérieurs qu'avec la multitude des démarches créatives venues « d'en bas » des écrivains ou des cinéastes. La masse de ces employés n'est pas homogène ni en terme d'engagement politique ni en terme de compétence professionnelle ou de *habitus*. Nous pouvons distinguer au moins trois catégories, identifiées en fonction de la place qu'elles occupent dans la hiérarchie du pouvoir. En haut de l'échelle se placent les présidents et les vice-présidents des établissements culturels rattachés au Conseil des Ministres. Ils sont responsables du développement général de la culture, tant du point de vue idéologique qu'artistique ou économique. Le cinéma ne représente pour eux qu'un domaine artistique parmi d'autres. Au niveau de l'engagement politique, la majorité occupe au minimum la place de membre du Comité Central du parti. Ce fut le cas de Constanța Crăciun, ministre et président de la culture entre 1953 et 1965 et de son successeur Pompiliu Macovei, ministre entre 1965 et 1972. Durant les années suivantes, les hauts responsables culturels obtiennent des rangs de plus en plus importants dans les structures du parti[16].

Suite à la restructuration de juin 1962[17], l'administration de la culture est distribuée entre sept conseils thématiques, leurs présidents étant soit vice-présidents dans le cadre du ministère, soit membres du bureau exécutif. A l'instar de leurs supérieurs, les vice-présidents du ministère

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rallient les attributions administratives-culturelles avec la responsabilité politique, à seule différence qu'ils sont chargés des domaines artistiques précis. De manière générale, les vice-présidents, sont censés seconder ou remplacer le ministre mais ont également la charge d'une section culturelle distincte. Bien entendu, cette double responsabilité n'est pas confiée à tous les présidents des conseils ou directions culturelles. Jusqu'en 1965, le vice-président responsable de la cinématographie a été Virgil Florea, mais la présidence du conseil de la cinématographie est revenue à Mihnea Gheorghiu. A partir de 1965, Gheorghiu reprend également la fonction de vice-président. L'élévation du statut du responsable de la cinématographie, d'un simple président de conseil au poste de vice-président et même de premier vice-président (à partir de 1968 par Ion Brad) démontre le changement du statut même de la cinématographie dans les priorités culturelles du parti.

Quant à leur éducation, les figures importantes du CSCA durant les années 1960 ont des formations humanistes et un parcours scolaire complet allant jusqu'aux études universitaires et postuniversitaires. Si avant 1965, la nomination des hauts fonctionnaires d'Etat semble fondée, avant tout, sur des critères politiques (Constanța Crăciun est diplômée de la Faculté de Lettres et Philosophie, mais sa promotion est due surtout à son militantisme procommuniste d'avant 1945 ; Virgil Florea est notamment connu comme adjoint de la Direction de Propagande et Culture durant les années 1950), après cette date, la promotion est faite sur des critères de compétence professionnelle sans forcement privilégier le passé politique. Le président du CSCA, Pompiliu Macovei est diplômé de l'Institut d'Architecture, le vice-président Alexandru Balaci professeur et docteur *magna cum laudae* en sciences philologiques, Mihnea Gheorghiu docteur en philologie et spécialiste en langue anglaise[18]. Toutefois, leur attachement aux valeurs officielles est incontestable et leur nomination dans ces fonctions est suivie par une nomination dans les structures dirigeantes du parti.

La cinématographie et ses responsables directs

La deuxième catégorie de fonctionnaires comprend les personnes responsables directement de l'activité cinématographique, généralement les directeurs de studio, les présidents des établissements immédiatement supérieurs (le conseil de la cinématographie dans le cadre du CSCA, le Centre National de la Cinématographie après 1968), ou les directeurs des structures chargées effectivement avec la production (le Centre de

Production de Buftea) qui gardent un contact direct et permanent avec la production de film. La formation de ces employés est généralement liée au domaine d'affectation. Ils ont fait leurs preuves dans la production cinématographique comme écrivains, producteurs ou réalisateurs. En dépit de cette apparente diversité professionnelle, on remarque toutefois la prédominance des écrivains dans les fonctions importantes de direction. A l'exception du Centre de Production Cinématographique, où l'activité de gestion nécessitait des acquis économiques, financiers, organisationnels et même techniques et par conséquent, le directeur était généralement ingénieur ou économiste, les autres institutions sont dirigées dans la plupart des cas par des écrivains. Ce fait est un héritage idéologique du réalisme socialiste qui a privilégié le mot écrit et a transformé le cinéma en une branche auxiliaire de la littérature[19]. Durant les années 1950 les conférences de l'Union des Ecrivains consacraient des sessions de débats aux problèmes cinématographiques[20] et le scénariste était considéré le véritable auteur du film. Cette conception s'est prolongée jusqu'aux années 1960 et au-delà. Malgré l'apparition publique de plus en plus courante d'opinions soutenant le droit artistique du réalisateur sur le film, le scénario reste pratiquement le fondement de la création cinématographique. C'est pourquoi l'écrivain possède une autorité professionnelle plus importante que les autres artistes ce qui légitime sa fonction de coordinateur de la cinématographie. Durant la septième décennie, les plus marquants directeurs du studio « București » ont été Paul Cornea, Eugen Mandric, Petre Sălcudeanu, Lucia Olteanu alors que la présidence du conseil de la cinématographie est revenu à Mihnea Gheorghiu et la présidence du Centre National de la Cinématographie à Mircea Drăgan. De tous ces fonctionnaires, Mircea Drăgan est le seul réalisateur. Cependant, son administration ne dure pas, car en moins d'un an, en 1969 il est remplacé par l'écrivain Mircea Sîntimbreanu[21]. La préférence pour les écrivains continue jusqu'à la fin des années 1980. L'uniformité de cette catégorie de fonctionnaires est nuancée par la spécialisation de certains écrivains dans les questions du cinéma. Eugen Mandric et Mihnea Gheorghiu peuvent être définis comme des professionnels du cinéma car ils consacrent une partie importante de leur carrière au développement de l'industrie cinématographique tant par l'écriture de scénarios que par la gestion administrative de la production en général. Si Gheorghiu s'éloigne, ou est écarté du milieu du cinéma au début des années 1970, Mandric sert la cinématographie jusqu'au début des années 1980 en tant que scénariste et directeur de maison de production.

Le Studio et les rédacteurs : la base de l'administration

La dernière catégorie de fonctionnaires inclut un ensemble considérable de salariés du studio, pour la plupart des anonymes qui entretiennent des relations directes avec les artistes. Ils sont opérationnels soit en amont, avant l'entrée en production du scénario, soit pendant le tournage[22]. Durant les années 1960, cette catégorie de petits fonctionnaires agit au niveau de la construction du scénario et du découpage et entretient des relations tant avec les écrivains qu'avec les réalisateurs. Elle est composée de secrétaires, rédacteurs, rédacteur-en-chef qui sont chargés de la lecture et de la correction des scénarios et des idées cinématographiques et suivent le réalisateur dans la finalisation du projet. Leur activité nécessite un talent d'écriture et un esprit critique. Ils sont écrivains, journalistes, diplômés des facultés humanistes, anciens employés des maisons d'éditions, réalisateurs. Pour certains d'entre eux, en grande partie jeunes, débutants dans les pratiques d'écriture ou marginalisés du monde littéraire, la position de rédacteur est une rampe de lancement vers une carrière de scénariste, critique ou réalisateur. Petre Sălcudeanu, Dumitru Solomon, Eugen Mandric, Beno Meirovici, Dumitru Carabăţ, occupent des postes de rédacteurs dans le cadre du studio ou des groupes de création durant les années 1960 avant de connaître la consécration dans un domaine ou autre.

De toutes les catégories de fonctionnaires mentionnées ci-avant, l'investigation et l'analyse de ce sous-champ de l'administration cinématographique constitue la mission la plus difficile en raison de l'anonymat des acteurs concernés, de l'absence des leaders marquants, du silence des archives à leur égard et de la faible relevance des témoignages oraux. A part les quelques noms qui se détachent de la masse du personnel du studio en raison de la visibilité de leur œuvre ou de leur ascension bureaucratique, la majorité des employés est inconnue. Le champ reste ouvert à une analyse approfondie surtout par une démarche d'histoire orale, la seule méthode qui peut révéler les mécanismes sociaux à ce niveau de la production.

Le journal de Constantin Mateescu, écrivain qui fait une tentative pour pénétrer dans le monde du film entre 1967 et 1968, fournit quelques informations au sujet de ce milieu et des rapports qui s'établissent entre les auteurs de scénarios et les rédacteurs. La lecture de son témoignage donne l'impression que le studio était peuplé d'une fourmilière d'employés, le plus souvent médiocres, motivés à obtenir rapidement la reconnaissance

professionnelle et prêts à agir par tous les moyens pour atteindre le but : agressivité, séduction, combativité, persévérance, dédoublement, etc. L'une des personnes avec laquelle il entre en contact est le rédacteur Vasile Băran, qui semble avoir un pouvoir de décision plus important que les autres, et qu'il décrit comme « sûr de lui, comme un acteur maître de son rôle, badin, polisson, enfantin, perspicace. Il est comme un jeune américain d'origine rurale, vivace, solide, hardi, impertinent. Le gars est engagé politiquement, attaché à l'idéologie actuelle avec des légères teintes de libéralisme[23] ». Au sujet de Geta Tarnovschi, ancienne assistante du réalisateur Aurel Miheleș, Mateescu affirme : « elle est travailleuse, consciencieuse, mais dans le cinéma il est nécessaire d'avoir aussi du talent. C'est risqué de lui confier mon début dans le long métrage »[24]. Le tableau qui se dégage des notes de Mateescu renvoie une image de médiocrité et d'incompétence au sein de la section de scénarios. Certes, cette conclusion peut être considérée hâtive et remise en cause par la subjectivité et les ressentiments d'un auteur qui peine à enfoncer les portes de la convoitée production cinématographique. Malgré les exagérations possibles, un simple détour par les analyses de la critique littéraire à l'égard des œuvres de ces personnes (pour certaines sorties de l'anonymat) renforce l'image dépeinte par Mateescu. Avant de monter dans la hiérarchie administrative et devenir directeur de studio, Petre Sălcudeanu est rédacteur dans la section de scénario. Son œuvre est caractérisée de la sorte :

> les idées littéraires originales sont compromises parfois par une écriture simpliste […] L'intention de sa plaidoirie pour le réalisme est minée par le manichéisme de l'expression littéraire. Si dans son ensemble on peut dire que la prose de Sălcudeanu est à un niveau moyen, dans la ligne social-éthique transylvaine, dépourvue de l'orgueil de l'originalité, elle est toutefois capable, au moins par *Biblioteca din Alexandria* de synthèse artistique majeure[25].

L'œuvre de Vasile Băran est écrite dans « un style affecté et sentencieux » (*Ancheta*), « les débats sont didactiques et caducs » dans (*Cocorii de iarnă*) et de manière générale, « les romans combinent le récit fruste avec l'imagination sophistiquée, le simplisme avec la problématisation philosopharde. La construction est antithétique, manichéiste »[26]. Le dictionnaire littéraire de l'Académie Roumaine remarque à son sujet :

> Bien que visiblement médiocre, cette littérature a bénéficié d'échos critiques positifs, un dossier de la réception pouvant être symptomatique pour le double langage de la critique littéraire pendant le communisme, apte à promouvoir, par la terminologie mise en jeu, des valeurs esthétiques négligeables, mais convenables idéologiquement[27].

L'œuvre dramaturgique de Dumitru Solomon, rédacteur en chef au studio durant les années 1960, est caractérisée dans le Dictionnaire de Zaciu à travers les personnages et rend compte d'un mal profond qui touche également les scénarios : « les protagonistes de ces drames n'accomplissent pas mais discutent, n'agissent pas mais exposent ; l'idée ne se « produit » pas mais se prononce[28] ».

Cet aperçu sur la valeur littéraire des œuvres des rédacteurs cinématographiques laisse entendre que la rédaction de scénarios est non seulement une branche auxiliaire, mais la décharge du milieu littéraire « véritable », un refuge pour ceux qui étaient écartés, rejetés, ou mal accueillis d'une manière symbolique ou physique par le monde des écrivains. Cet aspect doit être analysé en étroite relation avec la politique de sélection de scénarios et des scénaristes. Nous n'avançons ici que quelques pistes pour un approfondissement futur. Les écrivains isolés dans leur domaine d'affectation, manquant d'estime au sein des leurs, cherchent une forme de reconnaissance artistique, mais également un emploi stable que seul le cinéma pouvait encore fournir, qui a son tour manifestait une réceptivité visible pour les professionnels du mot écrit. Les gains faciles et consistants que proposait l'industrie cinématographique étaient une raison supplémentaire, qui ne doit pas être sous-estimée, dans le choix cette voie. De plus, le statut politico-idéologique du cinéma décrété « le plus important des arts », s'adressant aux masses réduit considérablement les possibilités d'autonomie de création par rapport au monde littéraire et ouvre les portes aux auteurs pour lesquels les critères artistiques exigés par le pouvoir étaient leur propre forme d'expression ou simplement un instrument puissant pour combattre leurs adversaires moins politisés. Certes, il serait réducteur et simpliste de considérer le milieu rédactionnel dans son intégralité comme un monde compromis politiquement et dénué de qualités professionnelles. La gratitude portée par Mircea Săucan au rédacteur de ses films des années 1960, Mihai Tolu[29], démontre l'existence dans le studio d'un personnel dédié à la cause des cinéastes, prêts à prendre des risques pour défendre un projet sensible politiquement et esthétiquement. C'est pourquoi, la connaissance des relations sociales

dans ce monde constitue probablement la clé de la compréhension des mécanismes de décision dans la production de film.

En dépit de la distinction très nette des trois catégories de fonctionnaires, ainsi que de la séparation apparemment précise entre les trois sphères, politiques, bureaucratiques et créatives, les frontières se caractérisent par une extrême porosité. Les scénaristes et les réalisateurs occupent des positions de direction dans le cadre de l'administration cinématographique ou détiennent des positions politiques stratégiques comme Titus Popovici ou Mihnea Gheorghiu qui sont membres dans le Comité Central. Le réalisateur Mircea Dragan, est pour un temps court directeur du CNC. Les positions politiques et bureaucratiques détenues par ces personnes, leur formation initiale, leur positionnement esthétique, ainsi que les déplacements qui se produisent d'une sphère à l'autre influencent les prises de décision, la production de film et imprègne au cinéma une certaine direction.

4. Rapport de pouvoir et mécanismes de décision

Le processus de sélection et de validation des projets cinématographiques est lié théoriquement à un enchaînement rigoureux et régulier d'étapes administratives. A travers ce système discipliné, le Parti-Etat entendait contrôler la production, tant du point de vue idéologique qu'économique. En réalité, cette pratique était corrompue par ce que George Faraday appelle les faiblesses d'une bureaucratie non-wébérienne qui fonctionnait moins comme un mécanisme réglé de décision au niveau des structures institutionnelles que comme un complexe rapport de relations personnelles[30], sphère d'influence, amitiés, échanges de services dans lesquelles s'entremêlent de manière transversale les rédacteurs, les dirigeants des établissements cinématographiques et les idéologues.

Auteurs et rédacteurs au niveau du studio

La catégorie des rédacteurs est très importante pour le déroulement effectif des projets cinématographiques, car elle représente la porte d'entrée de tout artiste tenté par l'expérience cinématographique. C'est la première et, d'un certain point de vue, la plus importante couche de sélection et de validation, car une fois le scénario accepté, il finissait tôt ou tard sur les écrans de cinéma[31]. Maintenant s'établissent les premiers

contacts entre les artistes et les fonctionnaires. A ce niveau, la relation qui se crée entre les deux parties est de nature professionnelle et les arguments idéologiques sont rarement invoqués. Cette relation peut prendre plusieurs formes : soit elle est fondée sur la confiance réciproque, soit elle témoigne d'un rapport de forces entre les deux parties. L'entrée en production d'un scénario dépend en grande mesure de la complicité qui s'installe entre le rédacteur ou le directeur du studio ou des groupes de création et l'artiste. Les études réalisées sur le cas soviétique ont mis en évidence l'ambiance particulière des niveaux inférieurs de l'administration où les bureaucrates s'érigeaient en protecteurs des artistes[32] s'efforçant à rendre leurs projets acceptables à l'échelon supérieur de contrôle[33]. Les quelques témoignages qui nous sont parvenus confirment l'existence de cette attitude dans les studios roumains[34].

D'un autre côté, les écrivains inexpérimentés et surtout novices dans le milieu rencontrent des objections plus tenaces de la part des rédacteurs. Cette « collaboration » prend la forme d'une relation de soumission de l'auteur face au rédacteur du Studio qui institue les normes de qualité et sollicite des corrections. Dans ce cas, le scénariste est dépourvu de tout pouvoir et ses seules options sont de retirer le scénario ou d'accepter les modifications. Bien entendu, le déroulement de cette relation professionnelle varie d'une situation à l'autre en fonction de la personnalité du scénariste et de sa réputation, mais aussi en fonction de la compétence du rédacteur et de sa déontologie. Le résultat de cette association peut être fructueux, comme il peut être stérile. La notoriété de certains auteurs constitue un avantage pour la validation du scénario au niveau du Studio. Aux antipodes, un écrivain méconnu rencontre plus souvent des obstacles. Moins adaptés à la routine des modifications et réécritures, et surtout moins favorables aux concessions, une partie d'entre eux abandonnent les projets cinématographiques, comme l'écrivain Constantin Mateescu. Après une période d'essai et de tâtonnement, après des frictions avec Băran, Mateescu conclut désabusé : « Le cinéma est une perte de temps. Il est vrai qu'il rapporte de l'argent, mais il est plein de pièges, il s'est beaucoup abaissé devant l'idéologie officielle[35] ». Il rajoute « J'ai compris une chose : aujourd'hui, en Roumanie, on peut quand même publier un livre. En revanche, réaliser un film valable est inconcevable. Le monde de celluloïd est pestilentiel. Cynique.[36] ».

L'enchevêtrement décisionnel décourage aussi les cinéastes dont l'œuvre est reconnue et appréciée internationalement. Après la réalisation de trois longs métrages de fiction qui ont connus un succès unanime auprès du

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public, de la presse et même du parti, Liviu Ciulei renonce au cinéma. Il refuse la proposition de réaliser le film *La Reconstitution*[37], choix qu'il expliquera plus tard, en 1971 : « Je n'ai pas trouvé dans mon for intérieur la solution pour présenter positivement ce film. Prévoyant tout le calvaire qu'a subi Pintilie après la réalisation du film, je n'ai pas eu dans mon arsenal moral, la résistance pour mener ce film à bout[38] ». Ciulei, et par la suite Pintilie, considère le monde du théâtre plus favorable au travail artistique que le septième art où le climat n'est pas propice à la création. Suite à plusieurs tentatives échouées de revenir derrière la caméra après le succès du film *La Forêt des pendus (Pădurea spânzuraţilor, 1965)*, Liviu Ciulei répond aux interrogations d'Ecaterina Oproiu, la rédactrice-en chef de la revue *Cinema,* au sujet de son long et inexplicable silence au cinéma :

> Je crois qu'il n'y a pas actuellement dans le cinéma le climat nécessaire pour réaliser ce qu'on veut, et je crois que la faute principale appartient au producteur. Le producteur dans notre cinématographie est le Studio « Bucureşti ». Si Le Roi Lear a pu apparaître au Théâtre National, cela est dû au metteur en scène, Penciulescu, mais également à son producteur, Radu Beligan. Si celui-ci n'avait pas voulu faire ce spectacle, et s'il n'avait pas eu une indépendance plus grande que le Studio « Bucureşti » vis-à-vis de son producteur supérieur, Le Roi Lear n'aurait pas pu être monté[39].

Si certains écrivains ou cinéastes succombent à la guerre d'usure qui se pratique dans le monde de la production dès le premier contact avec les personnes du collège rédactionnel ou même par la suite, d'autres pénètrent dans les rouages informels de fonctionnement, jouent un jeu social extrêmement complexe de relations personnelles et faveurs et contribuent à la perpétuité de ces pratiques.

Les forces du champ et les conséquences sur les mécanismes de décision

La sélection d'un scénario est soumise à des critères multiples qui dépassent souvent la qualité effective du produit. Ces critères informels, à défaut d'un schéma irrévocable de validation, surtout durant les années 1960 où la libéralisation culturelle était visible, ouvrent des possibilités assez larges de sélection. Durant cette période, le plan thématique comprend tant les films lyriques, longuement construits de Săucan, que les productions dilettantes de Gabriel Barta, Gheorghe Naghi ou Andrei

Călăraşu. Les deux catégories de réalisateurs pratiquent les mêmes stratégies pour accéder au monde de la production. Cependant, ces critères d'ascension, accessibles finalement à tous ceux qui s'engageaient dans le jeu, faisaient l'objet d'attaques violentes de la part de ceux qui n'avaient pas été sélectionnés ou de ceux pour qui le film n'était qu'un moyen pour grimper dans la hiérarchie administrative. Le film devient ainsi un lieu de confrontation, de positionnement, de distinction ou d'affirmation.

L'ambigüité des règles de sélection imprégnait à la production une certaine forme d'autonomie, mais en même temps, comme un effet de boumerang elle se retournait contre les bénéficiaires, mettant dans une position de vulnérabilité les responsables du film (le réalisateur, le scénariste ou le haut fonctionnaire ayant validé la sortie). Tandis que les fonctionnaires risquaient la perte de leur statut social et une dégradation au niveau du poste détenu, les artistes se voyaient l'œuvre salie et contestée. Cette pratique est particulièrement violente au regard des productions hétérodoxes qui, jouissant de prestige international, s'attirent la jalousie de leurs opposants[40]. Dans ce cas, les problèmes idéologiques du film (réels ou imaginaires), la personnalité de l'auteur, le dépassement du fond matériel alloué (argent et pellicule), l'écartement de la ligne du scénario représentent les mobiles de l'accusation et de la dénonciation publique ou secrète[41].

Le cheminement décisionnel et les forces mises en route autour du film (pour le réaliser ou pour l'abaisser) soulèvent inévitablement la question de la solidarité des cinéastes, selon le modèle de leurs camarades écrivains. Bien qu'il existe des situations où les cinéastes ont été animés par des idées communes (souvent des exigences d'ordre administratif auprès de la direction du parti[42]), il est difficile de parler d'unité à leur égard. Bien au contraire, la cinématographie a représenté un monde dispersé et individualiste. Les seules manifestations de solidarité professionnelle se produisent sur le plateau de tournage entre les membres des mêmes équipes, mais ce type de communion ne dure que quelques mois le temps de la réalisation. Certains metteurs en scène arrivent à créer des liaisons puissantes avec le scénariste, avec les acteurs, ou le reste de l'équipe, ce qui l'aide à la constitution d'une base professionnelle solide pour les futurs films. Mais ce type de cohésion ne se prolonge que rarement par une solidarité politique. La compétition, l'isolation et l'absence d'unité au sein des cinéastes sont résumées par Radu Cosaşu :

Il y a tout d'abord cette chose, dont Stendhal (bien avant P.C.R. et A.R.L.U.S.) a dit que c'est le plus sérieux sentiment humain : l'envie. L'envie est un sentiment criminel dans un régime dictatorial, il peut conduire à la destruction de l'autre. Autour de Pintilie s'est créée une solidarité ; pas de réalisateurs, mais d'écrivains, de Paleologu jusqu'à Doinaș qui ont vu *Mitică, pourquoi les cloches sonnent-elles ?* en cachette, et qui ont formé autour du film un bouclier, même si inutile. Les réalisateurs ne montraient pas ce type de solidarité. Pour un film, il fallait de l'argent et chacun savait qu'il devait se défendre tout seul. Bien entendu, il y avait les confréries – le groupe de Drăgan, le groupe de Nicolaescu. Ils se sentaient offensés par un talent comme celui de Mircea. Je n'ai pas vu autour de moi des gens se battre pour les films de Mircea à l'exception de Catrinel Oproiu pour *Les cent lei* (1972). Probablement, il y avait aussi des intérêts humains, amitiés entre Catrinel et ceux qui dirigeaient la cinématographie et qui avaient tout intérêt que le film ne soit pas écrasé pour ne pas le lui imputer idéologiquement et financièrement. On entrait dans un enchevêtrement d'intérêts et sympathies qui pouvaient très bien sauver le film. On entrait dans les méandres[43].

Radu Cosașu souligne ici d'autres aspects importants du monde de la production : l'enjeu financier et le positionnement des bureaucrates. En effet, l'aspect économique est l'une des clés essentielles pour la compréhension des motivations des professionnels du cinéma. Par rapport aux autres arts, le film était également une industrie qui mobilisait des structures très complexes de production, de financement et un ensemble divers d'artistes. Certains d'entre eux bénéficient des rétributions importantes, en particulier les scénaristes[44], ce qui prouve encore une fois l'ascendant du scénario sur la mise en images. Après 1968, la lutte des réalisateurs pour avoir le même statut se finalise par l'introduction du système de contractualisation par film qui leur apporte les mêmes revenus, voire supérieurs[45]. Les sommes allouées dans le milieu cinématographique constituent une attraction forte dans les conditions d'une économie de pénurie et justifient en partie les luttes portées pour l'obtention d'un projet[46]. Le plus souvent, le prix payé en retour par les cinéastes est à la mesure de leur financement et demandait un engagement politique plus ferme que de la part des écrivains ou des artistes plastiques.

Un rôle essentiel dans la distribution des projets et d'allocations revient aux bureaucrates qui occupent des positions stratégiques dans le système de production. Pour eux, le véritable intérêt réside dans le soutien financier des films qui peuvent leur apporter, en retour, soit

du prestige symbolique, soit politique, soit financier, renforçant ainsi leur position administrative. Ils ont besoin des artistes-cinéastes pour atteindre ce but, mais parallèlement sont courtisés par les réalisateurs et les scénaristes en raison de leur puissance financière et décisionnelle. L'appareil bureaucratique représente le lien entre le champ politique et le champ culturel et se fait responsable devant les instances supérieures de la réalisation du plan quantitatif, financier et idéologique, ce qui se répercute sur la manière de validation des scénarios et des films. En effet, la pression pour l'accomplissement du plan à temps favorise les projets cinématographiques dépourvus de mises-en-scène complexes et d'enjeux idéologiques majeurs, susceptibles de retarder sa finalisation. Généralement, les fonctionnaires du bas de l'échelle administrative, mais cette pratique touche également les couches supérieurs, s'érigent en protecteurs des artistes[47] devant les attaques venues de toute direction (presse, délation anonymes, plaintes individuelles, section idéologique etc.). Le scandale déclenché autour d'un film attirait l'attention des organes du parti, raison pour laquelle, ces bureaucrates sont les premiers à tenter d'anticiper et d'étouffer toute turbulence[48].

L'ouverture plus ou moins prononcée qu'ils manifestent vis-à-vis des différentes conceptions de l'art, les relations personnelles avec les artistes ont conditionné le destin de certains produits culturels qui furent soumis ainsi, au hasard et à la disposition affective des présidents. C'est pourquoi, ils ont fait l'objet de critiques violentes justement en raison de la versatilité des règles de sélection, d'abus de pouvoir et de favoritismes. En guise d'exemple, les reproches adressés à Mihnea Gheorghiu à la réunion du 23 mai 1968 par ses subalternes démontrent les mécanismes des rapports de forces à l'intérieur du champ et avancent quelques éléments de compréhension sur les mécanismes de décision au niveau de la production. Sălcudeanu incrimine Mihnea Gheorghiu pour subjectivisme et parti-pris : « Si quelqu'un ne convenait pas à Mihnea Gheorghiu, son scénario avait alors des défauts de primitivisme artistique et d'erreurs idéologiques, mais si le scénario s'appelait *Le Signe de la vierge*[49], il était correct du point de vue idéologique[50] ». En 1968, Gheorghiu était déjà sorti du cercle des favoris de Ceausescu, étant la cible de plusieurs critiques après la diffusion du film *Le Signe de la vierge* (1966). Selon Bujor Rîpeanu, cette affaire est la cause de son élimination de ses fonctions[51]. D'un autre côté, en tenant compte de la rivalité qui régnait dans le milieu cinématographique, il n'est pas exclu de trouver à l'origine de la déchéance de Mihnea Gheorghiu les manœuvres de ses

collègues. D'ailleurs, son scénario a eu des adversaires tenaces avant la mise en production, tels Drăgan et Sălcudeanu[52], ceux qui vont diriger la cinématographie à partir de 1968.

En dépit d'une vision unitaire sur la culture et de l'appartenance à une même catégorie sociale, la relation entre ces administrateurs, surtout entre ceux du même niveau hiérarchique est loin d'être cordiale[53]. L'exemple le plus connus est l'animosité entre Mihnea Gheorghiu et Ion Brad, évoquée par le réalisateur Mircea Săucan qui affirma que « Ion Brad était l'ennemi principal de Mihnea Gheorghiu[54] ». Săucan témoigne de son expérience à propos de son film *Méandres* (1966) pour lequel l'influence positive de Gheorghiu fut décisive pour la sortie du film. Il n'en fut pas de même pour sa relation avec Ion Brad qu'il considéra comme « une sorte de gestapiste culturel… que plus jamais ce genre de personnes n'apparaissent en Roumanie. D'une méchanceté…, on aurait dit un gauleiter sans uniforme, ou un NKVD-iste. Souvent on a connu pire après lui, mais Brad était l'un des plus durs[55] ». Săucan le désigne comme le principal opposant à son film *L'Alerte* (1967). En revanche, la réalisatrice Malvina Urşianu signale une autre image d'Ion Brad à qui elle doit son retour dans la production de films après une longue période d'absence et surtout après son exclusion pendant les épuration des années 1958-1959[56]. Au-delà de la position monolithique du CSCA que chaque président ou vice-président a défendu sans réserve, la conduite d'un tel ou tel directeur a influencé le destin d'un film, d'un réalisateur, d'un livre ou d'un auteur et imprégné la branche dont ils étaient responsables d'une dynamique personnelle.

La dimension subjective de ce lien professionnel met en difficulté les autorités du parti qui accusent les rédacteurs et les autres dirigeants de la cinématographie de favoritisme. Dans le rapport rédigé par les fonctionnaires du parti à l'intention de Ceauşescu pour la préparation de la réunion de travail du 5 mars 1971, il est clairement spécifié : « Il arrive encore souvent que les rédacteurs et la direction du Studio, pressés par le prestige et les intérêts des auteurs, fassent des concessions à la superficialité et à l'improvisation[57] ». Ce type de relation échappe au contrôle du parti qui interprète son existence comme une défaillance du système organisationnel, d'où des successifs remaniements tant au niveau du personnel qu'au niveau des structures administratives elles-mêmes, procédés qui se prolongent jusqu'au début des années 1970.

5. Conclusions

Le cinéma est un domaine proche au pouvoir, surtout à partir du milieu des années 1960 et les directives centrales s'y retrouvent avec plus de fidélité que dans les autres domaines artistiques. Ceci dit, les mécanismes de décision concernant l'entrée en production d'un film, la validation d'un scénario, la suppression d'une scène n'émanent pas d'un pouvoir monolithique, mais sont le résultat des négociations entre les trois acteurs impliqués dans le processus de création. Au moment où l'on pénètre à l'intérieur du système, on constate qu'il n'y a pas de règles uniformes ou de normes précises de fabrication. Au contraire, il existe une multitude de paramètres qui fluctuent en fonction du degré de contrôle politique, de l'auteur du film, du niveau d'éducation, tant des autorités décisionnelles que des professionnels du film. Les relations personnelles du bas de la hiérarchie entre les artistes et les fonctionnaires des studios ont souvent une finalité plus pratique que les orientations thématiques et idéologiques produites au niveau de la section idéologique. Egalement, la personnalité des rédacteurs, des fonctionnaires, leur conviction politique, la peur de perdre le poste, les affinités et l'ouverture vers un certains type d'art, les goûts, la formation scolaire, mais aussi la personnalité de l'artiste constituent des éléments essentiels dans la prise de décision et dans la constitution d'une orientation thématique et artistique dominante.

La multitude de relations et de rapports de forces qui se produisent à l'intérieur du champ crée l'impression d'un chaos décisionnel qui, paradoxalement, de par son efficacité perturbent les stratégies coercitives des autorités politiques. Dans les conditions de la libéralisation culturelle de la septième décennie, ces mécanismes confèrent au monde de la production des espaces d'autonomie. Toutefois, le bas niveau de professionnalisme qui existait au sein du studio tant parmi les fonctionnaires que parmi les réalisateurs, la carence de leur formation artistique et surtout les conduites déclenchées par les luttes d'influences, les tensions et la compétition réduisent considérablement les possibilités de produire un cinéma nouveau et de construire une école cinématographique roumaine à l'image du cinéma tchécoslovaque. Certes, les particularités du monde de la production à cette époque sont profitables à un cinéma ouvert aux attentes du public et parfois, même à l'expérimentation formelle, mais les œuvres véritablement centrifuges au pouvoir sont peu nombreuses, isolées et les réalisateurs hétérodoxes renoncent peu à peu au rêve du cinéma ou s'adaptent au règles qui règnent dans le milieu de la production.

NOTES

[1]   Valerian SAVA, *Istoria critică a filmului românesc contemporan*, București, Meridiane, 1999, p. 229.

[2]   Pour une analyse du phénomène économique et en particulier des échanges commerciaux entre la Roumanie et les pays occidentaux, voir Giță IONESCU, *Communism in Rumania 1944-1962*, London, New York, Toronto, Oxford University Press, 1964, pp. 301-305.

[3]   Le phénomène est propre à d'autres pays du bloc socialiste. La RDA noue des relations avec le France et la Suède « dans le double but de conduire des opérations commerciales et de renforcer la double visibilité extérieure de la RDA ». Cyril BUFFET, *Défunte DEFA. Histoire de l'autre cinéma allemand*, Paris, les éditions du CERF, 2007, pp. 116-119. La Pologne, la Bulgarie, la Tchécoslovaquie et dans une moindre mesure, l'URSS entreprennent, à la fin des années 1950 et au début des années 1960, des échanges de films avec les pays occidentaux. AMC, dossier 26012/1960, « Cinematografie », documente : « Filme occidentale cumpărate de CSR în anii 1959 și 1960 », « Filme occidentale cumpărate de Bulgaria în anii 1959 și 1960 », « Filme occidentale cumpărate de URSS », « Filme occidentale respinse de CSR în anul 1959 ».

[4]   Catherine DURANDIN, *Histoire des Roumains*, Paris, Fayard, 1995, p. 403.

[5]   Pierre SORLIN, *Sociologie du cinéma. Ouverture pour l'histoire de demain*, Paris, Aubier Montaigne, 1977, p. 100.

[6]   *Ibidem,* p. 77.

[7]   Sylvie LINDEPERG, *Les écrans de l'ombre. La seconde Guerre Mondiale dans le cinéma français (1944-1969)*, CNRS, Paris, 1997, p. 7.

[8]   Pierre BOURDIEU, « Le champ littéraire », *Actes de la recherche en sciences sociales,* 1991, Volume 89, p. 4. *Idem, Regulile artei. Geneza și structura câmpului literar* (Trad. Laura Albulescu, Bogdan Ghiu), București, Grupul Editorial Art, 2007, p. 287.

[9]   Expression suggestive formulée par Pierre Sorlin qui définit ce champ comme un « lieu d'équilibre instable entre des forces qui se contrarient ». Pierre SORLIN, *Sociologie …op. cit.,* p.81.

[10] Katherine VERDERY, *Compromis și rezistență. Cultura română sub Ceaușescu,* București, Humanitas, 1994, pp. 69-70.

[11] ANIC dossier 88/1968, Fonds CC al PCR. Secția Cancelarie, « Stenograma ședinței Comisiei ideologice a CC al PCR du 23 mai 1968 » [La sténogramme de la réunion de la Commission Idéologique du CC du PCR, du 23 mai 1968], pp. 98-99.

[12] Sont blâmés particulièrement les films de la série *Angélique*, les films avec Sarita Montiel et les films comme *Sette a Tebe* (1964, Luigi Vanzi)*, Il trionfo di Robin Hood* (1962, Umberto Lenzi), *Les deux orphelines* (1965, Riccardo Freda), *Das Haus in Montevideo* (1963, Helmut Käutner) qui « non seulement ne contribuent pas à l'éducation du goût pour ce qui est

beau, mais au contraire conduit à la dégradation du goût », et en plus, pour certains d'entre eux, n'ont pas de valeur pécuniaire. *Idem,* « Problemele actuale ale filmului artistic și ale difuzării filmelor de lung metraj », 165.

[13] NIC dossier 106/1968, Fonds CC al PCR. Secția Cancelarie, « Stenograma ședinței Comitetului Executiv a CC al PCR : 25 iunie 1968 » [La sténogramme de la réunion du Comité Executif du CC du PCR : 25 juin 1968] , p. 23.

[14] *Ibidem*, p. 19.

[15] ANIC dossier 10/1969, Fonds CC al PCR. Secția Cancelarie, « Stenograma ședinței Secretariatului CC al PCR : 29 ianuarie 1969 » [La sténogramme de la réunion du Secrétariat du CC du PCR : 29 janvier 1969], p. 39.

[16] Suzana Gâdea et Miu Dobrescu, à la fin des années 1970 et durant les années 1980 deviennent membres du Comité Politique Executif, alors que Dumitru Popescu détient en même temps la fonction de président du CCES (Conseil de la Culture et de l'Education Socialiste) et du membre du Secrétariat du parti, responsable des questions idéologiques, moment où le parti et l'Etat fusionne officiellement. Certes, il nous semble important de s'interroger sur la signification et le poids de ce statut politique durant les années 1980 dans un contexte de rétrécissement des attributions décisionnelles.

[17] « Decret nr. 417 privind înființarea, organizarea și funcționarea Comitetului de Stat pentru Cultură și Artă » [Décret n°. 417 concernant la création, l'organisation et le fonctionnement du Comité d'Etat pour Culture et Art], *Buletinul Oficial al RSR,* 9 juin 1962, pp. 103-106.

[18] Consiliul Național pentru Studierea Arhivelor Securității, *Membrii CC al PCR. 1945-1989. Dicționar*, București, Editura Enciclopedică, 2004.

[19] George FARADAY, *Revolt of the Filmmakers. The Struggle for Artistic Autonomy and the Fall of the Soviet Film Industry*, Pennsylvania State University Press, 2000, p. 79.

[20] « Plenara Uniunii Scriitorilor din RPR consacrată problemelor dramaturgiei cinematografice » [La réunion plénière de l'Union des Ecrivains de RPR, consacrée aux problèmes de dramaturgie cinématographique] in *Probleme de cinematografie*, 4ème année, n°. 5, juillet-août 1954, pp. 70-88.

[21] Les informations concernant les fonctions détenues par ces personnes ont été extraites des documents administratifs produits par le studio *București*, et le CSCA et préservés aujourd'hui par les Archives Nationales de Film et par les Archives du Ministère de la Culture. Les données ont été en partie corroborées dans Cristina CORCIOVESCU, Bujor T. RÎPEANU, *1234 de cineaști români*, București, Editura Știițifică, 1994.

[22] Après la création des maisons de production en 1972, a lieu une mutation au niveau de l'incidence réalisateurs-petits-fonctionnaires qui se produit plus en amont, pendant la période de tournage.

[23] Constantin MATEESCU, *Jurnal 1968-1972,* vol 2, Râmnicu Vâlcea, Editura Silviu Popescu, 1998, note du 5 août 1968.

[24] *Ibidem*, note du 8 octobre.

[25] Mircea ZACIU, Marian PAPAHAGI, Aurel SASU (coord.) *Dicționarul scriitorilor români*, București, Albatros, 2001.

26 *Ibidem.*

27 Academia Româna, *Dicţionarul general al literaturii române*, Bucureşti, 2004.

28 Mircea ZACIU, Marian PAPAHAGI, Aurel SASU (coord.) *Dicţionarul …, op.cit.*

29 Săucan préserve des souvenirs forts et émouvants à l'égard de l'amitié que lui portait Mihai Tolu, ainsi que de la passion professionnelle dont il fit preuve. Iulia BLAGA, *Fantasme şi adevăruri. O carte cu Mircea Săucan*, Bucarest, LiterNet, 2007, pp. 191-195.

30 George FARADAY, *Revolt of the Filmmakers…, op.cit.*, p. 61.

31 A quelques exceptions, dont le film de Mircea Săucan *Le Rivage sans fin* (1962), dans les années 1980, le film de Pintilie, *Mitică, pourquoi les cloches sonnent-elles ?* et le film de Nicolae Opriţescu *La saison des mouettes* (1984) qui ont été « enfermés au placard » (expression courante pour désigner un processus de censure radical), la majorité des films entrés en production arrive au terme et voit la lumière de l'écran.

32 Martine GODET, *La pellicule et les ciseaux : la censure dans le cinéma soviétique du Dégel à la Pérestroïka*, Thèse doctorat : Histoire, Paris, EHESS, 2000. En cours de publication.

33 George FARADAY, *Revolt of the Filmmakers…, op.cit.*, pp. 63-64.

34 La complicité entre Mircea Săucan et le rédacteur Mihai Tolu. De même, les directeurs Paul Cornea, Eugen Mandric, Dumitru Fernoagă soutiennent, non sans limites toutefois, les réalisateurs et leurs projets sensibles.

35 Constantin MATEESCU, *Jurnal …op. cit,* note du 31 octobre 1968.

36 *Ibidem*, note du 1 novembre 1968.

37 e scénario est proposé au départ, en février 1968, à Ciulei. Bujor T. RIPEANU, *Filmat în România. Un repertoriu filmografic*, vol.1, Bucarest, Fundaţia Pro, 2004, p.170.

38 « Filmul românesc poate fi mai bun ? » : table ronde du 16 février 1971, *Cinema,* n° 3, mars 1971, p. 15.

39 *Ibidem.*

40 Comportement remarqué chez les auteurs « populistes » soviétiques envers leurs collègues « élitistes ». *cf.* George FARADAY, *Revolt of the Filmmakers…, op.cit.*, p. 103.

41 Les notes établies par les informateurs pour la police secrète dans le dossier de Mircea Săucan durant les années 1960 révèlent l'existence de ces critères de jugement devenus chefs d'accusation pour sa création. ACNSAS, Fond informatif, dossier 234060.

42 Les demandes pour la création d'une Union des cinéastes ou des maisons de production. ANIC, dossier 2/1971, Fonds CC al PCR Secţia Propagandă şi Agitaţie, « Stenograma şedinţei de lucru cu creatorii din domeniul cinematografiei – 5 martie 1971 » [La sténogramme de la réunion de travail avec les créateurs du domaine du cinéma – 5 mars 1971].

43 Radu Cosaşu cité par Iulia BLAGA, *Fantasme şi adevăruri… op. cit.,* p. 253.

44 Durant les années 1960, les scénaristes et les compositeurs constituent la catégorie d'artistes de cinéma les mieux rémunérés car ils sont payés pour le produit fini. A la fin des années 1960, le scénario du film *La Colonne* (1968, Mircea Drăgan) valait 60000 lei et la partition musicale 93000 lei. Les réalisateurs et les acteurs, ont quant à eux des salaires fixes par mois, ou par jour. Le réalisateur du film *La Colonne* arrive à un salaire de 12000 lei pour 4 mois de tournage auquel s'ajoutent les primes (20000 lei dans ce cas) et un acteur de première catégorie touche un revenu allant de 20000 à 40000 lei en fonction de la complexité du rôle et du nombre de jours de travail. AMC, carton CSCA Dispoziţii vol.XVII, 1968, pp. 15-33.

45 Durant les années 1980, le revenu d'un réalisateur de film historique se situe vers 90000 lei, alors que celui d'un scénariste arrive à 70000 (voir le film *Montagnes en flammes* (1980, Mircea Moldovan). ANF, dossier « Munţii în flăcări » [*Montagnes en flammes],* Lettre envoyée par Centrala « Româniafilm » à la Maison de production n°. 5, 14 décembre 1978. Les prix varient en fonction de la complexité du scénario et de la mise en scène.

46 es mécanismes de l'allocation bureaucratiques et l'impact sur la production culturelle sont analysés par Kathrine VERDERY, *Compromis şi rezistenţă…, op. cit.*, pp. 70-71.

47 Phénomène remarqué dans les studios soviétiques entre les directeurs et les cinéastes. Martine GODET, *La pellicule et les ciseaux…, op. cit.*

48 Eugen Mandric, directeur du Studio « Bucureşti » pendant la réalisation du film *Méandres* (1966, Mircea Săucan) s'adresse à l'un des membres de l'équipe du film, ou technicien du studio, qui rédigeait par ailleurs des notes d'information au sujet de Săucan à la *Securitate*, pour « ne plus faire de mauvaise ambiance au film ». ACNSAS, Fond informatif, dossier 234060, p. 78.

49 *Le Signe de la vierge* (*Zodia Fecioarei*) est un scénario signé par Mihnea Gheorghiu, le film étant réalisé par Manole Marcus en 1966.

50 ANIC dossier 88/1968, Fonds CC al PCR. Secţia Cancelarie, « Stenograma… », *op. cit.*, , p. 48.

51 Bujor T. RIPEANU, *Filmat în România. Un repertoriu filmografic*, vol.1, Bucarest, Fundaţia Pro, 2004, p.149.

52 *Ibidem.*

53 La logique de la compétition entre les bureaucrates du même niveau dans les systèmes redistributives est analysée in Kathrine VERDERY, *Compromis şi rezistenţă… op. cit.*, pp. 54-55.

54 Iulia BLAGA, *Fantasme şi adevăruri…, op. cit.,* p. 99.

55 *Ibidem*, p. 80.

56 Magda MIHĂILESCU, *Aceste gioconde fără surâs. Convorbiri cu Malvina Urşianu*, Bucarest, Curtea Veche, 2006, p. 48.

57 ANIC, dossier 2/1971, Fonds CC al PCR Secţia Propagandă şi Agitaţie, « Notă în legătură cu unele probleme ale producţiei filmelor artistice de lung metraj » [Note au sujet de certains problèmes de la production de films artistiques de long-métrage], p. 155.