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CONTENTS

FROM MILITARY REFORM TO TRANSFORMATION

Petre OTU, Ph.D.

An important preoccupation of many Romanian and foreign researchers is constituted by the conceptualization of the changes that occur constantly in the field of military organization and of the configuration, dimensions and characteristics of war. This article analyses succinctly the main concepts from the specialty literature – "military reform", "military revolution", "military technical revolution", "revolution in military affairs", "revolution in the attitudes towards the military", "military transformation" etc. The analysis is founded not only on the historic perspectives on these concepts but also on an incursion in the contemporary debates. The conclusion is that the mutations in the military organization, in the armed conflict configuration, in the relations between the army and the society have become increasingly rapid and profound. This fact makes it indispensable for the theoretical investigation to follow the same trend in order to succeed, as much as possible, in identifying the major lines of evolution and, why not, in achieving an anticipatory character.

Key-words: "military reform"; "military revolution"; "military technical revolution"; "revolution in military affairs"; "revolution in the attitudes towards the military"; "military transformation".

At present, both in Romania and abroad, there is an ample debate concerning the conceptualization of the large changes that are taking place in the military bodies, in the relations between the army and society, in the physiognomy of the battlefield and in warfare, in general. The conceptual arsenal is very broad, leading to overlapping and sometimes to confusion in what the thematic, the content of the processes and the actual phenomena are concerned.

Next, we will go through the main concepts that have been in use at various points in time, focusing especially on those from the last decades, at the same time stating our point of view. We are aware, however, that this ample debate is far from being over, the area of controversies – having both theoretical and practical overtones – being still quite large.

One of the most frequently used concepts – in the past and nowadays – is the concept of "reform". Generally speaking, the concept of "reform" designates a political, economic, social or military transformation with a limited character or a restructuring meant to achieve a certain goal or improvement[1]. In other words, it represents a change within a society or within a segment of the society that usually does not affect the general structure of that particular field.

The specialty literature shows that, in the military field, the notion of "reform" has several other meanings, designating either the entirety of the materials, tools, effects, armament that are deemed unusable at a certain moment, either the removal of a member of the military from the military body, usually because of physical incapacity.

The nature and dimensions of the changes depend on the circumstances, historical context, established goals and available resources (human, material and financial). From this point of view, the notion of "reform" has several meanings, starting from simple adapting measures in one field or another of the military body and ending with deep restructurings that radically change the functioning parameters.

Related to this general concept, the specialty literature also resorts to other notions, such as: reorganizing, restructuring, operationalization, improvement, etc. Of course, they are not synonymous, each having certain halftones, depending on the context they are used in. Generally speaking, these notions are considered "subdivisions" of the generic concept of "reform".

Reform is not the only concept used by both practitioners and theoreticians to designate the changes in the military organization. We also meet other notions, such as: "military revolution"; "revolution in military affairs (RMA)"; "military-technical revolution (MTR)", "revolution in strategic affairs"; "revolution in security affairs"; "revolution in attitudes towards the military"; "military transformation"[2].

All these notions attempt to depict, from certain angles of view, the continuous changes that take place in the organization of the armed forces and in warfare. For example, "military revolution" is a concept meant to designate the systemic changes that took place in the manner of waging war or in the structure of the armed forces[3]. A "military revolution" takes place very rarely, being compared with the tectonic movements in geology. For instance, Alvin Toffler claimed that a military revolution takes place only when a new civilization appears, defying the existent one. Consequently, he talks about "sub-revolutions" – by which we do nothing more but to add other elements, creating combinations of old elements in an existent, given scenario[4].

The "revolutions in military affairs" designate the radical changes in the nature of warfare and the manner of waging war that preceded, put into practice and followed the "military revolutions". The term was coined by Michael Roberts in 1956 and had an impressive career afterwards.

The concept as we know it today was created by Andrew (Andy) W. Marshall in 1993, who was – and still is – the director of the "Office of Net Assessment" (ONA), established in 1973[5]. In July 1993, Marshall sent a note to William Perry, at the time the US Secretary of Defense. In September, Perry approved the note and decided, in January 1994, the creation of a think tank on this subject. The latter finalized its report in May 1995, the document being forwarded to the Pentagon. Starting from official cabinets, the concept reached the scientific and academic circles, as well as the mass-media, where it enjoyed a remarkable career.

The "precursors" of the RMA can be found in the theoretical endeavors of the Soviets, especially in the works of the Soviet Marshall Nikolai Ogarkov, who attempted to define the mutations taking place in the concept of defense, in military organization, as well as in doctrines,

because of the appearance of nuclear weapons and missiles. They were the creators behind the concept of "military-technical revolution", being less interested, however, in the organizational and doctrinaire aspects involved in the development of technology.

What is remarkable in the definition of the two concepts – "Revolution in Military Affairs" and "Military-Technical Revolution" – is that they bear the signs of the phenomenon of "strategic mimicry", visible during the entire world's history, inclusively during the Cold War, which was marked, needless to say, by a ferocious confrontation between the two superpowers, US and USSR, both victors in the Second World War. The military experts from across the Atlantic found a source of inspiration in some of the Soviet researches on the impact of technology over warfare, while the latter, in their turn, found a source of inspiration in the American experience in Vietnam concerning the systematic use of modern means in conducting the operations.

In this context, it is worth recalling the definition of the "revolution in military affairs", formulated by Andrew Marshall. According to him, it represents a major change in the nature of warfare following the introduction of new technologies, which determine radical changes in the military and operational doctrines and in the organizational concepts, something that drastically modifies the characteristics and conduct of military operations[6]. The Americans, without neglecting the technical aspects, seen as equally important, emphasized the institutional dimension and, starting from the 1990s, once with the end of the bipolar confrontation, the concept of "revolution in military affairs" has been debated extensively. This was based on the need of the US of adapting the military strategy to the new security environment, which had to take into account new phenomena, such as globalization and the breakthroughs in the technology of information.

From a different angle, the "revolutions in military affairs" represent periods of innovations during which the armed forces develop their concepts, leading to changes in doctrine, tactics, procedures and technology. From this perspective, they took place mostly at operational level and very rarely at strategic level, their birth being dictated by the general context[7]. The revolutions in military affairs have several advantages: they reveal the

events, techniques and strategic evolutions; they reveal the main trends in warfare, offering the possibility of treating the military conflict as a social event, linking it directly to other processes within the society, etc.

The main critiques brought against the more recent concept concern the certain ambiguities in the definitions of the notions, many researchers of the military phenomenon putting the equality sign between "military revolution" and "revolution in military affairs", claiming they were not too many, anyway. Michael Roberts himself identified only four such moments: the introduction of the chariot and sword during the middle of the second millennium B.C.; the invention of the saddle stirrup, which led to the domination of the heavy cavalry (the middle of the 6th century); the development of fire arms, which led to a decrease in the role of fortifications and to an increase in the importance of the linear arrangement of the infantry (1550-1600); the scientific revolution at the middle of the 20th century, determined by the development of aviation, rockets and nuclear armament.

Max Boot identified, starting from the year 1500 to present, four major revolutions in military affairs: the revolution of gun powder; the first industrial revolution, including the rifled barrel and railroads; the second industrial revolution, which brought tanks and aviation; today's revolution in information technology[8].

Other theoreticians claim that the notion itself comprises two major components: a historical one and a technical one. From this point of view, they claim that even more revolutions took place in the military affairs, the 20th century being, in a way, the champion. For instance, the previous century has gone through a series of revolutions, such as: the maritime warfare (1900s); joint operations with the artillery having a prevalent role (1916-1918); the mechanized warfare (1920-1930); the atomic warfare (1940s), then nuclear warfare (1950s); the missile guidance (1950s); the use of space for military purposes (1960s and 1970s); the information warfare (1970s to date); today's cyber warfare[9]. The afferent operational concepts are also discussed, such as the "lightning war", "star wars (Strategic Defense Initiative)", "full spectrum dominance", "network-centric warfare" etc[10].

I would make a short stop on "lightning war", better known under the name of "blitzkrieg".

In that particular moment, its use represented a "revolution in military affairs", as it was based on two new weapons, which had appeared before and during the First World War, namely the plane and the tank. Both France and Germany had planes and tanks, but their concepts on how to use them – the doctrines, to say so – were different. The French General Staff favored their separate use, while the tanks were seen as escorts of the infantry. The German General Staff, especially some German generals, such as Heinz Guderian, had a different approach, which eventually materialized, between 1939 and 1941, in a new doctrine, based on the tank-plane binomial – similar to what we would call today a "joint" doctrine –, which brought extraordinary victories to the Wehrmacht[11]. The "lightning war" eventually stalled in the Russian space, which proved too vast for such maneuvers, given that Germany only had access to limited resources.

Some researchers, especially those from France, were critical at the new concept, which they perceived as an American attempt of preserving the hegemony in the context of the end of the bipolar era[12]. This could have only been achieved by adapting the American military strategy to the new security environment, marked by the phenomenon of globalization and by impressive achievements in the field of communications and information technology.

Undoubtedly, the "revolution in military affairs" has gone through many cycles and stages, which were triggered by the major scientific discoveries and their implementation in the military field and by the introduction of advanced weaponry, leading to substantial mutations in how the wars were conceived and conducted. The recent discoveries in the field of armament, the gathering of information through satellites, the guidance systems by infrared, laser, microwaves and GPS, the creation and employment of high precision armament, of integrated weapon systems, all succeeded in creating a new physiognomy of the theatre of war and it can be said that, in future, this technological impact will be instantaneous[13].

The "revolutions in military affairs", in which the new technologies represent the catalyst of radical changes, were also named "military-technical revolutions", a concept coined by the Soviets in the early 1980s, when the bipolar confrontation was at its height. Some theoreticians

argue that today's informational revolution in warfare is nothing but a simple revolution of this kind.

In parallel with the concept of "revolution in military affairs", which lost ground in the last period, a new concept appeared – "revolution in attitudes toward the military" (RAM). While the first was mainly supported by the new technologies employed by the information-based economy, the latter was promoted by a series of factors, such as: low birth rate; the contemporary lifestyle; the feminization of politics, etc. The new social-cultural context no longer tolerates military actions that lead to heavy loss of lives. The Western societies became sensitive towards violence and do not want to inflict casualties, nor to have casualties as a consequence of such actions. The two concepts – RAM and RMA – are strongly related, the goal of the informational revolution being to minimize the loss of human lives.

For the supporters of the revolution in military affairs, the vision on warfare is opposed to that of Clausewitz. The adepts of the "revolution in military affairs" who allege the complete disappearance of the "fog of war" and "friction" are not many, but they do talk about the possibility of preventing these two phenomena with the help of new technologies. However, it is pertinent to question the revolutionary character of the changes brought by the "revolution in military affairs", since the "fog of war" and "friction" represent two phenomena that technology is not able to outrun.

The new technology will replace neither people, nor materials, but it will only facilitate their deployment into the field, the detection of the movements of the adversary, the vital links between logistics – command – troops, as well as the capacity of minimizing the losses, by trying to guess the intention of the enemy. The product of "revolution in military affairs" is a better trained soldier, whose "weapon" – be it GPS, computer, etc. – becomes an intrinsic element of his existence.

This is what the Americans call the "digitalization" of the weapons. This digitalization consists in a merger – the most efficient, probably – between two inherent stages, namely processing and gathering of information. The processing comprises the coordination of units and command centers, the organizing of transports and logistics

and, at last but the least, the communication. The gathering consists in a permanent search for information, in surveillance-detection, reconnaissance, keeping track of backup units and preparing the extraction of the units. If information is power, transmitting the information becomes vital for gaining the advantage – partially or totally – in a military situation.

According to some theoreticians, we witness at the beginning of this century and millennium the merging of three "revolutions": informational, in military affairs and in attitudes toward the military. All three configure the profile of military organization and warfare, as the byproduct of the process of globalization. The most important factor in the revolution in military affairs consists in the intensive use of new technologies meant to substitute, little by little, the fire power with electronic network intelligence, from field soldier to the General Staff.

However, today's armed conflict – and violence, in general – gains new connotations once with the increase of the phenomenon of terrorism, which tends to contradict such a model of military action. The "revolution in information technology" is also fully used by the terrorist groups, both in planning and conducting their actions, so that one can talk about a "revolution in terrorist affairs". For instance, a terrorist no longer needs weapons, ammunition, transportation, as long as he or she has access to the internet and a website. My intention is not to focus on this topic, but rather to show the complexity of today's military phenomenon and the great obstacles that the theoreticians analyzing it have to face.

Two other concepts that keep showing up in the discussions concerning the military phenomenon are the "revolution in strategic affairs" and the "revolution in security affairs". The first draws the attention on the profound changes that took place in the use of armed forces in various military conflicts, while the latter starts from the premise – well consolidated by the Copenhagen School, with Barry Buzan in the first line – that defense and security are not synonyms.

But all these concepts are shadowed by a relatively new notion, adopted by the North-Atlantic Alliance, namely the concept of "transformation". Just as globalization, the transformation is a somewhat imprecise notion, this being the underlying cause for the numerous

traits attributed to it. However, despite of these ambiguities, the concept of transformation has two major meanings. The first refers to the "military transformation", which tends to replace the "revolution in military affairs" in the military terminology. The definition given to the latter can equally well designate the "military transformation", with the observation that the "revolution" can lead to transformation.

The second meaning refers to the "transformation of warfare", a notion that appeared before the First World War. In 1912, Jean Colin from the Superior School of War in Paris published a treaty on the "Transformation of War"[14]. The concept is very wide, covering aspects that belong to "revolution in military affairs", "revolution in strategic affairs", "revolution in security affairs". The guiding line of those who have written and still write about his phenomenon is that the "transformation of war" and the conducting of operations can only be treated from a larger perspective, which should not be strictly technical in nature. In today's world, war has become – more than ever – a social event, which is not limited strictly to the military dimension.

Besides these concepts, the specialty literature also resorts to others in the attempt to encapsulate – at theoretical level – the great changes related to the military phenomenon and to reveal its tendencies. For instance, terms such as "defense reform" or "defense sector reform", "security sector reform", "reform of the armed-forces", all are meant to designate the radical mutations that took place in the defense apparatus of the state in order to adapt to the economic, political, social, military-technical trends going on in the society and in international relations[15]. Usually, these measures are part of the wider process of reform going on within the state and materialize in the reorganizing of the armed forces and of other security structures, in mutations in the recruiting system, in re-conversion of the military personnel, in re-dimensioning of the military industry, in changes in the training procedures, etc[16].

A relatively new topic that appeared on the theoretical agenda is the "privatization of war" and, consequently, of the army. The practice, however, proves that the "privatization of the defense and war" are actually expectations of some analysts and politicians rather then a real process, although certain phenomena from this field should

not be excluded. Among the latter, one can think of the "warlords" from Africa and elsewhere and the participation of private military companies (American, British) in the campaigns in Iraq and Afghanistan. Such expectations are based on the thesis that the state will give up its prerogatives: sovereignty, independence, territorial integrity. However, it is hard to believe that states will give up the legitimate use of force for defending and promoting their vital interests. Nevertheless, some theoreticians claim that the "privatization of war and armed forces" will be the central phenomenon in the military field in the 21st century.

What has been said until now demonstrate that the change in military organization and in the configuration and profile of warfare is covered by a relatively wide conceptual apparatus. It focuses especially on the realities of the last two decades – the period after the end of the Cold War –, characterized by a plethora of phenomena which had caused – and still do – deep mutations in the structures of military bodies, in their relations with the society, in the configuration and the profile of warfare.

NOTES:

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3 James C. BRADFORD (editor), **International Encyclopedia of Military History**, preface by Professor Jeremy BLACK, volume 2, Routledge, New York, London, 2006, p. 1099.

4 Alvin and Heidi TOFFLER, **Război și antirăzboi. Supraviețuirea în zorii secolului XXI**, translated by Mihnea Columbeanu, Editura Antet, 2000, pp. 111-115; 163-164; 287-289.

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6 Ibidem.

7 *Apud.* Eugen BĂDĂLAN, **Concepte strategice și operative de actualitate**, Centrul Tehnic și Editorial al Armatei, București, 2004, p. 2.

8 Max BOOT, **War Made New: Technology, Warfare and the Course of History, 1500 to Today,** Gotham Books, 2006.

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Petre OTU (petreo55@yahoo.com), Ph.D., is senior researcher, the deputy director of the Institute for Defence and Military History Political Studies and professor at the University of Piteşti, being an expert in the field of the evolution of military phenomenon integrated in the Romanian social, economic, political and cultural development and in the contexts of the 19th and 20th centuries. He is also the coordinator of numerous domestic and international research projects in the areas of defence policy, national and international security and military history. He published as an author, coordinator and co-author more than 100 papers on history, military history, geopolitics and defence policy issues and 350 studies and articles on the same thematic area.

COUNTERINSURGENCY: A FOUR LEVEL CHALLENGE[1]

Pascu FURNICĂ

This article looks at the counterinsurgency as a negotiation among five groups, namely counterinsurgent force, insurgent force, local population, domestic population and government of the troop sending nation and international community, each of them having their own win-sets. The article argues that pushing the win-sets of all these actors to overlapping, using a comprehensive and multidimensional approach, could lead to the conclusion of the conflict.

Key-words: counter-insurgency; insurgents; international community; local population; win-sets; negotiation.

Introduction

As we advanced to information age, the military advanced too. The physical domain, the traditional area in which military engagements were situated, has been completed with the information domain and the social domains[1], transforming into a triptych of domains in which modern military should act. Also, the symmetry of warfare unbalanced too, because strong state actors must fight less organized forces, which, in order to win, use asymmetric tactics and strategies. Insurgent forces are those enemies that use asymmetric tactics to fight against militarily stronger state actors, avoiding force-on-force confrontations and resort to terrorism and guerilla tactics to accomplish their objectives. Successful insurgent forces realize their inherent disadvantage in the physical domain and attempt to take advantage of perceived weaknesses in the information and social domains of their opponents. The insurgent forces continue fighting until they push the state actor to the point where the fight is too expensive in terms of lives, materials and public image for the counterinsurgent opponent, point called in operational panning **the culmination point**. The state actor needs either to destroy the insurgent force or to eliminate the insurgents' will to fight. Can a state/international institution effectively engage and defeat insurgent movements in foreign countries? Is there a counterinsurgency theory that could assist governments in defeating insurgent movements?

States normally intend to dominate the physical domain over any potential state or non-state force. The areas in which the governments must improve while fighting insurgencies are the information and social domains. Counterinsurgency is not exclusively fought in a vacuum between military forces and insurgent fighters; the battleground includes not only physically engaging the insurgents but also fighting a battle of ideas. Because democratic states normally are not fighting its own insurgency, but are assisting other governments in counterinsurgency, the battleground of ideas is diffuse: there is a realm of public opinion in the domestic arena as well as among the population of the area where the insurgency is being fought. Such warfare involves a battle of wills between the insurgent and the counterinsurgent forces. This battle of wills decides the results of the conflict. Any insurgent conflict ends when one side is eliminated or decides to quit fighting. Winning and losing battles is not the mark of success in fighting an insurgent movement; success is reached when there are no longer any battles because one side has lost the will to fight. Therefore, fighting a counterinsurgent war requires much more than military tactics. It requires a multi-dimensional physical, social, and information assault across the four additional groups of players in an insurgency: the insurgent force, the local population, the domestic population of the states that provide counterinsurgency forces, and the international community.

Group	Engagement	Primary Means	Type Power	Applicable Principles
Insurgent	Coerce, Deny	Arms	Military	Asymmetric Tactics,
Locals	Coerce, Deter, Dissuade, Protect	Security, Health, Welfare	Economic, Soft	All except asymmetric Tactics
Domestic	Persuade	Rhetoric	Soft	Legitimacy, End State, Public Diplomacy
International	Persuade, Deter	Rhetoric, Welfare	Economic, Soft	Legitimacy, End State, Public Diplomacy

Diagram no. 1

In order to increase the efficiency of the counter-insurgency, more than tactical engagements are needed to defeat insurgent forces. Force-on-force encounters alone are not sufficient to defeat insurgent forces in the 21st century. As Gil Merom points out in his work *How Democracies Lose Small Wars*, overwhelming brutality and high casualty rates are not generally acceptable to the public of the democratic states[2]. Furthermore, John Nagl, in his work *Learning to Eat Soup with a Knife*, points out that the modern military lacks the institutional flexibility to adapt to effectively fight insurgent forces[3]. These observations need for a paradigm shift in counterinsurgency tactics.

The old counterinsurgency paradigm was "Attack to Defend". Enemy body counts and numbers of sorties flown against enemy targets were measures of success or failure. This strategy of applying overwhelming conventional force to defeat insurgency is considered a failure. There are a multitude of examples for such failures, Vietnam and Algeria being the best known and most studied. A multidimensional, comprehensive approach to the counter insurgency is needed, which would take into consideration the entire spectrum of actors and strategies, from force to negotiation. This proposed paradigm could be named using a paraphrase of the old paradigm: "Engage to Conclude"

Engage to Conclude – the new paradigm in counterinsurgency

Counterinsurgency could be thought as a four level game, in order to provide democracies

a more effective way to deal with insurgent forces on foreign territory. By realizing that counterinsurgency takes more than war-fighting to defeat, while also realizing that the domestic population of the sending troop nations, international public opinion (to include individuals, government organizations and non-governmental organizations) and the people of disputed area must be engaged, counterinsurgency efforts could gain an improved level of success in the future.

The matrix in Diagram 1 shows these four groups that a counterinsurgent force should engage, looking to the type of the engagement that should be applied, the means available to each of the groups and applicable principles that should be used to engage them.

This article argues that counterinsurgent operations fought in a foreign country are a four level game between five separate groups. The counterinsurgent force must engage on four actors to effectively defeat an insurgent movement: the insurgent force, the local population (forthwith referred to as "the locals"), the domestic population of the counterinsurgent force (henceforth referred to as "the domestic population"), and the international population of the world, to include individuals and governments.

Counterinsurgency as a Four Level Game

Robert Putnam outlined a valid technique for using two level games to effectively negotiate diplomatic settlements under the restraints of domestic policy. Putnam labels the two levels as follows: Level I, which is the negotiation between

the negotiators attempting to arrive at a mutually acceptable solution, and Level II, which is the process used to ratify the negotiators proposed agreement.[4] Putnam goes on to define a win-set[5] as the area where an agreement can gain Level I and Level II agreement or, in other words, can be accepted by the negotiators (thereby implying acceptance from their political leadership) and acceptance by any members of the organization that must approve the agreement (a congress or parliament in a liberal democracy or a core critical mass support group for a dictatorship). Additional negotiation cannot take place on the agreement during Level II ratification. Level II agreement takes place among the members of each side without representation from the other side; therefore, Level II agreement can only approve Level I agreement with a yes or no vote. This gives negotiators additional ammunition while attempting to negotiate within their win-set. Both negotiators know that any agreement they arrive at must be ratified by their own set of Level II players.

If an agreement is to occur between the two negotiating groups, an agreement must be reached to meet both groups' win-set criteria. During the course of negotiations, these win-set areas may change based on the negotiators ability to change their definitions as to what consists of an acceptable end state condition. Actions and reactions on both sides of the negotiations will affect whether or not the acceptable win-sets become smaller or larger.

By adapting Putnam's model to a four level game of fighting counter-insurgencies, a way to break the paradigm of using only overwhelming military force to engage insurgent forces may be found.

In the four level game of fighting counter-insurgencies, Level I negotiations take place between the external government and their domestic population. Level II negotiations take place between the external government prosecuting the counterinsurgency and the locals. There is a Level III negotiation taking place between the external government prosecuting the counterinsurgency and the insurgent forces. The final Level IV negotiations take place between the counterinsurgent force and international community.

The insurgent force is also playing the four level game. They are engaging the same three groups of non-combatants as the counterinsurgent force, while engaging the counterinsurgent force as well. In other words, there is a four level game going on between the five players at all times. Unlike the two level game model, negotiations (or interactions) can and do take place across all levels simultaneously.

Level I is the most important. Internal dissent of the domestic population causes the defeat of militarily stronger external counterinsurgency forces by weaker insurgent forces. "In every asymmetric conflict where the external power has been forced to withdraw, it has been a consequence of internal dissent"[6]. From the French in Algeria to the Israelis in Lebanon and to the Americans in Vietnam this fact has been proven over and over. Domestic support must outweigh domestic dissent in external military operations, especially in liberal democracies. Otherwise, when domestic dissent makes the war effort become too costly for the politicians, they will decide to withdraw the troops. Insurgent forces understand this fact and will engage this critical connection as often as possible.

Level II negotiations between the external government's counterinsurgency forces and the locals follow the domestic population in importance because the locals can be considered important assets both for the counterinsurgent and for the insurgent effort. If the locals do not support the counterinsurgency effort, it may well be impossible to gain intelligence about the insurgent forces. Insurgents understand this and will take advantage of any opportunity to break the connections between the counterinsurgent forces and the local population.

Level III negations are next in importance, as the counterinsurgent forces must engage the insurgent forces on multiple levels in order to manipulate the insurgents to move their win-set into convergence with the external government's win-set. It is unlikely the external counterinsurgency can kill every insurgent troop; if this is attempted, many more insurgents may be created. Heavy handed military tactics breed hatred among the people and turn many people into insurgents, making the potential number of insurgents infinite. In order to defeat insurgent efforts, the external counterinsurgent force must eliminate the insurgent's will to fight by forcing the insurgent's desired win-set to move into convergence with the external government's win-set.

Possible Range of Solutions
(win-sets)

C-I Govt

Domestic

Locals

Insurgent

International

Diagram no. 2
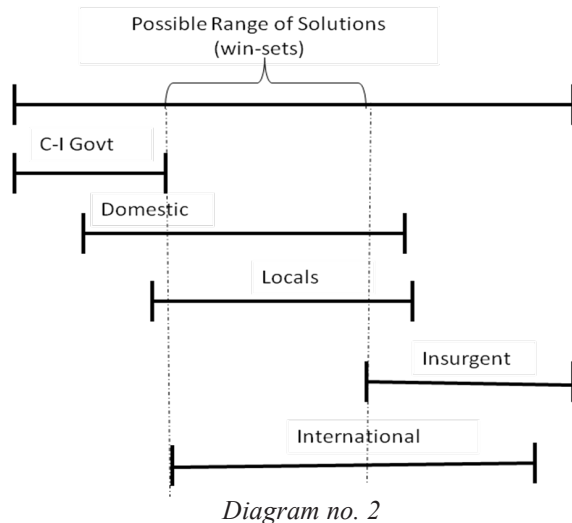
Level IV negotiations between the external government and international community are the final priority, yet this link is still important. The international community can make counterinsurgency efforts more or less difficult depending on how much assistance they are willing to give to the external counterinsurgency or the insurgent force. Will neighbors of the nation engaged in an insurgency seal their borders, or will they permit insurgents sanctuary? Will they supply insurgent forces with arms and other support? Will international terrorists with sympathies for the insurgent force attempt to attack the country of the external government's forces? International community opinion is not as important as the domestic opinion or the support of the people, yet it is still important in the four level game of counterinsurgency.

Diagram no. 2 represents the four level game between the insurgent force, the counterinsurgent force, the locals, the domestic population of the counterinsurgent government and the international community. The initial win-sets represented above are estimations as to what typical attitudes of the various groups may be at the outset of an insurgent movement. The key of understanding counterinsurgency as a four level game is to realize these win-sets can be manipulated to gain a solution acceptable to all parties. A wide spectrum of tactics is available to manipulate these win-sets; force alone is not the only way to cause win-set changes in the five players of the game. Economic, military, political, psychological and moral tactics can be used to negotiate and move win-sets. In addition, win-sets can be moved both nearer to

agreement and further away from agreement based on the application of the aforementioned tactics.

At the outbreak of an insurgency, there is no overlapping of win-sets between the counterinsurgent force and the insurgent force (Diagram no. 2). If there were an overlapping, the insurgent movement would not have start fighting. However, there are only two ways the counterinsurgent forces can make the insurgent forces stop fighting: ruthlessly eliminate and destroy the counterinsurgent force or manipulate the insurgent's win-set to match the government's win-set, while ensuring this win-set overlaps the people's, the domestic population's and the international population's win-sets.

If Diagram no. 2 represents what a four level game may look like at the start of an insurgency, Diagram no. 3 represents what a four level game may look like at the completion of a successful counterinsurgency operation. If the win-sets of the insurgent forces and the counterinsurgent forces can arrive at a mutually agreeable area, while the people's, the domestic population's and the international population's win-sets also occupy the same area, a solution can be achieved by stopping the insurgent movement and form a government acceptable to all five players in the four level game. Once again, the key element in realizing there may be a solution to the four level game of fighting insurgencies is realizing there are other ways to move these win-set besides using military force. Military force is at times necessary, but, if misapplied, it can be counter-productive to win-set manipulation.

Possible Range of Solutions
(win-sets)

C-I Govt

Domestic

Locals

Insurgent

International

Diagram no. 3
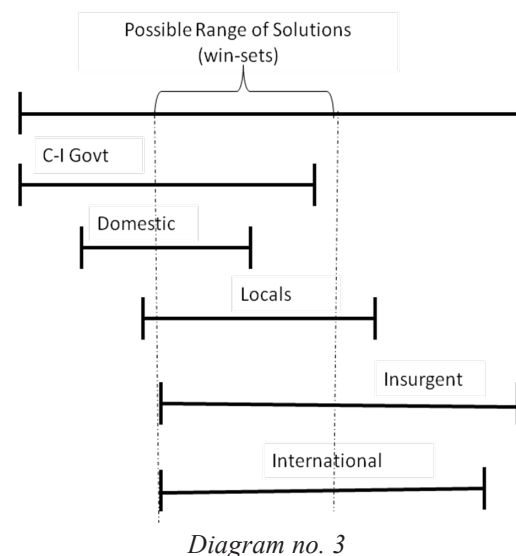
As a Conclusion: Effects Based Targeting in the Battle for Legitimacy

Effects based targeting is a current concept launched in order to counter mainly the asymmetric threats. It implies that a target should be selected based on the effects destroying or degrading that target will have on the enemy. Effects based targeting can also be applied to the four level game of counterinsurgency, but its definition must be expanded to include non-destructive and even constructive methods of targeting. In other words, an objective might be targeted with a CIMIC project, for example, in a multidimensional/comprehensive approach. The concept of comprehensive approach is partially looking to the way of engaging the asymmetric threats. Effects based targeting in the four level game of counterinsurgency must be defined as selecting a target based on the effects that engaging that target will have on the enemy and the people in the theater of operation, as well as the domestic population of the counterinsurgent fighters and on world-wide international community opinion. Counterinsurgent forces must realize that all targeting and tactics, from constructive to destructive, may affect win-set movement in all above mentioned five groups. The first step to moving all five group's win-sets towards an area where all can agree to end the fight is understanding this fact.

In the four level game of counterinsurgency, targeting must consist of more than the military application of power to defeat the insurgent force. Targeting should be joint, multidimensional and comprehensive and include all the aspects: political, economic, social, diplomatic, psychological and military. Effects based targeting must target both the players and the connections between the groups previously mentioned, in order to push win-sets of the groups involved to overlapping.

Diagram no. 4[7] represents the connections between the five groups involved in counterinsurgency. The most important aspect to be noticed is the close interconnection among all these groups. Targeting any group will affect each and every group and the connections among them. Affecting the groups in this way, win-set will be affected. For example, if the counterinsurgent force uses illegal gathering information procedures, such as torture, this finally will be found out by international media and by the aforementioned groups. This would change the attitude not only of the insurgents, but also of domestic population and international community. Each of these groups will change their ways to achieve their objectives. The insurgents may decide to fight to death in order to not face capture, or, less probable, they might decide to give up, avoiding the prospect of torture. The locals may become sympathetic to the insurgent cause, or could agree (less probable) the aggressive tactics of the counterinsurgent force. The domestic population questions its own government force's actions, or it, less probable, may approve any method to quickly end the conflict. The international community may condemn the methods of interrogation as inhuman and unjust, silently ignore the torture or (less probable) approve it as a necessary tactic. The issue is not the legality or popularity of torture; the point is that the decision to affect the insurgent enemy with torture will force some sort of reaction in all of the groups involved. Win-sets will move towards convergence or divergence based on each and every action the counterinsurgent force and the insurgent force takes.

Win-set convergence is not the only method to ending an insurgency; the elimination or withdrawal of either the insurgent or counterinsurgent force will end the conflict. However, the complete destruction or annihilation of the insurgent force may not be attainable. It is clearly possible to cease counterinsurgent efforts and withdraw, as happened in Vietnam. But this can be seen both by the government, the international community and other parties as a defeat, fact that could dramatically change the security system in the counterinsurgent

Domestic
Population

Counter
Insurgent
Force

International
Population

People

Insurgent
Force

Diagram 4

home country, or could fuel the insurgent actions in other spaces, or even could lead to disaster in the country left under the insurgent movement (see the Afghanistan case, the Taliban taking the power after the withdrawal of the Red Army and imposing a regime of terror).

Therefore, we can conclude that shifting the win-sets of the players could be a strategy opposed to forceful removal of the insurgent forces from the game. War-fighting alone will not facilitate the overlapping win-sets needed to end insurgent movements: effects based targeting must engage all groups in the game in a variety of methods to arrive at an end state solution acceptable to all parties.

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Colonel Pascu FURNICĂ (pfurnica@unap.ro), Ph.D. candidate in military sciences, works for the Crisis Management and Multinational Operations College, at the National Defence University "Carol I".

THE WAR AGAINST TERRORISM AFTER 9 YEARS SINCE 9/11

Cristian BARNA, Ph.D.

Military operations against terrorism are not considered conventional armed conflicts. If abolishing a political regime represents the aim of the military action (subversion of the Taliban regime), this aim must be strictly motivated by the need of fighting against terrorism. Within this context it must be said that, after the terrorist attacks on September 11, 2001, the Bush Administration promoted a victorious image in the fight against terrorist groups, asserting that the military operations in Afghanistan were only the beginning of the war against international terrorism. The American Government began to personalizing this conflict, Osama bin Laden being identified with "No. 1 public enemy".

In 2010, Barack Obama considers that the USA didn't end their mission against Al Qaeda in Afghanistan, because they hadn't succeeded in putting into practice an optimum strategy for destroying the terrorists' logistic bases. Although it's been 9 years since this war broke out, Obama is decided to continue this war because it is one of the strong points of his election campaign. Rejecting any analogy between Afghanistan and Vietnam, Obama assured that after 18 months from the decision of supplementing the number of American soldiers in Afghanistan, that is beginning with July 2011, the American troops "would start coming back home"...

Key-words: terrorism; Afghanistan war; Barack Obama; Osama bin Laden; Taliban; Al Qaeda; military operations.

A war against a "terrorist group"?

In the opinion trend generated by the terrorist attacks on September 11, 2001, the legitimacy of starting a war against Afghanistan was intensely invoked, due to the impossibility of operating against suicidal terrorists.

Should we admit that the motto of this "world war against terrorism" is Donald Rumsfeld's rhetorical question: "Can we kill or capture Mujahideen faster than they are born?" The majority of the analysts agree John Lehman, ex-commander of USA marine: "absolutely NOT!"[1]

It is really obvious that the war the USA declared to the terrorism has met its enemies, the promoters of the Islamic fundamentalism and has weakened its "moderated" allies from the Muslim world.

Especially because an answer of military nature is considered illegal from the point of view of obeying international concords. If we refer to the Resolution 1373/2001 of the UN Security Council, we will notice that applying this principle of law is compulsory for all the states, as it stipulates that only the state actors can initiate actions against terrorist groups that activate on the national territory, including the annihilation of the financial support given to terrorism.[2]

The UN resolution also stipulates that each member state is obligated to bring terrorists to justice, so that they can be judged according to the seriousness of their deeds. Thereby, each state has the obligation, undertaken through the international concords to which it adheres, to abide by the strategy of "plying the internal law" and to support the interstate cooperation regarding the assistance in the domain of investigating terrorist crimes.

Where a terrorist group operates on its own, without support and/or shelter offered by a state actor, "applying the internal law of a state" is the only legal way of fighting against terrorism, other states having only the right to give judicial and police assistance and to abide the stipulations of the international concords regarding "extradition and national law of prosecution".[3]

On the one hand, the international law guidelines impose severe limits concerning the

legality of abolishing a political regime which is guilty of abetting an armed attack done by a third party. But, on the other hand, when a terrorist group benefits the support of a state, "mutatis mutandis" we deal with a totally different situation and, in this case, a military operation can be seen as a self-defense deed. But, in this case too, a military campaign against terrorism is permitted by the international law stipulations only if applying the national law has not succeeded.

For the legitimacy of invoking the right to self-defense of a state, the military operations can represent an option in case of failure in applying the principle of assuring the rule of law by the incriminated state actors, with the purpose of the following objectives:

• Reinstalling law and order in the states where terrorist groups operate;

• Punishing the responsible for breaking out of some terrorist attacks and who have found refuge on the territory of other states;

• Prevention of some future attacks of some terrorist groups which have logistic bases on the territory of other states.

But is it legitimate to start a military campaign against some states suspected to shelter terrorists?

Because, if a classical war cannot be fought against terrorists, it is certain that such a war can be fought against political regimes that offer logistic support or asylum. From a certain point, some analysts claim, the support of a political regime for a terrorist group is a serious enough threat to legitimate the breaking out of a war with the purpose of abolishing the ones who are guilty of this.[4]

The justification according to which these states must be attacked is conferred by the fact that their actions:

• Make them responsible for the fact that they were informed about the terrorist actions, but have done nothing to stop them;

• Intervening against them is a discouraging element, warning other states about the necessity of increasing the vigilance towards possible terrorist groups which operate on their territory.[5]

It must be mentioned that the option of military intervention is the most facile anti-terrorist strategy. Nevertheless, operations of this type are organized only in special circumstances. The main issue is that terrorists don't represent a "reach in aims" environment. Armed forces are prepared to perform land operations too, but, in the post-operation period of occupying a territory, the need of defensive maneuvers can deter the complete annihilation of the terrorists. It is just as real the fact that the military operations can be necessary in the attempt of annihilating the given support from some states to the terrorist groups.[6]

There are two reasons that must be analyzed regarding this aspect:

• The requirements of military kind, which allow the performing of some actions which, in other circumstances, wouldn't have been ethic. For example, if there is no other way of attacking an aim, then the strategies and the weapons which under normal circumstances are unacceptable become legitimate. It is still important not to confuse "the necessities" with "the opportunities" in starting some military operations against terrorist groups. Still, there are situations when there are no alternatives, the initiation of a military attack (most of the times air attack) being necessary;

• The tendency of the terrorist groups to set the logistic bases in areas inhabited by civilians, in the attempt of using them as human shields. When it is possible, no effort must be spared to separate the aims from the human shields.

It must be specified that military operations for combating terrorism are not considered conventional armed conflicts. If abolishing a political regime represents the purpose of the military action (for example, abolishing the Taliban regime), this purpose must be strictly motivated by the fight against terrorism. And this implies that the military operations are ended the moment the logistic bases of the terrorist groups, placed on the territory of the attacked state, are destroyed. If contrary, the military operation can turn into reprisals.

Another question refers to the issue of "collateral casualties". The armed attack against terrorist groups (we refer, first of all, to air attacks) creates situations in which the population is under direct threat, since the terrorist don't have a uniform to point to them and use civilians as human shields.

Which is the acceptable level of "collateral casualties" in the case of a military intervention against terrorism? The longer a military campaign is, the higher the risk connected to the loss of human lives among the civilians. Statements

as "the military campaign will last as long as it is necessary" try to avoid the problems priory mentioned inducing fears among population concerning the risk of a military campaign on a long term.

Operation „Enduring Freedom" – case study

After the terrorist attacks on September 11, 2001, the Bush Administration promoted a victorious image in the fight against terrorist groups, asseverating that military operations in Afghanistan were only the beginning of the war against international terrorism. The American Government began personalizing this conflict, Osama bin Laden being identified with "No. 1 public enemy". Thus, the military campaign in Afghanistan, where the military operations (air raids, marines alighting etc.) were easy to film and were geographically localizable, was identified with "the war against terrorism".

Wishing to prove that they abide by the stipulations of the article 51 of the UN Charter, the USA invoked, in the letter addressed to the Security Council, "the right to self-defense", specifying that they held "clear and conclusive" evidence considering the role Al Qaeda played in committing the attempts on September 11, 2001, as well as regarding the fact that the Taliban Government allowed using its national territory as a logistic base for organizing terrorist operations.[7]

From a historic point of view, it must be said that, by the end of 90s, Afghanistan has become "a terrorists' heaven", the insurgent groups of Islamic fundamentalist origin which were operating in the separatist province Kashmir setting their logistic bases here, with the covered support of the Pakistani intelligence services. Al Qaeda has acted just the same.

As far as the role played by the USA in Afghanistan is concerned, Zbigniew Brzezinski asserted that, in that period: "(...) the Afghan resistance has been supported by the intelligence services of the USA and Saudi Arabia with weapons of a value of $6 billion, and Khost, where Osama bin Laden has established "a school of terrorism", is well known by the CIA agents, (...) some of the Mujahideen used by CIA against USSR training in the specified location, under Osama bin Laden's

command (...) We have not forced the USSR to intervene in Afghanistan, but we have created the backgrounds for such an intervention. This operation was meant to attract the Soviets in the Afghan trap. In order to realize this, CIA and its allies (Saudi Arabia and the intelligence service of Pakistan - ISI) have sponsored the Mujahideen with millions of dollars, ISI taking care of training, equipment and propaganda among the mentioned fighters"[8].

In the same orientation, Sydney Morning Herald invoked, on September 27, 2001, the connections between CIA and ISI: "with the support of CIA and SDECE (French military intelligence service), ISI has trained the Mujahideen in Afghanistan to fight, in 1980s, against the USSR. Mohamed Yonsaf, who has led ISI bureau for Afghanistan (from 1983 till 1987), confirms the fact that ISI provided funds and weapons of American origin to the Mujahideen[9].

The interest the USA developed in the region has known a decrease during the Taliban regime while the Pakistani Government remained strongly involved in the Afghan internal politics, pursuing the induction of a regime that is favorable to Pakistan and which guarantees the security of the west border of this state. At their turn, Russia and India offered support to the "North Alliance", made of Uzbeks and Tadjiks (opponents of the Taliban regime) and Iran has pursued the abolishing of the Taliban regime (as a consequence of the assassination of a group of Iranian diplomats, in September 1998, at Mazar-e-Sharif, but also because of the brutal treatment applied to the Shiite minority in Afghanistan).

This was the internal situation of Afghanistan on September 11, 2001, the moment when, following the refusal of the Taliban Government to render Osama bin Laden, invoking article 5 of the North Atlantic Organization Treaty, at the USA request, "Enduring Freedom" operation was started (the initial name, "Infinite Justice", was modified so that it should not offend the Islamic community, because the Islamic religion acknowledges only Allah's right to enforce the divine justice).

It must be noticed that, when the military intervention was started, on October 7, 2001, the attempts on September 11, 2001 had not been claimed by Al Qaeda. Also, at that moment, there was no evidence that the Taliban participated to them, nor one concerning the capacity of the

Taliban government to extradite Osama bin Laden.

Nevertheless, the conflict in Afghanistan against the "apocalyptic terrorism" was considered a "just war" of the USA. But the disproportion between the declared purposes and the usage of "unlimited means and lying out of excessive objectives" has quickly compromised the legitimacy of this intercession. Disproportionate usage of force in comparison to the declared purposes has justified the recourse to the breaking out of the "Holy War".

USA had the chance to get rid of Al Qaeda, through "surgical strokes" against the ones who had planned and committed the attempts on September 11, 2001, without affecting the Afghan population which had become impassive, even hostile to the "Arabian Afghans". Not accidentally, in a speech given on September 12, 2006, the former Pakistani president, Pervez Musharaf, highlighted the risk of a "new talibanization", as a strategic threat to Afghanistan and Pakistan. "The proliferation of this violent type of religious extremism is even more dangerous than the operational capacity of Al Qaeda and must be combated first of all through political means", Musharaf considered[10].

The declared objective of this military campaign was the capturing Osama bin Laden and the other Al Qaeda leaders, the prevention of the initiation of new terrorist attacks by this group and abolishing the Taliban regime. Therefore, by the end of October 2001, the forces of the international military alliance had destroyed the entire Taliban counter-air defense, had carried on land operations against the Kandahar residence of the mullah Mohamed Omar, the leader of the Taliban and had organized concerted attacks, together with counter-Taliban forces, against the Al Qaeda and Taliban logistic bases. 78 days after the campaign started, a new governing regime was installed and the Taliban forces and Al Qaeda cells were operating only isolated, in difficult to reach areas.[11]

The military intervention of the USA realized what, in the first moments of the war, many analysts were afraid it would happen: the trap in which the USA have fallen in the case of the Vietnam War or the USSR in Afghanistan (not long before!). This was, furthermore, one of Osama bin Laden's objectives, through assassinating, on September 9, 2001, of the "North Alliance" leader, the main bloc which fought against Taliban regime. Depriving the USA of an ally in the North, where Al Qaeda was seen as a foreign force, bin Laden was hoping to focus the military hostilities in the South, where the Taliban regime and Al Qaeda were enjoying an increased popularity among Pashtun population. The memory of the withdrawal of the American troops from Somalia (in 1993) and the legitimacy given by the withdrawal of the Soviet army from Afghanistan (in 1989) made the Al Qaeda leaders think that the USA army will not stand for long, in the circumstances of massive losses.

The failure of bin Laden's prophecy is mainly due to the success of the American diplomacy, which has placed its stake on Hamid Karzai (member of a great Pashtun family in Kandahar region, which has separated from the Taliban movement and which had origins in the same tribe of the former Afghan king), as well as the logistic and strategic support given by the USA to the "North Alliance". Under these circumstances, Al Qaeda was in the impossibility to implement a guerrilla strategy being forced to fight with grouped units, which the American air-force has easily spotted.[12]

It must be specified that losing the political power by the Taliban regime as an immediate result of the military intervention in Afghanistan, did not represent the annihilation of their military capacity. The fact that the Taliban farces no longer had the political power in Afghanistan is not synonym to the fact that Taliban are no longer a threat, sources from the Russian Federation and India indicating a number of 10 thousand arrested Taliban (as a consequence to the breaking out of the "war against terrorism", in October 2001), out of a military capacity estimated around 40-50 thousand fighters.[13]

After the fall of the Taliban regime, the main Afghan political actors have signed the "Bonn Agreement", meant to induce an interim govern which assures the transition for the next years. The leader of this govern, Hamid Karzai, worried that the military leaders of different ethnic groups would intend to take over the power, warned them to obey to the authority of the newly created govern.

But the permanent conflict for detaining the territorial supremacy between the different ethnic groups in Afghanistan represents a reality on the politic stage of this state. Thus, Abdul Rashid

Dostum, the leader of the Uzbeks, who aims at obtaining the control of the North-West region of Afghanistan, is indirectly supported by Turkey and Uzbekistan, and Russia and India support the Tadjik factions in order to exclude the Pashtun factions, supported by the USA and Pakistan from power.

Some of these conflicts of political order have turned into open military conflicts. An example would be the episode in Pol-e-Khamri, an industrial centre situated at the North of Kabul, where troops loyal to the General Mohammed Fahrid, Tadjik ethnic, who wanted to become the Minister of Defense, have repressed the riot of a local tribe supported by the Uzbek leader Abdul Rashid Dostum.

And the examples can go on: Gulbuddin Hekmatyar, one of the most powerful Pashtun leaders, the leader of a faction of "Hizb-e Islami" group, who benefited in the past of logistic and weapons support from the USA, supports the withdrawal of the American troops from Afghanistan accusing the president Hamid Karzai and the govern led by him of being "the USA tool".

Also, on the occasion of commemorating eight years from the beginning of the international forces operations in Afghanistan, Gulbuddin Hekmatyar stated that "the war the USA launched against Taliban and Al-Qaeda was not justified, because the attacks on September 11, 2001 were not committed by Afghans". CIA has tried, repeatedly, to assassinate Gulbuddin Hekmatyar, the American authorities being worried that he could oppose to the USA forces in the Konar province situated at the border with Pakistan, where the loyal to the Taliban regime and Al Qaeda members have found a refuge, the population in this area being hostile to the USA and Pakistan.

Another example is the one of Akhtar Mohammad Usmani, the leader of the Taliban groups in the South of Afghanistan and Osama bin Laden's earnest supporter. The American officials have announced that the car where he was had been hit in December 2006, during some air attacks launched by the coalition forces in Helmand province in the South of Afghanistan.

Therefore, the internal rivalries continue to represent a constant of the political spectrum in Afghanistan, which will remain a "failed state" in the near future. This also seems to be the strategy of the Taliban' leader, mullah Mohamed Omar, who hopes that Afghanistan would become "the grave of the colonial troops". Osama bin Laden seems to agree with this strategy on the occasion of commemorating eight years after the attacks on September 11, 2001, asking the American people to put pressure on the American Government to end the wars in Iraq and Afghanistan, otherwise Al Qaeda being determined "to carry a wear war against the USA, in all possible ways" Osama bin Laden asserted that the American president Barack Obama is "oppressed" and does not have the power of changing the course of the wars, being "the hostage of the pressure groups and especially of the Jewish lobby" and warned him that "if he follows politics different from the one of the neo-conservatories, he will meet the same destiny of John F. Kennedy".[14]

On the other side of the barrier, the number of skeptics who consider that Afghanistan is Obama's Iraq and threatens to become his Vietnam is increasing![15]

In this orientation it must be mentioned that the majority of the Americans believe that the war in Afghanistan will have the same end as the one in Vietnam, according to a survey performed at national level. 60% of the participants to the survey published by CNN, on October 19, 2009, have opposed the increasing of the number of troops involved in the conflict, and 52% think that the war in Afghanistan, which had lasted for 8 years, turned into a conflict similar to the one in Vietnam.[16]

The percentages published by CNN are partially confirmed by another survey made by Quinnipiac University, which showed that 65% of Americans "agree that the American soldiers would fight and even die in order to eliminate the threat represented by the terrorists who operate in Afghanistan", only 28% having a contrary opinion. But 49% thought that the USA will not succeed in eliminating the Taliban insurgency, against 38% who believed in the success of the mission. While the majority of the Americans considered the intervention in Afghanistan "a good thing", 50% out of the questioned ones declared themselves worried that their troops would stay there for a long time, and 32 % considered that the USA "heads to a new Vietnam". Only 38% gave a decision of sending back-ups, while 28% out of the responders have opted for a decrease of the

American presence, and 21% for maintaining the number of soldiers.[17]

Still, Barack Obama has ordered the increase of the number of American soldiers in Afghanistan, a significant change of strategy which allows the change of the war course. According to Obama, the USA have not ended their mission against Al Qaeda in Afghanistan, not succeeding to put into practice an optimum strategy in order to destroy the terrorists' logistic bases. Bush did nothing but to adopt a stiff strategy, specific to the way of carrying conflicts in the 20th century, according to which the international terrorism, the asymmetric threat which marked the beginning of the 21st century, can be defeated by invading and occupying a state.

This strategy has changed the orientation of the call to solidarity against international terrorism, launched after the attempts on September 11, 2001 and has legitimated the breaking out of a war against a state which had nothing to do in committing these attempts. It is true that in September 2001, Obama supported the beginning of the war in Afghanistan. At that moment, entire regions in Afghanistan were controlled by Taliban and a mixture of terrorism, drugs and corruption threatened to overpower this state. But, nowadays, the solution for fulfilling the objectives pursued by the international coalition led by the USA in Afghanistan is not only military, but also political and humanitarian![18]

Instead of conclusions...

Obama is decided to continue this war because it is one of the strong points of his election campaign. A signal in this direction is represented by the decision of the USA to announce the significant increase of the troops in Afghanistan, most likely with 45,000 soldiers. After the meeting he had with his specialists, Barack Obama decided to increase the troops in Afghanistan with 40,000 soldiers. The decision comes on the background of the request made by general Stanley McChrystal, the former commander of the American troops in Afghanistan.

The purpose of supplementing the USA troops in Afghanistan is to assure the security of the populated areas in Afghanistan and to counteract the offensive of the Taliban insurgents and Al Qaeda fighters, with the purpose of assuring optimum conditions for the withdrawal of the troops in a "big bang" type approach, strategy similar to the one implemented by the Bush administration in Iraq. As a difference, Obama is more ambitious than his predecessor, through the fact that he has established a dead-line for this withdrawal.

Obama justified the increase of the number of American soldiers through the fact that the terrorist threat from Al Qaeda has the epicenter in the border area of Afghanistan with Pakistan, threat enhanced by Al Qaeda and Taliban's' offensive against a nuclear Pakistan. Within this strategic context, the complete withdrawal of the USA troops from the region is conditioned by the annihilation of these threats to the international security.

Not least, the withdrawal of the troops of the international military coalition from Afghanistan is conditioned by the capacity of the Afghan security forces to assure the internal order, estimating that the accelerated training of these troops would allow this to happen, beginning with July 2011.

That is why, Obama insists on the necessity of "training and increasing the number of soldiers of the Afghan security forces, so that these can establish peace in their country", orientation in which the coalition troops "will accelerate their efforts to build an Afghan army of 134,000 soldiers and a police of 82,000 members till 2011".

Rejecting any analogy between Afghanistan and Vietnam, Obama assured that after 18 months, that is beginning with July 2011, the American troops "will start coming back home"...

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Cristian BARNA (cristibarna@yahoo.com), Ph.D., is Associate Professor at the National Intelligence Academy, having the position of Chair of the Department of Geopolitics and Security Studies. Prior to joining the teaching team of the "Mihai Viteazul" National Intelligence Academy, he has activated within the Inspectorate for Prevention and Combating Terrorism, Romanian Intelligence Service. Also, he is the author of several specialty works regarding the terrorist phenomenon such as: "Terrorism, the Last Solution? Rising and Falling of Al Qaeda", "Islam Crusade", "Globalization of Asymmetric Threats", "Jihad in Europe or The End of Terrorism and the New World (Dis)order".

THE INTELLECTUAL ORIGINS OF ISLAMIC RADICALISM: NATIONALIST JIHADISM VERSUS GLOBAL JIHADISM

Mihaela MATEI

This article puts forward an analysis on the origins of the Islamic radical ideologies, arguing for the existence of intellectual and political differences among the nationalist, salafist jihadism, the jihadism of the „balance of power" between Saudi Arabia and Iran, and the postmodern jihadism of Al Qaeda. The evaluation of these three ideologies describes among the causes of their emergence, the evolutions of the post-colonial Arab state, the failure of panarabism and the competition for influence in the Middle East. Moreover, the article analyses the relationships between political regimes and radical movements and the construction of the jihadist discourse based on conceptual imports from European ideologies and on the incorporation of the anti-imperialism theses.

Key-words: Islamic ideologies; Islamic radicalism; Panarabism; jihad; Salafism; Middle East; Iranian Revolution; terrorism .

The issue of Islamic radicalism is a phenomenon of the modernity, whose emergence is temporarily placed by some analysts in the period of decolonization (simultaneous with the growth of Arab nationalism), while others locate its beginning even later – assuming that the Islamic political activism had its first radical forms of expression (terrorist attacks, political assassinations) in the seventies, starting with the killings of political leaders and religious scholars in Egypt, or after the outbreak of the civil war in Lebanon.

Despite the media "culture" that identifies terrorists with barbarians lost in modernity, within a "new crusade of civilizations", the Islamic radicalism is a modern ideology relying on various European concepts borrowed from anarchism or from Marxist theses that overlap diverse intellectual origins and serve different political purposes.

To understand the emergence and growth of Islamic radicalism, one should evaluate the ideological sources of contemporary movements, as well as their transformation during the 20th century. Although most radical Islamists claim similar sources of classical legitimacy for their doctrinarian approaches and interpret them in a modern or postmodern context (the medieval philosopher Ibn Taymiyya that consecrated jihad as the Holy War permitted against infidels, the Mongols in that period, the puritan Wahhabism of 18th century and the revivalism of 19th century), their objectives and ways of expressing them are very different. Moreover, the manifestations of Islamic radicalism are different, from political *intégrisme*, to terrorism, from opposition to dictatorships to the support granted for the Iranian or Sudanese theocracies[1]. Oliver Roy puts in opposition the "Sunni panislamism" defined as a nationalist radicalism, to the neo-Salafi trend developed by Saudi Arabia in the eighties that is mainly Islamic, global and influenced by the sectarian divisions in Islam (anti-Shia and anti-sectarian)[2].

Taking into account the main goals and the types of discourse of radical movements, this article proposes the following three key categories:

1. Post-colonial nationalist jihadism – identified as the Muslim Brotherhood, Hezbollah or Hamas, to name the most known organizations;

2. "Balance of power" jihadism – opposing the Iranian Revolution to the Saudi religious and financially-supported militantness;

3. Global jihadism – started by the resistance of Afghani mujjahedins against the Soviet occupation and culminating in the development of Al Qaeda and affiliated organizations.

One should notice that these categories refer to forms of jihadism that appeared in different historical periods, based on different political circumstances, but, in practice, there are groups or factions that switch from a doctrine to another, as well as financial networks that determine transversal terrorist loyalties. Islamic terrorism does not have more than 40 years of effective existence, even if, through its consequences, it has definitely acquired the highest public visibility ever given to a political Islam doctrine or ideological trend. The "neo-Orientalist" school's attempts to place this phenomenon in the middle of an historic confrontation with the West (Bernard Lewis, Samuel Huntington)[3], do not take into account the political history of Islam, nor do they consider the fact that radicalism is a movement characterized by multiple origins and *raisons d'être*, of which only a small part could be attributed to Al Qaeda or the global jihadism.

Sayyed Qutb: Nationalist Jihad and the Muslim Brotherhood

The intellectual origin of Islamic radicalism is simultaneous with the launching of the concepts and theses of Sayyed Qutb, one of the members on Muslim Brotherhood in Egypt. Chronologically, the radicalism has been consolidated by the advent of the Islamic Revolution in Iran and consequently became the main source of legitimacy not only for nationalist movements like Hamas or Hezbollah, but also for the Al Qaeda global terrorism.

Sayyed Qutb (1906-1966), the speaker of Muslim Brotherhood and their main contact with communist parties, has been the one to define in a contemporary terminology the militant, radical Salafism. The Qutbist doctrine was characterized by some analysts as "Leninism in an Islamic coat", because it was deeply influenced by the Marxist critiques of the capitalist society and market economy. His personal conversion from an admirer of the West and civil servant in the Ministry for Education, literary critic and Arab nationalist, into an Islamic radicalism militant inspired many Arab intellectuals that decided to join terrorist organizations. His extremist transformation appeared as a consequence of the radicalization of the Egyptian government's policies against the Muslim Brotherhood in the fifties and sixties and was expressed initially as a critique to Western capitalism in his work *Milestones* (the English translation title)[4]. Qutb's radicalism is also a response of Arab nationalism to the creation of the state of Israel that was perceived as a betrayal of the Arab world by its former colonizers. Accused of an attempt to assassinate Gamal Abdel Nasser, Qutb developed his revolutionary theses during the decade spent in prison, based on his rejection of dictatorial regimes and the obsession of the political and social "suffocation" of Islam.

Qutb developed the concept of *hijra* – migration, starting with the metaphor of the personal experience of Prophet Muhammad at Medina and considered that a true Islamic society should begin with it. In a first stage, the true Muslims should proclaim their belief through a religious statement *(da'wa)* in front of the pagan community. In the second stage, the Islamic world and the pagan one *(jahiliyya)* must become separated *(mufassala)*. This is why the Muslims should follow the example of Muhammad – the migration from Mecca to Medina – as an ideal model, while the *hijra* did not mean, in practice, the physical immigration, but the spiritual separation, the social reorganization into separated, isolated groups from the pagan Arab societies that surround them. After proceeding to this migration within the Muslim society, the Holy War, the Jihad, should be launched against heretics, infidels and fake Muslims, to overthrow the apostate Arab political leaders and institute a society based on the Islamic law *(Sharia)*. The entire Qutb's ideology is based on the analysis of the functioning of Islamist groups within states governed by authoritarian, repressive and anti-Islamist regimes, to fight against *jahiliyya* (pre-Islamic state of ignorance and paganism)[5].

Because of the Arab dictatorships, quite dominant in the region after decolonization, Qutb affirmed that there were no chances of a peaceful governmental change, but the only way to create an Islamic society is through the jihad against the Arab authorities and their Western colonial or neo-colonial supporters, be it Europe, USA or the Soviet Union. The Muslims refusing to participate to Jihad would become apostates and be excommunicated *(takfir)* and killed along with the infidel enemies of Islam. On the other hand, Qutb's

Jihad is defined as an armed conflict and an internal revolution, not as terrorism; after the success of the revolution, the Muslims should continue their fight to expand the "House of Believers" by strengthening the Islamic power and launching a conventional war against colonialist states.

The hanging of Sayyed Qutb in 1966 contributed to his transformation from an obscure representative of the Egyptian radicalism into an ideologue of most of the Islamist movements in Maghreb and the Middle East. Numerous organizations and opposition factions, repressed by their respective governments, adopted the thesis of *Jihad* as formulated by Qutb, while in Egypt, beside the Muslim Brotherhood, a lot of new radical groupings proliferated in the seventies (*Jamaat al-Jihad, Jamaat-Islamiyya, Takfir wal Hijra*, the Youngsters of Muhammad, the Islamic Liberation Organization etc). Radical members of the Muslim Brotherhood, including Sayyed's brother, Muhammad Qutb, have been expelled from Egypt, spreading in different Middle East countries, among which Saudi Arabia, Syria, Iraq, Jordan or Lebanon. Muhammad Qutb was financially supported by the Wahhabism clerics in Saudi Arabia to publish the writings of his brother and to create networks of distribution all around the region[6].

Qutb also inspired a number of followers, among which John Esposito[7] mentions Abdessalam al-Farag, member of the Islamic Jihad, who wrote a book entitled the "Neglected Duty". Farag considered that the Muslim societies' decline had been accelerated by those that tried to promote the thesis of peaceful, defensive *Jihad*; the restoration of true Islam could not be pursued without fulfilling this holy duty of all Muslims, as taught by the Quran and the sacred texts. Farag stated that Jihad was, in fact, the Sixth Pillar of Islam (alongside with shahada, fasting, prayer, charity and pilgrimage) that the religious scholars *(ulama)* had intentionally concealed. Many Islamic scholars criticized Farag's interpretation of Quran and stated that Jihad must be understood as mainly defensive, a form of resistance to oppression both inside and outside the Arab world. After September 11, the moderate *ulama*, such as the preacher sheik Yusuf Qaradawi, condemned suicidal terrorist attacks as forbidden by Quran and the sacred books that do not allow, neither in Islam or Christianity, the suicide, which is a crime against life as given by God. Qaradawi also said that no Islamic scholar could honestly consider United States as a legitimate target to allow for the transformation of a terrorist into a Jihad martyr[8]. Bernard Lewis underlines that the "new *Jihad*" is nothing but an erroneous interpretation of Quran prescriptions, because, according to the classical schools of Islam jurisprudence, Jihad is a Holy War that should be conducted according to the international law of military conflicts that condemns massacres and the killings of innocent civilians[9].

According to Gilles Kepel[10], the spreading of Qutbism and jihadism in the Arab world is the result of the Egyptian failure to define an "entente", a form of understanding and cooperation among the three main pillars of power and public loyalty – the political power exercised by the president (*rais*), the religious traditional power (ulama) and the new Salafi revivalism that militated for reforming the way the Islamic law is applied within the society. Kepel's thesis, supported by many analysts such as Shireen Hunter, John Esposito, Francois Burgat, is based on the analysis of the so-called *gentlemen agreement* proposed by Anwar al-Sadate, the Egyptian president after Nasser, in the relation with the moderate members of the Muslim Brotherhood. Changing Nasser's approach, Sadate tried to stimulate the emergence of an Islamic conservative movement supposedly pro-governmental that would have a large cultural and ideological autonomy in exchange for its political loyalty. Such a movement would have been built from moderate ulama and members of Muslim Brotherhood in the shape of a religious bourgeoisie or Islamic *intelligentsia*, to support the de-legitimization of radicals and gain the confidence of the poorest layers of the population. After the killing of a religious scholar by the members of *Takfir wal-Hijra*, this pact was not pursued any longer and the extension of radical groupings finally led to the assassination of Sadate by a follower of Farag.

Many analysts appreciate that the succeeding combination between the Qutbism, Farag doctrine and the Saudi funds, as well as the perpetuation of the authoritarian regimes' bullying of religious opposition movements have been the main catalysts for the appearance of contemporary terrorist organizations[11].

Muslim Brotherhood, alongside organizations such as Hamas or Hezbollah, is part of what we have

called nationalist jihadism. No matter its political expression in different countries (activism, internal guerrilla fighting, terrorist attacks, democratic opposition or even participation to government), nationalist jihadism is characterized by the import of the anti-colonial nationalist theses and of those related to *tiersmondism* and their translation into a religious discourse. The fight against the West refers to former colonial enemies; the institution of *Sharia* is viewed as a form of assertiveness of social and cultural independence in relation to what is perceived to be a bogus sovereignty, not a genuine one, of the new post-colonial Arab governments, still subjugated by their former Western "patrons"; and the islamization of society is a similar project as the one of return to Arab culture and re-nationalization of the systems of education and administrative organization after the liberation wars[12].

Arab nationalism as expressed by the founders of Baathism in Syria (Michel Aflaq and Salah-ul-Din Bitar) was based on a conceptual import of European activism on the basis of Herder's *Volk* philosophy. Similarly, Islamic radicalism, without the option of an authentic political Islamic activism, as such a modern concept did not exist in the Quran, had defined its own model by transferring under a "religious flag" the anti-Western public feelings, especially after the decline of panarabism (influenced by the Arab defeats suffered in the wars against Israel in 1967 and 1974). This assumption is most obvious when analyzing the creation of Hamas and the "islamization" of the Palestinian problem and the development of Hezbollah and its growing role in Lebanese politics (although in the later case we could also speak about the jihadism of the Iranian theocracy).

In the context of the accusations of corruption and dishonesty against the members of Fatah and the OLP (Organization for Liberation of Palestine), Muslim Brotherhood, gathered around the sheik Ahmed Yassine, publish in 1987 a manifesto of the Movement of Islamic Resistance (*Harakat al Mouqawama al Islamiyya*), a new group named Hamas, after its initial letters and after the Arab word for zeal or fervor.

The birth of Hamas meant the design of a project for Islamizing the Palestinian society to gain support from the poor and frustrated young generations that were oriented towards living a pious life and rejecting all "Western" cultural

imports (alcohol, Western clothing and music). This policy had a double end: on one hand, to add an ethical-religious dimension to the war against Israel, on the other hand, to take advantage of the social cleavages amongst Palestinians and replace the secular elites of the OLP and the middle classes with new leaders from the poor layers of the society, those disillusionment could be religiously channeled[13]. If, at the beginning, Hamas was considered a "tactical advantage" by Israeli politicians and secret services since it further divided their adversary, eventually, Tel Aviv realized that moving the conflict in a religious sphere led to the ideological extension of the Intifada. Hamas took Qutb's ideas regarding *Jihad* as a personal duty of each Muslim *(fard'ayn)* – opposed to classical Islam approach of collective duties – and assimilated them in theory of war in which terrorism became an obligation of all individuals against Israeli occupation[14].

Kepel designs an interesting parallel between Anwar al-Sadate and Israeli policies. The Egyptian president sustained the creation of the so-called *jama'at al islamiyya* within universities to counter the propensity of students towards leftist doctrines and pro-Soviet nasserism; it ended finally in countering Islamist movements whose appearance he previously supported and that turned against him. Likewise, Israel indirectly supported the establishment of Hamas to steal a part of the popular legitimacy enjoyed by OLP and to create an "inside enemy" to Yassir Arafat; eventually, Israel became aware of the higher level of danger raised by the new organization and ended in arresting and incarcerating hundreds of Hamas and Muslim Brotherhood's members, including Hamas' founding leader, sheik Yassine[15].

As a militant group and from 1992 also a political party, Hezbollah stands as a Shiite reaction to Israeli occupation of Lebanese lands, that can also be assimilated, *mutatis mutandis, with the mainstream radical Salafism (which, how*ever, is Sunni by definition). Hezbollah was formed by Iran but got the support of different laic or even anti-Islamist regimes (Syria) to develop into the defender of the Shiite minority, the largest, poorest population in Lebanon, to become a Palestinian supporter and protector of Palestinian refugees in the Lebanese camps. Hezbollah gained visibility in the eighties by attacking US troops in Lebanon and killing hundreds of Americans and afterwards,

by fighting the Israeli military. Along the same path as the Muslim Brotherhood and Hamas, Hezbollah organized networks of social assistance, built schools and hospitals, even created a football league and managed to substitute itself, the same as Hamas, to weak state authorities, unable to provide adequate public services to its people. The sheik Muhammad Hosein Fadlallah, Hezbollah's ideologue, brought a Marxist-revolutionary approach to its doctrine and pleaded for the creation of an "Islamist Komintern" to support revolutionary organizations all around the Arab world. His theses start with the premise that "revolution is Allah's desire", a sort of ideological alternative that would be difficultly identifiable with the traditional Quran and Sunna prescriptions. It is not the language of Islam that is used; it is the language of European modernity that has been transformed into a Jihadist approach by the intermediary of the Iranian new type of Islamism[16].

The spread of global media and communications in the Middle East contributed to the creation of a true urban postmodern "mythology" of nationalist jihadism. Such mythology starts from the Arab nationalism core thinking filtered through religious symbols (the Crescent, Quran's sura near machine guns) and creates a propaganda aimed at gaining the adhesion of both old colonial-grown generations and of younger, Internet Islamists. Subtle anthropologist of the Muslim world, Akbar Ahmed ran a number of polls and sociological studies in different Arab countries to argue that there is a Jihad "narrative" enjoying high public support: for the young people from Syria, Egypt, Lebanon, public figures such as Hassan Nasrallah (Hezbollah's General Secretary) or Khaled Meshal (Hamas leader in exile) are popular heroes, men that "know what they want", "defenders of Muslims from the entire world"[17]. It can be concluded, without a doubt, that they are now the true inheritors of the Arab mobilization against colonial powers of the beginning of 20th century, although this movement had nothing to do at that point with either political Islam or jihadism.

"Balance of power" Jihadism. The Iranian Revolution versus the Saudi militantness

The end of the eighties and beginning of nineties, a break occurred between quietist conservative Salafism oriented towards academic teaching *(salafiyya al-ilmiyya)* and the militant jihadist Salafism *(salafiyya al jihadiyya)*, with the later gaining a rapid ascension due to several geostrategic evolutions in the Middle East.

During that period, the Iranian Revolution consolidated its influence and launched a process of revolution's export to other states, colliding and competing with the Saudi Arabia for regional leadership and religious transnational legitimacy, because of its goal to spread Shiism into the Sunni space.

I have called this wave of radicalism the "balance of power jihadism" since, in fact, it is divided into two main opposing trends that involuntarily have consolidated each other and each of them against the other. The new militant Salafism of Saudi Arabia was defined as the "refusal front" and developed in response to the threat of Shiite fundamentalism spreading in the Arab world. Pro-Americans, royalists and Wahabbists, so overtly anti-Shia and anti-Iranians, the Saudi stood as the main menace to the new legitimacy of the first Islamic state ever created. Moreover, the Saudi benefited from the religious consecration given by the location of the Holy Places of Islam on their territory (Mecca and Medina)[18].

The overthrowing of Iranian Shah and the Islamic upheaval in 1979 had a major impact on the Islamic radicalism ideologies based on three main consequences: first, the creation of a state with *Sharia* as main source for its fundamental law; second, the revolution of the traditional Shiite religious thinking by the introduction of modern ideological theses as tools for deciphering Islam; third, the rediscovering of Qub and qutbism whose ideas about *Jihad* gained new meanings[19].

Originally Khomeini was a conservative religious scholar worried about the accelerated social modernization policies imposed by the Shah that had changed its orientation at the beginning of the '70s from the quietist fundamentalism characteristic for Shia *ulama* to a sort of Islamic "totalitarianism" calling for Revolution and creation of an Islamic state, while all other forms of government were rejected as part of the *jahiliyya*.

His doctrine is entirely innovative because the traditional Shiism is mainly a politically quietist dogma. The Shia considers themselves persecuted by the Sunni majority and think that the mundane kingdom is not the ideal, Quranic one, therefore

they have to wait for the return of Messiah – *Mahdi* – (identified with the twelfth Imam, the missing one) as he will bring the divine order on earth and make justice to the Shia. Khomeini proposed a different approach based on the present need for a Revolution that, in the end, should become an Islamic trans-sectarian objective, not only a Shiite aspiration. He rejected the tradition of passive waiting and replaced it with militant *Mahdism* stating that the Shiites' duty is to prepare the world for the arrival of *Mahdi* through a strategy of re-islamization of society. The only way to get rid of oppressive regimes is the Revolution of thought and action that will be launched by the return of the missing Imam and will finally lead to the disappearance of states, frontiers, races and nations, political parties or fake Prophets[20].

According to Khomeini, Islam has decayed and was negatively influenced by the erroneous interpretations intentionally suggested by the missionaries and the Christian Orientalists, as well as by the political and conceptual Jewish assault. This is why the Jihad against these enemies is a holy duty of all Muslims (Qutbist thesis of individual opposed to collective obligation)[21]. The Ayatollah did not see any contradiction in the complete unification of the religious sphere with the political field or in the participation of *ulama* in the government, not he saw the revolutionary import and the administration's modernization as strangers to Islam.

Basically, Khomeini translated the Marxist language about the unification of the oppressed classes to fight Western capitalism in religious terms and went as far as to define in the Constitution the concept of "Islamic Republic" *(giumhuriyya islamiyya)* while there isn't any form of republicanism in the Islamic political tradition. For the politics to be completely subordinated to religion, Khomeini invented, using his personal interpretations of the Shiite concepts, the institution of *Velayat-e Faqih* (The Supreme Guardian, the Guardian of the Law) who, theoretically, aimed at supervising the way the state president exercised his prerogatives and at offering legal and ethical Islamic orientations to the legislators and members of the government[22].

A lot of analysts underline that the creation of two hyper-bureaucracies (one political, another one religious), the introduction of special rights granted to the *Pasdaran* forces, the maintenance of controlled political pluralism actually led to the same authoritarianism, covered in the Islamic veil, the same corruption, inefficiency and repression as the ones during Shah Reza Pahlavi's regime that was overthrown by the revolution[23].

And, as emphasized by Olivier Roy, when everything becomes Islamic, nothing is Islamic anymore[24]. The application of *Sharia* led only to formalism in the subordination of the political to the religious field, in reality this relationship being quite the opposite: the excessive politicization of religion transformed it into an instrument of the Iranian government through its appealing to Quranic legitimacy to advocate for power legitimization. More than any ideologue before him, Khomeini is the one that de facto "secularized" Islam.

The export of Iranian Revolution became one of the main goals of the Tehran political regime that established and financed radical Shiite groups and organizations especially in regions with a Sunni dominance or that were confronted with Shia-Sunni dissensions (Iraq and Lebanon). The Iranian offensive in the Middle East advanced formal and informal alliances between different groups, parties or states, in which the religious element combined with particular political agendas (within the power-opposition dichotomy), but also with tribal loyalties re-invented to overlap traditional Islam loyalties. Patrick Sookdheo[25] underlines that the Iranian support for *Da'awa* in Iraq and for Hezbollah in Lebanon was based on family and clans' relations among *ulama* and religious Shiite leaders from Iran, Iraq and Lebanon that were activated and used by Khomeini even before the Islamic Revolution of 1979. *Da'awa* was created by the scholar Muhammad Baqir al-Sadr and activated in universities and poor Shiite neighborhoods against secularist plans of Saddam Hussein, while combining in its organization Khomeini's doctrine (the leadership is ensured by a General Council) with tribal hierarchies based on families *(al-usrah)* and rings of authority *(al-halaqa)*. After the failure of Saddam Hussein, *Da'awa* became political party with a generally moderate stance and participated to government, but was also divided in different groups, among which Muqtada al-Sadr's SCIRI.

Khomeini's ideological offensive worried most Sunni leaders, be it monarchs or republicans, especially those who had Shiite minorities on their

territory – from Saddam Hussein to King Hussein of Jordan, the emirs of the Gulf States and Saud Royal House – as it was perceived mostly as a political target of gaining regional influence, as well as a security threat to the Sunni Arab world. Middle of the '80s and beginning of '90s, the response to this political jihadism has been jointly assumed, for the Sunnis' camp, by the Saudi monarchy and the Wahabbi ulama.

Under the leadership of King Faisal, the Saudi conservatives gradually developed a pan-Islamic policy, funded by petrodollars and directed both against Nasserism and socialism and the Shiite revolution, while condemning also the Soviet atheism and the Soviet "colonialism" expressed by Russian support for Iraq and Iran's regimes. In 1969, Saudi Arabia established the Organization of the Islamic Conference to become the competitor of the Arab League dominated by Egypt. The Saudis involved in the spreading of the Wahabbi learning, but also those of Salafist *jihad*, all around the Muslim world, funding the building of mosques, schools, libraries, hospitals and paying ulama from different Islamic schools to promote conservative Sunni and its militant versions. The initial Wahabbi caution against Muslim Brotherhood was overcome by the assessment that traditional forms of conservative Islam were unable to adequately assume the ideological struggle against Khomeini revolutionary doctrine, so Saudi clerics decided to embrace the neo-salafist trend. This evolution was reinforced by the Saudi economic expansion that created jobs in the oil industry for workers and engineers brought from the entire Arab world whose financial gains were returned to their countries and were often used to finance clandestine radical networks (in Algeria, Tunisia, Egypt, Iraq)[26].

The neo-salafism sponsored by Wahabbi clerics gradually become a network of radical organizations ranging from Maghreb to the Gulf with European extensions especially while looking to the Algerian militant Islam (a lot of Maghrebian groups would later join global Jihad and Al Qaeda). The creation of the GIA (Islamic Armed Group – *Groupement Islamique Armé)* which conducted the attacks from 1995 and 1996 in France, the development of the Moroccan GICM (Group for Moroccan Islamic Combatants), the Tunisian Combat Group and the Libyan networks are all part of the neo-salafist offensive that grew up particularly in states where the religious opposition was banned or violently repressed by the military autocracies' leadership. Maghreb is a distinct case in this respect for the radical Sunnism, while the Gulf countries of that period were less affected by the new waves of radicalism, because of the preservation of traditional ulama's strong influence upon societies. The new radical organizations were organized around self-declared neo-salafist preachers with most of their members coming from suburbs of large cities and less from small towns or the rural areas and using organized crime to fund their activities. The new orientation of such groups was based on activism, terrorism and their interest in Islamic doctrines was low, purely discursive, shaped by the suburban culture and popularization literature.

Against this background of Saudi support for the fight against infidels, including foreign ones (the Soviet Union), at the end of the eighties, the first organization of global, transnational and trans-ideological Jihad was born by the gathering of Arab fighters in Afghanistan to wage war against the Soviet occupation[27].

Global Jihadism: Mercenaries and the Al Qaeda "franchise"

In some sort of paradox, the appearance of the Global Jihad and Al Qaeda was not directly generated by the historical salafist tradition, although it is its main source of legitimacy, but it was based on the consequences of the mobilization in conflict of the two Cold War adversaries and on the competition between Iranian and Saudi radicalisms. Al Qaeda Islamism was developed at the end of the eighties when the organization was created with Saudi funds and American support to struggle with the Soviet Union. Bin Laden proclaimed himself a David fighting the Soviet Goliath in support of Islam and considered that his own contribution led to the withdrawal of Russian troops from Afghanistan. Afterwards, the "new David" found another Goliath to counter incarnated in the shape of its former supporters – USA and its "infidel" allies (from Israel to his country of origin, Saudi Arabia).

The war in Afghanistan was perceived as a major opportunity for the Saudi leadership to counter communism but also to undermine the growing prestige of the Iranian Republic among

Muslim populations. With the support of the Pakistani secret services and of the United States, the Saudi interior minister, prince Turki al-Faisal, organized a real fundamentalist "International Union" against Russia. For the first time, the targets of the Islamic world became global. In the new approach of the mujjahedins, supported by volunteers coming from a lot of Muslim countries, the Islamic goals were not limited to the historical problems of Palestine or Lebanon and the same devotion ought to be granted to the jihad against infidels in other parts of the world – Chechnya, Kashmir, Afghanistan or Bosnia.

The intellectual origins of Osama Bin Laden's theses are found in the writings of Abdullah Azzam (1941-1989), a Palestinian graduate of the Egyptian Al Azhar University and member of the Muslim Brotherhood. Azzam considered jihad as the most important duty of the Muslim after faith (*iman)*, because Islam itself was defined by Allah as a "struggle for reforming the world and propagating the truth and righteousness"[28]. According to the Faraj approach, for Azzam, jihad is the "neglected duty" of each Muslim and ought to be the final battle in a process including *hijra* (migration) and *ribat* (frontline defense). If the territories of Islam were not being occupied by infidels, jihad would have been only the collective duty of the state, established in peace time through the role of armed forces, police and other security institutions; but, because Islam is in war with pagan forces, jihad must be pursued against them by all Muslims until all Islam lands are liberated. Azzam thought that nationalism was an error, a mistake that the unbelievers *(kuffar)* imposed to the Arab world after the creation of modern nation-states. Azzam founded the *Maktab al-Khidamat* in Peshawar in the '80s to organize the recruitment and sending of Muslim volunteers in Afghanistan and this office has been the first nucleus for the later Al Qaeda organization.

Azzam was not an ideologue in the true sense of the term; neither was he a theologian or an Islamic scholar. His orientation was towards militantness and the invocation of theological arguments was only aiming at gaining outside legitimacy for his own ideas. Therefore Azzam did not resort to a specific ideological trend like salafism or wahabbism, but he used quotations and personal interpretations from all ideologies or from the Islamic jurisprudence schools. Such

an approach, namely the arbitrary use of diverse concepts from classical Muslim philosophy, would become the norm for most of the intellectuals that later joined Al Qaeda[29]. Although Azzam believed that Afghanistan was an ideal model for engaging in Jihad, he did not considered it as the last battle or the conquest of a given territory, but more as a training camp to prepare Muslims for the upcoming wars.

After the death of Azzam, Bin Laden took over his organization in the first period still supported by Pakistan and his Saudi sponsors (that granted him their help only until 1998). In the '90s, after the fall of the Soviet Union, a lot of Islamist networks created in Afghanistan saw in the breakup of communism a confirmation of Islam's victory and were therefore encouraged to search for a new enemy. Al Qaeda enrolled into its ranks Arab war veterans, radical intellectuals disappointed by the Arab regimes' policies, Muslim Brothers opposing moderate wings of the organization, Wahabbi students facing expulsion or imprisonment by the Saudi authorities.

Among the veterans of Afghanistan first war, there were mainly Egyptians, Algerians, Saudis and Central Asia's volunteers but very few, if any, Arabs from Levant, namely Syrians, Palestinians or Lebanese, their loyalties being still given mainly to nationalistic jihad not to the global one. Some of the veterans that returned to their homelands after war founded new Islamist organizations in Algeria, Egypt or Kashmir[30].

Azzam writings inspired the disciples of Bin Laden. Abu Qatada, a Jordanian Palestinian with law studies in Saudi Arabia, defined in 1994 the thesis of the new Jihad in his book, the Jihad of Interpretation *(Jihad-al-Itjihad)*: „those groups and organizations that were established in order to eliminate the evil *(Taghutiyyah)*, heretic *(Kafirah)*, regimes in the apostate countries (Bilad al-Riddah) and to revive the Islamic government that will gather the nations under the Islamic Caliphate"[31]. The true jihadist does not try to reform heretic regimes, but to annihilate them, he does not limit himself to its home country, but wishes to impose Allah will in the entire world. Qataba believed that Islam should be purified by tradition, by its popular versions to become unitary and absolute. Al Suri, a Syrian jihadist, explained the failure of the Holy War by the fact that former radical organizations believed in the virtues of

hierarchy and centralization and did not realized the importance of reaching out to the populations, neither had they known how to use in their favor tribal authorities. Al Suri and Qatada argued for the new model of organization of terrorist groups – "franchised", decentralized, close to the populations, missing a central board and leadership, empowered to run its own "mandate to kill" (the thesis are published in the book "The Call for a Global Islamic Resistance" in 2005)[32].

The main ideologue of Al Qaeda, Ayman al Zawahiri (leader of the Al-Jihad movement in Egypt) was the one that finalized the departure from classical Salafi jihadism and Wahabbism. First, he rejected the idea of fighting apostate Muslim leaders as the main priority in Jihad, claiming the need to struggle with the "far enemy" (United States of America). Further on, he distanced himself from the theses of Zarqawi and the Wahabbi clerics that Shiism is an enemy of Islam, by stating that the Christian Western countries and not Shia Muslims are the true adversaries. Moreover, Zawahiri made a personal mixture of Khomeini idea about a global revolution and the writings of Sayyed Qutb. From the Iranian leader, he took the argument of the Holy War waged in all fields (politics, economy, military, culture), but also the acknowledgment of the importance of symbols, of the "images wars" through the extensive use of media channels as tools for spreading Al Qaeda ideology and raising the support of Muslim populations. Zawahiri writings are directed towards defining war tactics of jihadist Islam: long-waged fatigue wars (as the one envisaged by Al Qaeda in Iraq), guerrilla fighting in Afghanistan and global terrorism, as well as the obligation of Al Qaeda to give support to all jihadist organizations from different parts of the world, to create networks of solidarity and logistic support[33].

As Bruce Lawrence underline, even if global jihadism is conceptually separated from nationalist jihadism, it does not necessarily mean that a comparison between Bin Laden and the European leftist terrorism (the Red Brigades for example) is sustainable. Although there are parallels with European anarchism and laic terrorism, Al Qaeda is far away from it, as it possess a certain mystical dimension related to a new type of ethics that are heretical to dominant Islam, be it conservative, fundamentalist or moderate, but nonetheless Islamic in its discourse, the same as any other reformist, puritan or liberal Islamic movements[34].

The differentiation proposed in this article between national Jihad and global Jihad, between Muslim Brotherhood and Al Qaeda also explains for example what might seem to be contradictory thinking of contemporary neo-salafists or neo-fundamentalists such as Yusuf Qaradawi or Tariq Ramandan. They condemn terrorism against the West, the killing of other Muslims and the attempts for a new Islamic revolution, but they support the Palestinian state objective and invoke the necessity of Jihad as a Holy War against Israel. Not a paradoxical approach, their stance is based on the choice to support the nationalist jihadism against the globalized transnational acculturative form of Al Qaeda Jihad.

The trend of jihadism and Islamic radicalism tremendously evolved during the 20th century, many of its initial theses and ideologies being difficult to understand or identify today within the postmodern interpretation, as proposed by Al Qaeda. The discourse of terrorists is no longer an effort to interpret the role of Islam in the world or the relationship between state and society, between power and religion. It is mainly directed towards creating symbols for the uneducated public in order to promote mass mobilization in a "soap"-type ideology that "sells" the former science of Quran and Hadith, promoted by the *ulama,* through "vulgarization" formula of recourse to the authority criterion. Such process transforms the Islamic discourse by making it intelligible to the public and returning it, in a new, non-historic, transnational and trans-sectarian form to the tribal and family's roots of the traditional popular religion. The radical discourse becomes a new contesting language with a major quota on the postmodern political marketing that overlaps the two much older classical discourses in political Islam – the conservative, fundamentalist one of the ulama and the liberal, reformist Islam orientated towards interpretation, modernization and religious renewal.

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Mihaela MATEI (mihaelamatei@yahoo.com) is Ph.D. candidate at the National School for Political and Administrative Sciences, Bucharest, and holds a Master in the Theory of International Relations. She wrote various articles and book's chapters on international affairs, Middle East, military reform and professionalization, in Romanian and foreign journals and volumes. She has been involved in different researches and academic projects of DCAF Geneva, Massachusetts Institute of Technology, International Studies Association. She had delivered lectures at the PfP Regional Centre and the Diplomatic Academy, Bucharest.

THE FUTURE OF THE EUROPEAN GEOPOLITICS BETWEEN POWER, CULTURE AND IDENTITY

Mirela ATANASIU, Ph.D.

To who will belong the future century? What kind of power will be the EU and what role will it play into a multipolar world? Will EU remain a second echelon power, predisposed to intern crises, with major geopolitical structural vulnerabilities and predisposed to dependence on its stronger neighbours or will it succeed to gain its own valence as essential power in this space? Will the EU states succeed to overpass the cultural and identity differences and accept Turkey as their equal into the already built circle? Those questions we'll try to give a direct answer or, at least, present them into a contextual shape to elucidate the existent options.

Key-words: EU; future; power; culture; Turkey.

Denis Touret, French specialist in international law, defines geopolitics as: "a human, realist science aiming to determine, beyond the appearances, the objective characteristics of human and physical geography conditioning the strategic decisions of the international actors from global ideological, political and economic life"[1].

We connect to this definition considering power, culture and identity as objective characteristics of human geography projected into the physical geography.

Also, in geopolitical perspective, by a state setting, Rudolf Kjellen didn't understood only the cartographic position, determined by geographical coordinates and neither only the location nearby a sea or into a continent's heartland, but also its settlement in the international relations architecture. In regard to him, by geopolitical study „are shown to observation and reflection all the basic problems related to a country's position in the world coming from: a simple or complicated variety; the neighbourhood to big or small states; bigger or smaller distances separating them from the times' cores of force and culture; the situation of the big policy's sensitive friction points; the central, intermediary or marginal laying and many other similar issues"[2].

The hereinbefore definitions prove that in the geopolitical thinking always existed a strong conceptual correlation but also conditioning among power, culture and identity manifestations into a continuous process of negotiations among one with each over[3].

Along the historical times, there was shown that for the powerful nations/states was easier to manifest their culture and identity. Also, the cultural and identity cohesion strengthened the nations and their position into the geopolitical space bringing economic prosperity growth owed to the acknowledgement and constraint of their own norms and values over other nations with a weaker cohesion of their cultural and identity core. This is still happening in the present days and the more eloquent example is USA: with the superpower statute gained, this state also got an extension, or even prevalence, of its culture into some European or Asian nations.

Al the three concepts refer to phenomena with strong social print, expressing some relations' manifestations by social-human behaviours and being under-categories of these. Therefore, by defining power, we see there's a social phenomenon consisting „in the capacity to take decisions and to assess their accomplishment by using the different measures of persuasion or constraint; power is expressed into an asymmetric relation (leadership – obedience and/or domination – subordination) among the factors it manifests"[4].

Culture represents a relational system based on

„a set of distinctive spiritual, material, intellectual or affective features, specific to a society or social group, comprising visual arts, music, theatre, dance, literature etc. and, also, defining elements for the respective group's lifestyle, system of values, traditions and beliefs"[5]. Actually, Abraham Moles states that culture represents an "opened definition" anytime susceptible of correction and adds[6]. Being influenced by the culture, the geopolitics offered to the world different perspectives over the geographical factor approaches into the International Relations.

A people's identity is given by certain features (language, culture, traditions) resisting in time and determines its peculiarity for a certain geographical aria. As was already stated, „The difference's feeling [...] is in the centre of people's consciousness related to the fact they are part of a culture and, in fact, offers to the ethnographers the possibility to call «cultures» these arenas of differences. [...] The people become conscious of its culture when they are positioned to its borders"[7].

So, the identity, looked over in the collective mentality, represents the conscience of the individual's affiliation to a sum of common characteristics for a social group, to a certain culture. If we consider the national identity, this represents the result of culture and civilization's evolution, a complex term involving common features to different cultures, ethnics, peoples composing it and also their specific characteristics.

The geopolitical situation over the Globe

In the transition of millenniums, the world was and still continues to be confronted to many geopolitical and geostrategic problems, with direct or indirect effects over Europe, which are: *the communism collapse in the Central and East Europe* and, as a consequence, the disintegration of the Soviet Union, Yugoslavia and Czechoslovakia and the apparition of many states on world's map; the war from Chechnya, autonomous republic from the Russian Federation, in the Soviet Union disintegration conditions, unilaterally proclaiming its independence in 1991, event that, because of the Russian Federation unrecognising, afterwards, lead to the launch of an armed conflict; *the existence of a unipolar world*, dominated by USA[8], *with more and more clearer signs of multipolarity*

owed to some actors from the global scene manifestations as European Union as a whole and Germany, in particular, China[9], Japan, India[10] etc. but also Russia[11] which is coming into force; *the translocation of the interest sphere*, geopolitically, and geostrategic, but also economic, from the Atlantic Zone (mainly Western Europe and USA, the other countries of the American continent, plus the African states) toward the Asia-Pacific Zone (China, Japan, Indonesia, Australia, and the Asian tigers etc.); hardly managed *conflicts and crises*, damaging and influencing not only the areas are producing into but also more extended regions owed, especially, *to the problems concerning states' geography constituted in historical and national bases territorial claiming*, as happened in Kosovo or *the existence of some nations without state* (Kurd, Palestinian etc.); the existence of some unrecognised states by another states (Macedonian case owed to its country's name issue had with Greece, afraid by the "Macedonia" name use will involve in the future territorial claiming over the region bearing the same name and situated inside its borders, or "Turkish" Cyprus situation which, presently, is recognized as state only by Turkey); *artificial fixed borders* (situation encountered in many of the ex-colonies) or *disputed borders; divided states* (Korea etc.) or *issues related by nations and minorities* (national, religious, cultural which, sometime, are incited from outside to take hostile attitudes against the state where they live or, other times, the state has the tendency to denationalize them); *the emphasis of the economic-social gaps among the developed and developing countries*, reflected in poverty, unemployment etc. growth especially in the actual period of economic-financial crisis. The most conflicts from this century's end (Algeria, Albania, Bosnia, Chechnya, Kurdistan, Afghanistan, Chiapas, Sudan, Liberia, Congo-Zaire, Rwanda etc.) are intern conflicts, striving into the states opposing a central power to a part of own population.

The world's political change was incited by geopolitical events with sudden propagation and big scale destructive effects as the global wars or financial-banking crises etc., and also by big processes as: the globalization or mondialization of the capitalist system; some geopolitical formations progress, more or less spiritually, specific for our times, as Pan-ideas, internationals,

ideologies, Para-religions, spiritual reminisces induced by the elites or wide human collectives' spiritual climbing or decay; the secularization and triumph of the magic state in the context of images' civilization expansion. The Para-religions into a new syncretism framework which the researchers called by a memorable expression, New Age, the triumph of the post-modern pseudo-metamorphosis to the planetary proportions etc., claims an epistemological reconstruction of space modelling processes' science[12].

There aren't only peoples and institutions feeling the delocalization impact. A major consequence of this process was the national governs' power decline in leading and influencing the economies. The financial, technology and some services market internationalization brought with it a set of limitations over some states' liberty of action. In completion, some institutions apparition as World Bank, European Union and the Central-European Bank involves new constraints and imperatives. Still, if the state-nations' influence decreased as a consequence of the globalization process, their influence didn't disappeared. In Hirst and Thomson opinions, states remain pivotal institutions especially from the creation of the conditions for the efficient international governance. It has to be found how the national governs define their thinking in regard with the politics. There are strong arguments showing how the globalization impact is felt at such an extent that countries' policies are driven by markets. "Governs can't monitor their national economies to survive but they have also to control the national policies therefore to adapt to the trans-national forces' pressures"[13].

The alternative the humanity faces today is seen more clearly: the civilization globalization into the liberty values spirit and from the initiative of the powers that incorporate them or the global chaos promoted by forces dumbfounded in obsolete or archaic mentalities incorporated inspired in diverse ideologies or political formulas and commanded by groups of power persisting in defending their out-dated positions.

The power – culture – identity triad in Europe

Europe is a geographic notion with vague frontiers and a historical notion with changing limits. In the modern époque, Europe represented the world's centre. This if the place from where the main trends were launched, the departure point of the great explorers, here was invented the parliamentary trend. The global wars weakened the continent's force enabling the United States of America ascension which even if was involved in war, it didn't suffer territorial destructions and nor their economy was damaged very much. For the next period, the world's power was shared between USA and USSR in the so-called Cold War and Europe remains on secondary plan.

After the fall of communism, Europe started a self-defining and self-affirmation process. Today, the economic competition gathers the majority of the worlds' states USA, Europe and Japan being economic superpowers. It is obvious that the entity which will have the economic supremacy will also play an important role in the geopolitical hegemony. No state can deal, by its own powers, the problems of the contemporary development issues this being the region we consider economic regions. Globally, there are three such regions, each of them with its own locomotive-country: the European Union with Germany, NAFTA with USA and Asia/Pacific with Japan. The locomotive capacity assures the power to evolve for the entire region. For this reason, Z. Brzezinski affirmed that without Germany and France, the European Union can't exist anymore[14].

Today, when Europe numbers 49 states (admitting that the recently proclaimed Kosovo Republic is, at still *by facto*, a reality), the preoccupations concerning the international order and its normative aspects gains a new relevance in specialists' more numerous discussions. How the globalization process raises new clannish and parochial issues in regard to a line of fission's logics mustn't be neglected but treated with careful attention.

Ratzel, the geopolitics' founder, elaborated the seven universal laws for states' expansion[15]: states' growth in space accompanies the culture development; states' extension is developed consequently with the economic, commercial an ideological development; states assimilate other states with lesser or bigger importance: the frontier is an alive body; state engrosses the important regions to assess its territory vitality; any state has the natural tendency to extend if to its periphery lies an inferior civilization; the weaker nations' engrossment provokes the amplification of new territories

absorption. We consider these laws are still available and we shall add that their availability is also extended as regard of the supranational actors, as EU, and the phenomenon has different ways of propagation, more peaceful, being replaced the name with the "enlargement" term.

The European Union is a *sui generis* institution intending to affirm its position and role in different fields: political, economic, social and cultural and also to transpose into reality its political project. The enlargement and cohesion's deepening between the member-states are the two axes settled for EU development and strengthening. Although, the European Union definition is based on values: any state has the vocation to be member of the European Union if it is geographically positioned in Europe and bases its politics and actions on European values.

By the EU enlargement decision taken at Helsinki, Europe initiated a new pattern of development based on an entire geographical region not only a country's potential. It passed through a preponderant economic process dictated by actual realities. The former socialist countries' integration means their translation from Russia's influence sphere but also a trial to emphasize the owned space, to increase power on the long-termed perspective. All these are justified by the pressure put on the European Union in the economic competition with the other centres of power. The geographical and geopolitical position of the invited countries to the negotiations is very important. So, Lithuania, Latvia and Estonia isolates Russia cutting off its access to the Baltic Sea because the remained area of access is much to northern where the icebergs hardens the navigation in the most part of the time. The further Romania's and Bulgaria's adhesion to the European Union and, perhaps Turkey in the future will lead to the diminution of Russia's access to the Black Sea. In these conditions, it can't play an important role in this region. This is the reason why Russian politicians consider themselves on antagonist positions with the Occident orienting their alliances' accomplishment toward Asia. This thing is dangerous if we take into account Russia has an important territory in Eurasia and an eventual alliance with China or Japan will worry Europe. The needed measures in this regard are taken European Union trying permanently to realize contacts with Russia to prevent a new

power creation. Unfortunately, Russia doesn't agree the thought it isn't an empire anymore, the nostalgia after it being still present. That's why the European Union adhesion decision for all the former communist countries is very important even if some of them aren't yet prepared as regards the economic issue.

Turkey is one of the world's pivot-states of Islamic origin. Its strategic importance is very high. It is situated at a crossroads of civilizations, religions and commercial routes. It is the one overlooking the Bosporus and Dardanelles straits assuring balance and stability in the South-Eastern Europe. Turkey's inclusion into the European Union sphere of influence gives it the possibility to exercise a certain influence over the Islamic world but this remains to be seen in the future because here intervenes the cultural problem related to how they will come to a solution regarding the Islamic fundamentalism. Maybe they will succeed its calibration by offering the alternative of a prosper economy.

There were also called to the negotiations Malta and Cyprus. The decision of their acceptance is geopolitically justifiable.

In pivot zone theory, Mackinder states that UK will be in the *Mid Ocean* a Malta to another scale. From this affirmation, we can deduce how important is for somebody who wants to dominate the Mediterranean Sea, to have Malta in its influence sphere. Owed to the geographic position (between Sicily and Africa shore), Malta confers not only the advantage to dominate the sea, but also the one to have an influence in the African continent.

Cyprus is also a state with a strategic geographic position (in the Eastern basin of the Mediterranean Sea, nearby Turkey), between Europe, Asia Minor and Northern Africa. From here can be controlled not only Africa but also the Asia Minor, therefore the European Union influence being able to reach in this territory.

Slovakia was also called to the negotiations, Czech Republic, Poland, Hungary and Slovenia being invited since 1998. Presently, the European Union has 27 members, therefore, it comprises all Europe with the exception of Norway, Switzerland and the states created from the former Yugoslavia (excepting Slovenia which adhered in 2004).

Related to the allocution of Simion Mehedinți, according to which „nations' power increases

and decreases as their population increases and decreases", the decision of EU territorial enlargement finds out another justification. Its power rises not only because of the population growth but also as result of the included territory (it is well-known the formula of Ray Cline, stating that the perceived power is given also by population and territory near the economic, military power, planning and will).

The 21st century Europe must be a Europe without renders, competent on global plan, a real active and ready power with strong role played in world's order.

The European Union initially created on economic bases but never missed out the political aspect. Even when the European Steal and Coal Community was settled in 1950, apart of the free circulation of coal and steel between the founder states (France, Germany, Belgium, Italy, Luxembourg and Holland), this Union also assessed the "peace preservation" among France and Germany. By the adhesion decision of the Eastern European countries to the European Union, the geopolitical character primed in front of the economic one also able to be fulfilled on long term. There are contradictory opinions regarding this sort of "forced" adhesion because the Union's economic pendulum hasn't the same frequency of movement as the political one. If, politically, as we have shown, the decision is welcomed and for the Union as a future global power, economically, we can't state the same thing. There already was a considerable gap among the ex-communist countries (called to the negotiations in 1998) and the existing member states; even among the later there can be identified certain differences. Therefore, the Union needed time to assimilate the new member-states, to remove the gaps, to make some institutional restructurings and to solve the existent problems with certain member states remained behind the leaders. If we refer only to the economic dimension, the European Union by its enclosure of less prepared countries risks diminishing its evolvement speed, loosing time and hard-gained positions. The European Union enlargement toward East brings in first discussion the dispute among the integration's thoroughness and enlargement. It's clear in the actual condition of Union's enlargement, the global competition, for now, can be lost in favour of the other regions as Asia-Pacific and NAFTA.

The former foreign minister of France, Jean-Francois Poncet, wondered about the future Europe's options: economic space or global power. It seems the Union must be both of them. The conditions for the European Union to become global power are: to strengthen its institutions; to have a common currency (already accomplished), a common diplomacy and a common defence. We will add to these the necessity to clarify the delimitations related to the states' cultural elements states values for the states willing to accede to the EU and an increment of tolerance on their address. A culture's Europe can also be the solution of an apparently insolvable problem, the one opposing the federalist and co-federalist dimensions of the European project.

There are perpetuated discussions regarding the European future in two paradigms of thinking which seem irreconcilable. In some authors' opinion, the Europe's future stands in the step-by-step integration of the European states into a federation, following, more or less, the United States of America pattern. Otherwise, the United States of Europe collocation has a certain past in the geopolitics literature. However it is shown that the Northern American formula of the federal state doesn't seem very adequate for Europe because inhere we deal with states bearing a long history, with languages, national cultures and different traditions even if there is a long European cultural dialogue. Therefore, the federalism critics incline to the alternative project for a confederation of the European states with the respect of everybody's political identity. At its turn, this project was criticized of leading to a quite vague union, without precise contours and without the possibility to express as a single voice and, therefore damned to remain rather marginal in the international context

The Kantian texts seem to offer a light in this issue, treating this theme, as we already shown, in the terms of a needed tension among real and ideal. In Kantian vision, the ideal is undoubtedly the one of state as free and equal nations[16]. But, Kant thinks it is realistic to expect a certain resistance of national identities determining a voluntary alliance or "a free federation of states" to constitute more real perspective for Europe's future[17]. This is considered by two reasons: on the one hand, a European supra-state will be seen as a form of domination infringing the European states liberty

and, on the other hand, this European superpower will lead, sooner or later, to the apparition of tyranny form, more dangerous having an almost universal character.

For a long time, certain politicians adopted unfavourable positions concerning the Europe formation as global power to compete with America. Charles de Gaulle and Margaret Thatcher are some of these politicians. They sustained that a European superpower creation will generate more dangerous world, with competing blocks of power. This vision is synthesised in „Europe *á la carte*" or „Europe with variable geometry" formulas. This means the component states could be able to select their policies in regard to their immediate goal in some more symbolic institutions' framework. This desiderate is still illusory because the history proved the European Union evolved into a supranational dimension on three integration categories: the currency union fulfilment, the military and political integration and the elaboration of a common intern and social security policy. The European Union must extend its territory due to its geopolitical position.

Another argument for European enlargement refers to the submission to the negotiations of some countries of Muslim religion or countries geographically situated to this civilization confluence. Presently, Islamic fundamentalism gains new territories. Moreover, Islamic religion extends and can gather fundamentalist adepts and today is present in: Maghreb countries (worrying signal because Algeria was mainly a francophone country, the Maghreb countries being under Europe's influence), in France which has about 5 millions Islamic residents (being the second religion after the Christian one) and also there's the fact of the two Islamic states were born in Europe following the Yugoslavia dismantling and the ethnical wars taking place in this area. Therefore, Europe should be united to come against this pressure (under the conditions in which the European population registers a negative growth and the Islamic one is continuously increasing). The danger of a migration from this region is also a threat against Europe's security.

By Turkey, the Union can get an important connection with Asia and the Middle East. Still, the Europeans are sceptical about Turkey's admission in the EU because of the existent cultural differences. Turkey is reaching the end

of communitarian acquis conditions' completion and EU can be in the situation of loosing its organizational credibility if it doesn't continue Turkey's adhesion process. Egemen Bağiş, the minister for European affairs and Turkey's representative in the EU adhesion negotiations, declared, on the occasion of the conference about "Turkey – key toward the Europe's future", that "Turkey doesn't want to be treated differently from the other states which adhered to the EU, doesn't want favours, but won't tolerate double standards"[18]. Firstly, the Turk minister motivated that not only EU must fight with this process stereotypes, but also Turkey makes efforts at societal level to convince its citizens by the adhesion advantages. Secondly, he underlined that the manner Turkey is treated by the EU will impact over EU image in the Muslim world. If EU will reject Turkey this will be a proof for the about 3 billions Muslims that EU is essentially a Christian club, this fact leading to the EU influence diminution in the Muslim space and also to reserves by Muslim states part regard the cooperation with the EU. But, a fair treatment of Turkey by EU and its adhesion acceptance to the European project will considerably increase the European Union favourable influence and perception in the Islamic areas. Moreover, this will undermine the Islamic extremists' arguments regarding the Occident's perpetual hostility against the Islam. Turkey doesn't consider religion as being a major theme into the adhesion negotiations framework.

USA plays an increased role in the world and there's a good reason for Europe to become a real global power with self-defence institutions. There's how it will manage to deal with the globalization process and will have a real influence in the international economic life.

There were many discussions in the speciality literature about the question: To who will belong the next century, to America or to Europe? Many authors consider it a century belonging to the Pacific (the future's ocean, the place where the maritime and continental superpower will confront) because another important states as China and Japan seem to become great powers. Others consider it will be the second American century due to the USA technological advance got into a maximum importance field, the IT field. It is also true there are analysts imagining a European influence in this century. Only the geopolitical

evolutions will give a proper answer to this question. Samuel Huntington thinks that „the global leader sceptre" detained today by America will pass to the European Union if it will assess the political cohesion among the member countries and will dispose by the necessary population (an realizable fact), will have the necessary resources and economic wellbeing (the countries from the Eastern Europe have important natural resources able to be exploited), will have the necessary technology and real and potential military force. We hope Europe will become a global power. For now, the specialists in this field consider the relation with Europe the most important contact of America in the world: „*America and Europe serve together as axis of global stability, as locomotive of the global economy and the connexion of the intellectual capital and technology innovation"[19].*

It remains to see how quickly the European Union will succeed to leave away the economic gaps among the member-states and how quickly it will fulfil the institutional reform. Anyhow, on this depends its standing in the 21st century competition for supremacy as global power.

The cultural identity in the European civilization is based upon a series of historical points coming from Greek thinking, Roman law and Christianity, the European culture identifying itself also with old-times spiritual values.

Franz Boaz, German-American ethnologist, considers four factors standing on the basis of a social identity culture: *natural environment*, history, psychology and geographical distribution of the cultural elements. The natural environment, first factor, allows every society a freedom of action and, consequently, imposing it limits. *The history or the material and spiritual past* is the second factor and "the acknowledgement of this determinant and explicative factor role will contribute to the groups' culture specific mechanisms"[20]. An important role is also played by the access to societies' evolvement, to language and culture history representing the time of living and spiritual elements' diffusion. The sum of individual and collective reporting aspects for the researched social group's system of values represents the third factor, named psychology. Referring to the fourth factor, the geographical distribution of the cultural elements, the author affirms that there is needed a thorough analysis of peculiar cultures in their geographic structure and

also an evaluation of their cultural "embodiment" degree[21].

There are many discussions about the European identity and about Europe's people identity trying to find a balance among both points of view on the European spirit. There're well-known the popular consultations, as referendums, organized in many European countries concerning their adhesion to the European Union; the public debates about the constitutional-type acts proposed for adoption in the same European Union or the roaring polemics risen by sensitive subjects as Union's enlargement with members as Turkey (as we already remembered) which put in the agenda also elements regarding the national identity issues. Therefore, nowadays, identity is a very used collocation although its significance remains generally imprecise. Thus, the identity issue (and multiple identities issue) becomes problematic in the modern society perhaps due to insufficiently researched sociological and anthropological reasons.

There are also discourses about concepts as "common inheritance", "unity in diversity" and "multiculturalism". But, we sustain the idea for a true existence; Europe needs not only the adequate economic and political structures but also a common history which shall be more than just a sum of particular histories. Therefore, Europe should build on basic shared myths and also on shared historical values. How to balance so much history and so many often divergent traditions? The invention of a real European history, where all the Europeans to find themselves so that nobody would remain frustrated, turns out to be a hard enterprising even more difficult than the Europe's building itself.

It is obvious the fact that, in a chain of differences, the Europe's inhabitants and their cultural traditions are different from other places and communities. If we consider a continental cultural pattern formation we don't refer firstly to its geographic coordinates. Europe's culture was led to some cultural behaviours affirmation proving performance, imposing already build constraints, verified inside and suitable to be exported. To underline this cultural behaviour existence differencing the European pattern from other patterns we shall begin from the cultural praxis.

Consequently, the European cultural pattern distinguished by a series of cultural fractures

provocation by which the cultural innovation got objective into a certain context. These fractures manifested in the violent form of some revolutions rather characterising the modern culture of European capitalist society. A distinction being operable in the cultural pattern framework is the one related to the relation among visible and invisible, among esoteric and exoteric. By this relation we refer to the secularization process having place, obviously, more rapidly and more visible in the European culture than in other cultures. By this, we want to show that the European cultural pattern supposes a pragmatic behaviour through which the unknown things appear in intelligible forms, measurable from human's experience and nearer to his daily dimension. So, we observe the European cultural pattern axed on the definition of human needs as singular entity needing to ensure his continuity by his world's reproduction.

The cultural diversity shows a society's basic phenomenon. It regards the existent cultural differences among people and also among diverse groups as multiple identities: traditions, habits, how the education and society are approached from intercultural perspective. The cultural Europe, between transition and modernity, isn't only diversity but, even more, the problem of the cultural identity integrated in the actual European project. We notice an economic adjustment to the integration process and in cultural plan is seen „a sort of rebellion against the tendency of world's levelling"[22]. Gabriel Andreescu, political specialist, speaking about the ethno-cultural groups integration, stated that „multiculturalism accepts besides the need to integrate also the need of communitarian privacy" [23]. Otherwise, Victor Neumann reminded „multiculturalism mustn't be and can't be seen as a theory attracting the apartheid after it "[24] because the multicultural approach reported to the intercultural one recognizes the right to communitarian borders, this reality being given by the groups' need to separate themselves in a certain degree by the others communities as expression of the need and right to "communitarian privacy".

Romania and the geopolitical options' structure

The Romania's dimension as state doesn't allow us to say that Romania could become a "pole of power" even from a theoretical point of view, this situation being encountered also related to a country of Russia's dimension with all its nuclear potential, natural resources and historical messianic trend.

Therefore, „Romanian geopolitics" is part from the "united Europe geopolitics" section. This isn't just an actual political situation emerging from Romania's membership at the EU but inevitably it comes from its geopolitical situation. And, moreover, "the united Europe geopolitics" itself isn't something guaranteed or secured. Even Europe as a whole, the European Union, rely on sovereignty only into a multipolar world and only in this situation Europe will be sovereign and, implicitly, Romania as part of it will benefit from sovereignty. The adoption of American dominated multipolar pattern that refuses to Europe its sovereignty will influence Romania as part of it, too. Therefore, the familiarization with the geopolitical problems isn't something necessary or vital but this issue can be taken into consideration wherever is coming about the intellectual horizon enlargement.

Indeed, if we consider Romanians' contributions to the European science and culture, the geopolitics can be a main basis to determine Romania's role and functions in European context. So, it isn't casual the geopolitical and ideational construction occupying a significant part in the novels of the French-Romanian excellent writer, essayist and poet Jean Pârvulescu – a European model and a profound thinker.

The European geopolitics dilemma can be reduced to a choice among Euro-Atlantism (the recognition of the dependency on Washington) and Euro-Continentalism. In the first situation, Europe abandons its sovereignty in the favour of its "bigger brother" over the seas and, in the later situation, insists over its own sovereignty (until the organization of an own geopolitical and strategic pattern). This option isn't completely finalized in theoretical vision as this fact is depending on every EU country, Romania included. Therefore, regarding to Romania's geopolitics in the strict sense of the notion, it becomes necessary in the actual context the conscientious and active involvement in the Europe's future choice – dependence or independence, sovereignty or vassalage, Atlantism or Continentalism.

Conclusions

The truth is the European states don't have another place in this world dominated by economic and military superpowers. Only in the EU institutional framework the member-states (especially the small ones) can play an important role on the global scene, only acting together they can guarantee their security, prosperity and can protect the cultural, identity or other kind of values.

The cultural differences coming from every nation's history and evolvement are important for those nations' identity regarding the maintenance of cultural values, custom, traditions, and symbols but, peculiarly, these perceptions regarding the cultural differences influence the relations among individuals or states. On this issue, EU as a whole had to work as regards the tolerance for other cultures and civilizations, the acceptance of diversity having to be accomplished inside when we come about states as the ones prevalent Islamic. On the background, the institutionalized Europe problem is a structural one. Member states always sought to get the support of some extern political patrons to consolidate their own position into the Intra-European balance of power: the Central Europe states, the United Kingdom and the Scandinavian states are Atlantics states; the Europe's core (Germany, France) and the states from their sphere of influence consider the Eurasian position as an advantage. These bidirectional forces will continue to work against a pan-European strategic consensus. These opposed forces survival is possible only into a peculiar permissive international environment. It is necessary that the great European powers wish the institutionalized Europe to exist. In a minimal sense, this means their inaction against the intern cohesion of the communitarian project. They will moderate their temptation to undermine the European Common Foreign and Security Policy only if they see significant benefits from this polyglot geopolitical actor existence.

The question is: which of the two poles will choose the institutionalized Europe? The geopolitical competition for Europe's strategic orientation is far from having a winner. We are tempted to believe that America is the natural choice of EU. Still, the 19th century history showed us that the strategic dependency on a stronger neighbour gives it an essential lever to exercise a systematic control over vulnerable geopolitical actor behaviour.

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9 China continues its peaceful march started a half century ago to the superpower statute extending its economy which after a decade could overlap USA.

10 India became member of the nuclear club and threats to depose the United States of America high-tech industry also regarding an own sphere of geopolitical influence in the South of Asia.

11 Many time considered a minor geopolitical actor, implemented an aggressive energetic diplomacy to diminish America's influence in Central Asia and to come back into the superpowers club.

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Mirela ATANASIU (atanasiu.mirela@yahoo.com), Ph.D., carries on her activity into the Centre for Defence and Security Strategic Studies, from "Carol I" National Defence University.

TREATY OF LISBON – PROVISIONS ON EUROPEAN SECURITY AND DEFENCE

Petre DUȚU, Ph.D.

The European Union is an important actor on the global stage as it plays a consistent role of security provider throughout the world.

Treaty of Lisbon, with its new provisions, regarding, among others, common security and defence, reinforces this role of the EU not only in the European Community space, but also beyond it. In this context, the Common Security and Defence Policy, as part of the Common Foreign and Security Policy, is given new dimensions through the provisions of the Treaty of Lisbon.

Key-words: European Union; common security and defence; policy; treaty.

1.New matters brought forth by the Treaty of Lisbon

In December 2009, European Union member states signed the Treaty of Lisbon, meaning that they accepted its provisions. In essence, this treaty regards the modernization of the enlarged European Union which has, at this moment, 27 member states. Thus, it refits the architecture of the institutions, modifies the decision-making procedures and reinforces the external representation of the Union. To this effect, the Treaty of Lisbon provides several essential institutional reforms, amongst which we shall mention:

• **EU's legal personality.** The European Union will have, from now on, legal personality. Thus, it will have the ability to make international treaties in all the areas that fall under its competency;

• ***Simplification of the decision-making process within the EU Council.*** Beginning with 1st of November 2014, qualified majority will consist in al least 55% of the Council members, including at least 15 members and representing at least 65% of the whole Union's population;

• ***A permanent presidency in the EU Council***. From now on, there will be chosen a president by qualified majority, having a two year mandate. He can be re-chosen a single time;

• ***EU High Representative for Foreign Affairs***. He is member of the EU Council and of the European Commission and runs European Union's Common Foreign and Security Defence Policy;

• ***The role of national parliaments is consolidated***. Treaty of Lisbon provides a mechanism of strengthened control on the respect of the subsidiarity principle. This mechanism allows national parliaments to make Commission's decision, which are irrespective of this principle, to fail;

• ***Disentanglement of the division of competencies between the European Union and the member states.*** Treaty of Lisbon specifies which are the exclusive competencies, shared competencies and support competencies;

• ***Citizens' initiative.*** European citizens are granted the right to invite the European Commission, within the framework of its attributions, to make an adequate proposal to the European Parliament and to the EU Council;

• ***The Charter of the Fundamental Rights becomes legally binding***;

• ***European Central Bank becomes a real institution of the EU,*** having the same status as the European Commission, the EU Council, the European Parliament, The Court of Justice and the European Court of Auditors;

• *As far as the police and judicial cooperation in concerned, most of the decision will be made by majority and not by unanimity*;

• *Fight against climate change acquires a foreground status in the new treaty*. Involvement is made both at communitarian and national level;

• It is the first time when an EU treaty provides a withdrawal clause, which gives member states the right to exit the Union. This clause is meant to enforce the democratic character of life within the European Union.

Treaty of Lisbon replaces the so-called document "European Constitution". As a consequence, this treaty doesn't represent a European Constitution[1].

The difference between the two documents consists in the fact that, while the European Constitution supposed the abrogation of all the previous treaties of the EU and their replacement with a single text with a constitutional vocation, the Treaty of Lisbon is limited to modifying the previous treaties, which justifies its name of "modified treaty" or "reform treaty"[2].

2. The provisions of Treaty of Lisbon on European security and defence

As far as the common security and defence is concerned, Treaty of Lisbon brings forth a series of specific provisions. In this sense, we shall mention:

• *The development of the mechanisms of cooperation between the member states* and their conformation to national political needs and, especially, wills. Some authors call them "cooperation mechanisms with variable geometry"[3], ranging from the enhanced cooperation to the permanent structured cooperation;

• *The institution and modification of the role of the actors in the European Security and Defence Policy (ESDP)*[4]. In this sense, we shall mention: the position of the High Representative for Foreign Affairs and Security Policy, who has the mission to head the ESDP, merging, therefore, the former positions of High Representative/Secretary General of the Council, on the one hand, and, on the other hand, the one of Commissioner for Foreign Relations; the creation of a European External Action Service, supported by the High Representative for Foreign Affairs. Moreover, the president of the European Council, position created by the Treaty of Lisbon, will share with the High Representative the external representation of the EU within ESDP;

• *The reinforcement of the means of action in matters of security*[5]. In this sense, Treaty of Lisbon consolidates the efficacy of the decision-making process in what regards the space of freedom, security and justice; brings into service an integrated system of managing the exterior borders and of consolidating "Frontex" attributions, which is the Unions' border monitoring Agency; consolidates the EU means of fight against illegal migration and ill-treatment of human beings. It is about a common policy of the European Union and the member states, which aims at defining immigration rules and conditions;

• *As far as the penalties are concerned, the enactment of a set of minimal rules which define the crimes and the sanctions for certain cross-border crimes* (terrorism, drugs and weapons traffic, money laundering, women sexual exploitation, IT crimes etc.) will be decided by the European Parliament and the Council of Ministers, by qualified majority;

• *A clause of mutual assistance*[6]. This clause provides that, if an EU member state is the victim of an aggression, the other member states have the obligation of assistance. Under these circumstances, we are the witnesses of the expansion of the missions known as "Petersberg Missions" and to the institution of two solidarity clauses for the EU member states. The first one concerns the terrorist threat and the second one is referring to a mutual assistance in case of natural or man-made disaster. The second clause, although enters under civil protection competency, thoroughly interests the armed forces, because they might be called to intervene as they have useful equipment and expertise;

• *Institution of the Permanent Structured Cooperation*, which is opened to all the states that would participate at the main European military capabilities programs and would provide immediately battle groups. Thus, these states will be capable to accomplish the most difficult EU military missions, especially those requested by the United Nations;

• *The establishment of the European Defence Agency (EDA),* with the perspective to develop a European armament policy and to coordinate the efforts of improving the military capabilities of various national armed forces, which represent an important innovation. Moreover, the Treaty of Lisbon extends its area of applicability in

armament industrial and commercial issues;

• *The introduction of a Start-Up Fund to finance EU's military actions*, which shall facilitate EU's military operations;

• *The possibility to take decisions, by qualified majority, in the Council, decisions regarding ESDP issues* (decisions on the creation of Permanent Structured Cooperation, on EDA's activity, on Start-Up funds);

• *The clarification of the conditions referring to the blocking minority and the constructive abstention within the Common Foreign and Security Policy (CFSP)*, which allow the adoption of a decision by unanimity, engaging only a part of the member states.

Al these provisions aim at giving more flexibility, efficacy and creativity to the activity of the European Unions and of its member states as far as common security and defence is concerned.

3. From ESDP to CSDP

As far as the defence matters are concerned, Treaty of Lisbon introduces a relevant modification. ESDP (European Security and Defence Policy) is renamed as CSDP (Common Security and Defence Policy). Thus, Common Security and Defence Policy continues to be an integral part of the Foreign Security and Defence Policy (CFSP). CSDP includes the progressive definition of a common defence policy of the European Union[7]. At the same time, CSDP provides to the EU an operational capability on the basis of military and civilian means. The Union has the ability to involve in missions beyond its borders in order to ensure peace maintaining, to prevent conflicts and to reinforce international security in compliance with the principles of the Charter of the United Nations. The development of these missions is based on the capabilities provided by the member states. Moreover, CSDP includes the progressive definition of a common security policy within the Union, which will determine the creation of a common defence when the European Council would decide to.

Furthermore, the Treaty of Lisbon mentions that the Union's policy in security and defence does not affect the peculiar features of the national defence policies. In this sense, the treaty provides some novelties in the area of security and defence,

as we have demonstrated in the previous chapter of this article. Additionally, ESDP missions have been extended. To the three traditional missions ("Petersberg mission"), the treaty added activities of simultaneous disarmament actions, military guidance and support missions, conflict prevention missions, stabilization operation at the end of the conflicts. These missions can also contribute to the fight against terrorism. Furthermore, by introducing the solidarity clause between the member states and of the mutual assistance clause, the treaty will contribute to the development of the European solidarity. On the other hand, it eliminates the paradox according to which the European Union is capable of exporting stability beyond its borders, but it is not able to do the same between them, that it is not able to ensure the security of its own territory and population.

Nevertheless, CSDP maintains the congenital limit of ESDP. It is true that NATO remains the framework of the European defence. The provisions stipulated by the Treaty of Maastricht (1992) are mentioned by the Treaty of Lisbon (2009) too: ESDP/CSDP shall respect the obligations triggered by the North Atlantic Treaty which remains, for the states that obtained NATO membership, the foundation of their collective defence and the framework of its implementation. This obligation of compliance between the responsibilities taken under ESDP/CSDP and the ones taken under NATO can be defined as an oxymoron. This provision affects in a certain way and at a certain extent ESDP/CDSP. Thus, we have reached a crucial point. Is the EU a real power on the international scene or a simple block of the euro-atlantic entirety? The 27 EU member states don't have yet a sole and unitary answer at this question, but a diversity of visions on ESDP/CSDP.

Plus, there are states that are very reluctant when it comes about the development of a security policy, which would manage not only the crisis happening outside the EU, but also the ones taking place on the Union's territory. Nonetheless, such a policy is an objective set by the Treaty of Lisbon, which provides that ESDP/CSDP structures and the procedures, as well as the conscripted means, shall be also used in purposes, other than the ones regarding crisis management outside the European Union. This was the view in which the mutual assistance clause was conceived before its entering into force, in case of natural

or man-made disasters. Finally, EU brings a real added value in crisis management, because of its competencies and its field of military and civilian expertise. In this context, there is underlined the necessity that the EU's institutions to achieve important competencies with an increased efficacy in the field of the European citizens' security and international solidarity.

Additionally, we shall point out the fact that treaty of Lisbon doesn't provide the creation of European armed forces. These ones remain under member states' competencies. The treaty stipulates that member states may put at Union's disposal civilian and military capabilities in order to participate in the operations developed under the Common Security and Defence Policy. Nevertheless, member states have the right to oppose to these operations. The participation at these operations is always made on a voluntary basis. Member states which are willing to participate and which have the necessary capabilities may take part in disarmament operations, humanitarian missions, evacuation missions, military guidance missions, peace-keeping missions. No member state may be coerced to take part in these operations.

Conclusions

The European Union is an important global player, inclusively in the matter of security and defence. In this regard, the Treaty of Lisbon brings forth a series of novelties with major implications for the development of the Common Security and Defence Policy. Of course, CFSP with its integrant part – ESDP, now renamed CSDP – have been reinforced by the new provisions which create and modify ESDP actors roles; create the position of High Representative for Foreign Affairs; confirm the existence of the European Defence Agency; introduce the permanent structured cooperation; introduce the mutual assistance clause; consolidate the means of action in the area of security etc. All these will contribute to the augmentation of EU's capacity to prevent crisis and to solve conflicts, to ensure its citizens' security and the collective security.

In other words, the Treaty of Lisbon reinforces significantly EU's power means not only on the international scene, but also on internal level, through new instruments, renewed institutions and extended procedures which are meant to consolidate its supranational dimension. Moreover, the Treaty of Lisbon points out the complexity of the European geopolitical system. It outlines a landscape singled out by the indetermination of the power project and induces certain power rapports between different actors of the communitarian system.

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Petre DUȚU, PhD. (dutupetre@yahoo.fr) is a senior researcher and the head of the Department of Research and studies of the Center for Defence and Security Strategic Studies, from "Carol I" National Defence University; he is also a military sociologist and the author of numerous books and articles regarding national, regional and global security.

BOSNIA AND HERZEGOVINA – POLITICAL IMPASSE AND SECURITY ISSUES. REPERCUSSIONS ON THE RELATION WITH THE EUROPEAN UNION

Cristina BOGZEANU

The conflicts that marked Western Balkans' destiny during the past century represented the most serious and violent events that have happened since the end of the World War II. The intervention of the international community determined the stabilization of this region and the emergence of a relatively stable security environment. Nevertheless, the political, ethnic, religious and economic peculiarities of the states encompassed by this region have maintained a certain state of tension both within these states and in the relations between them, tensions which may easily become security crises.

The present article was elaborated with a view to describe and analyze Bosnia and Herzegovina security environment from the perspective of the political crisis that characterizes it at this moment. The analysis shall consider elements related to the context in which this crisis takes place, its causes, the attempts of settlement, as well as the repercussions on the institutions and organisms representing the EU in Bosnia and Herzegovina and the consequences on EU's strategy to stabilize, democratize and modernize this state for an eventual accession.

Key-words: political crisis; High Representative/Special Representative of EU in Bosnia and Herzegovina; Bonn Powers; Dayton Agreement; accession; NATO; EU.

The idea according to which the Balkans represent Europe's "powder keg" has become a cliché, but this stereotype way of thinking this region, especially, its western part, discloses a still valid truth – this space is almost constantly marked by a state of crisis, no matter which security dimension (political, social or cultural) we may take into account. Although the political crisis from Bosnia and Herzegovina was put into the shade by the global economic and financial crisis and by the controversy on Kosovo's status, it carries a special importance not only for the western Balkans' security environment, for EU's strategies of stabilization, democratization and modernization of this state, but also for the institutional configuration of EU presence in Bosnia and Herzegovina.

1. The political context of the emergence of the political crisis of Bosnia and Herzegovina

The institutional form under which Bosnia and Herzegovina is functioning was established by the Dayton Peace Agreement (1995), which was signed at the end of the civil war. The Agreement provides, beyond the cease-fire, the creation of a stable, multiethnic and democratic government, which would eventually develop Bosnia and Herzegovina's capacity of self-government. The Constitution of Bosnia and Herzegovina was included in the Annex 4 of Dayton Agreement and provided the creation of a sole political order. The state is actually a federation made of two entities – the Federation of Bosnia and Herzegovina where the majority is constituted by Croats and Bosnians and Republic of Srpska where the majority is constituted by Bosnian Serbs. This administrative organization has important implications on the main institutions of Bosnia and Herzegovina – it

has three bicameral parliamentary representations (one for each entity and one at the central level); a triple presidency (a president representing each one of the three main ethnic groups – the Croats, the Bosnians and the Serbs). Additionally, each entity enjoys a high degree of autonomy as they can make decisions in all the areas which are not under central state's jurisdiction[1].

Another specific feature of Bosnia and Herzegovina political order is the presence and the attributions of the international community's representatives. Civil war ceased after a considerable intervention on other state and non-state actors and the stability and the implementation of the provisions of the Dayton Agreement have been ensured through the presence of several international community institutions. Thus, NATO intervention contributed to the stabilization of the security climate and EU has focused predominantly on the elaboration of the fundaments of the rule of law, turning into the main organization supervising, supporting and directing the processes of democratization and modernization in Bosnia and Herzegovina. This role became obvious when EU proved to have a wide scope involvement, evolving from crisis management to protectorate. Moreover, since 2002, the High Representative in Bosnia and Herzegovina, position created for monitoring the implementation of the civil aspects of Dayton Agreement, coincides with the position of the EU Special Representative in Bosnia and Herzegovina, who shall ensure a coherent and coordinated EU approach in constructing and enforcement of a peace and stability climate in this state. Hereby, the person cumulating these positions is in charge both with the supervision of the implementation of civil aspects of Dayton Agreement and of the Association and Stabilization Agreement. Plus, beyond the obvious EU political engagement, the economic one carries an equal importance. The European Union supported the reforms of Bosnia not only politically, but also financially. The EU financially supported the reforms intended to enable Bosnia and Herzegovina to candidate to EU membership; the main financial mean is represented by the pre-accession assistance instrument, by which the EU offered financial assistance worth of 74.8 million euros in 2008 alone[2]. The main investment areas are public administration, justice and home affairs, civil

society, economic and the *acquis communautaire*. The EU also has contributed to maintaining the security in Bosnia and Herzegovina and to the training of human resources in order to enable them to maintain this state even in the absence of international protectorate. We refer, of course, to the two missions conducted under the Common Foreign and Security Policy of the EU (CFSP) - Althea (military mission, begun in 2004, which took over the tasks of NATO mission, SFOR) and EUPM (civilian police mission).

However, in this general framework in which the ethnic entities of Bosnia and Herzegovina enjoy a high degree of autonomy, in which security is ensured by the international community and reforms are supported from a financial and expertise point of view by the EU, the emergence and escalation of a serious political crisis was possible, a crisis which rendered the state unable to function appropriately. The bone of contention has been constituted by the so-called "Bonn powers" attributed to the High Representative/ EU Special Representative in Bosnia and Herzegovina. These are a set of attributes of the authority of the High Representative which were established in 1997, following a period of serious tensions which undermined the stability of Bosnia and Herzegovina in the two years since the end of the civil war. Bonn powers allow the High Representative to set up as executive authority of the international community, having the right to dismiss elected officials and to make legislative decisions in order to ensure the implementation of Dayton Agreement. The representatives of the three main ethnic communities have had different points of view on them since the very beginning and their attitudes have remained constant over time. Bosnian Serbs, on the one hand, have considered this type of power a pressure tool of the international community and, on the other hand, Croats and Bosnians have seen them, generally, as useful for maintaining stability and the status quo in Bosnia and Herzegovina.

All this make Bosnia and Herzegovina to be organized in a unique way, being placed in the category of *international liberal democracies*[3], which is an order where the key decision makers are elected directly by the people (the democratic element) and Human Rights (the liberal element) are protected by international institutions (the international element). Therefore, this state has a

mixed government – national and international; the latter is mainly provided by the EU; the recent political crisis arose precisely because of the struggle for the authority to enact laws. It is considered that the crisis begun when the High Representative imposed a set of laws, using the Bonn Powers (September 2009), which were rejected by the Prime Minister of Republic of Srpska, threatening to withdraw all Serb representatives from government, if the measures would be implemented. Given the nature of the national government, the withdrawal of Serbs from state institutions would entail a constitutional crisis by blocking any legislative activity. Under these conditions one cannot speak about a confrontation stage involving military demonstrations and exercises, deployment of forces, etc. However, we can consider that Bosnia is in the confrontation phase of the crisis because of the outspoken hostile attitudes that political leaders harbor toward each other. For example, the Serbian Prime Minister walked out of the negotiations on constitutional reform, reaffirming Bosnian Serbs condition to accept the right of secession[4]. The series of examples of such positions may continue. The same official did not hesitate to show its contempt for the structure of post-war Bosnia, in particular for the High Representative position and his efforts to make constitutional reforms which would weaken the autonomy of the Republic of Srpska and will strengthen the central government apparatus[5].

Moreover, this situation arose at the time when, at the international level, the need to close the Office of the High Representative/EU Special Representative as a natural step towards EU membership was under debate. A state which continues to be governed by international institutions and is not able to secure unilaterally its domestic stability can not join the EU. However, the political context made it necessary to maintain this institution, bringing Bosnia and Herzegovina in a stalemate of its progress towards EU membership, but also in a political and constitutional crisis.

The current political impasse of Bosnia and Herzegovina is determined by a series of complex dissensions between its executive authorities. First, we have a conflict between the political representatives of the two constituent entities; each of them pursue the interests of the entity they represent, interests that are often antagonistic, excluding each other, the situation being aggravated by the lack of confidence and the difficulty to cooperate of the these representatives. Thus, the Federation of Bosnia and Herzegovina wants to maintain the current organizational form of the state, sustaining the increase of central government competencies and the decrease of the entities' governments autonomy, while the Republic of Srpska fears that this would be beneficial only for the Croats and Bosnians, who are more numerous, and advocates for increasing the autonomy of the Republic, and even the secession.

Secondly, one could notice that there is a serious conflict between the political representatives of the Republic of Srpska and the institution of the High Representative as the former consider that the Office of the High Representative is not legitimate and Bonn powers are exercised abusively. The latter, on the other hand, argues that Bosnia and Herzegovina is not yet able to govern itself and that the legitimacy of his powers is given by his mandate to oversee the implementation of the conditions established at Dayton. Furthermore, this agreement is also part of the core of this crisis. For Bosnia and Herzegovina to become an EU member state, it shall overcome the dependency on the international community interventions to ensure internal security and to supervise the development of democracy. This means that the implementation of the Dayton Agreement has to be completed and that the Constitution shall be reformed. The first part of the Agreement, the one relating to the separation of the parts and to the establishment of a stable security environment in Bosnia and Herzegovina, has been accomplished through NATO missions – IFOR and SFOR and subsequently by the EU-led ones – Althea and the civilian police mission, EUPM. Nonetheless, the second part of the Agreement, the one referring to building a democratic state based on the rule of law, with a sustainable market economy hasn't been yet implemented completely. Moreover, at the end of 2009, the European Court of Human Rights (ECHR) found that the Constitution of Bosnia and Herzegovina violates the European Convention on Human Rights. The case was filed by two politicians (a Jewish and a Rom), mentioning that constitutional provisions do not allow them to run for the presidency of the state whose citizens are. The Constitution, included in the Dayton

Agreement, provides that the Presidency of Bosnia and Herzegovina is a tripartite one, consisting of a Croat, a Bosnian and a Serb, thus discriminating the other ethnic minorities living in this state. The ECHR concluded that Bosnia shall reform its Constitution.

Therefore, constitutional reform is a crucial point of the evolution of this state towards joining the EU, but also a prerequisite for the development of a democracy based on the rule of law. But, as long as the political representatives of both entities fail to reach a consensus on the future form of the organization of state, showing reluctant, even hostile attitudes toward each other as well as to the representations of the international community, the situation remains a critique. We are dealing with a vicious circle – inter-ethnic dissensions hinder the reform of the Constitution and the need to reform the Constitution recrudesce the old ethnic rejection feelings. At the same time, the situation is aggravated by the inconsistent attitude of the international community toward Bosnia, which is visible nowadays in the fact that it is under necessity to change its strategy toward this state, a necessity which may be justified by two reasons: firstly, the dependence of Bosnia on international community's presence should be discontinued and, secondly, the measures and institutions created previously are no longer effective.

The political obstacle described above is considered by many voices from academia, politics or journalism as having the potential to trigger a violent conflict in Bosnia and Herzegovina or to determine the violent secession of the Republic of Srpska. This is also justifiable by the fact that Bosnia and Herzegovina has still a large amount of weapons and ammunition left from the 1992-1995 war; in May 2010, a joint statement of the US Deputy Secretary of State for military affairs and of the Defense Minister of Bosnia and Herzegovina indicates that this state has a surplus of arms, from which there will be destroyed 67,000 small arms and 20,000 tons of conventional ammunition and explosive devices. However, we consider that such a conflict is highly unlikely because of the presence of the international community and of the great powers' attitudes on Bosnia. As an instance, neither Serbia nor Russia, its traditional ally, support the idea of the Republic of Srpska secession, although their relations are clearly based on ethnic affinities.

But this does not diminish the seriousness of the crisis.

2. Causes of the political crisis

The state of Bosnia and Herzegovina may be described as a crisis situation, as a breach moment in Bosnia's political system. This system is complex enough to allow the existence of multiple parties which perceive this situation as a set of risks, menaces and threats to their own security, this being the reason for which they show a genuine state of concern. For resolving the crisis it is necessary to make immediate decisions that are not easy to identify because of the difficulty of obtaining a consensus among stakeholders. Nationalist discourse is a feature of both political parts. On the one hand, Serbs in the Republic of Srpska have often demanded the right to self-determination and opposed systematically to the endowment of the central level of state with more powers, even under the Stability and Association Agreement. On the other hand, the Croat and Bosnian political discourse has also obvious elements of nationalism, especially if we consider that some politicians continue to question the legitimacy of the Republic of Srpska, arguing that it is the result of the genocide carried out by Serbs. The divergences between the two entities of Bosnia and Herzegovina have been addressed by the international community, trying repeatedly to obtain a compromise.

If we consider the area within which this state has emerged, the crisis in Bosnia and Herzegovina has a clear *political* nature because it came in a unique political context and the main factors that caused it are also political. The organization as a federal state composed of two distinct entities maintained the inter-ethnic divisions of the civil war, but, this time, they reflect not only on the political plan, on the organization of the decision-making process, but also on the congruence between the objectives that the institutions of each entity seeks to achieve. For example, Bosnians want a more centralized, consistent and strong state agreeing on transferring more competencies from the entities' institutions to the central ones. Serbs, on the other hand, stoically seek to achieve the ideal of the autonomy of the Republic of Srpska. One shall also take into consideration their attitude toward the international community's representative and

toward the extent of his competencies. From the point of view of the Croats and Bosnians, the High Representative is the guarantee that Bosnia will continue to operate under the Dayton Constitution, without allowing the Republic of Srpska to block state institutions functioning; Bosnian Serbs, on the other hand, fear that the autonomy of the Republic of Srpska will be undermined by the actions of the international community, which will progressively weaken their entity and even dissolve it. This explains their strong reluctance to the international community's efforts to build strong state institutions at central level, increasing their functionality.

As a particular form of expression, the political crisis in Bosnia and Herzegovina falls mainly in the definition of *regime crisis* as it "occurs with greater intensity when the political bodies represent the interests of a minority group conflicting with the general interests of society and it is generated by the deterioration of the relations between citizens, civil society and state, under the conditions in which the governing bodies of political power, the state are not acting in consultation with citizens, respecting their wishes and interests"[6]. In the specific case of Bosnia and Herzegovina, its ethnic and political peculiarities represent the pre-condition for a regime crisis. The division of the state in two political entities, each one of them having an ethnic majority which is in conflict with the other entity majority, represents the prerequisites of a political regime crisis. Thus, in the Federation of Bosnia and Herzegovina, Bosnians and Croats are the majority and in the Republic of Srpska, Bosnian Serbs constitute the majority. Moreover, the territories of the two entities coincide, with few exceptions, with the territories controlled by the Serb and Croat combatants in the autumn of 1995[7]. Obviously, the administrative divisions are reflected in the government system, which makes it natural for the political structures of the Republic of Srpska to promote the interests of Bosnian Serbs, which may be contradictory to the interests of Croats and Bosnians, promoted by their political representatives. The regime crisis is determined, therefore, by the maintenance of ethnic divisions within Bosnia and Herzegovina, by their nourishing within the political class through the media. Plus, if we take into account that a regime crisis also implies the lack of citizens'

consultation, the failure of respecting their will and their interests before making a decision, then we could argue that the High Representative and even the presence and influence of the international community are also the subjects of the regime crisis. We shall recall in this sense that the Constitution of Bosnia and Herzegovina was not subjected to any parliamentary ratification of the representatives of Bosnia's citizens or to the ratification of citizens themselves. Also, by using "Bonn Powers", the Representative has, at least theoretically, the right to intervene and change the constitutional provisions passed by each entity or to dismiss democratically elected officials.

Crisis occurred in Bosnia and Herzegovina because of an accumulation of internal and external factors, most of them of political nature, but not only. Among them, one shall mention:

a) *The maintenance of inter-ethnic divisions and their exacerbation by dividing Bosnia and Herzegovina into two entities, redrawing the territories defended by the Bosnian Serbs and by the Croats and Muslims during the civil war of 1992-1995*. This is, according to some analysts[8], the result of the inconsequent actions and projects of the international community in Bosnia. On the one hand, it tried to re-establish a post-conflict order in Bosnia and Herzegovina, making efforts to develop institutions led by the principles of rule of law, with a permanent representative to oversee this process who is also entitled to act in international community's interest; this representative can act as a sovereign, as an educator or as a mediator. Moreover, despite the efforts to establish a coherent, modern, self-governing state, the same international community recognizes the Bosnian nations whose extreme nationalism led to the war they fought against each other between 1992 and 1995.

b) *The institutionalization of the ethno-political conflict in Bosnia*. This cause is closely related both to the maintenance of inter-ethnic divisions and conflicts in Bosnia and to the antithetic strategic objectives of political leaders. The national interests of Bosnian Croats and Serbs are deeply different and so are their political projects that characterize public life in Bosnia. It is also noteworthy that there is a correlation between political leaders' attitudes and the relations between ethnic communities. They are similar and reflect each other. The main and the most serious

discrepancy is represented by their perspectives on the state of Bosnia and Herzegovina, as sovereign political entity.

c) *The antithetic strategic objectives of the political leaders representing the two entities*. Conflicting goals of political leaders emerge from the institutionalization of inter-ethnic tensions and their penetration in the government system.

d) The constant effort made by Bosnian Serb political leaders to cancel or hinder reforms or draft laws led to *the erosion of the mutual trust between the two parties*. The Republic of Srpska prevented even reforms that were necessary for signing the Stabilization and Association Agreement with the EU. Basically, this crisis of confidence amid the political class in power lays at the foundation of the paralysis state and influences Bosnia's process of modernization. For example, in order to continue its evolution toward EU accession, Bosnia and Herzegovina has to demonstrate that it is able of self-governing, which is inconsistent with the presence of a High Representative endowed with so high prerogatives. However, the closure of this institution is not plausible at this time. The difficulty consists in the fact that the Bosnian parties will not approve the proposal for state property until the Republic of Srpska approves the constitutional reform and the Republic of Srpska will not do so unless it includes completion of the High Representative's mandate[9].

e) *The difficulties encountered by the international community in finding a viable and acceptable solution for all Bosnia's ethno-political communities*. Dayton Agreement was designed to end the armed confrontation between the three ethnic communities of Bosnia and Herzegovina and to establish the necessary tools to build a modern, democratic, self-governing state. Nevertheless, the international protectorate has brought stability, but favored, at the same time, to a certain extent, some disruptions too – national authorities have not developed yet procedures for inter-ethnic cooperation, necessary for optimal functioning of the state. Whenever the situation was likely to become unstable, it was kept under control by the intervention of the international community. In addition, there are voices[10] accusing the EU of inconsistency in addressing Bosnia and Herzegovina. For example, the presence of EU civil and military troops in this state, decreased as the situation became tenser and the demand

to overcome the challenges posed by the need to change the provisions of the Dayton grew. In fact, it is about a contradiction between the actual situation in Bosnia and Herzegovina and EU's strategy towards it.

f) Closely related to lack of mutual trust within the political class, to the lack of a single, unanimously accepted plan of the international community on Bosnia, to the preservation of inter-ethnic divisions and tensions, one could also identify *the slow progress to modernization, democratization and constitution of the rule of law foundations*. Under the conditions given above, the paralysis of the state which is unable to make decisions, to which we shall add the economic crisis, determine the lagging of the democratization process, augmenting the political crisis.

g) *The controversial status of the High Representative and the different attitudes of political leaders towards it. Bosnians, for example, fear that Bosnia can not function under the Dayton constitution without international supervision as the Republic of Srpska will continue to hamper the functioning of state institutions*. On the other hand, they also fear that the Republic of Srpska will try to bring the secession threats to an end, if it is not controlled by the international community or if Bosnia and Herzegovina doesn't become strong enough. This assumption is, however, little realistic, since even the main supporters of the Republic of Srpska – Serbia and Russia – discountenance this version. Bosnian Serbs fear that the autonomy of the Republic of Srpska will be undermined by the international community action which will weaken and even dissolve the entities. This explains their strong reluctance to international community's efforts to build a strong state, increasing the functionality of the institutions at the central level.

3. Attempts to solve the crisis

The international community responded to this political crisis by holding high-level *negotiations* at Camp Butmir, which aimed at finding a compromise solution for constitutional reform in order to allow the closure of Office of the High Representative.

Although the current political crisis is caused mainly by the attitude of Serb representatives, a

conflict can be identified within the Federation Bosnia and Herzegovina, since Croats' main goal is obtaining territorial autonomy within a separate entity or in any other form. The subject is so sensitive that was not even addressed in the negotiations at Camp Butmir.

The EU and US representatives tried to identify at Butmir a set of provisions acceptable to all parties, based on the idea of accelerating Bosnia's progress to NATO and EU membership, the only aspiration that seems to transcend the ethnic conflicts and unite the three communities. It was therefore decided that the Constitution shall be amended so that Bosnia could have a representative in Brussels, to negotiate membership. This involves transferring more authority to the central state which will have the responsibility to negotiate agreements and to assume obligations. The second point of the package relates to compliance with the European Convention on Human Rights, the electoral system being expected to be reformed until the elections in October 2010. The third point of the package involves improving the functionality of the state by increasing the number of seats in legislative bodies, a measure which will enhance its ability to adopt the acquis communautaire, being, at the same time, attractive for the local politicians, since it provides more places for party representatives. Under this measure, the House of Representatives will increase from 42 delegates to at least 100 members. But, the cornerstone of the entire package is constituted by the issue of state property, whose resolution is required for the closure of the Office of the High Representative. Its difficulty is that the Bosnian parties will not approve the proposal for state property until the Republic of Srpska would not approve the constitutional reform and the Republic of Srpska will not do so unless it includes the termination of the mandate of the Office of the High Representative[11]. In other words, at Camp Butmir, the negotiations failed to resolve the crisis, and they rather resulted in establishing its sense. When international mediators tried to determine the leaders of political parties to accept the constitutional changes which are necessary for the closure of the Office of the High Representative, to determine them to accept compromise solutions, many of them chose to leave the negotiations.

Although, in exchange for accepting Butmir compromise package, EU and U.S. offered Bosnia the perspective of accelerating the process of receiving the right of free-visa movement within the Schengen area and promised to accelerate NATO accession process and its inclusion in the category of EU candidate countries, the negotiations didn't result in the commitment of the representatives of the Bosnian entities to implement the proposed provisions. Bosnian Serbs considered them too drastic and Muslims and Croats reckoned they were insufficient. Basically, no threat or promise from the US or the EU could convince the Bosnian Serbs to give up the rights and privileges granted them by the Dayton Agreement. The Serbs from the Republic of Srpska want to have full control over their destinies and fear that if they continue to transfer authority to the central government, Muslim Bosnians, who are more numerous, will get to have that control. The result consists in maintaining Bosnia and Herzegovina as a dysfunctional state, which stalled in its process of modernization. Perhaps the clearest message for that effect was delivered to Bosnia after its application for NATO Membership Action Plan (MAP), in October 2009; two months later, Bosnia's application was turned down as its membership is conditioned by the implementation of a set of reforms (especially those referring to the identification of all immovable defence properties considered necessary for future defence purposes[12]). The international community has decided to postpone discussions on the future of the institution of the High Representative for February 2010.

Subsequently, there was another series of negotiations, in April 2010, at US and EU initiative, negotiations that aimed to accord the interests of the political parties in dispute, but it ended in failure. The instability of the political climate in Bosnia and Herzegovina was confirmed by the report to the United Nations of the High Representative/EU Special Representative, which contributed to the preservation of the institution under its current form.

4. Repercussions of the political crisis on the relation between Bosnia and Herzegovina and EU

The political crisis in Bosnia and Herzegovina involves an important international component, not only through the controversy over the closure of

the institution of the High Representative but also from the perspective of the way in which the major international organizations, that were involved in military and civilian crisis management of this state, reported to the recent events. We refer, of course, to NATO and the EU. However, given the extent of the role the European Union in Bosnia's process of stabilization, democratization and modernization, our analysis will focus hereinafter on the impact that the political crisis in question has had on the relation between Bosnia and Herzegovina and the EU.

The relations between these political entities are complex and have evolved over time. The EU engaged in crisis management in Bosnia and Herzegovina, after the end of the 1992-1995 war, from a military, civil, economic, political, legal, etc. point of view. A chronology of the key moments that have marked their relations in the post-conflict period could be summarized as follows:

• 1995 – The Dayton Agreement is signed; it stipulates that the international community assumes the responsibility to rebuild the institutions of Bosnia and Herzegovina. The institution representing the international community in this state is the Office of the High Representative, which is overseen by the Peace Implementation Council (PIC);

• 1997 – After a serious domestic political crisis, the international community's High Representative in Bosnia and Herzegovina is granted the "Bonn Powers", which made him the main executive authority in this state;

• 1999 – EU proposes the implementation of the Stabilization and Association Process (SAP) for five Western Balkan countries, including Bosnia and Herzegovina;

• 2000 – European Council decrees that all Member States covered by SAP are potential candidates for EU membership; SAP is officially adopted by the EU and the Western Balkan states;

• 2001 – First year of CARDS program (Community Assistance for Reconstruction, Development and Stabilization), established specifically for the states covered by SAP;

• 2002 – Paddy Ashdown became the first person to play the double role of High Representative/EU Special Representative in Bosnia and Herzegovina;

• 2003 – The Summit of Thessaloniki – the EU offers to Western Balkan countries the accession perspective; the feasibility study of this project is published;

• 2004 – EU adopts the European Partnership for Bosnia and Herzegovina;

• 2004 – EUFOR Althea takes over NATO SFOR mission;

• 2005 – The negotiations for Stabilization and Association Agreement began;

• 2006 – The negotiations for the Stabilization and Association Agreement are completed, but it is not implemented because of insufficient reforms;

• 2008 – The Stabilization and Association Agreement is signed after police reforms;

• 2008 – Prud Agreement; the main political leaders agreed to undertake reforms on state property, the census law and the Constitution in order to make Bosnia and Herzegovina comply with EU accession requirements;

• 2009 – Valentin Inzko takes over the role of High Representative/EU Special Representative in Bosnia and Herzegovina;

• 2009 – Negotiations at Camp Butmir.

EU role in Bosnia and Herzegovina evolved from crisis management to European protectorate. It was also has involved in establishing and strengthening a state which was looked upon as a future member of the Union. Is the first time when EU is participating in the process of construction of a future member state (the same is happening in the case of Kosovo). This phenomenon is visible through the duplication of the Office of the High Representative of the international community with the one of the EU Special Representative; the purpose is to close the former and to replace it with the latter, when the security, political, social and economic context would permit; the joint institution is actually meant to make the transition from the international community's protectorate to the European one. The difference between the two positions lies in the extent of the competencies implied. High Representative mandate is more powerful than the one of the EU Special Representative because the former has the so-called "Bonn powers" which give him the right to drive the decision-making process whenever local leaders prevent the application of Dayton provisions and, in extreme cases, to impose laws and to dismiss officials. EU Special Representative would not have "Bonn Powers"; he will have a

more institutionalized, but less influential position in a multilateral context. He shall coordinate all the dimensions of the EU involvement in Bosnia and Herzegovina – EUFOR, EUPM, EU Delegation etc. which would make EU policy towards it more coherent and effective. Also, the closure of the Office of the High Representative would amount to the fact that Bosnia and Herzegovina is a self-governing state. The evolution of EU role in Bosnia and Herzegovina could be summarized by the words of Paddy Ashdown, who, speaking about changing the mission of the High Representative, described the new strategy as follows: "replacing the push of Dayton with the pull of Brussels"[13].

However, this will not happen unless Bosnia meets all the conditions required to close the Office of the High Representative and the current national political climate doesn't offer reasons for the completion of his mandate. In addition, the latest report of the High Representative/EU Special Representative[14] argues that Bosnia and Herzegovina's progress in adopting and implementing the necessary reforms has been limited. He also observed little progress not only in meeting the conditions required by PIC for the closure of the Office of the High Representative, but also in the constitutional reforms agreed in the Prud process, at the EU and US initiative. The same document indicates that Bosnian authorities failed to implement the ECHR decision (December 2009) on the right of minorities to participate in the electoral process. Also, security has continued to be provided by the EU military mission and the overall political climate in Bosnia and Herzegovina continues to be negative.

Bosnia and Herzegovina was also warned about the implications of the current political crisis within the EU-Western Balkans Summit, which took place at Sarajevo, in April 2010. EU renewed its commitment to the countries in the region, but warned that Bosnia must come out of the international protectorate in order to meet the minimum conditions of accession.

Therefore, the relation between Bosnia and Herzegovina and the EU is paradoxical. Firstly, after having been established the post-war stable security environment in this state, the role of the High Representative/Special Representative and therefore, of the EU, was to assist Bosnia and Herzegovina in the process of building democratic institutions to enable it to self-govern

and to progress to European integration. The main challenge for the EU has been to improve governance, to create a self-governing Bosnia and Herzegovina. Nevertheless, paradoxically, the protectorate of the international community and of the EU has brought stability in Bosnia, but it has also contributed to maintaining the dysfunction in the political field. Whenever the political process was hindered by the lack of consensus, coordination between the political representatives of each constituent ethnic community or by their divergent interests, the intervention of the High Representative/Special Representative permitted its release.

Moreover, after 15 years since the signing of the Dayton Agreement, Bosnia and Herzegovina has a constitution which maintains the segregation between ethnic communities in order to maintain peace and prevents the emergence of an integrated political system; thus, Bosnia has no Supreme Court, no independent judicial system (it operates with three law systems and four criminal codes), was convicted by the ECHR for having an ethnically discriminatory Constitution. Although the political and administrative organization of state proposed by the Dayton Agreement sought to develop a culture of cooperation between the three dominant ethnic communities to ensure the normal operation of state, the federal organization, the triple presidency, the three bicameral legislative bodies contributed not only to maintaining ethnic identities but also to preserving the reluctant attitudes they have on each another. All these are problems waiting to be solved by national authorities.

The main repercussion of all these factors on the relationship with the EU is *the delay of Bosnia and Herzegovina EU accession process* as it is the Western Balkan state whose prospects of accession are the most remote. The reason for this is the fact that the political stalemate causes a number of consequences which finally lead to the postponement of the moment when Bosnia and Herzegovina would achieve EU membership.

Thus, Bosnia and Herzegovina must become a self-governing state in order to become an EU member state. But, the impossibility to close the Office of the High Representative and its replacement with the EU Special Representative demonstrates that Bosnia still needs the intervention of the international community to

maintain a climate of stability and to unblock political impasses. In order to close the Office of the High Representative, Bosnia must adopt and implement a set of reforms, which would amount the completion of the conditions imposed by the Dayton Agreement and the termination of High Representative's mandate. Basically, EU membership is not compatible with such a great presence and influence of the international community since the first of the Copenhagen criteria relates to the need for the candidate state to have stable institutions, guaranteeing a mature democratic system, rule of law, respect for human rights and minority protection. However, another criterion requires that the candidate state should be able to assume the obligations of EU membership, in particular, the adoption of political and economic objectives and the ones of the monetary union. Given the fact that, on the one hand, the political climate in Bosnia and Herzegovina does not allow the closure of the Office of the High Representative and, on the other hand, political leaders still have an aggressive nationalist discourse, which prevents the proper functioning of institutions, we consider that this state does not meet the basic, minimum membership conditions.

Perhaps the most eloquent example in this respect is offered by the recent internal political events; we refer to the failure of the Bosnian Parliament to pass the Census Law because its proceedings were boycotted by the deputies of the main Bosnian Serb party, despite the fact that EU representatives warned that this could affect the position of Bosnia and Herzegovina in the international community. According to them[15], the boycott will lead to the isolation of Bosnia and Herzegovina, since it will not participate in an exercise that will be carried out simultaneously in the entire Western Balkan region as well as in the EU in 2011. Census Law was not adopted because of the different interests of the two entities making up the federal state of Bosnia and Herzegovina. The last census was carried out in 1991, when Bosnia was still part of Yugoslavia; any further attempt to make a census led to the emergence of serious tensions in the relation between Serb and Bosnian political leaders, founded on the major changes that occurred in Bosnia and Herzegovina's demographic map after the 1992-1995 war, marked by ethnic cleansing and large population movements. Authorities from Banja

Luka consider the relative ethnic homogeneity of the Republic of Srpska as a basis for a future secession from the federal state of Bosnia and Herzegovina. Moreover, they want a census to take into account population's ethnicity and religion. On the other hand, Bosnian Croat leaders want a purely quantitative census according to EU standards, a census that shall not take into account ethnic and religious factors. Thus, there would not be identified data to establish a clear ethnic map of Bosnia and Herzegovina that would mean accepting the consequences of the ethnic cleansing or the predominant Serb character of the Republic of Srpska, which would justify their secession efforts. Moreover, the Federation of Bosnia and Herzegovina reckons that the Serbian predominant character of the Republic of Srpska can only represent the result of the ethnic cleansing carried out during the 1992-1995 war.

Thus, one could notice another obstacle to the EU accession of Bosnia and Herzegovina. The current political crisis is based on a territorial dispute, identified in the Republic of Srpska's desire for secession, which maintains a climate of political instability, coupled with the aggressive political speech of Serbian-Bosnian political leaders to the Croat-Bosnian ones or to the High Representative/EU Special Representative. Croatians and Bosnians support the idea of a more centralized state of Bosnia and Herzegovina, which would both decrease the level of the two administrative entities' autonomy and increase the chances of EU accession. But the latest report of High Representative/EU Special Representative does not provide indications of progress in this regard. He considers that the political environment of Bosnia and Herzegovina hasn't had a positive dynamic; on the contrary, there were registered "legal and political actions against state institutions, competencies and laws, mainly by the Government of the Republic of Srpska and challenges to the authority of the High Representative"[16]. All these were accompanied by an anti-Dayton rhetoric questioning Bosnia and Herzegovina's sovereignty and constitutional order. Moreover, the "divisive" political discourse, to which High Representative refers clearly indicates that Bosnia and Herzegovina does not have a single representative to negotiate his accession, that it hasn't a unique set of national interests to promote within the Union. In addition,

given the secession ambition of Bosnian Serb leaders, Bosnia and Herzegovina can not be considered a stable state as there are opinions (including the former High Representative – Paddy Ashdown) according to which the disintegration of Bosnia and Herzegovina is not an impossible option. Moreover, after the International Court of Justice gave a favorable notification on Kosovo's declaration of independence, there have emerged voices arguing that the leaders of the Republic of Srpska could use this as a precedent for its secession from Bosnia and Herzegovina. Nonetheless, in our opinion, that there is very little chance that Bosnian Serbs would risk losing their main supporter – Serbia. Even more, the chances are lower as the leaders in Belgrade do not support Bosnian Serb secession ambitions.

Plus, this political impasse permits neither the adoption nor the implementation of the reforms required for EU accession. Political leaders seem to have different priorities in this respect or they simply can not agree on the future of the state they represent. Census Law, the reform of the Constitution, of the governance system etc. are some relevant examples in this respect. We could notice therefore that Bosnia and Herzegovina is captive in a crisis spiral, in a vicious circle whose only result is the delay of the accession process. The lack of reforms favors the maintaining of the disagreements between political leaders of the two entities and the lack of consensus between them makes the adoption of the necessary reforms impossible. Thus, the need to maintain the Office of the High Representative is justified, but its presence is incompatible with the EU membership of Bosnia and Herzegovina.

At the same time, this state of affairs has another impact on the relations between this state and the EU. This time we shall refer to the repercussions on the Union in particular. Political stalemate and instability in this area equals with a failure of EU policy on this country too. EU's involvement in Bosnia and Herzegovina is subsumed to EU's strategic interest to ensure stability on its borders, but also to the objective of acting as a relevant actor on the international scene. As a result, EU has assumed increased responsibilities in Bosnia, both militarily and civilian, as the US presence has declined. Basically, ensuring long-term security and stability in the Western Balkans, including Bosnia and Herzegovina, is part of EU efforts to ensure its own safety, given the geographical proximity of the region. In order to do so, the Union has had two main instruments – the European Security and Defence Policy (ESDP) and the Enlargement Policy. After applying these tools, one could conclude that EU has demonstrated, indeed, that it is capable of performing, engaging and supporting a substantial military force, even if the security environment was relatively positive when it started its involvement. In this regard, we shall also mention that EU has relied heavily on its soft power, considering that the perspective of accession will be a strong enough impetus to foster internal cohesion between the political leaders of Bosnia and Herzegovina and to motivate them to strive to modernize their state. EU strategy in Western Balkans, inclusively in Bosnia and Herzegovina, was similar to that applied in other countries but it didn't into account the ethnic, religious and political peculiarities of Bosnia and Herzegovina.

At the same time, another shortcoming of EU approach lies in the different position of the two entities to the EU membership project. From this perspective, EU membership is not politically neutral as it is perceived positively by the Croatian-Bosnian, but not the same is happening in the case of the Bosnian Serbs. This is because achieving EU membership supposes the adoption and implementation of a set of reforms that will lead ultimately to strengthening the central institutions of state authority while weakening the autonomy of administrative entities, which is contradictory to the secession aspirations of the Republic of Srpska. Therefore, even if the European Union puts together under a sole institutional and political framework a wide variety of cultures, ethnic entities in Bosnia and Herzegovina do not seem to see this framework favorable to solving their disputes. Moreover, the set of reforms required by EU involve policy issues disputed by the political leaders of the two entities (police reform, constitutional reform), which make them difficult or impossible to be adopted. For this reason, the efforts to reform the institutions of Bosnia and Herzegovina were unsteady and superficial, contributing to the current state of the political climate. As a consequence, EU is expected to change its strategy towards Bosnia and Herzegovina.

Conclusions

Political crisis in Bosnia-Herzegovina is one of the most recent crises which have marked the destiny of the Western Balkan region. The crisis has a complex nature which is determined primarily by political and social factors but also by a combination of them. Social causes of the crisis were easily reflected in the political environment, being institutionalized. The crisis hasn't yet reached to an end. National and international leaders have failed in finding a compromise solution acceptable to all parties involved in this crisis. Also, given the massive presence of the international community in Bosnia, it is highly unlikely that the crisis should reach the stage of armed conflict, even if the crisis state is reflected in the society and, vice versa, the political crisis could be considered a reflection of a crisis that took place firstly at the society's level.

The solution turns out to be challenging. Negotiations at Camp Butmir demonstrated that the benefits offered by NATO and EU to Bosnians, Croats and Serbs in Bosnia-Herzegovina aren't enough to determine them to accept a compromise. A viable solution could be reached only in the long term, after having addressed other structural vulnerabilities. It still required the active involvement of the international community for maintaining peace, stability and security in Bosnia.

In conclusion, the state of political crisis that Bosnia and Herzegovina is crossing currently is translated into an unstable political climate, which causes the blocking of state institutions and of the decision-making process. This is particularly important because Bosnia-Herzegovina is the point when it must adopt and implement a set of reforms to continue its progress toward EU membership. Although the negative political climate affects the overall position of Bosnia-Herzegovina in the international community as it represents a sign of its instability, of insufficient development and modernization, its relation with the Union bears one of the most serious repercussions. The reason for this is the fact that the political impasse has been delaying the accession process in many ways, but also the fact that it has an impact on the Union too. The consequences are even more serious if we take into consideration the fact that the EU subordinated the institutions of to the international community in Bosnia-Herzegovina, assuming the role of supervising the process of modernization, a role emerging from its status of relevant actor on the international scene. The political climate in this state can be interpreted as a sign of EU failure too.

It would be premature to speak, for the time being, about the secession of the Republic of Srpska or about the possibility of a new conflict outbreak in the Western Balkans, but the implications of the current political crisis should be considered as warning signals on both a relative stability in the region and the need for consistent, uniform, specialized, durable approach of this region. Disintegration is unlikely for the time being as the remembrance of the implications of an armed conflict should not be underestimated. Furthermore, Bosnia and Herzegovina is still the only viable organizational form that allows both entities to pursue their national interests. Paraphrasing the current High Representative/ EU Special Representative, the moment we have analyzed above is a crossroad at which political leaders will have to decide whether they are prepared to meet the conditions for the closure of the Office of the High Representative and the ones required for further Euro-Atlantic integration. Also, the recent political crisis hasn't determined the cessation or the regress of the accession progresses, but just their delay. One should not omit the fact that Bosnia and Herzegovina has made progress towards the achieving the right of Bosnian citizens of free-visa traveling in Europe. The latest progress has been constituted by adopting a set of regulations on the organization and systematization of the Interior Directorate for Coordination of Police Units in Bosnia and Herzegovina[17].

Therefore, the challenge in this case lies in the identification and implementation of two solutions. The first one concerns the constitutional reform because it does not comply with European standards, constituting an obstacle to accession, and, the second one refers to the reform of the institution representing the international community in Bosnia-Herzegovina, since it is obvious that it isn't adequate anymore to the political reality and ambitions of this state.

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1 According to the article III, from the Annex 4/Dayton Agreement, the institutions of Bosnia and Herzegovina are responsible for the issues referring to: a) Foreign Policy; b) Foreign trade policy; c) Customs policy; d) Monetary policy; e) Finances of the institutions and for the international obligations of Bosnia and Herzegovina; f) Immigration, refugee and asylum policy and regulation; g) International and inter-entity criminal law enforcement, including relations with Interpol; h) Establishment and operation of common and international communication facilities; i) Regulation of inter-entity transportation; j) Air traffic control.

2 According to the official information provided by the European Commission, available on-line at http://ec.europa.eu/enlargement/potential-candidates/bosnia_and_herzegovina/financial-assistance/index_en.htm.

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Cristina BOGZEANU (cristina_bogzeanu@yahoo.com) is a scientific research assistant at the Centre for Defence and Security Strategic Studies, from „Carol I" National Defence University.

SECURITY RESOURCES IN TERMS OF DURABLE PRODUCTION AND CONSUMPTION

Francisc TOBĂ, Ph.D.

Security resources are one of the key elements which enable the strategic security objectives of a nation to be accomplished. The evolution of the security environment and of state models has also determined the reconfiguration of the security resources type. The durable and sustainable development is the only viable option for the prospect of generating the required resources assigned to the national security. One of the fundamental premises of the durable and sustainable development is the fostering of durable production and consumption patterns.

Key-words: security resources; durable and sustainable development; durable production and consumption.

After 1990, the security resources issue has been superficially approached by the majority of the Romanian security strategies being usually referred to as "the provision of the required resources to fulfill this role"[1].

"The National Security Strategy of Romania" (2007)[2] states in the end that "the main resource to achieve this program is the political will" and the fact that, equally important, the human resources currently provided by the society and the economical and financial resources generated by the economy have reached the necessary critical mass and can guarantee the achievement of the objectives.

In fact, in the mid 2010, Romania is in the situation in which the provisions of this document relative to the national security are mere declarations of intention for the following reasons:

• **The political will** as an expression of the good functioning of the political system in conjunction with the people's will turns out to be just a wish and not a reality and, in most of the cases, government's lack of efficiency (concerning the management of the nation, in general) is explained or justified by "the lack of political will".

• **The potential of the human resources** is seriously affected, on the one hand, by the migration of the workforce (approximately four million people) in other EU countries and, on the other hand, by the severe sub-financing of the education and health systems.

• **The economic and financial resources** prove to be seriously affected partly by the direct and indirect consequences of the global financial-banking depression and by the political system's lack of performance in the national resources management.

We can consider that the capacity of providing the security resources necessary for the achievement of the objectives stipulated in "The National Security Strategy of Romania" (2007) is seriously diminished due to both objective and subjective reasons.

For the purpose of our approach it is very important to identify the role assumed by the state in national security management. The current doctrine trends or global economy schools have different approaches not only on the role of the state in the social and economic fields but also on national security, which is of utmost importance for our study. The assisting state, the regulatory state or the minimal state seem to be concepts which are less capable to manage the evolution of the globalizing economic processes and, particularly, to provide a performing response to the emergence of the new wide range of national, regional or global vulnerabilities and risks.

The latest geopolitical developments have

demonstrated the fluidity of the society-state relation to the extent that when the social-economic evolution is secured, the society prefers a minimal presence of the state but, when the national security – under its different expressions – is jeopardized, citizens request the presence of a state with a higher intervention potential and more capable to re-establish the initial security conditions.

Foreign Policy Romania[3] published several opinions regarding the following question: "What's left of the Romanian state nowadays?" The approaches provide some explanations on the performance limits of Romania. These are even more relevant as engendering security resources in a globalized world has become a question of **conceptual adjustment** of the role and place of the state in the society architecture.

We consider that the latest version of the "The National Security Strategy of Romania" (2007) is of utmost importance as it sustains that "the **human resources** currently provided by the society and **the economic and financial resources** supplied by the Romanian economy have reached the required critical mass and are, at this moment, in the condition to guarantee the achievement of the objectives" (our emphasis). Further, the document reassumes that "nevertheless, Romanian citizens are the main beneficiaries of the security policy and, therefore, they have the right and duty to contribute actively to its daily development" (our emphasis).

The objectives to which "The National Security Strategy of Romania" (2007) refers to have to cope with reality that is constantly making the national security gradient more vulnerable. Romania is experiencing an accelerated process of the state de-legitimization on the background of generalized corruption at the state or justice and home affairs institutions level, of the loss of public confidence in the national institutions and the increasingly obvious refuse to participate in the "city life". Under these circumstances, "citizen's active contribution to the everyday development of security" is undermined by the state itself, through its most representative security management institutions.

Over time, security resources have been directly dependant on the existing state model. The current economic and financial crisis, for instance, is the result of the state turning into **virtuality**[4].

The historical evolution of state, determined by a series of parameters, among which we shall mention the level of development, economic governance and society culture has promoted a few patterns among which we would mention **the Anglo-Saxon pattern** (more or less promoting the free market), **the European French pattern** (regulatory and based on government involvement), **the Venezuelan-North Korean pattern** (of state property), **the Chinese pattern** (dual economy, managed by the state), **the Israeli pattern** (entrepreneurship) or a combination of all these[5].

The reality imposed by the globalization conditions and consequences requires a fundamental reconsideration of the state models. The market fundamentalism, as defined by George Soros, has deteriorated the commercial competition and re-listed the nations' wealth. In 2009 we talked about the "market failure" and about the need for "the state intervention" and, at present, after the global social and economic involution, the **state failure** is the new subject of debate.

The key question is how should we reconsider the state-economy relation to build up the premises for a sustainable development and, implicitly, to maximize the potential of generating the security resources?

Richard Rosencrance identified three historical state models: the territorial state, the commercial state and the virtual state, to which are contemporary and which represents the engine of globalization[6].

The territorial state considers that the natural resources are the main condition of development. The global evolution after the second half of the 20th century has demonstrated that "the economic neo-colonialism" plundered the national resources of certain states without permitting their development. We shall note that Japan became a great power without having substantial natural resources, by promoting the economic espionage and material recycling at a national scale.

The commercial state achieved national welfare by promoting domestic production and an aggressive export policy. World leaders have thwarted this process by instituting discouraging custom barriers and careful trade balance monitoring.

The virtual state appeared as a solution based on the increased creativity of human resources and

on capital mobility. The large corporations have identified with maximum efficiency the solutions for turning into good account the cheap and qualified human resources of the less developed countries. Transnational corporations have become the globalization engines by remodeling, for instance, the concepts of "gross domestic product" or "national economy". The effects of the "bum capital" remain even now a major international commercial law issue, causing damages to the economic-financial capacity of certain vulnerable nations. The virtual state – inspired by the global corporatist experience is focused on attracting investments, production achievement beyond the national borders and maximizing the human resources potential. Human resource has become the hard currency of the virtual state[7].

The advanced globalization, as viewed by the virtual state, focuses on education and professional training oriented to the world and part of the home market requirements[8].

The advanced human resource will use the production infrastructure of other countries and, at the same time, the natural resources have become more and more an environment security issue, a problem consisting in re-establishing the balance relation between the human being and the environment.

A legitimate question we should raise today is what kind of a state we are promoting in Romania? Depending on the state model that we opt for, we could also identify the processes that can generate the security resources in accordance with the approached security concept. The EU membership is limiting the option for a territorial state model since the EU is founded on the principles of free circulation of the capital and of the workforce. The commercial state solution does not seem viable for Romania because the potential for the achievement of a competitive home production has been reduced to damage values by the economy de-structuring under the "strategic privatizations" slogan and by the privatization of a large amount of the natural resources. Real estate business has eliminated the majority of the research/development institutions from the economic environment and the specialized personnel wend abroad. The brain migration at the national level was the consequence of the decisions taken in the economic field and not the expression of researchers' personal will.

A very good example of a bad management of the highly qualified human resource was the signing of the Contract no. 0115RO, on 15th of April 2004, by and between Microsoft Ireland Operation Limited and the Romanian Government, by which "the Romanian party has granted the American party the right and the obligation to arbitrate the Romanian IT market including the assignment of the national intellectual, creative and innovating resources in the computer software development and publishing field"[9].

We can state that nowadays, government's strategic decisions regarding the place and role of the state are not favorable, at a large extent, to the achievement of Romania's national strategic objectives.

For the purpose of our study, we consider that the following definition of the national security concept would be useful: **national security** is a status and process parameter inherited and accumulated by the nation that can be generated today and in the future, as well as all the national and collective capabilities potential required for a performing management of the internal and external vulnerabilities, risks, threats and aggressions of any kind.

Thesis no. 1: National institutions, communities and each citizen will act in the national security field in accordance with the principle of precaution and balance between the objectives and the available resources **having as a final purpose the preservation of the fundamental identity aspects and the national values as well as the provision of the sustainable development conditions**.

Thesis no. 2: National security is no longer the exclusive state monopoly and its effective management is based on a public-private partnership and an advanced communication, in accordance with a series of modern regulations relating to the cooperation with the academic and scientific environment, business environment, private suppliers of security services and the society as a whole.

If we agree, on the one hand, that national security is a processuality and, on the other hand, that the fundamental objectives are **the preservation of the national identity and values as well as the provision of the conditions for a sustainable development**, the problem of generating the national security resources

is intrinsically determined by the social and economic processes of the Romanian nation.

Within the framework of this processuality, we propose to approach the problem of preserving and generating security resources in terms of **durable production and consumption**.

In our opinion, the durable production is rather a problem of eco-design and eco-engineering and the durable consumption rather represents an issue related to lifestyle, education and civic attitude. Global economy has to give up gradually to carbon based economy and choose eco-economy, the so-called "green economy".

As the financial resources and the human resources quality tend to diminish or, in the best case scenario, to stagnate, it is obvious that only the proactive approaches represent the solution for generating the premises for a durable/sustainable development and, consequently, the security resources required by the national security. The prevention costs are ten times cheaper than the costs to repair a situation. **Prevention must replace therapy**. Prevention requires a reconsideration of the priorities list of the national political agenda. Pollution and waste quantity have acquired a dynamics which no nation will be able to control at a certain moment in time unless the necessary resources are allocated "upstream" the manufacturing processes, respectively the fields of research, design and environment technology.

We can state that, by comparison, a nation's health condition – one of its key security resources – is directly dependant on the children, youth and adults life style, those who express their option for a an active form of human existence which generate vitality. Studies have demonstrated that, at a certain moment in time, the state will no longer be capable to cover the medical assistance costs of its own citizens and the solution which currently largely envisaged is *"**prophylaxis**"*[10].

Over the last two decades, we have reached the conclusion that the material resources play a decisive role in the failure of the actual economy, identified by the exaggerated natural resources consumption. Economy models and the evolution of the globalization processes justify our affirmation that if socialism collapsed because the prices did not reflect the economic reality, capitalism will collapse because the prices do not reflect the environment reality. An analysis of the manufacturing processes by means of which

goods are achieved will lead us to a surprising conclusion: "at present, more that 90% of the material resources from the environment are not found in the final products"[11].

The Wuppertal Institute[12] set itself to promote researches focused on sustainability principles, significant challenges management correlated to the sustainable/durable development such as the climatic changes or the resources depletion.

Experts in the environment security filed consider that we can sustain and promote durability if products are manufactured and purchased in an efficient manner, by observing and protecting the natural environment and if their packaging doesn't produce waste and they are not transported on long distances.

The Club of Rome elaborated a report entitled "The limits of growth" (1973), which is a warning on the dependencies between the unlimited economic growth in an environment which has limited natural resources, on the one hand, and the state of the environment and population's health, on the other. The report investigated global processes such as the much excessively rapid industrialization, the termination of non-regenerative resources, the increase of food stocks and the natural environment damage.

"Agenda 21", issued on the occasion of the Earth Summit in Rio (1992), states that "the main cause of the continuous deterioration of the global environment is the non-durable consumption and production especially of the industrialized countries which is a reason of concern as it increases the poverty rate and the unbalances"[13].

Studies regarding the nations' security status highlighted that the internal security issue – public or communitarian – becomes a priority on nations' agenda. Classic military aggressions have become less probable while social internal movements caused by the decrease of the standard of living or the limited access to the people vital resources turn into processes that are difficult to be managed. These internal vulnerabilities of a nation are usually the direct consequence of incorrect strategic decisions on the management of the nation's vital resources.

In Romania, the privatization of some of the vital services for the nation – such as telecommunications, electricity, heat, water or gas supply- have generated a private monopoly which enable the price rise for consumers beyond

the limits of sustainability. Personal security has become the everyday concern of the citizens and the participation to the efforts of ensuring national security turns out to be, under these conditions, a utopia.

The definition of durable/sustainable production and consumption was advanced at the Oslo Symposium on the durable use of the resources organized by the Environment Department of Norway (1994), as follows: "the use of services and corresponding products that would meet the basic requirements and improve the quality of life while the use of natural resources, toxic substances, wastes and pollutants emissions are reduced to minimum over the life cycle of the service or product so that the future generations requirements should not be jeopardized"[14].

In 1999, the United Nations Organization issued "The Guide for the Customer's Protection" which includes a chapter entitled "The Promotion of the Resources Durable Consumption". The document sustains the idea that the customers' preferences should be guided towards ecological products which require a small quantity of resources and are "ecological friendly" given their smaller impact on the environment. The economic growth must be correlated to the maintenance of the natural ecosystems balances and with the natural potential of recovering the resources.

The European Communities Commission approached the issue of durable consumption and production in a document issued in 2008[15]. The document points out that the big challenge of the "Lisbon Strategy" is the inclusion of the durable/ sustainable development among the European Union's essential objectives. This political-social approach refers directly to the Europeans' way of living, lifestyle in which what we produce and consume determines the global heating, the pollution dynamics (in various forms, some of them of great subtlety, such as the electromagnetic pollution), the excessive use the raw materials, the depletion of the natural resources and the ecosystems potential.

The European Communities Commission document considers that durable production and consumption have become a priority of utmost importance for the evolution of the planetary civilization and estimates that these are components of the global economy with the highest impact on the natural environment.

The plan of action proposed by the European Communities Commission advances a possible unitary framework for the approach of this issue and a reconsideration of national models regarding production and consumption. At this level, the idea of realizing "environment friendly" products is often sustained.

The durable/sustainable development imposes an integrating approach model of the immediate objectives and the strategic ones, local actions and the global ones, economic development and the environment security problems. The success of such a model can be only the result of the private-public partnership based on a stimulating set of political, economic, social, educational and civic attitude principles.

EU's strategy for a durable/sustainable development is promoting seven areas of actions, as follows:

1. Climatic changes and clean energy;
2. Durable transportation;
3. **Durable production and consumption***;
4. Preservation and management of natural resources;
5. Public health;
6. Social inclusion, demography and migration;
7. Poverty and global challenges.

EU elaborated in "The Lisbon Agenda (2000)"[16] an extremely ambitious strategy regarding the durable/sustainable development. The three pillars of the Lisbon Strategy – economy, competitiveness, social inclusion and environment security – have an out-of-step evolution in the framework of the European Community realities. Competitiveness has become the main objective – often distorted by national interests – and the strategy of durable /sustainable development is more and more identified only with the environment pillar of the Lisbon Strategy.

On the occasion of the World Environment Day (on 5th of June), The Bucharest Ecology University organized a session of scientific communications to approach the following subject: "Is there a durable development possible in Romania?" Professor Mircea Duțu, Ph.D., rector of the Bucharest Ecology University, presented the paper "The Stockholm Project and the Prospects of Durable Development" which sustains that "the general, basic solution of the public-private partnership, with its consequences (inclusively preserving the

regulation and institutionalization of the public ecological interest) had to give up totally and definitively in front of the concept referring to the assimilation of environment protection as a minor part of the market economy, on the one hand, and, on the other, to the refuse to give a juridical regulation and resolution of ecological problems through the self-adjustment of the mechanism"[17].

In Romania, the Ministry of the Environment and Forests has to assume the role of "national manager" of the national economy recalibration processes to durable production and consumption models. All the European funds should be accessed in this field since they are non-reimbursable and in this way, the pressure on the national budged would be reduced[18].

Currently there are three projects referring to the durable production and consumption:

• **LIFE** – a project focused on testing in Romania the "industrial symbiosis" (successfully implemented by Great Britain through a government program) which is proposing the innovative use of the industrial waste by building a network of companies which have the role to collect and process the waste and the secondary products of other companies. The industrial symbiosis should imitate nature where natural systems are processing the "waste" generated by certain sub-systems within the "production" actions of other sub-systems. The waste generated by a system becomes raw material for other systems.

• **Ecologic Public Acquisitions** – training 40 public buyers in the public ecological acquisitions field by introducing certain ecological criteria in the ecological tasks reviews. In the end, a "green" buyers' network will be developed.

• **Ecological Market Development** – producers and buyers are educated in the respect of the advantages of producing and buying ecological products. There will be two major components: EcoTechnoNet and GreenProcura.

Durable Production

As previously mentioned, the performance in the field of durable production and consumption has its roots in the design stage of each product or service. In the European Communities Commission Communication of 2008, which I have referred to earlier, a series of concrete actions were identified in connection with the durable production and consumption, such as:

• The Directive on Technological Design – which defines the ecological design standards for the manufacture of products requiring a large quantity of energy;

• Product labeling – which refers to the energy consumption labeling, an information enabling the consumer to select the products with low energy consumption;

• Stimulating Actions – states will be free to foster stimulating actions to encourage the choice of products with high energetic and ecological performances (standards of state aid are accepted).

The author of the Industrial Engineering Handbook[19], H. B. Maynard, states that 75%-80% of a product's performances are achieved in the design stage, the balance being obtained in the technological and production stages. This approach must certainly apply to what we call nowadays "eco-system" or ecological design which has to re-assume that natural resources are limited and the waste recycling potential within the natural eco-systems is at a critical level.

The European Parliament and the European Council issued the Directive 2009/125/EC dated October 21st 2009, on "the setting up of a framework to establish the ecological design requirements applicable to the products with energetic impact"[20].

The Directive states that the products with energetic impact have an important role in the natural resources and energy consumption at the Community's level. The ecological design must become a fundamental component of the Community strategy on the integrated product policy, as part of the proactive, preventive approach of the durable/sustainable development. The Directive makes a holistic approach of the environment security, the social, economic and public health impact. The Directive is not applicable to the means of transportation designed for people and goods although they are, at a large extent, responsible for the global carbon dioxide emissions.

Developed countries invest massively in the research and development of green technologies offering them afterwards to the countries with a less developed market economy. This explains why certain dynamic countries like China, for instance, are somehow reluctant to pay the direct or indirect costs of the durable/sustainable

development projects. Obviously, the national economic interests are very little harmonized with humanity's general interests regarding its durable development.

The ecological design parameters proposed by the Directive 2009/125/EC are the following:

• choice and use of raw materials;

• manufacture;

• packing, transportation and distribution;

• installation and maintenance;

• use;

• end of life, referring to the condition of a product which reached the term of the first use until its final elimination.

The analysis of these parameters clearly shows that the design process must take into consideration the national realities correlated to the access to raw materials (with their associated prices), the access to modern technologies, transportation and maintenance infrastructure and long-term operation with the possibility to recycle and re-use the products which have been released from service.

The frequency of purchasing and the number of products, the product type and manner of operation are determined by the transition from a life style based on consumerism to another one focused on sustainability.

Durable Consumption

Studies have demonstrated that 30%-40% of the environment problems are directly or indirectly caused by the predominant consumption models[21].

Durable/sustainable resource consumption implies the preponderant use of regenerating energy at a rate that would enable the resources' recovery by an increased energetic efficiency.

Erik Assadourian[22] states that, in order to prevent the collapse of human civilization, we have to reconsider the ruling cultural models, a process would be carried on over decades and which requires the involvement of education institutions, business environment, governmental institutions, media and social movements. Studies have currently demonstrated that mankind's consumption exceeds 30% of the natural environment potential, leading to the frailty of the ecosystems mankind depends on. If, for example, all the inhabitants of the planet had the American people's standard of living, we would need the resources supplied by four planets of Earth's size.

The durable consumption issue must be approached as a system of systems with specific purposes and interdependencies. Climatic changes, for instance, are just one of the symptoms of the excessive consumption levels. Air pollution, the yearly average loss of 7 hectares of forests, soil erosion, the 100 million tones of hazardous wastes produced every year are the result of the corporatist policies to produce more and cheaper. Among other things, the consequences for the consumers and the producers are the generalized obesity and the increase of daily stress. All these issues are approached sequentially, separately, even if the interdependencies are obvious and the roots are found in the aggressively promoted consumerism models.

Erik Assadourian asserts that there are studies which demonstrated that if the current consumption is maintained and if there is the requirement to replace the fossil resources for the energy production, in the next 25 years, we would have to allocate funds in order for building 200 square meters of photovoltaic solar panels every second, plus 100 square meters of heat solar panels every second, plus 24 wind turbines with 3 Mw installed power every hour. All these should be realized continuously for 25 years[23].

The first orientations towards consumerism within the dominant institutions of different cultures – from the business environment and government institutions to mass-media and education institutions – appeared in the early 90's. Major discoveries of the daily life concurrently appeared in the last half of the past century, such as television, sophisticated publicity techniques, transnational corporations, franchises and internet; all these facilitate the spread of consumerism at a global level.

Media has played and is still playing a major role in the promotion of consumerism; media is an influential mean of transmitting cultural symbols, standards, myths and success stories. In the year 2006, about 83% of the world population had access to television and 21% had access to internet facilities.

The government is also an institution that models the consumerist consumption and a very good example in this respect is given by the former US president, George W. Bush, and the former UK Prime Minister, Tony Blair, who, after

the September 11th 2001 attacks, encouraged the citizens of their own countries to go out shopping without fear or to continue to travel by national airline companies. There are enough examples to demonstrate governments have often been the promoters of certain companies' interests by enacting rules in their favor. In 2008, the donations granted by the business environment for the US presidential campaign amounted to approximately 3.9 billion USD (representing 71% of the total contributors) and approximately 2.8 billion USD were spent for political lobby (86% of the total amount allocated to political lobby)[24].

Education also plays an extremely important role, especially when the business environment becomes one of the most influential sponsors of the academic environment.

Analysts preoccupied by the consumerism field have reached the conclusion that the most important instrument to change a system is the modification of the system's model. In the peculiar case of consumerism, it is necessary to change the convictions that the accumulation of more goods equals to satisfaction and happiness, which a continuous growth is beneficial, that human being is separated from nature and that nature is a resource store for the human needs only.

A new concept has been advanced to protect ecosystems' potential: **Earth jurisprudence**. In line with this concept, the inhabitants of Earth have fundamental rights which must be included in the current legal frame of mankind.

Ecuador has achieved a significant step forward in this respect, by including the following statement in its Constitution (2008): "Nature, where life reproduces itself and exists, has the right to its own existence, to continue its course, to preserve itself, and re-generate its vital cycles, structures, functions and evolution processes and each person, community and nation must recognize Nature's rights in front of the public institutions"[25].

Conclusions

As far as Romania is concerned, at present, it is difficult to identify the state model option – there is no long-term vision on our place and role in the EU either and, therefore, we cannot identify the ways by which the national strategy decision makers have chosen to generate and manage the security resources.

Durable/sustainable development is considered the only viable option at the global level which can secure the human civilization continuity. Romania has a "National Strategy for Durable Development Horizons 2013-2020-2030" but the shy implementation of its provisions remain an issue of political option, therefore of allocating one of the most important security resources to attain the proposed objectives.

The national economy de-structuring and the renunciation at the fields which produce innovation and development – research /development institutes – have resulted in a dramatic fall of the human potential dedicated to increased competition and identification of the necessary resources to create the premises for a durable/sustainable development, implicitly for the security resources potential.

Connie Hedegaard, the European Commissioner for Climatic Changes, has recently stated in an interview for the InfoMEDIU magazine that "it would be completely irresponsible of us to leave the bill for a well lived life to our children". She underlined the need for a collective effort to manage this issue and stated that "all the components of the society must involve themselves. Politicians, companies, NGOs and, perhaps the most important, common citizens must assume the responsibility and bring their contribution"[26].

Following this analysis we have reached the conclusion that the documents of utmost importance for the nation security, particularly for the strategic objectives achievement are not a reference system for generating realistic security strategies. The security resources issue becomes more and more a problem of the state model adaptation and of the identification and sustainment of the specific vectors of a nation. The economic potential depends more and more on creativity and, implicitly, on the quality of human resources, the only "investment" with a factor of value multiplication limited only by human imagination.

Considering the strategic decisions taken over the last two decades, Romania has made proof of a real "political short-sightedness" with insecurity consequences on a long term.

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17. http://www.revista22.ro/este-posibila-o-dezvoltare-durabila-in-romania-2813.html.

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NOTES:

1 National Security Strategy of Romania, 2007, p. 27 – the text refers to the role played by Romania as NATO and EU member state.

2 Ibidem, pp. 54-55.

3 Foreign Policy România, July/August 2010.

4 Foreign Policy România, July/August 2010, p. 61.

5 Ibidem, p. 62.

6 Dragoş Paul ALIGICĂ, De la asistenţial la virtual, Foreign Policy Romania, July/August 2010, pp. 68-69.

7 Nowadays, one of the solutions for the decrease of the expenses of a certain company is constituted by the externalization of the services. The innovation in the field of outsourcing is human resources leasing. Depending on the peculiar necessities of a company, highly professional specialized individuals are "borrowed" for determined periods of time.

8 The experience of alternative handbooks could be considered an example of political leaders' misunderstanding of economic and politic globalization requirements.

9 Dan COSTE, MICROSOFT îngerul păzitor, Editura Aldo Press, Bucureşti, 2010, p. 24.

10 In Romania, between 2001 and 2004, there were built 400 gyms, but school sport were not made compulsory proving that the financial investment wasn't accompanied by an educational one.

11 Michael LETTENMEIER, Holger ROHN, Christa LIEDTKE and Friedrich SCHMIDT-BLEEK, Resource productivity in 7 steps, Wupperthal Institute for Climate, Environment and Energy, edited in Wupperthal Spezial 41, 2009, p. 7.

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23 Ibidem, p. 7.

24 State of the World 2010, The Woldwatch Institute, 2010, p. 15.

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26 InfoMEDIU Europa, no. 7 (56), 25th July – 25th August 2010, p. 11.

Francisc TOBĂ (francisc@securitatenationala.ro), Ph.D., is Retired military engineer; until 1990, he worked in the defense industry and, after 1990, was a member of the Romanian Parliament (1992-1996), Diplomatic Adviser to the OSCE (1996-1997), personal advisor of former Prime Minister Adrian Năstase (1997-2001), CEO of Romaero Aviation S.A. (2001-2003) and CEO of NITRAMONIA S.A. (2003-2004). Currently he is the personal advisor of the General Commissioner of the National Environment Guard. He has a doctorate in Military Sciences (2001) and is lecturer at the Faculty of International Relations and European Studies, from the University "Spiru Haret". He is the author of various scientific paper works, amongst which we shall mention "Political and security decision-nation" and "High-tech espionage business".

WATER RESOURCES
AND THE SECURITY ENVIRONMENT

Irina CUCU

As it is known, raw materials but, first of all, energy resources are generally limited and unevenly distributed around the globe. Their deficit is the cause of the onset or increase of many conflicts in recent years. Having the control of resources confers not only political power but also increased military power. When we talk about resources, we generally mean energy thus we except water resources, food, labor, equally important, some vital for developing and maintaining life on earth.

Key-words: water; security crisis; environmental security.

Currently, a certain state may be considered a great power not only if it has nuclear weapons, but particularly if it can mobilize resources to produce unrivaled power in all areas, at strategic and tactical level. Globalization is the main phenomenon affecting both competition and cooperation for resources, and thus the struggle for power, influencing the contemporary security environment, creating opportunities, risks and threats. Having control over resources and exploiting their power led to a separation of states in poor countries and rich countries. Differential access to resources affects the relations between states with the most damaging consequences. We are the witnesses of an increase of natural disasters, depletion of energy resources, population growth coupled with reduced water and food resources, climate warming, a phenomenon that continues to influence stability and global security[1].

The increasing of the need for water and the drastic reduction of these resources has sparked the interest of multinational corporations that sell water for large sums of money. Water industry is speculated by the World Bank as a potential industry with trillions of dollars profits. Thus, water has become 'the blue gold "of the 21st century (2nd place after oil, considered the black gold)[2].

The race for taking control on water resources is rising, so it is possible that in the next 50 years we may assist to a competition for the control on this type of resource. The water issue is aggravated by global warming which reduces much of the existing water resources. An example regarding the water problem refers to the countries from Asia, where, despite the obvious economic growth, more than 700 million people lack access to running water and many of them have no access to the necessary sanitary facilities. Climate scientists released a warning on the reduction of water resources and the devastating effects that carbon dioxide emissions produce in the atmosphere as a consequence of fossil fuel combustion.[3]

In this respect, the EU allocates significant funding for clean energy development first due to the increasing dependence on energy from areas with an unstable security environment but also due to the rising costs of these resources. Also, transport, processing, consumption and environmental pollution can have disastrous consequences not only on a state but also on the entire geographical region as well.

In particular, water resources are an issue that reflects a link between environmental degradation and conflict outbreak. As a security threat, deficient quantities of fresh water are not only a direct cause of insecurity, but also an indirect threat to security, through their potential to generate conflicts. Fresh water is a fundamental resource, essential for agriculture, for the functioning of industries, for energy supply and for ensuring health and hygiene. However, water resources are very unevenly distributed. Some areas of the

planet have abundant freshwater resources, while others are facing an acute lack of these resources.

Water is actually the most important resource. Without water there is no life on earth. A human being can survive without food for three weeks but without water only three days and this is also valid for the other creatures on the planet. Water has the same importance in the life evolution on earth as air. It remains to be seen how living organisms will adapt to polluted air and water consumption. Could it be a cause of various diseases occurring lately, with unknown treatment solutions?

Also, the efficiency of water in producing electricity has been proved and research is focused on using water next to other less polluting substances as fuel engine. In future, water could successfully replace oil, a very expensive and polluting resource.

According to the UN Commission on Sustainable Development, over 40% of countries are in areas where water is a problem, 28% of the tensions caused by water led to conflicts. First, insufficient food production caused by insufficient quantities of water, combined with population growth, characteristic of third world countries, have as a consequence the deterioration of living conditions in areas where water is already a problem. It also triggers environmental problems as water quantity depletion, deforestation and desertification. Some of the consequences are poverty, malnutrition and occasionally famine – and all these can also cause internal or external migration. People fleeing from armed conflicts bring with them a greater demand for water. For example, in 2006, the number of Eritrean refugees who sought asylum in Sudan increased by 30%. This surge has led to additional pressure on the scarce water resources in Sudan. This trend will increase as the climate changes will be more pronounced[4].

Conflicts have direct effects on water resources, such as its pollution. For example, during Rwanda genocide, the bodies thrown into wells and rivers polluted water resources, which have created the risk of transmission of infectious diseases. Danube has also been polluted during the conflicts in former Yugoslavia – both in Bosnia and especially in the Kosovo war[5].

Although apparently water resources are considerable, it is also true that the need for water is equally great. Access to water is limited due to the geographical location of an area or another,

the living conditions and the facilities to distribute water. We can talk about a water crisis that is triggered by the diversification of activities and human needs and, because of its implications, it has frequently become a geopolitical and geostrategic item of interest.

Trends that will increase water crisis in future are: disturbing the ecological dynamics of rivers with reasonable facilities (dams, dikes, drainage of land, deforestation), industrial pollution, pollution produced by performing various services (street cleaning, transportation), pollution from agriculture (use of chemical fertilizers, livestock manure) and pollution of inhabitants as consumers. It is needless to mention here that many analysts believe that the real cause of the crisis in the Middle East is the water[6].

In 2009, IBM elaborated a report on the issue of water resources quantification and management (2009 Global Innovation Outlook Report on Water), which mentions some of the water quantities required for the production of consumer goods, as follows:

- For a piece of paper there are required 10 liters of water;
- For an apple are used 70 liters;
- 140 liters are necessary to obtain a cup of coffee;
- 1,300 liters required for 1 kg of wheat;
- 10,855 liters for a pair of jeans;
- 15,500 liters for a kilogram of beef.

These calculations take into account every drop of water (called "virtual water") consumed throughout the production cycle, from irrigation to drinking, going through the whole process of industrial processing.[7]

If, at the beginnings, man was subjected to nature, over time – through the power of knowledge, intelligence and creativity – man changed the nature according to his needs, but it was a step-by-step process, which has also brought imbalances in the fundamental processes of environment.

So far, the battle was given for oil ownership and processing, but, in future, this fight will be given for drinking water resources. In the latest decades, ocean water desalination plants have appeared. Although they have a signifiant contribution to areas without fresh water resources, they are very controversial because, in addition to high energy consumption (therefore producing greenhouse

gases) they destroy the marine ecosystem. In future, companies that sell bottled water will develop and this even more as the current water resources are infested with various harmful substances with disastrous effects not only on humans but also on life in general.

The entire relation between man and nature suffered profound transformations, because following his interests, negligence and ignorance – sometimes in bad faith – by its reckless actions, against nature, man has become the author of environmental crisis, which calls into question its own survival. As life support, the natural environment imprints and keeps imprinting many specific features to military actions.

The *environmental security concept has been advanced in the late '80s by environmental activists and NGOs and consists in community's ability to sue, to predict in a sufficiently comprehensive way the ecological risks of developing and to build in real-time appropriate action instruments*[8]. This concept, extremely important today, has been endorsed by politicians, also due to the implications of increasing effects of pollution on planet's health.

As a concept, the crisis continues to float between concrete and abstract, raising analytical concerns in the context of some opportunities. Relevant is the fact that, in the world, in the latest years, more than a half of the numerous social events with political themes were focused on crises and on the need for an effective management. But the crisis is always a beginning because it is followed by a solution that opens new possibilities. So far, crises' impact on ecology has not captured much attention of specialists.

In fact, the recent crises have shown that, during their settlement, various methods or technologies with impacts on ecosystems were used. The use of fragmentation ammunition with depleted uranium affected land areas, with consequences on crops in the affected area, which, over time, can have an impact on local populations too. Antipersonnel mines and other types of explosives, even if they were banned, they have turned large areas of land in places unfit for human activities.

As far as the economic crisis is concerned, we can show that the development planned for immediate profits have also affected species' adaptability to new economic development, sometimes chaotic. Disruption of ecosystems, from economic reasons, has negative effects evidenced by global warming, the lack of significant rainfall and the disappearance of certain species of creatures.

The effects of such crises can become global crises with significant consequences for the environment. Environmental impact of the crisis may be inconsistent with biodiversity effects of ecological niche, such as the disappearance of the human species, similar to the disparition of other species.

Lately, in the area of crisis, there have occurred out of control risks, such as terrorism, arms, ammunition, nuclear materials and components, drug and human illegal traffick, the development of underground economy, the exploitation of critical infrastructure vulnerabilities (water, energy, telecommunications and transport). Sometimes, all these may be prerequisites to the emergence of some purely ecological crisis.

Crises can also lead to ecological disaster. Possible attacks on environment protection systems, on dams and the use of toxic and radioactive waste can produce ecological disasters. Bystroe waterway building, a threat to ecological balance of the Danube Delta, clearly demonstrates the intentions of Ukraine as regards the policy on this area. Its construction would not only lead to destruction of the Delta ecosystem, but also to economic disadvantages for Romania. These consist both in fewer tourists, especially foreigners, who come annually to the Delta, but especially in the decrease of the traffic on Danube-Black Sea navigable channel, bringing so in both cases less profit for our country.

A devastating impact on the environment is caused primarily by armed conflicts, which sometimes caused real disasters. There are many examples in this regard, but the most relevant are the wars in Vietnam, the Persian Gulf and former Yugoslavia.

Following the Vietnam War, according to official information, through the spread of about 70 million liters of very strong herbicides, especially the "orange agent", a fifth of South Vietnamese forests was chemically destroyed and more than a third of wetlands disappeared. Very few of them were able to recover, the vast majority of them becoming briers lands, and the initial environment had no chance to recover. All these substances were injected into groundwater and thus, in addition to

water pollution, toxic substances were transported to a distance of hundreds, perhaps thousands of kilometers. In Serbia, although political events dominate the information environment, from time to time, still appears information about the effects of using depleted uranium strikes.

One of the biggest disasters of the twentieth century was caused in the Gulf, in essence, considered as a sequence of economic war on global energy[9]. Before the withdrawal, Iraqi troops have poured into the Persian Gulf waters, according to the source, about 3 million barrels of oil and much more in the desert, giving fire to over 600 oil wells, estimating that the average spread in the environment is 10 million m^3 of oil. At that time, Kuwait's oil fields had been burning for almost a year, producing 10 times more pollution than all the industrial mills of the United States. Even after six months since the oil wells had been put down, the size of ecological disaster were not diminished as whole areas of the territory were still dominated by petroleum infiltration ponds to a depth of five meters. The little desert vegetation has disappeared and most animals could not survive because of rain infested with chemical residues and water polluted with oil.

The damaging effects of the Gulf War are much higher, being caused by bombing the Iraqi army bunkers and warehouses, thereby breaking the layers of gravel which prevented dunes advance. Following the intense traffic of heavy machinery (tanks, troop carriers, trucks), the soil layer, so fragile in the desert, whose recovery requires hundreds of years, was damaged and the vegetation destroyed, an area of 900 km^2 being affected. Unfortunately, in the same area which was severely affected until a short time ago, the war resumed. Probably, in few years, we will calculate the extent of the ecological disaster produced after the second conflict. The biggest problem is that such situations that affect physically only a certain area have large repercussions in neighboring regions.

Destruction of ecosystems acts as a puzzle game. Even though, at the moment, we feel it affected only a small area, the physical aggressed one, later we find that the area affected is much larger, and the disaster spreads around, even if with a small force.

Unfortunately, military conflicts always break out in more and more areas of the globe. Another conflict investigated in terms of ecological destruction is represented by the conflict of the former Yugoslavia. According to the findings of UN special teams for the Balkans, four villages were particularly affected by pollution: Pancevo, Novi Sad, Kragujevac and Bor. Pancevo petrochemical complex bombing caused the burning of about 800 tons of vinyl chloride monomer, carcinogenic product. After combustion, there were released into the air hydrochloric acid, dioxin and other toxic compounds. The depletion of containers of ammonia, on the right time, permitted the avoidance of generation of serious pollution in the city, but caused destruction of wildlife in the Danube 30 km upstream, by its dumping. Also, over 1,000 tons of sodium hydroxide (caustic soda) was disposed into the river, resulting in serious pollution. In Novi Sad, after successive bombardments of the refinery, about 73,000 tonnes of crude oil and derivatives were burned or dumped into drains, infiltrating groundwater. In Kragujevac, bombing car factory "Zastava" caused major pollution, affecting soil, water and air, in particular by polychlorinated biphenyls. Bombardment of copper mines, power plant and hydro-carbons deposit, located close to the town of Bor, near the Bulgarian border, generated transboundary pollution. Carbon dioxide and nitrogen oxides formed by burning kerosene used for more than 7,000 combat aircraft flights, 1,000 rocket explosion - which in terms of pollution, are each as 30 aircraft, several refineries and combustion fuel depots will certainly affect the ozone layer[10].

Effects of such conflicts in time and space are huge. Perhaps, as there are laws governing the status and rights of civilians during such conflicts, laws that protect the environment should be established also. We must keep in mind that we must protect life, no matter if it is aboout human life, plants or creatures. Until now, the victory was more important, without taking care of environment protection.

Unfortunately, as long as there are wars, military goals are more important than environmental issues. It is almost impossible to protect completely the environment from the risks of military nature. However, having in regard the serious circumstances that may arise over time and have already begun to be felt (speaking only of global warming), it is conceivable at least the

attenuation of the destructive effects of war.

It is proven that armed conflict affects not only the environment but also economic life. In the rush for profit and getting rich quickly, as long as competition is very high, big companies forget about the environment, spilling various substances in the environment, affecting it, both in space and time.

Although currently there are many NGOs that have been actively involved in environmental protection, their actions and the measures proposed are not sufficient. Until policy makers, political and military managers of large transnational corporations will not realize how serious is the problem of environmental protection versus economic development chaos/conflict, this matter will not have an immediate solution. An important role in raising awarness and finding real and long-term solutions should be represented by the proactive involvement of specialists in the field or in broader areas by thoroughly documented analysis showing short, medium and long-term the effects.

Nature was always seen as a wellspring of resources and an ideal place for waste disposal. Natural resources have become force axis of security resources. Development of mass destruction weapons, especially of nuclear ones, raises more questions about the survival of nature and mankind, if such means will be used significantly in future armed conflict. In addition, development of various polluting industries has greatly contributed to undermine the natural environment. At the same time, man-made environmental changes to meet its needs for food, water, shelter and not only had their negative role in producting damage which sometimes turn out to be irreversible. However, it seems that currently, man has begun to realize that protecting nature means to maintain the conditions for its own existence. In this regard, more and more states and nongovernmental organizations adopt and impose adequate environment protection measures. Somehow, we can speak of environmental security. By this concept "(…) we understand both biosafety, namely security of all that is living, and anorganic world security, the one that generates resources and hosts world Bios"[11]. Further, the quoted source makes clear that "environmental security is the concept of maximum generality in the area of security and is a counterproductive limitation if it is reduced to environment protection or ecological security. Environmental security, in terms of recent EU documents, is the fundamental premise for sustainable development. "

To this end, appropriate measures are required to be taken both at national and European level. In fact, for the EU Member States, a legal framework at European level and its adaptation in each EU member state is the first step in a long process important and necessary but not sufficient. Europe is a patchwork of organizational cultures and countries coming from former Warsaw Treaty, for example, have features that should be taken into account. Romania has been for half a century under a totalitarian regime in which there were no cultural communities, as excessive centralism, characteristic to this type of state organization, has excluded any initiative, and thus assumed responsibility for community leadership.

To all this, we add the negative effects of current economic and financial crisis, which has been characterising the world since 2008. The crisis makes that financial resources, or rather what should be designed to protect the environment and development of agricultural and industrial activities, mainly clean, is drastically reduced.

On the other hand, the crisis allows that certain "profit-making" activities to grow significantly in short time. Thus, in Romania, one of the factors affecting the security environment is also the abuse of property right, especially in the deforestation field. National Strategy for Sustainable Development of Romania intends to develop and implement a "National Program for Sustainable forest management" to enable the institution of prerequisites for responsible management of national forest fund.

Legislation relating to limiting the use of property right, especially when a large negative impact on communities is implied, is not sufficiently explicit and owners' abuses are justified by the unlimited use of the property. The benefits are private and the lack of environmental security is public/collective.

Current general legal framework in Romania gives the right importance of environmental security issues. National Security Strategy of Romania (2007) mentions that national security could be jeopardized by a series of serious events, such as geophysics, climate, or weather-related, ones from environmental degradation embedded

or reflecting it, including as a result of dangerous, harmful or irresponsible human activities. By serious negative phenomena we mean, among others, industrial and environmental disasters which lead to a large number of victims and serious environmental pollution in the national territory or in adjacent regions.

Therefore, we can say that environment has a serious impact on national security which is exacerbated, in a negative sense, by the current economic and financiar crisis.

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Irina CUCU (p29irina@yahoo.com) is an expert at the Centre for Defence and Security Strategic Studies, from "Carol I" National Defense University.

THE LEGAL CONTROVERSY REGARDING MILITARY AND INTELLIGENCE GATHERING ACTIVITIES IN THE EXCLUSIVE ECONOMIC ZONE AND THE SECURITY OF THIS SPACE

Oana ADĂSCĂLIȚEI, Ph.D.

The legal regime of the Exclusive Economic Zone (EEZ) as acknowledged by the United Nations Convention on the Law of the Sea (UNCLOS) 1982 is based on the fragile balance between the right to navigation and overflight of third countries and the rights of the coast state. An extremely advanced technology allows nowadays of carrying out military and intelligence gathering activities in the EEZ of a foreign country on a more frequent, intrusive and dangerous basis than at the moment of drafting the UNCLOS 1982 Convention. The balance is no longer there. The controversy is centred first of all on military manoeuvres, hydrographical and military surveys in the EEZ of another state. Do these activities comply with the international law and with the UNCLOS Convention? The legal dispute is based on the interpretation of relevant provisions of the Convention and on the modalities to manage conflicts. This article aims at analyzing a part of the controversial terms: "peaceful uses/purposes"; "freedom of navigation and overflight"; "residual rights"; "other internationally lawful uses of the sea". Likewise, suggested modalities to manage disputes will be mentioned.

Key-words: EEZ; "peaceful uses/purposes"; "freedom of navigation and overflight"; "other lawful uses of the sea"; "due regard"; "residual rights"; "conflict management" ; "security aspects".

I. Introduction

The right to engage in military and intelligence gathering activities in the Exclusive Economic Zone (EEZ) of another state remain a controversial issue with groups of states supporting dramatically opposed points of view. States are extremely divided on whether weapon launching, hydrographical surveys and surveillance activities in the EEZ of another state comply with the international law and with the International Convention on the Law of the Sea (UNCLOS) 1982 in particular[1]. A number of recent international incidents such as the collision between a surveillance plane US EP 3 and a Chinese jet over China's EEZ, the pursuit and confrontation between a Japanese Coast Guard ship and a North-Korean craft in Japan's EEZ as well as Vietnam's protests regarding military live fire exercises carried out by China in the claimed Vietnam's EEZ have brought up this issue into discussion again lately[2].

The international meetings on this issue that took place in Bali, Tokyo or Honolulu clearly indicated the fact that certain UNCLOS provisions drawn up 30 years ago in a political and technological context extremely different from the current one must be re-interpreted in the light of new circumstances[3]. Several factors should be considered. Thus, it is regarded as inevitable the fact that as technology progresses, disputes regarding military and intelligence

gathering activities in foreign EEZ may escalate[4]. This matter is complicated by the confusion and double standards pertaining to this regime and the uncertainty regarding borders and consequently the jurisdiction[5]. There is obviously an ever increasing disagreement between maritime powers and coastal states in this respect[6]. The military and intelligence gathering activities by foreign nations in EEZs of other states have become more and more frequent due to the accelerated rhythm of globalization; the huge development of world trade; the increase in size and quality of the fleets of many nations, as well as to the technological progress allowing fleets to use ocean zones more efficiently. Other conflicts arise from the increase in the resource deficit, the ever-increasing threat to the marine environment and from concerns regarding the safety of shipping lanes[7]. At the same time, coastal states attach a greater and greater importance to the control of their own EEZs[8]. New threats such as **weapons of mass destruction**, smuggling of drugs and humans and terrorism encourage states to extend their surveillance to foreign EEZs, thus broadening the conflict[9].

Beside the mentioned factors leading to the intensification of military and intelligence gathering activities in the EEZ of another state, the disagreement on the interpretation of the UNCLOS 1982 relevant provisions and the possibilities of conflict management make the issue stay open[10]. The analysis of the legal controversy on military and intelligence gathering activities in the EEZ and the security of this space have as a starting point the articles of the UNCLOS Convention regarding the legal regime of the EEZ to which we shall refer subsequently.

II. The legal regime of the EEZ

EEZ has become a part of international law by means of procedures of the common law. Nevertheless, essential elements of this concept are the ones expressed in terms of the United Nations Convention on the Law of the Sea[11]. EEZ is concept oriented first of all towards resources and it has represented an attempt to formulate a new jurisdictional zone dictated by the changes in the development of international legislation and by the dramatic impact of modern technology[12].

Essential elements of its legal regime include articles 56, 57, 58, 59 and 74 of UNCLOS. Articles 57 and 74 stipulate the principles of the delimitation of the Exclusive Economic Zone among states with adjacent shores or located face to face to each other[13]. The other articles stipulate the nature and the number of rights and obligations of both coastal states and third states in this maritime zone[14]. Article 56 provides that the coastal State "has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources" and exclusive jurisdiction as provided by the relevant provisions of this convention with respect to "certain issues"[15]. Article 58 stipulates that "all states" under the conditions and freedoms mentioned by Article 87, enjoy the freedoms of "navigation and overflight" as well as "other internationally lawful uses of the sea related to these freedoms"[16]. This article refers to articles 88 and 115 and other pertinent rules of international law applicable to the Exclusive Economic Zone in so far as they are not incompatible with this Part. Article 59 sets the basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the Exclusive Economic Zone, the so-called rule of "residual rights"[17].

The attempt to define the EEZ represented a political confrontation for supremacy involving a large number of states with a different history, un-equal resources and different maritime interests[18]. While an important group, the "territorialists" im-agined this zone as an extension of the national jurisdiction where coastal states enjoy their sover-eignty with certain limitations; the great maritime powers wanted this zone to remain a part of the high seas with certain rights and obligations given to coastal states over the offshore resources. The outcome was the creation of a "sui generis" area which was neither a part of the high seas nor a part of the territorial sea[19]. The abstract terminology used by the drafters of the Convention threw a veil over the touchy matters related to EEZ, leaving them open for interpretations that may generate international disputes[20]. This fact became obvious after the incidents and conflicts related to naviga-tion rights and limitations of foreign military and intelligence gathering activities in the EEZ[21].

III. Controversial provisions in the UNCLOS 1982 Convention

The interpretation of certain provisions of the UNCLOS 1982 Convention resulted in

disagreements referring generally to the alleged exact meaning of the Convention terms as well as the meaning of some specific articles: "peaceful uses/purposes"; "freedom of navigation and overflight"; "residual rights"; "other internationally lawful uses of the sea"; "due regard"[22].

1. "Peaceful uses/purposes"

Both the UNCLOS Convention and other internationally treaties subsequently concluded - Atlantic Treaty, the Outer Spacey Treaty, the Moon Treaty and the Seabed Arms Control Treaty – do not provide a definition of the notion of "peaceful uses/purposes". The context and circumstances of each international legal instrument provide the appropriate meaning of this notion according to the opinions expressed in the international law[23]. The UNCLOS Convention presents the notion of "peaceful uses/purposes" in general terms, without using specific criteria: Article 301 mentions "peaceful uses" of the sea in general terms and it stipulates that "In exercising their rights and performing their duties under this Convention, States Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the Charter of the United Nations." Article 58 refers to Article 88 which provides that "the high seas shall be reserved for peaceful purposes". Article 141 stipulates that "The Area shall be open to use exclusively for peaceful purposes by all States", and Article 240 stipulates that "Marine scientific research shall be conducted exclusively for peaceful purposes"[24].

The controversy on the notion of "peaceful uses/purposes" consists in determining whether it involves the prohibition or limitation of all military activities or, if it does not prohibit all military activities in the area, what are the prohibited military activities[25]. The activities that triggered such a debate are the military surveys, military manoeuvres, reconnaissance activities and other activities that are not directly related to the passage or overflight of foreign military vessels and aircraft in the EEZ and the air space above it[26].

The controversy originates in the third UNCLOS Conference in 1976 when the text of Articles 88 and 301 was agreed upon and on this occasion a number of opposed opinions were expressed by their main supporters, i.e. Ecuador and the US. The final text of Article 88 adopted on this occasion indicates the primary motivation of the main maritime powers in negotiating the Convention, which is to protect the largest possibility to conduct military activities at sea and implicitly to foreclose any legal restrictions on these activities[27]. The other extremely important article for the notion of "peaceful uses/purpose", i.e. Article 301, represents a reflection of Article 2(4) of the UN Charter without adding anything new to the already existent obligation of the states to abide by the rules of the international law which prohibit threat or the use of force[28]. On the one hand, this text implies that only those actions are prohibited which threaten or use force in a manner contrary to the UN Charter. On the other hand, the same text supports a point of view according to which all naval training activities of self-defence are in compliance with the Charter and should be regarded as "peaceful uses"[29].

It has not been entirely cleared up the way how a series of newly emerged activities not involving any threats or use of force comply with the provisions of the UN Charter and of international legislation: electronic warfare (EW), information warfare (IW) and particularly the SIGINT activities. In the case of these activities, the interference with the defence and communications system of the targeted coastal state is much greater than any other traditional intelligence gathering activity guided from outside the national territory[30].

2. "Freedom of navigation and overflight"

The freedom of navigation and overflight is stipulated by the 1982 UNCLOS Convention under Article 58 which provides that: "In the Economic Exclusive Zone, all States (…) enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in Article 87 of navigation and overflight (...)".

Apparently the text does not pose any problems of interpretation except for the determination of the "the relevant provisions of this Convention"[31]. In the scientific literature the following limitations of exercising the freedom of navigation and overflight have been identified: 1) shall not interfere with, or endanger the sovereign rights of the coastal state pertaining to the conservation and management of

the natural resources as well as its jurisdiction in relation with the protection and conservation of the marine environment (Article 56 (1)(a), 62 and 77 and Part XII); 2) shall not interfere with marine research without the consent of the coastal state or by violating other provisions of the Conventions (Article 56 (1)(b), 246(2), and Part XIII); 3) shall not interfere with the rights of the coastal state with respect to the establishment and use of artificial islands, installations and structures (Article 56 (1)(b), 60 and 80); 4) shall not carry out activities representing threat or the use of force in a manner contrary to the UN Charter (Article 301)[32]; 5) the general principle of "due regard" to the interests of other States (Article 87(2) which is provided by Article 58(3))[33].

3. "Other lawful uses of the sea"

This phrase is mentioned under Article 58(1) and should be examined in relation with several activity categories: military manoeuvres; use of devices, installations and structures attached to the seabed; military intelligence gathering activities; use of expendable marine instruments; survey activities.

Military activities in the EEZ represented a controversial matter during the negotiations for the text of the 1982 UNCLOS Convention and have continued to be that way in State practice ever since[34]. Although through Article 87, the principle that traditionally allowed the use of the high seas for military manoeuvres or exercises including the use of weapons was incorporated, there is no explicit provision in the Convention to justify the conclusion that such activities are allowed also in the EEZ[35]. Moreover, although Article 58 refers to Article 87, the legality of such activities like strategic intelligence gathering by intelligence gathering naval ships and aircraft, launching, landing on ships or taking aboard aircraft and military equipment remains controversial[36].

Certain coastal states among which Bangladesh, Brazil, Cape Verde, Malaysia, Pakistan and Uruguay stated that other states may not carry out military manoeuvres or exercises in or above their EEZ without their consent. Their concern was based on the fact that such activities may threaten their national security and can undermine their sovereignty over the resources[37]. Other states stated the opposite. Maritime powers such as the

US insisted on the freedom of military activities in the EEZ, being concerned that their mobility and naval and air access could be severely restricted by the global EEZ enclosure movement.[38] The US adopted the point of view according to which activities like manoeuvres of Special Forces, flight operations, military exercises, surveillance, intelligence gathering activities, ordnance testing and firing are recognized historic high seas uses which have been preserved by Article 58[39].

The legal arguments of the maritime powers grounded on the last section of Article 58(1): "(…) related to these freedoms and compatible with the other provisions of this Convention especially in the case of ship operations (…)" which was included on their insistence, since in their interpretation, it implied the legality of naval manoeuvres in a foreign EEZ as an activity associated with the operation of ships and aircraft. [40] In their view, the cross-reference to Article 87: "in the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in Article 87 of navigation and overflight and of the laying of submarine cables and pipelines (…)" clearly states that other States' freedoms in the EEZ are the same with those on the high seas[41]. In addition, Article 58 makes a general reference to Article 88-115 and other pertinent rules of international law as applicable in the EEZ. Likewise, Article 89 is also included in this reference, prohibiting subjection of any part of the high seas to any state's sovereignty [42].

China has recently stated that the freedom of navigation and overflight does not include the freedom to carry out military and reconnaissance activities in the EEZ and in the air space above it. In the opinion of the Chinese representatives, military activities in the EEZ violate the principle according to which in exercising their rights and fulfilling their obligations, Member States shall refrain from threat or the use of force against the territorial integrity or political independence of any state or in any manner contrary to the principles of the international law as stipulated under the UN Charter[43]. Another argument supported by the Chinese is that the 1982 UNCLOS Convention clearly states that EEZ shall only be used for peaceful purposes[44].

Despite arguments and counterarguments, many commentators' opinion is that Article 58

generally allows military manoeuvres in the EEZ of another state without their consents. Nevertheless there are some problems which remain unsolved; for instance, the issue of the legality of military manoeuvres and ballistic exercises which temporarily prevent some state from using a vast area of the high seas. Another example is the extended test of weapons such as torpedo launching and firing artillery in the EEZ of another state which could hardly be regarded as uses associated with ship and aircraft operations or uses of submarine cables[45].

The categories of devices, installations and structures deployed by maritime powers in the sea, including in the EEZ of other states include sonar monitoring, surveillance systems such as acoustic array systems laid on the continental shelf and navigational aids for submarines and warships[46]. The scientific literature states that the use of devices, installations and structures for military purposes except for weapons systems could be allowed under the reserve of "due regard"[47]. This, because under the meaning of Article 58(1) the use of devices, installations and structures attached to the seabed may be regarded as "use of the sea related to [the freedom of navigation .... and of laying of submarine cables], such as those associated with the operation of ships..... and submarine cables...., and compatible with the other provisions of this Convention''[48].

Traditionally, intelligence-gathering activities have been regarded as a part of exercising freedom of the high seas and accordingly, also legal in the EEZ grounded on Article 58(1)[49]. Currently, this situation has changed, with maritime powers using more intensely new systems of intelligence gathering which are extremely intrusive: increased capabilities of electronic warfare (EW), wide development of information warfare capabilities (IW), SIGINT aircraft mission, unmanned aerial vehicles (UAVs) flying at high altitudes such as the Global Hawk[50].

The SIGINT and EW capabilities can degrade electronic information systems of long-range missile, including land-attack cruise missiles, anti-ship missiles, anti-radiation air-to-surface missiles and air-to-air missiles which require over-the horizon or beyond-visual-range targeting information[51]. Likewise, on a strategic level, collection systems providing strategic information for decision-making factors as well as operational information for defence commanders and which are usually vulnerable to both physical and electromagnetic attacks, become high-priority targets in control and counter-command strategies[52]. In particular, flights of peripheral aircraft are considered extremely provocative, as these are visible signs of efforts made to penetrate electronic secrets of the targeted country. Some of these activities may even deliberately provoke and then monitor electronic responses of the country in question such as changes in the radar operating modes and communication frequencies as well as in the chains of command and reportage at higher alert levels[53]. All this intelligence gathering activities will generate defensive reactions and escalatory dynamics and lead to less stability in the most affected regions[54].

Expandable marine instruments are installed to gather data about the water column for the purpose of being used in naval operations, including the antisubmarine warfare, marine scientific research (MSR) and by the commercial oceanic industry and are also essential for the navigation safety[55]. Their applicable legal regime goes under "other lawful uses of the sea" in the case of instruments used for surveys while those used for MSR are governed by Part XIII of the Convention[56].

As for the hydrographical surveys and military research in the EEZ, some states consider that these are allowed on the grounds of "other lawful uses of the sea"[57]. In the opinion of maritime powers these activities are distinct from marine scientific research (MSR), thus being unrestricted by the provisions of UNCLOS 1982. According to this point of view, military activities of intelligence gathering have nothing to do with the exploitation of resources and the results of research shall not be published or disseminated as scientific research. It has been argued that hydrographical surveys involve mapping of the seabed in order to facilitate the navigation safety, especially that of submarines[58].

The opposite point of view is supported by China, considering that these states intentionally make distinctions between marine scientific re-search (MSR) and intelligence gathering or hydro-graphical surveys for the purpose of eluding the coastal state's jurisdiction[59]. From a military point of view this latter activities can be regarded as a preparation of the battlefield and because of that, as a threat of force against the coastal state, thus

violating the principle of the peaceful use of the sea[60]. Practicing this distinction has made the regime of marine scientific research in the EEZ more complicated and more problematic. Moreover, the technologic progress through the aerial and space-based remote sensing platforms as ways of marine scientific research contributed to the weakening of the jurisdiction of the coastal state over the marine scientific research in the EEZ[61].

4. "Due regard"

The principle of "due regard" is stipulated by the 1982 UNCLOS Convention under Article 56 and 58 when referring to the exercise of rights and duties of the coastal state and the non-coastal state in the EEZ[62]. While the former article indicates that a coastal state should have due regard to the rights and obligations of other states and should act in a manner compatible with the provisions of the Convention, the latter stipulates that third states should have due regard to the rights of the coastal state and should "comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part"[63].

The legal aims referred to by the two articles are not equal. Coastal state should have due regard of the rights of third states in their maritime zones, rights which are already limited by the provisions of international law and by the legal regime of the EEZ. On the other hand, third states must comply with the rights enjoyed by coastal states according to international law and other international rules, sovereign rights and exclusive jurisdiction of coastal states according to the EEZ regime[64].

The extent of obligations stipulated by Article 56 and 58 is asymmetrical. The "due regard" duty of the coastal states is mainly embodied in the national laws and regulations worked out and implemented by them with regard to the EEZ. For third states, the "due regard" duty is very wide. Firstly, while carrying out activities in the EEZ of another state, third states must not violate the basic principles of the international law under the UN Charter and should not threaten force or use force against the territorial integrity or political independence of the coastal state or thereafter threaten or use force under any other form contrary to the basic principles stipulated by the UN

Charter[65]. Secondly, while carrying out activities in a foreign EEZ, third state shall not interfere with or violate laws and regulations of the coastal state and shall comply with the jurisdiction of the law enforcement authorities[66].

The Convention does not clearly explain the principle, but its meaning can be deducted from the history of drafting Article 58[67]. The declaration adopted on the occasion of introducing the final text of Article 58 in the Revised Single Negotiating Text showed that "due regard" shall be understood generally as the non-interference with the rights of the coastal state[68]. The text variant referring to the security interests of the coastal state was not accepted[69].

With respect to the states' practice in this matter, according to US, the key element of the standard of "due regard" would be the obligation to refrain from activities interfering unreasonably with exercising the rights of the coastal state. Following the incident on 1 April 2001, China appears to interpret Article 58 not only as the compliance with the rights of the coastal state but also as the request addressed to foreign users of EEZ to refrain from any activity endangering the sovereignty, security and national interests of coastal states[70].

The nature of the interference that activities of third states may cause is quite wide – from significant damage of the state's resources to the potential interference with rights and interests of the coastal state[71]. On the other hand, there is no agreed specific criterion to comply with by the states in determining whether their activities fulfil the requirement of "due regard". The only widely applicable criterion to all cases would be whether the specified activity interferes with the rights and interests of the coastal state. There is no agreement related to what "rights and interests" represent, except, maybe, the activities that might cause significant damage to the resources exploited by the coastal states or might hinder access to the exploited zone[72]. The lack of an agreement is also related to the question whether said interference must be unreasonable or not and whether it could be or must be an actual interference[73].

5. "Residual rights"

The "residual rights" rule under Article 59 of UNCLOS 1982 provides for a legal mechanism of settling disputes in the case that the Convention

does not give rights or jurisdiction within the EEZ either to the coastal state or other states[74]. The parties to such a dispute can settle it amicably or if such a solution fails, the Parties may submit the dispute to the compulsory procedures stipulated under Part XV, Section 2 of the Convention, representing the exceptions allowed under Article 298[75].

The "residual rights" rule can be interpreted from two different perspectives. One of the interpretations is that if the rule applies to the EEZ regime then this regime is not merely a distribution system of natural resources, but also a comprising legal system covering a large part of the planetary ocean and the air space above it, as well as the human activities carried out there such as navigation, overflight and military activities. In this situation, "residual rights" should include all other rights arising in the EEZ and not distributed in the current EEZ regime. In this case, discussions related to the legal matter of military uses of EEZ should continue within the EEZ regime[76].

Another interpretation of the rule of "residual rights" is that this is not applicable to the EEZ regime regarded as a distribution system of natural resources, but instead it shall be used for settling future disputes such as those pertaining to military and reconnaissance activities in the EEZ. Then the dispute shall not be related to the EEZ regime itself, but to the activities in this military zone[77]. In this case, the military and reconnaissance activities are not at all related to the EEZ regime and should be discussed as a matter ensuing from "maritime security zones"[78].

Beyond the interpretations offered by the specialized literature, a real problem is the fact that according to the text of the Convention there is a possibility that disputes pertaining to residual rights on military activities in the EEZ might not be clearly settled until there is a consensus in the states practice or until there is a new agreement[79]. To this end, Article 298, paragraph 1(b), stipulates that a State may declare anytime that it does not accept any of the binding procedures of settlement with respect to "disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service (…)"[80]. Allowing for this exception, the Convention recognizes clearly the special status of military activities and the use of force by government vessels[81].

IV. Modalities of dispute management

Disputes pertaining to military and intelligence-gathering activities in the EEZ may be settled in two principal ways. One of them is to continue discussions in order to improve the EEZ regime. The other modality is to discuss military uses of the sea within and outside the EEZ regime and to highlight the Guidelines regarding maritime activities in peacetime[82].

Several legal alternatives have been suggested. A legal notification could be requested in a special matter either by means of the International Court of Justice as "advisory board" or through the International Tribunal for the Law of the Sea[83]. Matters could also be tackled through national legislations. If more and more coastal states unilaterally adopt a national legislations forbidding military and intelligence gathering activities to be carried out in and above EEZs, then the prohibition of such exercises could become a part of customary international law by means of state practice despite the opposition from other countries especially if these countries are not parties to the UNCLOS 1982 Convention[84]. At last, another option is bilateral or regional agreements between maritime powers and coastal states, as well as between adjacent and opposite neighbouring countries.[85] There are already numerous bilateral agreements on the Prevention of Incidents On and Over the High Seas including for Russia with US (1972); Great Britain (1986); Germany (1988); France, Canada, and Italy (1989); the Netherlands, Norway and Spain (1990); Greece (1991); and Japan (1994). These agreements are meant to eliminate during peacetime, including in the EEZ of a foreign state, dangerous naval manoeuvres and to prevent risks and inappropriate decisions from ship masters and aircraft commanders that may result in an irresponsible behaviour of the other party[86]. Each of these alternatives is an option itself.

It is considered that involved states should increase their dialogue and make efforts to find compromise and consent solutions. From this point of view, the experience and practice regarding conflict management in the South China Sea could be the basis for the dialogue related to military and intelligence gathering activities between regional and global maritime powers and the relevant coastal states, especially those sensitive

to carrying out such activities in their own EEZ. The aim of this dialogue should be the draft of guidelines regarding military and intelligence gathering activities[87].

In some authors' opinion such as M. J. Valencia and K. Akimoto, the draft of Guidelines for military and intelligence gathering activities in the EEZ should be accompanied by the development of a mutual understanding of terminology, an action plan and some subsequent specific stages: fact finding regarding previous incidents; production of a glossary of critical terms or a classification of the terms; the classification of activities in the EEZ as to what should or should not be allowed; the manner to implement the rights of coastal states; the means and manner to enforce any agreed rules; policy suggestion[88]. The drafting process of the new Regime shall be a long-term one including beside the strategic stage, technology, resources and procedures[89].

Other authors, such as Ren Xiaofeng and Cheng Xizhong suggest that highlighting voluntary Guidelines for military and intelligence gathering activities in the EEZ could be solved in several stages[90].Firstly, setting out a series of legal criteria for military activities in the EEZ considering the past and present practice of states as well as the current and future trends regarding naval technology and equipment. Then, based on these criteria, such military activities in the EEZ both legal and illegal could be delineated and differentiated[91].After that, there is the formulation of concrete mechanisms, procedures, ways and means of monitoring these activities. These mechanisms could be bilateral or multilateral, but it is preferable to be bilateral. The next stage would be to lay down principles and guidelines for the activity of foreign ships and aircraft in and above the EEZ[92]. These stages are correlated and should be adopted sequentially. Principles and guidelines can be formulated only after the adoption of "legal criteria" and "effective monitoring mechanisms"[93].

A draft of voluntary Guidelines with respect to military and intelligence gathering activities in the EEZ has already been proposed. Opinions on these Guidelines vary from strong reserves against any restrictions on these activities to acceptance for some restrictions. While maritime powers want maximum flexibility for their naval fleets, coastal states want protection against any intimidating action[94]. There are two drawbacks threatening the viability of these Guidelines. Firstly, these are non-binding in nature. Secondly, from the point of view of the maritime powers, these Guidelines seem to convert what is usually known as the "freedom of navigation" as recognized by the 1982 UNCLOS and which is enjoyed by military ships in the EEZ in a more restrictive regime, related to the right to innocent passage granted to military ships in the territorial sea of coastal states. In this interpretation, the Guidelines would represent a re-writing of the fundamental element of 1982 UNCLOS and would undermine the essential compromise based on which the concept of EEZ was accepted[95].

Although apparently there is a wide range of possibilities, it will be difficult to find a solution of conflict management while maritime powers do not want a modification of the current advantageous status-quo in favour of new rules that would undermine their actions. This is why continuing the dialogue and accepting a compromise are prerequisites to solve in due time the problem of conflict management related to military and intelligence gathering activities in the EEZ.

V. The impact of military and intelligence gathering activities in the EEZ on the security of this space

There are a number of distinct advantages in being capable to operate in the EEZ of a foreign state such as the presence of the flag, testing the response of the coastal state, collecting certain types of signal intelligence and this is why maritime powers shall continue to resist the pressures to restrict these activities[96]. Under these circumstances, it is estimated that military and intelligence gathering activities in the EEZ are most likely going to become more controversial and more dangerous[97].This alarming prospect is reflected by the increasing demands for technical intelligence, robust weapon acquisition programs, increased electronic warfare (EW) capabilities and the widespread development of information warfare capabilities[98]. Moreover, the scope and scale of maritime and airborne intelligence collection activities are meant to expand rapidly in the following years, involving levels and types of activities unprecedented in peacetime. They will become not only more intense, but also generally more intrusive[99]. They will generate tensions and

more frequent crises. They will trigger defensive reactions and escalatory dynamics and will lead to less stability in the most affected regions, especially in Asia[100].

The coastal states targeted by military and intelligence gathering activities will inevitably take counter-actions which could range from shooting down the offending aircraft in extreme cases, to more likely, the development of electronic counter-measures (ECM). The latter will in turn generate an upgrading of EW capabilities. Thus, "peacetime" EW engagements will become more frequent and in crisis situations the SIGINT and EW activities could become inflammatory and escalatory[101].

Conclusions

The right of navigation of third states in the EEZ is not an absolute right. The controversy over the terms of the UNCLOS Convention is not related to the fact that some states have the right or not to conduct military activities in the EEZ, but to the extent to which these affect the rights of the coastal states. This aspect is extremely obvious in the case of military intelligence gathering and survey activities. The old legal regime of the EEZ stipulated by the Convention is obsolete from this point of view. Irrespective of the factors which contributed to this – technological progress, borders uncertainty, aspects related to security of maritime lanes etc. – it is necessary to build a new legal regime focused on compliance with the international law and the sovereign equality of states. A wide range of possibilities, out of which the draft of new Guidelines seems the preferred solution, could help to manage conflicts on military and intelligence gathering activities in the EEZ. Political and military interests will make it difficult the adoption of a solution to equally satisfy both maritime powers and coastal states. Only continuing the dialogue and accepting a compromise can create proper conditions to find a solution.

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Oana ADĂSCĂLIŢEI (oana_adascalitei@yahoo.com), Ph.D., is an expert on maritime law and works as assistant professor at Constanţa Maritime University; Oana Adăscăliţei is also member of BENA, ESIL and of the Romanian Association of Humanitarian Law.

POTENTIAL ACCESSIBILITY AND PATH OPTIMIZATION OF NATIONAL TRANSPORTATION CORRIDOR

Anca-Andreea GHIȚULEASA
Liviu Gabriel GHIȚULEASA
Alexandru-Ionuț PETRIȘOR, Ph.D.

This article provides a multi-criteria evaluation of two national routes in choosing a security rail corridor in Romania. Using socio-economic indicators, there are highlighted the features of the policy options chosen for the selected corridor.

In the broader context of the importance granted to accessibility by the European space planning policies, comparing the efficiency of European and national transportation routes and corridors constitutes an issue of particular relevance for Romania. In order to resolve it, this paper proposes a methodology based on potential accessibility, determined by the total population served and the efficiency of the path. Both approaches were applied to internal and European routes.

Key-words: accessibility; efficiency; security; railroad transport.

1. Introduction

In one of his texts, the philosopher Michel Foucault said that, in contemporary society, countless power relations cross, characterize and represent the social framework, so the individual is not a vis-à-vis of power, but its effect, so he is constituted as a relay that power is passing through (Foucault, 2009).

In these conditions, power is exercised as a network, a network by which individuals not only pass, but they are also core elements of the transit, perceived in a double sense and in a global context, so the power procedures are moving, are in process of extending and of a continuous changing.

Our research starts from this assumption on the networks that initially allow starting and then equalizing the transport flows, aiming to identify how to achieve their optimal flow, based on the statistical sample at domestic level.

In Europe, the current trend in global development of transportation is generated by countries necessity to create a high-speed railroad infrastructure, which primarily involves reducing travel time upon long distances, and second implies improving inter-regional accessibility towards remote regions, in order to stimulate European integration (Willigers et al., 2005).

First, to discuss about national railway lines, we must draw a parallel to the European railway system, a model from which is planed and into which is extended Romanian infrastructure. So, this article refers to optimizing the Pan-European Corridors, opting for their extension toward the areas which lack these opportunities.

When unconventional European corridors routes were designed, the mathematical analysis was based on comparing differences between two proposed alternative routes, afterward identified on the map and titled „Magellan" and „Columbus".

Beginning from the European transportation network to delimitation of a national railway route, we may draw a parallel toward the entire system in which is embedded the Romanian route. In a previous analysis on European railway environment, it has been found that the new proposals, on the set routes, encompass the existing railroad routes in the territory of each Member State, with route changes depending on several parameters. Thus, from ten Pan-European

corridors only five of them are found efficient for optimizing, i.e. the "unconventional corridors" II, III, IV, V and X, crossing the European countries, as follows: Corridor II starts in Spain, through France, Luxembourg, Belgium, Netherlands, branch in Germany to Denmark, Sweden, Norway and Finland and to Poland, Belarus and Russia; Corridor III begins in Spain, across France, branches out to Britain and Belgium, Luxembourg, Germany, Poland and reaches Ukraine; Corridor IV starts in Portugal, across Spain, France, Switzerland, Germany, Czech Republic, Austria, Slovakia, Hungary, Romania, Bulgaria, Greece and Turkey; Corridor V, starting from France to Switzerland, forks on Italy's territory to southern to Sicily and to eastern to European area, across Slovenia, Croatia, Bosnia-Herzegovina, Hungary, Austria, Slovakia, Ukraine and Romania; Corridor X starts in France, through Belgium and Luxembourg, through Germany, forks in Slovenia to Austria and to Croatia, Hungary, Serbia, Kosovo, Macedonia, Bulgaria, Albania and Greece.

The concept of unconventional corridors refers to those corridors that have not been established by any conference at European level, as the ten existing Pan-European corridors, but were drawn on a plan in accordance with a proven exterior. So, the five unconventional routes listed in rows above, were chosen as optimal rail routes based on several criteria, such as accessibility to many cities, the economic importance of transit or destination areas, landforms, as a Pan-European corridors extension toward the South-Eastern Europe.

Pan-European Transport Corridor should be seen as a specific form of implementation of the European policies for the development of transport infrastructure in the countries of Central and Southeastern Europe. Thus, the new proposed corridors, the unconventional ones, draw up an opened and connected map, which refers to performance. Thinking on this unconventional map of corridors has the characteristic to recognize other vehicles contribution and to offer the best option to travel to the desired destination.

Establishing a system in which all networks are related is not regarded merely as a domestic network, but is indicated to be included in an international sphere. Thus, processing at European level as an efficient system starts right from the concept of "Euro-Corridor". Therefore, economic impulses at national level are very important, within the investments in Euro-Corridor's areas.

Per se, the study of national security is a necessity which sends to investigation, in this case at local railway infrastructure.

Based on these reasons, the current research proposes a statistical-mathematical model for choosing the security transportation corridor, as well as on the construction of indices measuring quantitatively the accessibility, based on the importance and proximity of neighboring urban centers, relying on the map of a region and population data.

2. Materials and methods

Based on the provisions of Law no. 363 of 2006 on the approval of the National Space Plan, Section I Transport Networks, published in The Official Gazette no. 806 of 26th of September 2006, on the hypothesis of the existence of a strategic transport corridor for Romania, the characteristics of two routes were compared, namely Bucharest – Arad and Bucharest – Oradea, using the orthogonal projection method. The comparison of possible routes involved two methodological approaches.

(1) The first approach is based on potential accessibility, defined using the 45 minutes isochrones (National Capital Region Transportation Planning Board, 2006; Nordic Centre for Spatial Development, 2005), i.e., the settlements accessible by any or specific types of transportation within 45 minutes. Nevertheless, the indicator used in the study was not their actual number, but the total population, in an attempt to measure the importance of the service provided to them. Given that the average speed outside the city limits is 90 km/h, the 45 minutes isochrones correspond to a distance of 67.5 km, rounded up to 70 km in order to account for speeding up, slowing down, and traffic clogs around exits. For each railroad node, their population was added to the one of all other administrative units located within a distance of 70 km. If a certain settlement was located within 70 km from two or more nodes, its population was accounted for the closest node only. 2007 population data was used (National Institute of Statistics, 2008).

(2) The second approach is based on the same principle as simple linear regression in statistics (Legendre, 1806), i.e., the least squares method.

According to this principle, the optimal path fitting a set of points is the one that minimizes the sum of the squared straight distances between each point and the path. In this study, the optimal route is the one minimizing the sum of straight distances on the N-S direction (or E-W, when applicable) between the centers of all accessible settlements (defined again based on the 45 minutes isochrones) and each path. The indicator used in this case, sum of squared distances, is a simplified measurement of the efficiency of the route, regardless of eventual deviations determined by the configuration of relief. Computations were made on the North-South direction, corresponding to the least squares method, and, in addition, on the East-West direction, when the orientation of the corridor required the change.

The methods were applied only to the settlements with the administrative rank of "city" or "municipality" as defined by the Romanian Law no. 351 of 2001 on the approval of the National Spatial Plan – Section IV, Network of Settlements (Parliament of Romania, 2001).

3. Results

Actual European area includes 27 Member States, of which only 25 have railroads. European railway map shows a relatively homogeneous lines and their distribution and quality are good. Beginning with the European development strategy, achieving a Pan-European Transport Network is an important goal. Today, in Europe there are various railways, both in structure,

organization, finance and also in the increasing travel demands. But throughout their history, the railway has continually evolved in the modern lines of today, noting fundamental changes in technology and mentality.

We cannot omit the fact that proper functioning of rail transport services is closely related with the attitude of all participants involved in this area. Thus, the new contexts generated by globalization and the economic crisis, gives railroads the need to adopt rules in cooperation between international organizations that aim to ensure safety and security, which in turn generates quality of service provided at regional, national or European level.

Security strategy is a concept of synthesis that becomes operational by plans, measures and actions that take place in order to prevent and combat the risks that could jeopardize the national or European values. Therefore, the national strategy on security integrates into its structures foreign policies and joined to the international cooperation. Thus, integration and harmonization of the efforts in this regard covers national framework and the dynamics of the European relations created in the area, and beyond.

According to the European rail provisions, Romania's priorities are the rehabilitation, modernization and development of transport infrastructure, particularly the corridor linking the Black Sea region with the rest of European countries, cooperation and partnership being the methods by which these projects will be funded those national projects (National Security Strategy of Romania, 2007).

Sources of variability										
Sources of variability	Method									
Sources of variability	Orthogonal projection					Radial Projection				
Sources of variability	df	SS	MS	F	p	df	SS	MS	F	p
Model	9	789951	87772	6,42	<0,001	9	1471816	163535	12,43	<0,001
Error	538	7353658	13669			1430	18811369	13155		
Total	547	8143608				1439	20283185			

Sources of variability										
Sources of variability	Method									
Sources of variability	Orthogonal projection					Radial Projection				
Sources of variability	df	SS	MS	F	p	df	SS	MS	F	p
Route	1	272776	272776	19,96	<0,001	1	878636	219659	16,70	<0,001
Corridor (II, III, IV, V or X)	4	350684	87671	6,41	<0,001	4	165137	165137	12,55	<0,001
Combination corridor - route	4	128911	32228	2,36	0,05	4	428042	107010	8,13	<0,001

Table no. 1 – Displaying the results of the Analysis of Variance (ANOVA) to look at the differences between the five Pan-European Corridors

Table 1 contains information regarding European railway analysis. For subsequent analysis approach, we compared two routes for each unconventional corridor in part, taking into account the distances between the proposed corridor and 274 cities for orthogonal projection method and the corridor with 718 cities for radial projection. Results at European level correspond as final solution by mixing on certain portions of the two routes related to the five Pan-European Corridors.

Analyzing these results at European level, it appears that Romanian territory is crossed by corridors IV and IX. At this point, it is appropriate to bring into question the fact that Bucharest is crossed by two routes which correspond to the two Pan-European transport Corridors; starting from Finland, through Russia, Corridor IX provides connection through Giurgiu to the Southeastern Europe, and in Bulgaria with Corridor IV, at Alexandropoulos harbor on the Aegean Sea. Also, because the Pan-European Corridor IX route crosses the country on the eastern side, on Ploieşti-Focşani-Bacău-Paşcani-Iaşi, ensuring connection with Moldova, in this analysis we take into account only the segment between Giurgiu and Bucharest.

Thus, it is defined the first starting point in choosing the route of national security, argued by the fact that by choosing Corridor IV is made the country's external trade and economic connection, both to the European Union and the Turkish zone. Also, this corridor has as end points Arad terminal toward the European area and Constanţa, as an inter-modal transport hub, namely maritime area that provides links to Asia.

Studying Law no. 363/2006 graphic elements, there can be seen easily that on high-speed rail line route is clear defined only towards Bucharest and Constanţa segment and between Bucharest and Braşov segment.

In light of this perspective, the Law is unclear beyond the city of Braşov, the resultant axis positioning itself over the ridges of the Carpathians, between the existing rail corridors that would allow transit links to the country's western border with Hungary, close to the location of cities Arad and Oradea.

Another starting point in choosing the national security route is argued even by the fact that by the potential selection of corridor IV on the portion that crosses the territory of Romania, is made an economic and trade foreign link of the country both to the European Union and to the Southern Europe and Turkey areas. However, this corridor has as end points toward the Western European Arad terminal and Constanţa, as the multi-modal area, namely the maritime area that provides links to Asia, as shown in Figure no. 1.

Another important element for the analysis was that the dominant flows, mapped by red arrows,
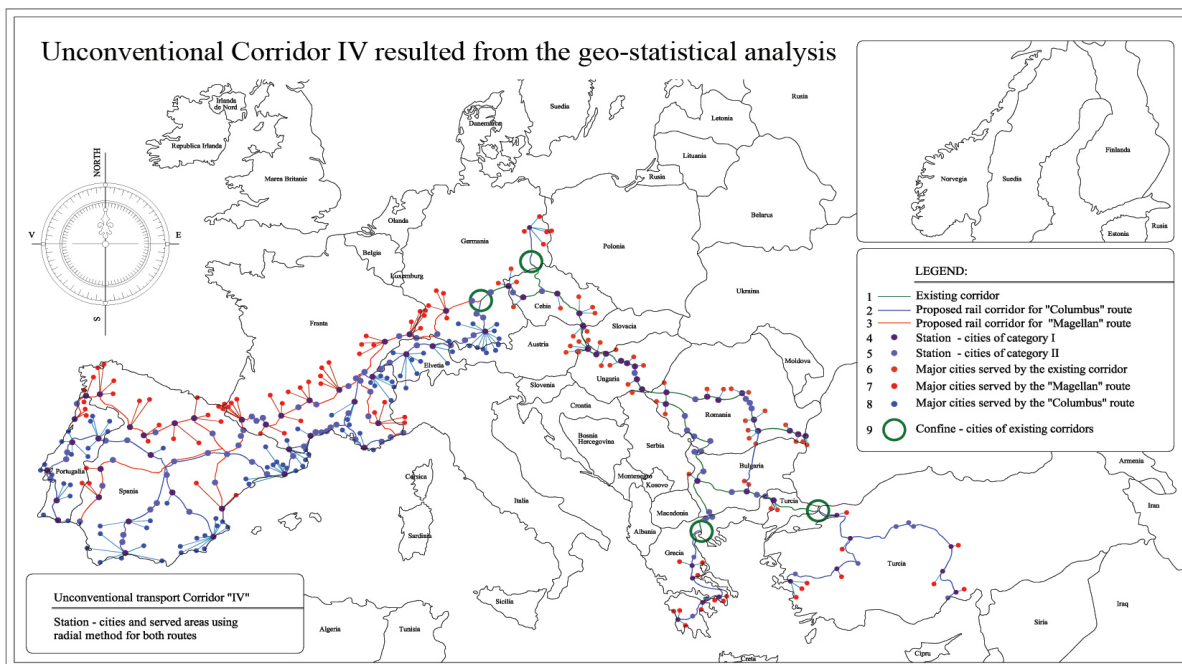

Figure no. 1 – Unconventional corridor IV resulted from the geo-statistical analysis.
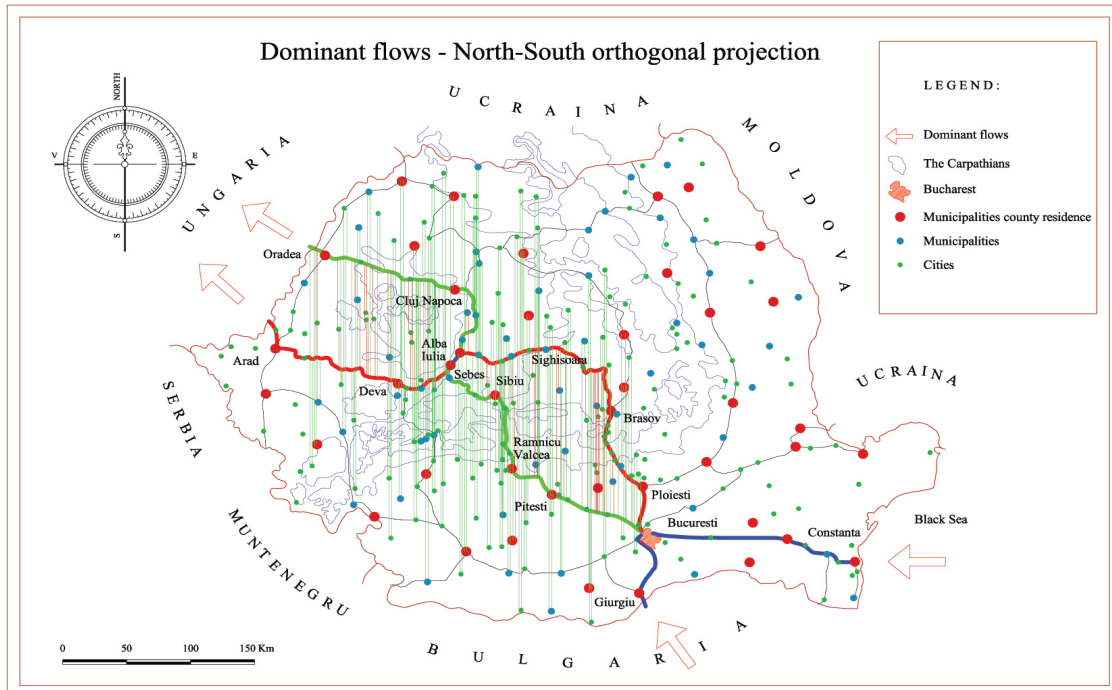
Figure no. 2 – Dominant flows represented by the orthogonal projection on the N-S direction

located on border areas of the country, namely in the cities of Constanţa, Giurgiu, Arad and Oradea, represents the main areas in which is calculated potential transit routes. Thus, it was defined the area and direction related to the security corridor.

The new proposal uses existing rail routes, with route changes depending on several parameters. Regarding national analysis, when looking at the settlements located within 70 km of each railroad station, 105 cities were found within the range from either of the two corridors on the North-South direction, 13 cities on the East-West direction, and 165 cities on any direction.

To establish the security corridor, there were chosen for comparison the routes of Bucharest-Braşov-Arad as part of Corridor IV, which by its nature is advantaged by the status of a Pan-European route, compared to version of intersection Bucharest-Piteşti-Oradea, supported by a number of important features, which can provide a fair comparison between the two routes.

If we accept that the proposed route by the Law can be identified between the cities Braşov and Alba Iulia with the route of Pan-European transport Corridor IV, beyond this point it is necessary to achieve a rigorous analysis of the border mentioned above.

The existence of the second segment identified between Bucharest and Braşov create difficulties

and conditions at the same time to think the route that starts from Alba Iulia to the country's western border, as shown in Figure no. 2.

Thus, there can be seen the possibility of two directions; the first scenario is about a segment to join the city of Alba Iulia and Arad and a second case refers to a link between the city of Alba Iulia and Oradea.

Even if on the studied territory exists a common segment, which we will jointly identify between cities Sebeş and Alba Iulia, to simplify the analysis in the conceptual model, we use as landmark Alba Iulia as equivalent to the whole area between it and Sebeş.

However, the framework Law which we refer to and from which we start to substantiate our argumentation, does not offer any indication of which could certainly emerge the strategic supremacy of Alba Iulia-Arad route to the detriment of the equivalent segment generated by the positioning of Oradea city towards Romania's western border. In these circumstances, a detailed analysis on the existing graphic representations of Law no. 363/2006 contents, allows subdivision of this route into four strategic segments, each of them being in its turn customized by the existence of distinct elements.

We identify a first segment of strategic importance between Constanţa and the Romanian
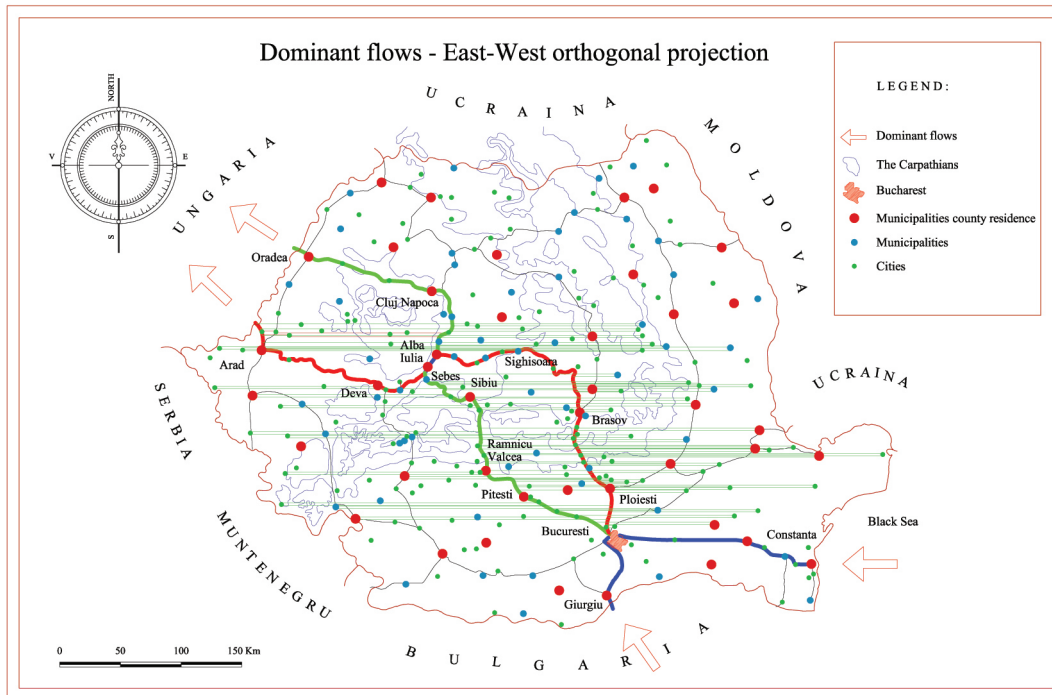
Figure no. 3 – Dominant flows of variations for the security corridor by the orthogonal projection in the E-V direction

capital city, a second segment between Bucharest and Braşov, a third from Braşov and Alba Iulia and one last item from Alba Iulia and Arad, according to the detailed map in Figure no. 3.

Accepting the hypothesis of the existence of these four basic elements, we can deduce that from the port of Constanța to Bucharest is moving an entire flow of passengers and freight. However, although in this case the texture transport route overlap over the same segment as in the Law, in the south of the country there can be identified an area towards Bucharest by the existence of access to transport segment of Giurgiu and Bucharest, segment somewhat equivalent in terms of accessibility in Romania.

It is true that the two access points are not fully equivalent, Constanța being among others an inter-modal transport hub, traffic flows taking place differently than in Giurgiu, and, because space of this paper is limited, for now we shall refer to the cities only in terms of their potential accessibility. Therefore, in the analysis undertaken both railroads are accepted as valid, the one from Constanța and Giurgiu to Bucharest ensuring the flow of traffic.

On this background of potential accessibility that we mentioned in the previous paragraph, we cannot exclude the route of Giurgiu-Bucharest instead of that from Constanța to Bucharest.

This entitles us to identify an alternative route of the second segment to represent a sustainable solution while retaining at the same time the orientation to the country's western border, by the Law requirements, but this time on an equivalent new route proposed between Bucharest and Râmnicu Vâlcea.

Method	Measure	Value for the Bucharest – Arad corridor	Value for the Bucharest – Oradea corridor
Potential accessibility	Total population / number of settlements	2085673 / 84	1729108 / 78
Optimal path (N-S)	Sum of squared distances	73457.6 / 56	504459.6 / 49
Optimal path (E-W)	Sum of squared distances	13694.29 / 12	165641.5 / 1

Table no. 2 – Showing a multi-criteria comparison of the Bucharest-Arad and Bucharest-Oradea corridors
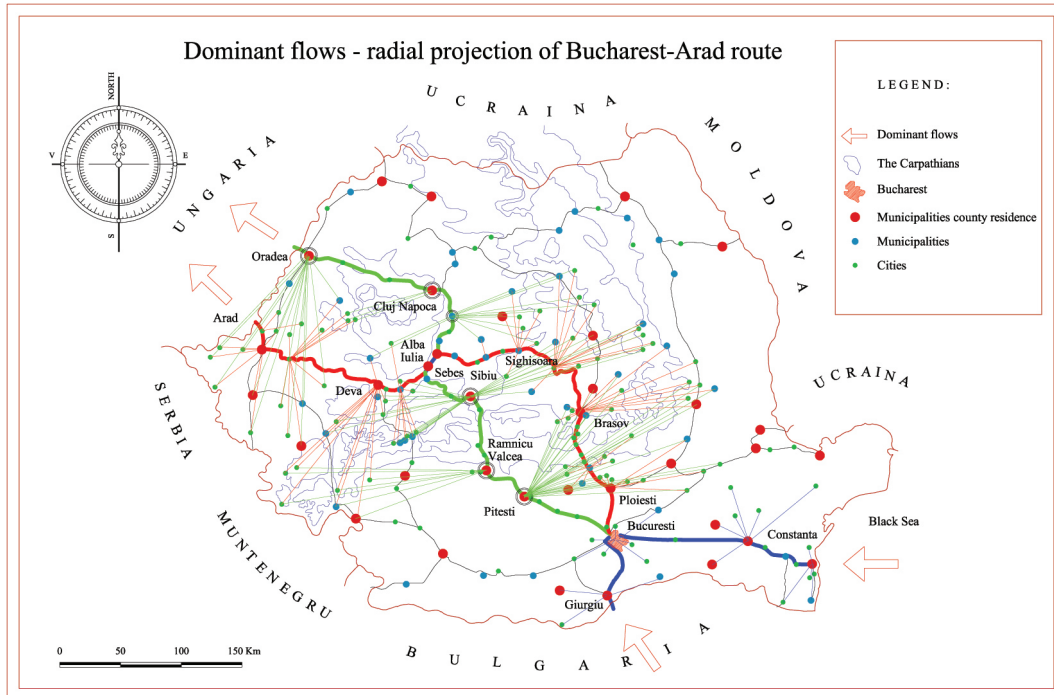
Figure no. 4 – Dominant flow projection by radial version in order to analyze and obtain appropriate data for the Bucharest-Arad route

The existence of a common area, on the route Constanța-Bucharest or Giurgiu-Bucharest and the possibility that of two compared routes Bucharest-Braşov-Sighişoara-Alba Iulia and Bucharest-Râmnicu Vâlcea-Sibiu-Alba, further substantiate the hypothesis from which is to demonstrate the validity of the two segments on which started the present analysis, namely Alba Iulia-Cluj-Oradea and Alba Iulia-Deva-Arad.

Following the multi-criteria comparison result information in Table no. 2, there can be seen that the route Bucharest-Oradea is not optimal.

Also, we can mention that, because of the existing traffic on the Danube river and because this
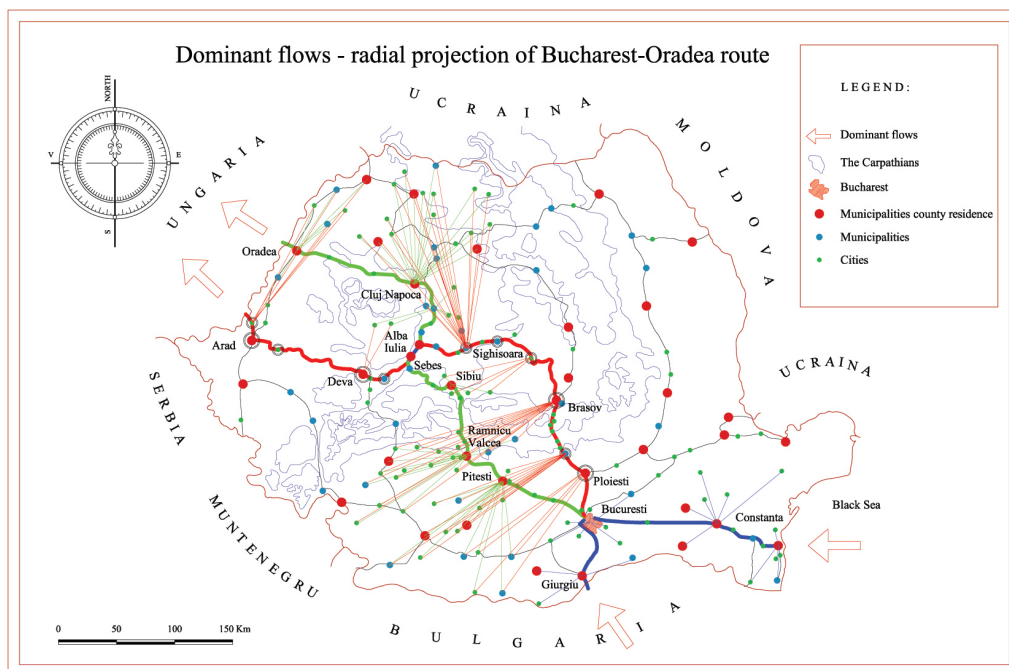

Figure no. 5 – Dominant radial flow projection of the Bucharest-Oradea route to obtain data for comparison
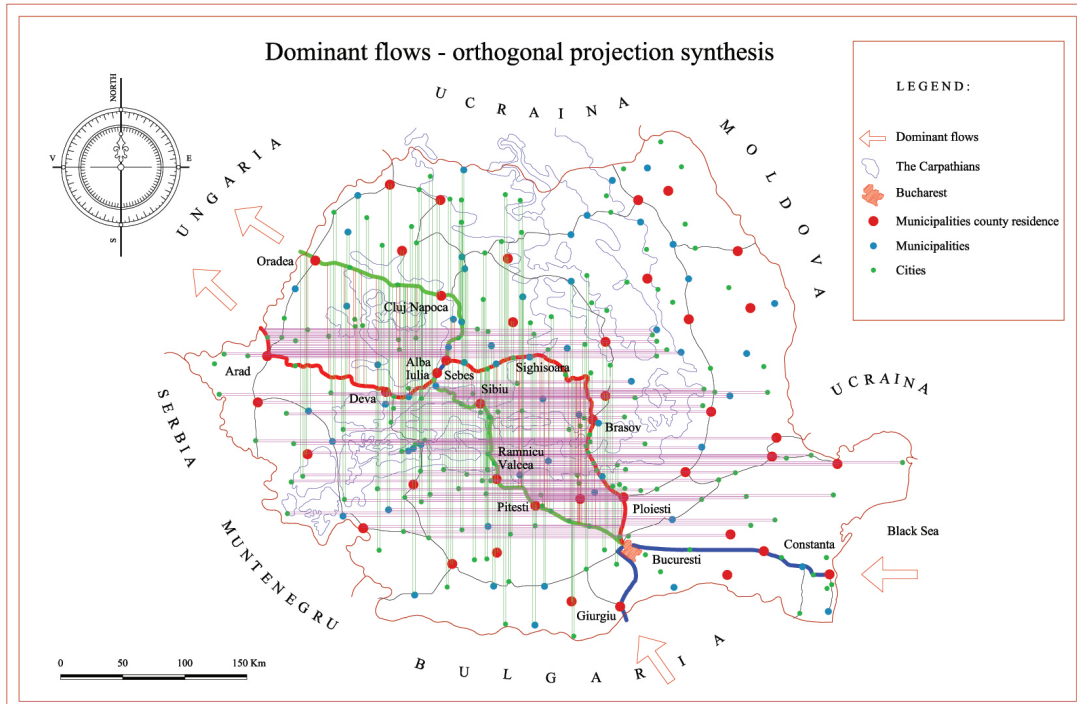
Figure no. 6 - Synthesis of orthogonal projections for the two dominant flows in order to choose the optimal route of national security corridor

kind of transportations is included in the classification of Pan-European transport Corridors, another segment of the second corridor, positioned too close, might be inefficient, both in terms of economic and the geo-strategic terms, for which at least at this stage of our research, the route between Bucharest and Alba via Râmnicu Vâlcea appears in a bad light. Even so, given the unreliability of graphic representation of Law framework, it had to be found a route equivalent to counterbalance the segment of traffic between Braşov and Alba Iulia, where the only plausible option was the possibility of a similar element between Sibiu and Alba Iulia, with access from Râmnicu Vâlcea.

Figure no. 7 – Dominant flows of the two compared routes in order to choose national security corridor, by the synthetic version of the radial projections

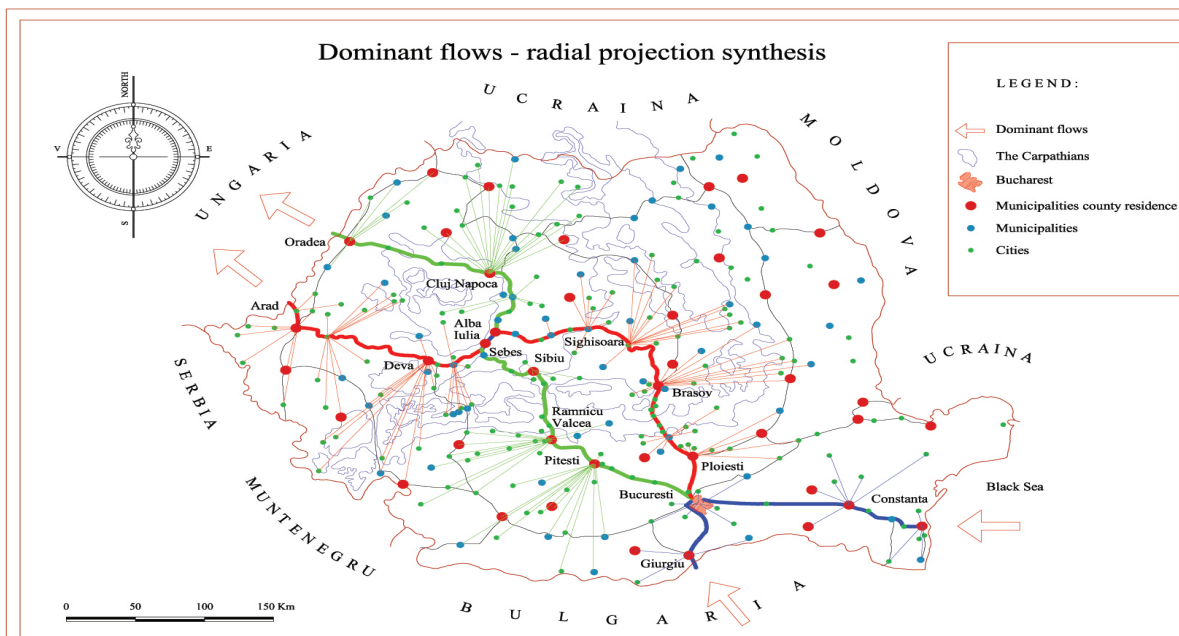Following measurements resulted total length for the two common areas, i.e. from Constanța to Bucharest of 165.25 km and from Giurgiu to Bucharest of 70.9 km, as provided in Figures no. 4-5.

Moreover, even if the route Bucharest-Arad is shorter – 619 km and passes through six municipalities of the country, and variant Bucharest-Oradea offers accessibility to seven cities over a length of 649 km, these two criteria are added for choosing the best security rail route.

4. Conclusions

Currently, the European Union goes through a phase of redefining its national identity and internal cohesion, in the context of the need to assert itself as a competitive and dynamic player in a constantly globalizing world.

In the field of European security organization, geo-political actors get involved in creating a multi-staged security system (EU, NATO, UN), thus training in one or more levels will be based on specific tasks for specific security. Today agreements are reached to understanding the need for correlation and improving cooperation between different organizations (Atanasiu M., 2008).

The results indicate that, as shown in Figure no. 6, regardless of the methodology, Bucharest-Arad corridor appears to be the optimal route in Romania, provided that it serves most settlements.

In addition, each methodological approach underlines some other advantages of Bucharest-Arad corridor: when looking at the potential accessibility, the corridor appears to serve more people than Bucharest-Oradea one, and when analyzing the optimal path, Bucharest-Arad corridor appears to minimize the sum of squared distances from the accessible settlements, disregard of computing them on the North-South or East-West direction.

Finally, starting from general to particular, even if the analysis has covered each part of the European and national territory, as can be seen in Figure no. 7, in the final security corridor route was obtained by summing all the analysis presented.

National railway analysis primarily focused on national laws and then on the need to integrate the Romanian railway system in the European Union. Thus, the rail corridor Bucharest-Arad as part of Pan-European Corridor IV, gathers all the criteria argued above and may be named National Security Corridor.

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Anca-Andreea GHIȚULEASA (in_culori@yahoo.com), Ph.D. Candidate in Business Administration at the Academy of Economic Studies – Bucharest, worked to important railway projects in governmental institutions. Also, she participated at many scientific conferences related to her research thesis, i.e. economy, architecture, security and defense areas, analyzing domestic and European railway areas.

Liviu Gabriel GHIȚULEASA (liviu.ghituleasa@yahoo.com) is an architect and author of numerous scientific articles. His research interests cover wide ranges of knowledge, most of them being represented by the architecture of railroads, by the structural transformation of inter-modal junctions, and also by conceptualization of heterotopic spaces, as effects of the confluence in the contemporary of the public and the private. Currently he is undertaken independent research.

Alexandru-Ionuț PETRIȘOR (alexandru_petrisor@yahoo.com), Ph.D. in Ecology, Ph.D. Candidate in Geography, Scientific Director for Urbanism and Territorial Development at the National Research and Development Institute for Constructions, Urbanism and Sustainable Space Development URBAN-INCERC and Lecturer at "Ion Mincu" University of Architecture and Urbanism (both in Bucharest), is the author of 146 papers, 10 books/chapters, 77 presentations, 83 lectures and 25 regulatory plans.

THE BALANCE OF POWER FROM THE REALISTS PERSPECTIVE

Niculae TABARCIA

The present article assumes that the idea of „balance of power" represents one of the fundamental concepts for the area of International Relations, not only from the perspective of its theory but also from the one of its practice. The analysis is focused on the perspectives of the realist and non-realist authors who approached this issue and undertakes a cursory survey of some of the most important theoreticians of the "balance of power" concept – Hans Morgenthau, Hedley Bull, Kenneth N. Waltz and John Mearsheimer. There are pointed out the peculiarities of their approaches, but also the common aspects of their perspectives – the "balance of power" is interpreted as the capacity of the international system to compensate the changes in some states' behavior in order to maintain the state of the international system unchanged or to ensure that it will have a slow evolution.

Key-words: International Relations; international system; balance of power; security; alliance; power.

The balance of power represents one of the fundamental concepts for the theory and practice of International Relations. The contemporary study of International Relations appreciates the balance of power paradigm as the most effective tool available to describe the profound dynamics of modern international system.

Realist and non-realist theories of International Relations raise the question of inherent instability of the international system and use the concept of balance of power to interpret actions and changes that are taking place globally. According to the balance of power theory, the interaction between states tends to limit or modify a state aspiration to hegemony and involves forming an alliance to counterbalance the power of that state.

Balance of power is associated not only with the idea of anti-hegemonic alliances but with the concept of security as well, since states have always tried to maintain their freedom of action in order to promote their national interests and to create conditions for economic and social development.

The approach of the balance of power in realist and non-realist theories underlines models of balance of power in relation with two metaphors associated with it: **the balance and the arch**. Classical interpretation of the **balance of power** model involves a specific distribution of power between the entities which are part of the international system so that no state or alliance could predominantly obtain the power. The idea of "no-predominance" represents the main analytical core of any classical balance of power theory. Consequently, the balance of power model may be interpreted as an adversative one, resulting from the adversative alliances counterbalancing each other. The basic assumption used to construct this model is that the dynamics of international relations can lead to a matrix able to control individual units' ambitions of domination. The metaphor attached to this principle is the one used by the English historian William Camden who refers to "a scale, a balance" and "weights on a scale". When the scale is in equilibrium, there is stability in international relations. When the scale is not in equilibrium or it is in the process of balancing, international relations are in an uncontrolled dynamics and that situation could be interpreted as war or a situation of instability in international politics.

The arch model promotes the idea of an associative equilibrium in which states desire plays a decisive role. This equilibrium could be based either on recognizing, at the entire system level, of the fact that there could be created an alliance to counter any hegemonic event, or on achieving an agreement on power sharing in order to maintain common security and the balance of power.

One of the most important contemporary studies on the balance of power is conducted by Richard Little, who identifies in his book, ,,The balance of power in International Relations: metaphors, myths and models", four major approaches by well-known realists and non-realists theoreticians: Hans Morgenthau in ,,Politics among nations" (1948), Hedley Bull in ,,The anarchical society" (1977), Kenneth N. Waltz in ,,Theory of international politics" and John Mearsheimer in ,,Tragedy of force policy"[1].

The opinions of the four authors cover the full range of shades existing in realist school with respect to the place and role of the balance of power in International Relations theory and practice.

In his work, "Politics among nations", **Hans Morgenthau** used the concept of "equilibrium" as synonymous with "balance" and gave four possible meanings of the "balance of power": policy pursuing certain results, state of affairs, approximately equal distribution of power and any power distribution.

In Morgenthau's vision, the balance of power appears as a "natural unavoidable consequence of the power struggle". In this context, Morgenthau synthesizes international power dynamics resorts as follows: "The desire for power of a nation clashes with the desire for power of another nation", so that, at any moment in history, there are two kinds of "collision": *the direct opposition model* and *the competition model.*

The direct opposition model assumes that the balance of power comes from "each nation desire to impose its own policies on the other". The dynamics of achieving the balance is described in mechanics terms as creating a delicate balance of power and stability, always in danger of being disturbed and restored.

The competition model ameliorates the effects of the first model since it favors the re-establishment of a stable balance of power, self-administrated at conscious level.

Morgenthau's theory describes a balance of power model that combines two different dynamic processes. The first process associates balance of power with the involuntary outcome of the interaction of the great powers engaged in a mechanical thrust toward hegemony. The second dynamic process is associated with a complex set of social, ideational, and material factors, which ameliorates the effects of the first process and helps the great powers in maintaining a balance that ensure their collective security and common interests. These two processes correspond to a certain extent to the difference between an adversative balance of power and an associative one.

The balance of power plays an important role in International Relations theory presented by **Hedley Bull** in his work, "The Anarchical Society". He believes that the balance of power is one of the five fundamental institutions that have developed and supported international society, next to *international law, war, diplomacy, and great powers.*

Hedley Bull considers that the five institutions are interlinked and the balance of power assures the proper conditions for the other four institutions to function, institutions on which the international order is dependent. He makes a clear distinction between **the spontaneous balance of power** and **the planned balance of power**, based on the following premises:

• In an international anarchic system, the balance of power between states occurs accidentally, being, therefore, an unstable phenomenon that can not lay at the basis of a stable international order;

• The planned institutional balance of power presumes the preservation of all states autonomy and the recognition of a common interest in maintaining the essential characteristics of the society;

• States must prevent the emergence of a hegemonic state in international society.

Bull identifies five variable elements in the equation of power balance: the influence of polarity on international practices, the diversity of the power types, the geographical distribution of power, nuclear weapons development and the distinction between the spontaneous balance of power and the planned balance of power.

Bull's balance of power conception is based on the distinction between the international system and international society.

In the international system framework, the balance of power can be explained by changing the distribution of power through war and struggle for power. Therefore, within such an anarchic international system, states have a relative safety, an alliance becomes a realistic option and the systemic balance of power appears fortuitously.

In the international society framework, war and power struggle from within the international *system are replaced by cooperation and controlled relations between states*. States' attempt to improve or maintain elite status may be associated with a competitive balance of power and threats to the balance create a trend to counterbalance in order to achieve the planned balance.

The power balance model, in Hedley Bull's theory, has two dynamics[2]: **the restrictive control by other states** inevitably involving an adversative reference and **the restrictive control by its own state** involving an associative reference.

This model requires states to prevent the emergence of a hegemonic power, which will eliminate the autonomy of units, constituting the international society and to refrain from fulfilling its own hegemonic ambitions. Institutional balance of power is the foundation on which Hedley Bull develops his concept of international society and it reflects the common commitment through which such a society can ensure its survival.

Kenneth Waltz's, neorealist International Relations theorist, is the author of a model of balance of power, in terms of structural approach of international politics, which was presented in his paper "Theory of international politics."

He believes that policy refers mainly to the way the power is organized to produce order and the balance of power is based on the logic of small numbers, which would require the definition of international system structure through a limited number of powers.

The theory used by the author to addresses the international politics focuses almost exclusively on the interaction of the great powers - the political structure of the international system being the result of great powers dynamics.

Another defining factor for the international political structure is the character of the parties constituting the international system, given the fact that in the hierarchy of political systems, the components differ from each other by the functions they execute.

In support of his theory regarding the balance of power, Waltz started from the following assumptions:

• States are organic actors who, at the minimum level, seek their own preservation and, at the maximum level, race for the universal domination;

• States or those acting on their behalf are trying to use the means at their disposal in order to achieve the aims they have in mind. These actions fall mainly into two categories: internal efforts (involving the increase of economic capabilities, military strength, developing adaptation strategies) and external efforts (involving the strengthening and spreading of their own alliances or the weakening and containment of the opponent alliances). Waltz also describes the constraints arising during those actions, indicating the expected result, namely achieving the balance of power.

Kenneth Waltz's theory may be summarized as follows: states seeking at least their own preservation and acting to achieve this objective in a self-help system, characterized by an anarchic order, shall adopt attitudes of the balancing or alignment type ("balancing" or "bandwagoning"[3]) with countries seeking to develop an anti-*status quo* policy.

Another interesting neorealist theory regarding the balance of power has been developed by John Mearsheimer, in the decade that followed the end of the Cold War. In his paper, "Tragedy of force policy", the scientific discourse on power was transferred from the international system to the regional one, showing that there can be an common equilibrium of power only if there is a systemic relationship between regional balances of power.

Mearsheimer built a theory of international politics within which great powers that "shape the international system" represent the center of gravity. They write the script for both themselves and the others.

In addressing the balance of power, Mearsheimer believes that:

• States adopt short and long term perspectives;

• Short-term balance of power reflects the distribution of military power;

• Long-term power balance analysis must take into account „latent power", wealth and size of the state's population;

• The logic of anarchy requires every power to adopt an aggressive attitude in the international system;

• The structure of the international system forces great powers to become power optimizers and, therefore, to aim at revisionism;

• Powers must monitor permanently the distribution of military and potential power and from this point of view, to implement strategies that will move the balance of power in their favor.

What singles out Mearsheimer among realist theorists of International Relations is that he establishes *the link between geography and the structure of international politics.*

In terms of geography, Mearsheimer introduces a very important distinction between water and land, which has a significant impact on the balance of power logic[4].

Mearsheimer's model shows that the island and mainland powers have different approaches regarding the balance of power because „the great expanses of water severely limit the ability of armies to project military power"[5]. He believes that it is impossible to understand the structural consequences of anarchy and the distribution of power in the international system if these factors do not take into account the dichotomy land/water.

Mearsheimer points out that the international system dynamics is mediated by this dichotomy and, in order to reach a compromise about the logic of balance of power, it is necessary to distinguish between continental and island states. He attributed the difference between an island and a continental power to a matter which he calls "the power of water to serve as a shield"[6].

Summing up the approaches to the balance of power in terms of realist school, the world seems marked by several key elements:

• The fundamental feature of international relations system is anarchy. This does not mean they are chaotic, but rather that there is a dynamic hierarchy marked by competition and war and that the world has no a supranational authority;

• States have an offensive military capability that may enable them to attack and even destroy each other;

• There is no assurance that a state will not use its military capability against other states;

• The base of the motivation and attitude of the states is the desire of hegemony or the willingness to survive;

• States reason and act strategically to influence the balance of power in order to ensure survival.

In conclusion, although the four major approaches of the balance of power are different, we consider that they often have in common *the interpretation of the balance of power international system as the ability to compensate for changes in states' behavior, so that the system of states would not change or so that its evolution would be slow*.

Balance of power must be seen as a dynamics determined by many factors, such as the manifestation area (military, economic, demographic, technological etc.), the geographic area (global, continental, regional) and the coexistence of a planned balance of power trend with that of a spontaneously balancing tendency.

It should be noted that, since power can not be quantified, no balance of power can be described in analytical terms. Nevertheless, the states of equilibrium in a field can coexist with the imbalance in another field.

It is possible for the 21st century to mark the coexistence between the tendency of maintaining a balance of associative type – generated mainly by the existence of nuclear weapons, globalization, and environmental issues – and the tendency of achievement an adversative balance generated by the emerging powers will redefine the global power equation.

NOTES:

1 Richard LITTLE, **Echilibrul puterii în Relaţiile Internaţionale: Metafore, Mituri şi Modele**, Tipografia Moldova, Iaşi, 2008.

2 Hedley BULL, **The Anarchical Society: A Study of Order in World Politics**, 3rd edition, Macmillan, Basingstoke, 2002.

3 Kenneth N. WALTZ, **Theory of International Politics**, Addison-wesley, Reading, 1979.

4 John J. Mearsheimer, The Tragedy of Great Power Politics", W. W. Norton and Co., New York, 2001.

5 Ibidem, p. 114.

6 Ibidem.

General-major Niculae TABARCIA (ntabarcia@yahoo.com) is the Director of the General Staff.

ROMANIA AT CROSSROADS WITH EUROPE?

Nicolae RADU, Ph.D.

When trying to understand our people's attitude and the responsibility for the present, the reference to history is more than essential. Is there any other possibility to understand who we really are? How many teenagers still know about our ancestors, the Gets and Dacians, sealed through ages on Traian's column? How can we pretend to be Europeans, if we forget that our ancestors are the ones who brought a meaning to Europe? The continuity past-present-future is also defined naturally in terms of responsibility-ethics-duty by Pope John Paul the 2nd (born Karol Josef Wjtyla, 1920-2005, pontiff between 1978-2005), during his fist visit of 7-9th of May 1999, along with the dear departed Father Teoctist (laic name Toader Arăpaşu, 1915-2007, Romanian Orthodox Church Patriarch between 1986-2007): "everyone is responsible for his brothers and for his country's future".

Key-words: successive threats; veterans; colonists; urbanization; oil against peace; Romanian speakers.

1. Concise considerations on our history

Either we talk about Modern Romania (Riker, 1944) or we examine today's Romania, the immediate reality would not be revealed without understanding the historic truth. Like it or not, Romanians were and are everywhere, their continuity being undisputable

There have been many authors who wrote about the Gets (Crişan, 1993, Dumitrescu, 1998), as well about the Dacians (Babos, 1979; Petrolescu, 2000; Vulpe, Zahariade, 1987; Trynkowski, 1974), or Vlachs or Romanians. We shouldn't forget the fact that within the 2nd millennium B.C., the territory occupied by the indo-European tribes of the Thracians, and later on, starting with the 6th century B.C by the gets - the lower Danube region,

and by the Dacians – in Banat and Transylvania – under Burebista's lead (82-44 B.C) was lying to North till the Sylvan Carpathians, at south to Haemus Mountains (Balkans), to west – till the junction of Moravian river and Middle Danube, and to the east, till the Bug River.

The Gets and Dacians are the ones that left to our people much more than the honesty and courage to get the things done. However, one can't say that the Gets and Dacians had good knowledge in the compromise area! The king Burebista got involved within the conflict between Cesar and Pompeii, sustaining the latter. The Roman emperor Julius Caesar has planned later on, a campaign against the Dacians, but he was murdered in 44 B.C. (Daicoviciu, 1972). A couple of months later, the king Burebista had the same fate, being murdered by one of his servants.

Being conquered in 106 A.D. by the roman emperor Traian, the Getic and Dacian state, under the roman administration, was hit by successive invasions of German tribes (Opreanu, 1995; Stanciu, 1997). The roman administration withdraws out of the region 2 centuries later, in 271 A.D. – named also as the "Aurelian Withdrawal" year. Should this have a meaning? Should this become later the politics of "oil against peace"?

The withdrawal actually took place during Aurelian emperor's reign and was actually a reassessment of the empire's borders nearby the Danube, for a more effective administration and defense of this area's provisions (Lupu, 1993; Ruscu; 1998).

As we all know, the Romanization factors were: the administration, the army, veterans, the colonists, urbanization, religion, the law and the Latin education. The impact of these factors on the autochthons was the conscious assimilation of the roman civilization (Barzu, Brezeanu, 1991). The towns in the Northern part of the Danube

like Sucidava, Dierna, Sarmizegetusa, Napoca, Porolissum, were inhabited continuously. Part of the old towns inhabitants are leaving towards the country side because of the migrating people and create other cities (Bichir, 1984; Rostovtsev, 1971). The spread of Latin Christianity in the northern part of the Danube demonstrates the irreversible Romanization of the Dacians, and their continuity (Pârvan, 1911; Zugravu, 1997).

The period between the 4th and the 13th centuries is not poor in events, the territory of the old Dacia being crossed by several invasions: the Huns, within the 4th century, the Gepids in the 5th century, the Avars within the 6th century, the Slavs within the 7th century, the Hungarians within the 9th century, Pechenegs, Cumans, Uzs and Alans within between the 10th and the 12th century and Tatars within the 13th century (Opreanu, 1995). The Slav invasion in the 7th century also had negative effects for Romanian people. First of all this happened because they allowed to the Greeks to include the territories above the Danube in the Roman Byzantine Empire (the Eastern Roman Empire, having as capital Constantinople, is the descendant of the Roman Empire, destroyed by the barbarians). The Slavs and the Bulgarians will split the Romanians at south of Haemus of the northern ones. Hence, the southern and western Romanians were kept aside of the ones in the first Romanian state entities, that appeared in the Middle Ages, because of the Slavs, Bulgarians and Turks. Other branches of Romanian people – the one in Dalmatia and Istria, the one in Crimea, Zaporojia and Caucasus – disappeared almost completely.

The duchies and the voivods, as pre-state Romanian entities, such the ones led by Litovoi, Seneslau, Ioan and Farcaş in Romanian Country, the ones led by Gelu, Glad and Menumorut in Transylvania, by Dragoş and Bogdan in Moldavia and Dobrotici in Dobrogea are characteristic to the beginning of the Middle Age (Brătianu, 1945).

Romanian modern state was created when Moldavia and Muntenia principalities joined in 1859, once Alexandru Ioan Cuza was elected in both countries as prince (Riker 1944). He was obliged to give up the throne in 1866, by a large coalition (so called the "Monstrous Coalition") of those times' parties, whose political beliefs were different from those of the authority of the prince (Hitchins, 1996). The union was guaranteed only during Cuza's reign, however the solution was found in promoting a foreign sovereign – the Hohenzollern family, Catholics, a family to which all the kings of Romania belonged to begging with 1881. Romania became independent along with Serbia, following its implication in the Russian-Turk war (1877-1878).

Following the Second Balkan War, our country will enlarge its territory (Scurtu, 1996). Following the Bucharest Peace Treaty (1913), we obtained the Quadrilateral, and after the First[t] World War, we obtained Transylvania, Bucovina and Basarabia, mainly because the politics of "nation's self determination" (Le Breton, 1996).

Basarabia, Northern Bucovina and Herza county have completed the Soviet Union territory in 1940 (Scurtu, 2002). In 1941, they gave them back to Romania, but three years later, in 1944, they were recovered by the Soviet Union. Today, the three counties are part of the Republic of Moldova and Ukraine. In 1940, the Quadrilateral was rendered to Bulgaria.

After the Second World War, Romania was included into the sphere of influence of the Soviet Union (Soulet, 1998, Niculescu –Mizil, 2001). In December 1989, following a series of bloody events, the communist system collapsed (Domenico, 1992; Gallagher, 1999; Lupu, 2001).

After the overview of these events, one may be wondering what the use of this historical overview is. Who would be interested in our history? Despite all this, considering that the answers could be found by each one of our readers, we are often tempted to wonder: where is Romania heading after 1989?

2. Romania's current evolution

Having the history's lessons learnt, no matter if we take as reference the year 2009, or 2010's reality, according to the specialists (TVR, Wall-Street, 13th of February 2010), the economical situation of Romania at the end of 2009 was far from being encouraging: the gross domestic product (GDP) was 1.5% lower at the end of the forth quarter than the one of the 2009 third quarter and continuingly decreasing; at the same time, the GDP was 6.6% lower than one year before. However, overall, the 2009 GDP was 7.2% lower than the one for 2008. In this context, the unemployment rate reached at the end of January 2010, 8.1%, while the direct

Year	2009	2008	2004	1999	1996	1992	1989
Millions of retired people	4,7	4,6	4,4	4,3	3,7	3,2	2,6
Report employees/ retired	0,9 / 1	0,9 / 1	0,9 / 1	1,05 / 1	1,6 / 1	2,1 / 1	3,4 / 1
Annual expenses (billions $)	13,0	7,5	4,0	2,1	1,6	1,2	?

Fig. no. 1 – The evolution of the retired people number
(Source: Bechir, 2010)

investments in Romania dropped with 48.4% as compared to 2008, reaching 4.899 Billion Euros – the current account deficit was covered with a rate of 96.9% by direct investments of non-residents.

As well, in 1990, "we had 10 million people paying taxes, and less than 1 million governmental employees, and the industry was overpopulated. Now, we have less than 5 million employees and 1.5 millions government employees. Besides, in 1990, there was less than 3 million retired people and under social protection, now there are more than 5 millions" (Isărescu, 12th of November 2009, Curierul Național). In April 2010, 4.29 millions employees were corresponding to 5.5 millions retired people (www.adevarul.ro) (See fig. no. 1.).

On the 21st of December 1989, Romania had a GDP of 800 billions of lei, the equivalent of 53.6 billions USD (using an average exchange rate of 14.92 lei/USD). Romania's exports were up to 5.9 billions of USD in 1989. About 58% out of the National revenue was coming out of the industry, and 15% out of agriculture. The employees were 73% out of the occupied population. It is very interesting to follow the minimum salary range/ economy, in time. If in 1989, the minimum salary was of about 2000 lei, meaning 135 USD (www.standard.ro), the situation after twenty years is presented in below figure no 2.

Before 1989, there were built the Bucharest's subway, the Danube – Black Sea channel, dozens of thousands of flats. The House of the People became the second world biggest administrative building, Pentagon being the only one bigger. Last,

the debt became a burden for Romanian economy; in 1971-1982, the foreign debt increased from 1.2 billions USD to 13 billions USD. In February 1989, the Romanian external debt was completely paid. In order to accomplish this goal, an important piece of the agriculture's and industry's production was used for exports, the autochthon population suffering because of the total lack of some elementary food products. Starting with 1986-1987, the rationalization of the basic products was introduced, and oil or food such as bread, oil, sugar, flour and maize started to be distributed only on cards. And still, after having paid the last piece of the external debt, Romania still had 3.7 billions of USD in the National bank reserve. According to some sources (www.old.standard.money.ro), it seems that that money was spent in 1990 on oranges import.

Now, after 20 years, we can not resist to wonder why new external loans were necessary for. If at the end of 2008, Romania's total foreign debt stood at EUR 72.3 billion at the end of 2009, Romania had a total external debt of 80.2 billion euros, of which 65.6 billion euros represented the medium and long-term external debt (wall-street.ro). Romania recorded at the end of May this year a total external debt of 87.084 billion euros, up by 8.58% (6.88 billion euros) to the end of 2009 (National Bank of Romania – NBR, wall-street.ro). What was all this money used for? What should all this mean?

The answer comes, perhaps, by itself. According to an official, "during these years our country goes through the most difficult period after the Second World War. That means that we have taken measures, some not very pleasant, but certainly

Year	2007	2006	2005	2004	2003	2002	2001
RON	390	330	310	280	250	175	140
EURO	114	90	85	70	65	55	55

Fig. no. 2 – Average salary/economy
(Source: http://e-salarizare.com)

much needed by communities to go into the right direction and meant to strengthen the country" (Boc, Statement, April 13th, 2010). Subscribing to this view, we can not resist wondering what can be done. "The reality is cynical (Isărescu, Statement, July 2nd, 2010), money does not drop from the sky (...) it takes a lot of work and a major effort of all community's members "in order to achieve a better life (Isărescu, Debate, NBR, July 22, 2010).

Justified or not, some of the Romanians have a defeatist attitude: Romania is collapsing! However, Romania still has a chance: the chance of those who are truly Romanians and Romanian-speaking! Otherwise, despite promises that seem to confirm that Circus takes the place of Bread, Romania is moving with quick steps towards the abyss! Although Romania has recently contracted 12 billion from the International Monetary Fund (IMF), EU and World Bank short term loans, the scenario seems to repeat itself again this year. According to a specialist of RBS Bank Romania (Molnar, 2010), for the end of this year, it is estimated a level of external debt of almost 90 billion euros, equivalent to 73% of GDP, compared to 69% of GDP at the end of 2009. We can not stop wondering: where will we stop?

Unfortunately, as Croitoru, NBR expert was stating, in a country where the watchword is waste, luxury and extravagance, Romania is not able to produce sufficient savings to provide an indoor growth around potential and minimum possible. Without foreign capital, Romania would be significantly below potential, heading rapidly towards bankruptcy" (Lucian Croitoru, Debate, NBR, July 22nd, 2010). What is happening in Romania in the field of taxation has been reviewed in "Macro-model Simulations of the Romanian Economy" (Dobrescu, June 2010). Surprisingly or not, underground economy in Romania has reached 40% of GDP and tax evasion is 15 billion euros, or around 43 billion lei (Comment, 30/06/2010). We shouldn't wonder that the tax system is totally messed up like nowhere else, so that nobody understands it, nobody respects it and foreign investors avoid our country.

Wouldn't then be Bitman's explanation, a former advisor of the Ministry for Finance, more plausible than the official's all together? "Do not think, former adviser said, it is not known at the Ministry of Finance what is happening in Romania. Do not think that it is not clear on where

they steal, who steals. They are filmed, filed, archived. All those who are stealing. Ministry of Finance knows who steal, but there are companies that DON'T have to be checked ever" (Bitman, Statement, 01 July 2010); Bitman also said that he worked in the ministry just to see out of curiosity, what is happening "inside" and "does not want to finger point at certain people in this institution, because others have tried it in the past as well ("Bookmark & Share", July 2, 2010).

Like it or not, you should be aware that without a joint effort, Romania risks, more than ever, to remain only a market, rather than a viable competitor. Examples could be endless. "Wealth is not done by decree", the BNR governor appreciated (Isărescu, Debate, NBR, July 22, 2010). We have been quoting Adam Smith's book about the wealth of nations for 200 years, but probably we still do not understand it. Wealth is done through work, through a "major effort of the human community." But how many people take into account the advice of the distinguished Governor?

Lately, all of us are looking towards Europe, waiting for rescue! Not long ago, German Chancellor Angela Merkel warned the world: The European Union is on the brink of disaster (AFP, 01 June 2010). If European countries do not reduce expenses, the euro collapses. If the euro falls, Europe will collapse as well. But a collapse of the European Union will not leave untouched even the United States or China. The crisis we have been experiencing so far will be insignificant! The reason for this will be the fact that world economy will fall into chaos, with unpredictable consequences. For how many years? Nobody knows ...! In this context, where will you find Romania? Hard to say. I have often heard that the years 2010 and 2011 will be years of poverty and street violence. Will IMF save the nation? What is really the IMF? How about the World Bank? In the light of the events, this is difficult to believe. First of all, "in order to exit the crisis in a healthy position, we should focus on stimulating and developing the economy, which brings added value items and hence more revenue to the budget (...) but we do not have an economy" (Dobrescu, 2010).

Under these circumstances, Romania needs a clear position and a proactive attitude and, in particular, medium and long strategies. Unfortunately, year after year, we have only seen

"experiments" in Romania, experiments which are most visible in areas such as culture and education. Civic consciousness of the new generations has almost disappeared. Under an inferiority complex, linked to the "Europeanization", most of us tend to be Europeans, but less Romanian! In pursuit of economical or political power, even the concepts of parenthood or brotherhood are forgotten! Let's not be surprised when we talk about the Gets and Dacians, or about the sacrifices of Constantin Brâncoveanu and his sons, all these are forgotten! What is the reason for saying this? "History is, as Vasile Goldiş (1862 - 1934) used to say, the memory of nations (...) and the main element of soul their". Do not forget, said Goldiş, the dead, if you do not want to fall under the tyranny of the alive".

However, despite the difficulties, Romania has the chance to become again a state having the right to play on the world's political scene. In the present context, Romania has a complex perception which is based on the following elements: it has the second longest border (after Poland) to both organizations and has assumed the responsibility to protect them according to the standards of NATO and EU; it has a strategic partnership with the U.S. as we are present in Afghanistan, Iraq, Kosovo and Bosnia and Herzegovina; we are in progress to realize four military structures joint with American troops, who will be present on Romanian territory at a certain time and perhaps we will host a Global Missile Defense.

Romania's interests converge with those of the European Union and promoting the interests of the European Union, as a whole, respond equally to Romanian interests. The vision is expressed in the post-accession strategy "Romania in 2013 – a state with a high standard of development and a reliable partner in Europe". According to this view, Romania would have a constructive and cooperation-based approach in fulfilling its role as an equal partner in developing the European Union.

We should not forget that it is necessary that Romania meets in a timely manner the obligations which it assumed under the "Accession Treaty and to contribute to the achievement of a united Europe" (Treaty, 1997), such as upgrading the physical infrastructure and human capital, complying with the European requirements regarding the education system, reviving scientific research and innovation, fundamental restructuring of agriculture and boosting rural development, sustainable development and environmental protection, strengthening administrative capacity for the community acquis, enhancing flexible workforce and creating conditions for development of an optimal competitive environment, etc. Without considering the topic closed, we still need to add a single question: how many of them have been already carried out successfully?

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From one day to another, we find that industry is practically dead, agriculture is buried and health system is collapsing, education is in crisis and Romania as an international actor disappeared. The economic crisis has only served to worsen the evils that have preceded it (Constantiniu) austerity measures taken in 2009 and 2010 have forced many businessmen to choose the underground economy. The growth of the contributions to the Health Insurance Office, the increased excise duty, the introduction of the minimum tax, VAT increase etc. have led to the growth of tax evasion (Socol, 08.09.2010, in www.standard.money. ro). We shouldn't be surprised that, in 2009, the underground economy represented about a third of Romania's GDP, nearly two third of these amounts coming from undeclared work and the rest from income withholding.

The current economic crisis has led to sudden and general decrease of income and will lead to an equally sudden decline of consumption as well. This determines the domestic private business bankruptcy, already weak and suffocated by multinationals that are already mastering the markets, the human and material resources. A big risk is the "export" of intelligence and labor migration. More than 2 million Romanian are seeking better paid jobs in Western Europe, as it is well-known that Romanians are cheap and good-working employees.

3. Conclusions

History repeats itself with a certain cycles. Prolific periods are followed by crisis. The difference between history and present is that, in modern times, the battle does not take place on the battlefield anymore but under in exceptional

circumstances. Now we are led by modern means of manipulation (audio-video ads), imported products have invaded local markets and are successful due to the dumping prices they practice (even if sometimes they have a low quality are cheaper than local products). From an economical perspective, Romania has become an import market. There is no famous Romanian export product. Basically, we are a kind of a colony (Constantiniu, 2009). Inexplicable or not, even gold mines inherited from Dacians and Romans have closed their doors, while the foreign companies make their presence felt at Roşia Montană. Is the liquidation of productive economy the solution for Romania's progress? Should we understand that from the triumph to collapse there is only one step? Under these conditions, from speculative economy to the reality of economic crisis, where is Romania heading towards?

More and more often we hear that we have no country, that Romania is no longer ours, belongs to others. It is difficult to say whether this is true or not even in the light of these facts. I like to think that the reality is different. And yet, could we have avoided the transformation of Romania from producer- exporting goods to a consumer? Is Romania's status – that currently is struggling with the crisis-heading towards the one of a colony over-indebted? Is Romania's economic and financial situation a threat to national security?

Considering all this, I think, however, that despite all efforts to isolate Romania even from a cultural perspective, we still have a chance. Family, land and faith, are those that support our existence as a nation and as a country. Land? What land? Is there anybody still bound on land? We often hear this! It is said that people do their best in the place they live in, but in our case things are different! However, I am confident that Romania means more than just a few steps lost in the history.

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Professor Nicolae RADU (radovany@yahoo.com), Ph.D., is chief commissioner at the Ministry of Administration and Domestic Affairs; he graduated National Defence College and earned two Ph.D. titles, one in Psychology and another one in Philology; he is the author and co-author of many books on military psychology, security and defence and of numerous articles on topics of psychology, history, social anthropology and terror psychology; he teaches at several universities of Romania.

IMPLICATION OF THE INCOMPATIBILITY BETWEEN BIOMETRICS AND HUMAN RIGHTS ON HUMAN SECURITY

Mădălina Virginia ANTONESCU, Ph.D.

Within this article, we'll remind some clear elements of the totalitarian leeway founded in EU legal order (through different regulations, directives, decisions that violated seriously the art.1a/TEU (Treaty of the European Union), amended by the Lisbon treaty, as an article engaging juridical the EU, **on a basis of values** *as liberty, human dignity, democracy, rule of law, respect of human rights). At the same time, these legal acts of EU institutions are violating many disposals from the EU basic treaties, as well as from the Charter of Fundamental Rights, as a document with the same legal force as the EU treaties.*

Through these juridical acts, EU institutions are trying to recommend or to impose to the EU member states **to deliver electronic documents** *(passports, identity cards) that,* **by their inner nature,** *irrespective of their addressees (European citizen, refugees, resident)* **are representing in their essence, a violation of human rights and fundamental liberties**. *In this way,* **the EU institutions juridical acts put the member states in the situation to infringe their engagements in the human rights field,** *taken though international treaties, ratified as sovereign states, and also,* **to infringe their own national constitutions** *guarantying the democracy, the rule of law and the respect of human rights, and thus,* **to infringe the EU basic treaties as well as the Charter of Fundamental Rights.**

EU member states cannot be forced, in any way, by the EU *(not even by invoking the integration character of EU legal order, in particular the direct effect of some EU juridical acts) to infringe through biometry the human rights that are constituting, for the international contemporary law, the base of ius cogens.*

Human rights constitute the juridical basis for the whole EU and the constitutional basis of EU member states, *that the biometry not only infringes, but even* **destroys them** *in their very essence. In this way, under our eyes,* **EU is converting into a repressive state of police, ruled not by the democratic logic but, on a contrary, by the electronic totalitarian logic**. *This can be interpreted as an expression of* **a European fall into a barbarian state**, *at the beginning of 21st century as an expression of abandoning the High Legal and Classical Order of 20th century, based on human rights and on national-state sovereignty.*

Key-words: electronic identity cards; biometry; electronic totalitarianism; **democracy; respect of human rights and fundamental liberties;** *biometric passports; ius cogens; European Union; Romania, as EU member state; Lisbon treaty; Charter of Fundamental Rights; rule of law; international law; sovereignty.*

1. Considerations on the relation between the respect of Human Rights and Biometrics

In a previous article[1], we analysed in terms of the essence of human rights and fundamental freedoms and the international documents dedicated to them, the complete incompatibility between them and biometrics.

While in that article, we saw how human rights and fundamental freedoms are violated, through the issue of biometric passports, both by the EU

Member States and the EU, as the freedom of movement and various "facilities" that citizens would have within the so-called EU single market[2], which wants to be an endless one (but not in breach of human rights and fundamental freedoms, we would say), are abusively and tendentiously invoked, below we choose to look at a similar problem, the biometric identity cards.

As said before, biometrics is a true scourge of the 21st century because, in its essence, is a totalitarian, secular, if not an anti-religious and immoral way to impose a degenerate type of leadership over humans and human societies in general. But what is even stranger is that precisely a community of democratic states, based on the respect for human rights, rule of law and democracy, as declared throughout its treaty, as the European Union claims to be, progressively begins to move towards a multi-level but totalitarian governance system. For, no matter what level the biometrics is adopted and implemented at, to the full disregard of human rights and religious, historical, cultural identities of the EU member states, **it is fundamentally a way of monitoring and controlling, damaging the dignity and freedom of persons**. Regardless of the level at which it is exercised by governance (European, infra-regional, national), biometrics is, for the entire EU's political system, a manner of technological servitude imposed to peoples, without any public debate, quietly, step by step.

The relationship between technology, information and power has never got such a totalitarian relevance because it can be used by groups in power (visible or informal) as a means of enslavement of peoples and control of persons, in particular.

So we see a more serious split between the political statements and the legal provisions of the EU basic treaties and, on the other hand, a number of EU legal acts (with disposition of recommendation or not) which seek an "accreditation" of biometrics as "functional and without any relationship with the religious sphere, human rights, with anything pertaining to the national, spiritual and religious identity" of a member state.

The 21st century brings new challenges, to which **the intellectuals, especially the lawyers, as well as the politicians** must respond adequately, namely with the purpose of protecting human rights, at their level of decision: **the deputy or the senator** in the national parliaments and the European Parliament, the **magistrate** in the courtroom where is called to resolve a process intended on the relationship between biometrics, imposed or recommended by whatever legal, European or national act, and human rights, **government and central and local public administration**, in issuing the implementing provisions or the European recommendation acts or enforcing the European instruments with a direct effect and immediate application.

But **heads of state and government as well as ministers[3]** (of the Interior, especially) at their meetings within the various configurations and institutions of the EU should consider the interests of the countries they lead and which is a priority compared to the European one, since heads of state and government and ministers, although decision makers at European level, **can not avoid responsibility at national level** by virtue of their obligation of loyalty and respect for the constitution of the state where citizens elected them or where they were appointed.

If the European commissioners, who are the Union's executive element (who may be politically liable, collectively, by motion of censure before the European Parliament)[4] and are bound to respect only the European interest, not being related (at least theoretically) to the national level that sent them there, the situation is different for the heads of state or government and ministers composing various decision-making institutions and groups within the EU (the European Council, the EU Council, the groups within the EU Council including the ministers of the Interior and the ministers of Foreign Affairs of the member states).

These two institutions, apart from their intergovernmental composition (Heads of State or Government, ministers) have, through their composition itself, a permanent, inextricable, final connection with the countries they lead. This political and legal link is a priority over any other link, whether it is internationally reported (relations with other states and international organizations) or reported to the Union as such. The legal and political relation between the European Council, the Council, on the one hand, and the Union, on the other, can not be viable and legal while contrary, ignoring, damaging in any way the national identities of the Member States and the human rights.

All EU institutions are obliged to respect human rights. It is an obligation expressly provided in **the basic treaty of the European Union[5]**.

It is, secondly, an obligation that the EU institutions, regardless of their composition and interest pursued (intergovernmental composition or supranational composition, national interest or European interest), have by virtue of relating their entire activity and all legal acts, regulations or not, that they issue, **to the Charter of Fundamental Rights**, a legal document with a binding value, placed in the hierarchy of European law on the same highest hierarchical level[6] as the basic EU treaties.

It is, thirdly, an obligation that all EU institutions, in all their activities and on all legal documents issued by them, have by virtue of the mandatory relation of the EU to the entire body of principles of international law and to the international regime of human rights[7], which the EU can not ignore, whereas received its own legal personality[8] through the Lisbon Treaty and therefore may be brought by any person and any state before the internal, European and international court for violations of the human rights through the policies, acts and activity of its institutions.

Moreover, it is illogical for the Union to promote biometrics since it assumes through the Lisbon Treaty a profile of political community based on a set of values and principles derived from the international law and focussing on the respect for the human rights, rule of law and democracy. Thus, the Union becomes guileful in its intention, in its speech, in the provisions of its fundamental Treaty. It can not, on the one hand, issue acts recommending the biometrics (which is basically an anti-human, anti-religious, anti-identity, anti-national, immoral way of totalitarian control, contrary to the incident legal provisions at international, European and national level – for all the EU Member States declare themselves to be democracies, rules of law respecting the human rights) and on the other hand, claim to be a defender of the human rights that it violates.

The Union reaches the paradoxical level of contradicting itself since, in the Treaty of Lisbon, we see how it assumes, on the one hand, the **obligation to promote its values** (democracy, rule of law, respecting the human rights) in its relation with **third countries[9]** (!) and, on the other hand, through an incorrect understanding of the concept of "space of freedom, security and justice" imposed as early as the Treaty of Amsterdam (1999)[10], **to transform the entire territory of the Union, in the name of the freedom of movement (that beats all!), into a totalitarian space, where biometrics becomes the main method of surveillance, monitoring, tracking, control and identification of the European citizens and beyond.**

Just to give one example to the above, we will quote Art. 1, from the Treaty of Lisbon amending **the preamble of the TEU** by inserting a paragraph of **legal defence and protection of the specific values** on which the European Union is based:

• These values are **universal** and thus receive not only a European protection (at the EU level through this paragraph) but **also an international one** (at the level of the entire international community, **and above all, the democratic countries**, which have a role as guarantors of respecting the human rights and democracy, the rule of law, within the international community, through their foreign policy **that includes measures designed to protect such values from the totalitarian drifts of the non-democratic states in the international community or from actual tendencies of moving away from the democratic spirit of some states declared as democratic or recognized as democratic by the international community).** Totalitarian drifts can occur **at any time and regardless of the state**; biometrics, which is essentially a totalitarian drift but done by Radio-Frequency Identification (RFID) technology, **may appear first in democratic states** not only claimed as such but also by their historical tradition. No one is exempted, at a certain moment, from being tempted to adopt a totalitarian behaviour, especially that the RFID technology and the new technologies, in general, are temptations themselves that can lead any country, even those with older democracies, to totalitarian dead ends.

• "These values are the inviolable and inalienable rights of the person, such as freedom, democracy, equality and rule of law" the preamble of the TEU, as amended by the Treaty of Lisbon further says. Therefore, **the inviolability and inalienability of human rights are expressly recognized as inherent rights of the human person**, *so not only of the European citizens.*

• Thirdly, the preamble states that such universal values on which the EU is based, when claiming to be a community of democratic states, are not being invented now but "coming on the cultural, religious and humanist vein of Europe". This is very important since it demonstrates **the impossibility of separating the EU from the history of the European continent, its traditions, and historical national, religious and humanist identities of Europe.** It can not pretend to be a European community of democratic states, to impersonate the idea of Europe politics and, on the other hand, to recommend the Member States to adopt biometrics, **in contempt and meant disregard to the historical, religious, national, cultural identities of these countries** (for example, **Orthodox countries** by their forming, culture, tradition, history, by their national being itself). Here, in relation to the national identity of the EU countries, we must separate some artificial constructs, political concepts, that may or may not have relevance at a time (such as nation, which occurs in a context related to the affirmation of the Westphalian State) from the people, which is an organic, concrete, trans-historical community, that no one is building in the laboratory, which no one abolishes or ignores suddenly or otherwise. The people go through the history, while the nation, an artificial concept, may no longer be relevant at a time (the era of globalization reaching its peak, the decline of the nation-state). But in this context, marked by the era of globalization and its "ideology" of weakening the Westphalian state, to accommodate the government systems on multiple levels (such as the EU) or forms of regional integration, **we can not speak of the disappearing of the nations and not at all of the peoples either, since such political systems with multi-level governance such as the EU can not abolish nations, peoples and their freedom. For sovereignty is for the nation same as freedom is for the person.**

The dissolution of nations and persons in a new political space resembles a totalitarian project designed to give form to a new man and a new European nation. This recalls of the painful totalitarian moments of Europe past (as it were condemned to be extremist) when human identity, religion, freedom, dignity and sovereignty are all removed, annihilated, relativized, forged, while totalitarian constructions and degenerated forms of political government are established, where the nation, people, man and country are subjected to an aberrant, useless and bloody totalitarian experiment. As all totalitarianisms, biometrics is also an absurd, vain totalitarianism though, initially, is not bloody but trying to show allegedly its usefulness (more freedom, more security for all within the great European single market). But the individual, country, people are not confined to a cheap ideology, **with no spiritual identity, no soul, no relation to God, no reference to the past and the cultural and spiritual identity of the EU member countries.**

The individual, country, people, nation are not "elements of the functioning of a single market". The materialism required by the European Union by promoting the market economy and the economic liberalism is just another form of nihilistic ideology, devoid of any reference to the spiritual, religious and cultural dimension of man and country.

Freedom, dignity, rule of law, democracy can not be separated from the Christian past of Europe, from the relation to God and the religious (predominantly Christian) heritage of Europe. Both Eastern and Western Europe (the one included in the EU) are confined to **spiritual, cultural and religious areas requiring the Union to relate to them, and to not ignore them.**

The single market is a desecrated space, separated from the spirituality, religion and historical identity of the new Europe. It is a warehouse space (for goods) or a merchant fair, where goods, products, services, capital, "labour force" move and where the individual is, by the biometrics, a commodity or a slave. By attaching him a chip, there can't be made any difference between the human person and his inviolable and inalienable rights and a commodity.

This is the great confusion of the EU, as an area without identity, desecrated **and materialistic[11]. It expresses a very serious totalitarian drift** as it places the Union **against the entire international legal regime of protection of human rights, against its own fundamental treaty, against the constitutions of the Member States defending human rights and fundamental freedoms** (not only of their citizens), **against Europe's Christian past and against the Christian national identities of certain States of the EU.[12]**

No (legislative or otherwise) act issued by the EU institutions, bodies, agencies can abolish, ignore, affect, violate in any way the human rights and fundamental freedoms, as established by the Treaty of Lisbon, the Charter of Fundamental Rights (which are fundamental legal acts for the whole order of European law), and the incident international documents.

2. Incompatibility between the European rules on biometrics and the principle of empowerment

The EU can not invoke, for supporting the issuance of documents (normative or not, of recommendation or having a direct effect etc.) through its institutions, the principle of empowerment. This principle appears in art. 1/TEU, as amended by the Treaty of Lisbon. According to such amendment, the TEU "establishes a European Union, to which the **Member States** confer **competences** to attain **their common objectives***".

Through article 1, first paragraph, the new sentence, the fact that the EU is not a supra-state or a federation of states but **a creation of the states** where **they remain the main decision makers[13]** is recognized, since the powers conferred to the Union are considered **an expression of the exercise of sovereignty and free will of the states** and, moreover, the powers transferred to the Union **can not exceed or ignore the accomplishment of the common objectives of states.**

Those states do not agree, perhaps, "in some respects", such as achieving a common goal (!) through which to establish a totalitarian regime, such as biometrics. The reason for this may also be the fact that some of them have just exited from a totalitarian experience and want to remain legal and democratic states where human rights and fundamental freedoms are respected in their fullness. Maybe some states have an old democratic tradition, that consecrated them internationally and their credibility would be seriously impaired in the entire international community if they accepted the recommendations or regulations with a direct effect of the EU institutions regarding the implementation of biometrics and Big Brother society within their borders, in the name of the single market.

But neither the common objective of the single market, nor the common objective of the area of freedom, security and justice, or any other objective that the Member States may undertake on a European level (within the EU, the European decision level) **may violate the human rights and fundamental freedoms, rule of law and democracy.** That is because, **as far as the human rights are concerned, all the EU Member States and the Union**, despite the powers conferred, **remain bound to respect the international regime of the human rights in its fullness.**

In other words, **no Member State or the EU may invoke the principle of empowerment for relativizing, infringing, affecting and altering in any way the human rights regime[14]**.

Keep in mind that the EU does not create a new regime of human rights but takes over the existing one into the international law in its most plenary form[15]. So, **there are not two distinct regimes of human rights, one international and one applicable only within the EU** (between the Member States, between the Member States and the EU, between the European citizens, the EU and the Member States) **but there is a single regime of protecting human rights, existing at the international level**, to which the EU Member States were bound to respect by signing and ratifying various international conventions, pacts and documents.

Moreover, having a legal personality of its own, the EU should take into account to not affect the international regime of human rights, to not put the Member States in a position to violate, infringe and affect in any way the human rights and fundamental.

Otherwise, the EU can be brought to justice, both before the judicial system of European law (before the national judges and European Court of Justice – ECJ) and the international courts (European Court of Human Rights)[16].

The principle of empowerment can not affect the obligations of the Member States to respect their constitutional provisions on human rights.

Secondly, the principle of European law can not require Member States through the EU institutions, whatever their kind, to not respect the human rights **as they emerge from the Treaty of Lisbon and the Charter of Fundamental Rights** (a document with the same legal value as the Treaty of Lisbon). So the EU institutions

can not in any way determine, either directly (through acts having direct effect) **or indirectly** *(*through acts of recommendation) the Member States to violate (in human rights matters by accepting various biometric measures at national level) these legal documents that are fundamental for the entire order of European law.

Thirdly, the EU can not invoke the principle of empowerment against a Member State to determine it or recommend it to implement a biometric measure or to ensure the execution of any European act having a direct effect, **because the principle of empowerment does not have a universal legal value, is not opposable *erga omnes* and does not represent an imperative law for the Member States as compared with the human rights.**

The EU must remember and respect, as regards the functioning of each of its institutions and the issue of each legal act, the fact that the human rights and fundamental freedoms have an imperative nature, opposability erga omnes, characters that **biometrics** not only violates in the letter of the documents dedicated to them but **abolishes them in their very essence**.

Between the human rights and fundamental freedoms, as a special kind of ius cogens, on the one hand, and, on the other hand, the principle of empowerment **there is not a relation of subordination of the first to the latter and not even a relationship of legal equality**. If they were legally equal, it would mean that the principle of empowerment, which is one of integrationist nature, would be respected by the entire international community, which is not the case, because of the sovereign nature of the states as subjects of international law and the coordinating nature of the international law, due to the sovereignty of states.

While, in relation to the international law, the EU Member States are not compelled to respect the principle of empowerment, (falsely) invoked for violating the human rights (as they do through biometrics) and therefore can not grant the Union any jurisdiction related to the human rights[17], on the European level (in the European legal order) the Member States agreed "to confer certain powers" to the EU institutions. But we should see that it is about **powers**, while states remain the policy makers **also on their constitutional democratic system where should**

ensure the widest possible protection of human rights. So here is an **additional** obligation, besides the abstinence, one that the EU Member States have (internationally and, especially, on the European legal level): apart from the obligation **to not to prejudice** the human rights and fundamental freedoms (when assessing from this view the documents issued by the EU institutions or the projects of national laws), there is an obligation that implicitly arise from Art. 1a/TEU, as amended by the Treaty of Lisbon, **the EU Member States have also the obligation to allow** these rights and freedoms **to be applied fully and in their spirit** on their territory, on any human person, not only the European citizens.

These two obligations (arising under Art. 1 a/TEU, as amended by the Treaty of Lisbon) **concern all the EU Member States, without distinction**, no matter if they have a Christian or humanist identity or otherwise. Therefore, if all the EU Member States have equally these obligations, **it results an implementation throughout the EU of these two obligations**, from which no state is exempted.

The third obligation arising from Article 1a/TEU, as amended by the Treaty of Lisbon, **is the obligation of the EU Member States to promote human rights and fundamental freedoms**, not only to not violate them and to let them apply on their territory.

So, extracted from the spirit of this article, **three legal obligations** arise which both the EU Member States and *the EU (with its whole set of institutions, agencies, offices etc.) must comply with.* The article in question says very clearly: "*The Union **is founded** on values of respect for human dignity, freedom, democracy, equality, rule of law as well as respect of human rights, including the rights of persons belonging to the minorities.*" Further, this article acknowledges that "*these values **are common to the Member States*", considering that they have and promote (including at European level) "*a society characterized by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men*".

So it is essential to note that human dignity, freedom, rule of law, democracy, respect of the human rights mentioned in Art.1/TEU, as amended by the Treaty of Lisbon, **are values that are common to all the Member States**

and also make up the basis of the Union, that is of a whole political system of governance at multiple levels. So the Union and the Member States must not ignore, break, relativize, abolish in their essence, systematically violate these values, **through any contrary act or practice, as those seeking to recommend or impose biometrics**.

Violation in this case, **by any authority of the Member State** (President, member of the Government while exercising his specific tasks, including the issuing of ministerial orders, the government as a whole for an emergency ordinance, a government decision or a simple ordinance; the acts of the central or local administration related to the issuing of biometric acts, whatever their nature) **leads to accountability in the national and European legal order** (national judge, ECJ). We mention here for those who do not know how the European legal order is organized, **that the basic treaty of the EU and the Charter of Fundamental Rights**, which has the same value as the treaty of Lisbon, **is the highest legal value in the legal order[18], the pillar of the whole structure of the European law**. Hence, the express obligation of **compliance by all European law acts with these two key documents** for the entire structure of the European law.

Any acts issued by the EU institutions (the Commission, the EU Council, the acts of the European Council, even if political) must be in accordance with the Treaty of Lisbon and the Charter of Fundamental Rights. It is not normal for the Union to commit itself with the Member States to respect the human rights through fundamental treaties for its entire legal order, and then seek to relativize them, break them, ignore or suppress them in their very substance, through various acts issued by one or another of its institutions.

So **the Member States can not be obliged in any way to respect, implement, execute, ensure the application, respect the recommendation of an act of European law** (directive, regulation, decision etc.) **if that act violates in any way the human rights and fundamental freedoms, the dignity, freedom, democracy and rule of law.**

Member States **are not bound by any such act of European law, because the act in question violates the Treaty of Lisbon** (Article 1a/TEU as amended by the Treaty of Lisbon) **and the Charter of Fundamental Rights** (in case of issuing biometric documents of any kind, human

rights and fundamental freedoms are abolished in their very essence, such as: art. 1/the right to human dignity, liberty and security, art.6/the right to freedom and security, art. 7/respect for family and private life, art. 10 / freedom of thought, conscience and religion; art. 45/freedom of movement and residence).

Therefore, **this act (directive, regulation, decision) does not apply to the European legal order and can not be opposed in any way to the Member State**, whether it is an act with a direct effect or a recommendation act. **By disregarding this act, the Member State does not commit any crime, since the state complies with Art. 1a/TEU as amended by the Treaty of Lisbon, respects the Charter of Fundamental Rights, which have a superior legal value to any acts** issued by any EU institution, in the European legal order.

Moreover, because it was forced (quite illegally) to take account of this legal act of the EU institution or a (implicit) recommendation to violate the human rights through actions incompatible with them was made (for example, to issue biometric identity cards, to issue biometric passports, to issue biometric health cards, to issue biometric driving licenses), **the EU Member State may sue** the European Union **in the EU judicial system** (national judge, ECJ), for the violation of the human rights and art. 1/TEU as amended by the Treaty of Lisbon as well as for the inappropriate exercise of the powers conferred by the states to the EU, through its institutions, by relativizing or even abolishing the human rights, human freedom, human dignity, the democracy and the rule of law in their very substance (values protected by Art. 1a/TEU as amended by the Treaty of Lisbon). In addition, **the Member State can sue the EU in the international justice** (before the European Court of Human Rights – ECHR) because the EU has legal personality and may sue and be sued for the acts of its institutions issued in violation of the international documents dedicated to the human rights and fundamental freedoms[19] which are *ius cogens* for the entire international law. As a creation of the states, an expression of their will, the EU is, in terms of international law, only **a secondary, non-sovereign and non-originating subject of international law, with a limited will and objectives that are strictly circumscribed in its articles of incorporation, by the willingness**

of these states[20]. It can not be above the states that internationally are originating, sovereign subjects of international law, with full legal capacity, which can not be limited in any way by one of their creation. On international legal level, which is fundamentally based on the sovereignty and legal equality of the states, no legislative authority above states is allowed. The EU remains, in terms of international law, at a lower level than the states, same as the international organizations and it can not impose its will on the Member States or third countries.

In terms of European law, an empowerment of the EU institutions by the Member States is allowed but in no case **such empowerment refers to powers of** the EU institutions **in the field of human rights** (issuing acts in this area or acts that are incident on the field[21]).

The documents issued by the EU institutions on biometrics **directly refer to the sacrosanct field of the human rights and also democracy and the rule of law.** This field **is not part** of the areas where the Member States conferred jurisdiction to the EU. It does not appear within the field of exclusive powers of the EU or the field of powers shared between the EU and the Member States, either.

Further, we would say that the field of the human rights can not be, by its nature, subjected to any empowerment of the EU by the Member States because it is a matter of *ius cogens* which the EU committed itself to undertake as such from the international law, **i.e. as *ius cogens*[22].**

The EU can not offer less protection to human rights than that existing internationally, can not compel the Member States to give lesser protection than that to which they were bound by their constitutions and the international legal documents.

The EU can not abolish this area in any way or its legal protection at national and international level by issuing acts by its institutions, which, through biometrics, fundamentally affect this area.

By doing so, the EU is outside the constitutional order of the Member States, outside the international law and the body of ius cogens and outside its own legal system, focussed on the human rights, drawn from the international law and the constitutional traditions of the Member States.

Implementing the principle of empowerment concerns all the EU Member States, so no one can say that some should confer competences to the Union and others should not. But, apart from the fact that **all** Member States must respect **first of all** the human rights and fundamental freedoms, especially in relation to this principle, art.3a/TEU as amended by the Treaty of Lisbon brings several clarifications. Thus, under paragraph 1 of this article, **all powers that are not assigned to the EU by treaties, go to the Member States**. This makes sense, because the assignment of powers can be done, under this paragraph, **only expressly** (not tacitly) **and only by treaty** (a Treaty amending the Treaty of Lisbon the Treaty of Lisbon itself). So the assignment of powers towards the Union can not be done directly, by the Union, through acts of its institutions. **The Union can not assign itself any power** outside a treaty, concluded under the rules of international law by the Member States as sovereign states, as originating, sovereign and main subjects of international law.

The legal regime for concluding international treaties, applicable in the European law order (so the basic treaties of the EU) is none other than the international law. **There is not a special regime for concluding** (negotiation, signature, ratification etc.) these treaties. Fundamentally, in their essence, the EU's basic treaties remain international treaties and expressions of the Member States' sovereignty, manifestations of their free wills to conclude a paper through which they undertake some obligations, through which they create or abolish a legal entity, be it the European Union.

But it is important to note that neither as international treaties, nor regarded as the basis of the European legal order, the Treaty of Lisbon, the TEU and the TFEU (Treaty on the functioning of the European Union) and any other future treaty signed by the EU member states within the European legal order can violate through their provisions the human rights and fundamental freedoms.

Moreover, **no international treaty** (not even that dedicated to the principle of empowerment) **may be invoked to violate *ius cogens***, as a justification for the issue by the EU institutions or the EU Member States of acts of recommendation or implementation of provisions relating to biometrics.

Conclusions

Finally, we shall point out the fact that no EU institution, by no juridical act (with direct effect or with value of recommendation), can issue, ignoring the will of the people of an EU member state (**whose interests, in the particular case of Romania, are defended by the armed forces, the guarantors of the respect of the Constitution provisions and of the rule of law**), normative provisions obliging or recommending to a member state to issue biometric acts for its residents.

Besides the fact that the biometric documents (irrespectively of their type – driver licenses, residence permit for foreigners, ID cards, national health cards, passports) flagrantly violate the fundamental rights and freedoms of the human beings, they also represent a form of grave attempt to the national identity (Orthodox-Christian country) and to its sovereignty. The article 3a/TEU, as modified by the Treaty of Lisbon, provides **the exclusive responsibility of the EU member state to establish discretionarily its fundamental functions, national security and public order included**.

We consider that all the biometric practices flagrantly violate the essence of the article 117/ the Constitution of Romania, meaning **that it affects the attributions of the Romanian state in national security, a field which is, par excellence, under the competencies of the Romanian armed forces**.

Biometrics breaks the express constitutional attribution of the Romanian armed forces related to the area of maintaining state's sovereignty, independence, constitutional democracy, among others, according to article 117/the Constitution of Romania, because it can't be possible that, on the basis of a juridical act issued by a European, supranational or intergovernmental institution, the Romanian state adopted measures breaking the article 117 from its Constitution, because of an abusive invocation of its EU membership.

Far from being an abstract or obsolete matter, **national sovereignty implies the fact that the state, even if is an EU member state, has the full control on its people, inclusively in issues related to everything connected to the juridical status of its citizens** (because the **European citizenship is not preeminent to the national one**, but on the contrary, it is complementary to the national citizenship, meaning that it doesn't have to be contradictory to the juridical regime regarding the citizenship of the state). Under no circumstances, the European citizenship should give to the European institutions a pretext to enact rules contradictory to the human rights.

So, according to article 3a/TEU as amended by the Treaty of Lisbon no powers can be assigned to the Union apart from those conferred by the Treaties expressly and exhaustively. **There is a legal limit against the abuse of power to which the Union would be tempted**, to assign powers for itself and unlimitedly or outside the treaties and the legal framework provided by art. 3a/TEU, as amended by the Treaty of Lisbon.

The Union, **under the principle of empowerment, which clearly shows its secondary nature, derived from that of the states**, the sole sovereign entities internationally and also internally (as the Treaty of Lisbon establishes a principle of "empowerment" and not one of "transfer of sovereignty", which would be contrary to the international law even of the free will of the states), can not increase, alter its powers in any way, unless there are express provisions of a treaty that is also the result of the free and sovereign wills of the Member States.

The Union has only those powers which are expressly conferred by the states through its articles of incorporation (TEU as amended by the Treaty of Lisbon) and that **can be withdrawn also by the states**, also by an international treaty, if they find that their common objectives are not achieved or are not achieved satisfactorily by the Union or if they consider that there are no common objectives left to justify the assignment of those powers to the Union or if they consider the existence of the Union itself to be ineffective or contrary to *ius cogens* and decide by treaty to abolish it.

NOTES:

1 Mădălina Virginia ANTONESCU, The matter of biometric passports and the freedom of thought, opinion and religion in Strategic Impact magazine, no. 1 (34)/2010, "Carol I" National Defence University, Centre for Strategic Defence and Security Studies, pp. 112-129.

2 The Commission considers that there are 30 million electronic identity cards in use across Europe. In fact, traditional forms of identification are sought to be eliminated and fully replaced by electronic cards. *Viviane REDING*, Commissioner for Information Society and Media, said: "We can benefit from the development in the national systems of electronic identity cards and can promote the mutual recognition of the electronic identity between Member States. This project moves us a step closer to a *barrier-free movement* between the EU member countries because *the Europeans expect* (!) a European Single Market *without borders* "(our emphasis). The countries involved are Austria, Belgium, Estonia, France, Germany, Italy, Luxembourg, Netherlands, Portugal, Slovenia, Spain, Sweden and the UK. Iceland, although not an EU member, takes part in this *project*.

3 **We appreciate the responsibility assumed to the country's democratic tradition, to the human rights and fundamental freedoms that the new government of Great Britain most concretely had**, when it took a series of measures to halt the serious totalitarian drift where the Labour government had brought it through the exacerbation of the exception of public security to the civil liberties. As a country that gave throughout history **key documents on human rights and parliamentary democracy** *(Magna Carta Libertatum/1215; Petition of Rights/1628, Habeas Corpus/1679; Bill of Rights/1689), Great* Britain sought **to further assume**, as regards its capacity of Member State of the EU, a role as **guardian of democracy and respect for the human rights as one of the states most entitled, through its constitutional traditions (even if customary) and its law system** to notice the totalitarian drifts of the EU or individual Member States (Romania), inclusively in the field of biometrics and to require within the EU (politically and also by activating art. 7/TEU as amended by the Treaty of Lisbon), **ceasing to infringe the human rights by biometric practices, for conflict with *ius cogens* and the EU basic treaties as well as the Charter of Fundamental Human Rights.** UK is the first and one of the most important EU member states **which correctly noticed the totalitarian nature of biometrics, its essence incompatibility with the human rights and that took attitude with the government and parliament to such new forms of totalitarianism**. The traditional role of Great Britain, of defender of democracy and respect for the human rights does not contradict itself this time either, **while it can also actively assume this role to any EU Member State and to the EU as such, for preserving the democratic character of the Union and for preventing violations against human rights made on the basis of acts of the EU institutions or national acts of legislative harmonization**. Cancellation in the UK of the biometric ID cards is a decisive step forward of this country to be the guard dog of democracy in the electronic totalitarianism. Romania, as well as any EU Member State which has committed to maintain the rule of law and democracy, to respect human rights when entered a Union based on these values, according to art. 1a/TEU, as amended by the Treaty of Lisbon, should have the same attitude.

4 Art. 9D /TEU, as amended by the Treaty of Lisbon.

5 Art. 1a /TEU, as amended by the Treaty of Lisbon, according to which the entire Union (implicitly, all its institutions, offices and agencies) is based on certain values, including democracy, human rights, rule of law.

6 Art. 6/TEU, as amended by the Treaty of Lisbon, under which the Union recognizes the rights, freedoms and principles set out in this Charter. At the same time, the article makes it clear that this document has the same legal value as the Treaties. In addition, it argues that the provisions of the Charter can not be used by the Union to expand its powers in any way.

7 For example, to cite Article 6/TEU alone, as amended by the Treaty of Lisbon by which the fundamental rights as guaranteed by European Convention of Human Rights and as they result from the common constitutional traditions of the Member States, are considered for the European legal order (as an order of integration), attention (for those who advocate a complete separation between the European law and the international law), as general principles of the Union law. This means that the whole EU law is based on the fundamental human rights so that any Member State can defend from abuse of law or impermissible attempts to expand the powers of the Union or to exercise the shared ones (as those pertaining to the area of freedom, security and justice) without considering the Member States. These abuses can take place by issuing acts with a direct effect or legislative recommendations, treating the Member State as a non-sovereign state, concerning a field traditionally considered to be reserved for the state (as the field pertaining to the foreigners, asylum, visas, immigration regime is considered by the international law, which requires, same as the citizenship regime, an exercise of state sovereignty par excellence).

8 Under Article 46A/TEU as amended by the Treaty of Lisbon. So, the EU has European and international legal capacity but **it is limited by states**, because it is not sovereign, while it remains fundamentally a creation of the states, limited to the strict exercise of the powers established by them under the Treaty.

9 Art. 2/TEU, paragraph 5, as amended by the Treaty of Lisbon.

10 Irina MOROIANU ZLATESCU, Radu C. DEMETRESCU, *European institutional law,* Olimp Publishing House, Bucharest, 1999, p. 194.

11 **And here begins the great development of the legal field**, which must necessarily include safeguards of the human spiritual, religious, and moral identity. Lawyers must protect **even more**, in the 21st century as a desecrated and materialistic century, **the spiritual dimension of man**. Among the human rights, the 21st century will be able to bring **a great development of the freedoms of opinion, religion and conscience, which any person has, regardless of their country's membership to an integration entity or not**. An *International Convention against the biometric practices* **(under UN or OSCE) would be recommended, initiated by the states with a strong religious identity but also by the secular ones, condemning the totalitarian electronic drifts of the 21st century and internationally defending the rule of law, democracy and human rights.**

12 See Romania, Bulgaria, Greece, Slovenia, Slovakia, Croatia, Czech Republic, Hungary, Poland, countries that traditionally defend the East European Christendom.

13 The Treaty of Lisbon speaks of "empowerment" and not "transfer of sovereign attributes", as ECJ does in its jurisprudence, **resulting a setback of the federation, made at the EU's basic treaty** (after the gesture of removing from the Treaty the supranational references to the EU anthem and flag). **Thus, the Treaty of Lisbon does not agree with the bold vision** (and deeply affecting the state sovereignty issue) **proposed by the ECJ**, limiting itself to recognize only "powers" that the states "assign" (and an implicit evocation of their sovereign character, their free decision and the derived legal nature of the EU, of creation of the states, thus of a subordinate entity, as well as any OI, to the sovereign will of the states that are its architects and that can put an end to it, just by virtue of their sovereignty over any kind of contrary decision of ECJ).

14 That is, for the entire international law, *ius cogens*. So the European legal order, qualified by ECJ as a specific order "**of international law**" can not escape, despite its specific, autonomous or integration nature, from the protection of the human rights, either (in this case, the freedom of religion, thought and consciousness, raised by a person within the EU against issuing biometric documents of any kind).

15 **The EU obligation to respect the human rights is not only in relation to the Member States and on the level of its order of European law but is extended to the relation with third countries** (Art. 2/TEU as amended by the Treaty of Lisbon). Moreover, through this article, the EU also undertakes, in regard to the protection of human rights, in the relation with third countries, the responsibility to "*strictly observe and develop the international law, including observing the principles of the UN Charter*". Thus, the reference to the High Legal Civilization of the 21st century, the

one based on the human rights is a binding one for the legality of the Union internationally. *A minori*, it is unreasonable for the Union to not respect within the relation with the Member States and the EU citizens the things that it assumes in its relation with the third countries. So it can not establish a totalitarian, police space, based on biometrics, without violating in its essence and letter, along with numerous articles of the Treaty of Lisbon, this basic article as well.

16 Since **international criminal tribunals were formed to prosecute war crimes and crimes against humanity** (genocide charges) for the leaders of certain countries, on the same principle (violation of the human rights, cancellation of human freedom and dignity through biometric regulations and practices) **international and European criminal tribunals may be established for prosecuting both the EU and the national leaders**, **in this regard, and for violating by biometrics, the democratic nature, of the rule of law and human rights across the EU,** more and more obviously turned into a totalitarian space in which its citizens are treated like prisoners or potential criminals by an European police system. It begins to be established *de facto* in the EU by **removing from the context and generalizing provisions relating to the area of freedom, security, justice, where the security dimension serves as a pretext, totally illegal, for abolishing, in their very essence, the rights and fundamental freedoms of the person in the EU.**

17 It is already recognized in the European law doctrine that **the issue of human rights pertains to the internal competence of the states** according to their status as members of the Council of Europe and signatory states of the European Convention on Human Rights and also according to their own constitutions. But the issue of **protecting** the **human** rights **also arises at European legal level (in the EU judicial system)** so that **no abuses of power produce from the EU institutions while exercising their attributions and affecting the rights of the persons**. Thus, ECJ recognized that "*the respect of the fundamental rights form an integral part of the general principles of law of which compliance is ensured by the Court*." ECJ also recognized that "*the protection of these rights, drawing entirely from the common constitutional traditions of the Member States, should be ensured within the structure and objectives of the Community*". Here is a consecration of the Community protection of the human rights, made by praetorian way (before the entry into force of the Treaty of Lisbon) and subsequently entered into this treaty. See Irina MOROIANU ZLATESCU, Radu C. DEMETRESCU, *op. cit*., pp. 159-160.

18 According to the hierarchy of the EU legal order. See also Irina MOROIANU ZLATESCU, Radu C. DEMETRESCU, *op. cit*., p. 143.

19 Under art. 6/TUE, as amended by the Treaty of

Lisbon, paragraphs 2 and 3.

20 See also the European law doctrine which speaks of the **specialty principle** (applicable to the international organizations in the international law and also the European Communities, initially, and now to the new EU initially created by the Treaty of Lisbon). See Iordan Gh. BARBULESCU, *From the European Communities to the European Union. The European Union: deepening and enlargement*, Trei Publishing House, Bucharest, 2001, p. 87. Same as other bodies of international organizations, the EU institutions have **only powers of attributions**, not full powers, as the states have. The EU institutions can not have general powers, while they are required to operate strictly within the limits set by the states. **However, these institutions can not get over the head of states, not even in areas of shared competences (like the area of freedom, security and justice), for adopting measures that are contrary to human rights (as happens with the biometric documents).**

21 The Union **is founded** on respect for human rights, **takes them into its legal order** but this does not mean that it starts to give legal acts by its institutions or to exercise powers in this area, **to misinterpret the meaning, change, modify, restrict or worse, to violate or abolish the human rights, as they are protected under the international law.** ECJ introduces a liability of the EU for **violations of human rights to individuals** but it is important to note that this is an area where the EU can not have innovations like issuing biometric documents and any other innovations that **affect human rights in any way**. In TFEU, in the set of shared or exclusive competencies of the EU, **the field of the human rights is not specified.** However, when the states have not given powers to the Union under the treaties that means that it is not competent to issue documents or take actions, ignoring the states. Even promotion of human rights in third countries (Article 2, paragraph 5/TEU as amended by the Treaty of Lisbon) is **an action mainly for the Member States because the only, the universal field human rights, the basis of the entire international law, is concerned**. This legal obligation of the EU is exercised through the Member States and the European common foreign policy but it is fundamentally a field that **requires above all the involvement of the states, as sovereign subjects of international law and through them, of the Union** as a secondary subject of international law. **Outside the will of the states, the EU can not exercise any jurisdiction in human rights.** Then, the EU can not violate the human rights (obligation of abstention, arising from the correlation of Art. 1a/TEU and art. 2, paragraph 5/TEU).

22 If the EU applies on its territory *less* protection for *ius cogens*, national laws and international documents which give the human person by virtue of the **universality** of human rights, a **direct and the widest, the most favourable legal protection,** would enter into force. This protection is given to man, despite the diversion of the EU, **through the international law directly**, through the quality of the EU Member State as an originating, main, sovereign subject of international law, under which it ratified the international treaties and other legal documents in relation to human rights. If it applies strictly *ius cogens* in the European law order, and especially if it recommends or requires the Member States through the acts of its institutions, to adopt a restrictive view of *ius cogens*, subordinated to the goals of European integration, then this would be nothing but a damage of the essence of values which the EU said is based upon in Art. 1a/TEU as amended by the Treaty of Lisbon. **The EU would turn into a repressive, police regime that, after a phase of restricting the human rights in its territory, would downrightly enter a repression stage, i.e. of not recognising *ius cogens*, according to a schizoid and degenerate integration vision, fully separated from the international law.**

Mădălina Virginia ANTONESCU (vam55ro@yahoo.com, madyantonescu@gmail.com, http://www.madalina-antonescu.eu) earns a Ph.D. in European Law, Faculty of Law, University of Bucharest. She is the author of several books, including: "The European Union – a modern empire?" (2005), "European Union, ancient empires and medieval empires. Comparative study" (2008), "The European Union and international organization. Comparative study of international law" (2009), "The EU institutions in the post-Nice era. A perspective of constitutional law" (2008).

GEOSTRATEGY

"Geostrategy" was published by the publishing house of the Armed Forces' Territorial Centre in 2009 and represents a reference book written by an expert in this field.

The author, general-lieutenant professor Teodor Frunzeti, Ph.D., is the commandant and rector of "Carol I" National Defence University, Ph.D. supervisor professor and associated professor to several universities. He has two PhD titles, one in military sciences and another one in political sciences, is associate member of the Academy of Romanian Scientists and is the author of 13 books on military topics and of numerous articles published in specialty magazines or presented in international scientific sessions.

The present work contains 17 chapters, preceded by an introductory chapter and continued by an extensive bibliography. Within the 405 pages, the author points out that "geostrategy, as theory and scientific discipline, plays nowadays in important role in the humanization of the power management in the international and global environment. It is meant to demonstrate, on the one hand, the way in which the main state or non-state actors manage power in accordance with the peculiarities of the geographical and natural environment and, on the other hand, the way in which they elaborate and implement action strategies peculiar to the use of power instruments, adapted to the their potential".

Within this paper, the author forays in the history of geostrategy in order to acquaint the reader with this domain and afterwards, he concentrates upon the consistency elements of understanding contemporary geostrategy at the level of the main actors and of the peculiar features of the period that we are crossing. One of the strong points of this book is constituted by the fact that it comprises a history of geostrategy which is very well realized and documented, with a thorough study of the definition that it was given by the great geo-politicians of the last century.

The chapters II, III and IV are dedicated to the concept of power, to its analysis in the context of International Relations, to states' power resources and instruments and to the analysis of non-state actors in the global power equation.

In the fifth chapter, it is approached the issue of the international organizations and their role in international security management. Here, the author analyses not only the characteristics of the actual security environment, the vulnerabilities, threats and risks from the global system, international terrorism, the proliferation of the weapons of mass destruction, interethnic and inter-religious conflicts, organized crime, but also the environment issues, the development gaps, the main trends from the actual security environment and emphasizes the role of international organizations in the context of globalization. "International organizations represent the most important forces in the coordination of the actions and in the cooperation in various areas, such as the economic, political, social, military or cultural ones". The author realizes a short history of the apparition and evolution of international organizations and defines the main types of international organizations and analyses on brief

the main security institutions.

The sixth chapter refers to the globalization and regionalization issues. There are studied the concept of globalization, its aspects, its opportunities and challenges, as well as regionalism and multiculturalism. There is also a sub-chapter dedicated to the situation of Romania under the circumstances of the globalization and there are pointed out the problems that our country is facing in the context of the current economic and financial crisis. At the same time, there are analyzed the relations between globalization and regionalization in the global economy and the situation of Romania between globalization and regionalization. "Globalization unites and divides, connects and separates, homogenizes and diversifies, coagulates and crumbles, increases wealth and expands the area of poverty".

In the seventh and eighth chapters, it is approached the geostrategy of energy resources and their power. It is well-known the fact that in the recent years, the battle for resources has become increasingly severe, oil, the main energy resource used at the global level, being the cause of most of the conflicts of the last century. There are studied the main actual reserves of oil as well as the main consumers, oil cost, the main energetic powers and the problems which have emerged in the fight over the control on these resources.

A special chapter is given to the current effects of the economic and financial crisis on international security. The author makes a brief presentation of the beginnings of the economic and financial crisis and of its expansion at the international level similarly to a perfect puzzle game, without missing any piece on the table. A part of this chapter refers to Europe under the conditions of the global economic and financial crisis and to the way in which this crisis impacts on Romania, affecting its national security and the economic development.

The next five chapters (X, XI, XII, XIII and XIV) are dedicated to the analysis of geostrategy of the most powerful states of the world (USA) or of some states whose recent economic development

(during the global economic crisis) has known an unprecedented impetus (China, Russia, India and Pakistan). These states have focused especially on acquiring the control on the energy resources (USA) or, in the particular case of China, which while avoiding conflicts, established advantageous alliances, especially with the states from its region, under the conditions of a more liberal economic policy. Unlike the other countries, India's economic development is owed both to "the acceptance of plurality and multiculturalism" and to the investment in the research area and educational system development. As far as Pakistan is concerned, it "represents an important geostrategic point in the context of International Relations. The resources of its territory represent a strong attractor and its geographical position represents a special importance as it is inter-connected with the other important points of the world".

Fifteenth and sixteenth chapters were reserved to the analysis of the geostrategy of the most powerful international organizations – NATO and the EU. The author presents succinctly their history and their relations with other international organizations as well as their role and importance in maintaining international security.

The last chapter is dedicated to the analysis of the vulnerabilities, threats and risks in the global system. "The vulnerabilities, threats and risks are analyzed especially in relations with the economic, political, military, scientific, cultural etc. trends, within a scheme including reports and balances of power, interests, objectives etc.".

This treatise is remarkably well structured and approaches the problems of the contemporary world. Nevertheless, in our opinion, this scientific approach could be completed, in future, with analysis from the same perspective of all the resources, some of them (water, for instance) being much more necessary than oil.

"Geostrategy" is a useful material for all those who are interested in studying this field and it may be considered a good course support.

I.C.

THE ACTIVITIES OF THE CENTRE FOR DEFENCE AND SECURITY STRATEGIC STUDIES

JULY – SEPTEMBER 2010

The latest study published within the Centre is entitled "Current challenges to the European security".

In this autumn, the Centre for Defence and Security Strategic Studies celebrates 10 years since its foundation. The event will be celebrated in November, when the most important scientific activity of CDSSS will be organized – the annual international scientific session, which will take place between 18th and 19th November and will be about "The Impact of the International Relations' Evolution on the Security Environment".

We invited to take part in our activity representatives of the Ministry of National Defence, the Ministry of Administration and Interiors, the Ministry Education, Research, Youth and Sport, the Ministry of Foreign Affairs, professors and researchers from civil and military institutions of education and research, from similar institutions and universities from Bulgaria, Hungary, Czech Republic, Slovakia, Poland, Moldova, Greece, Italy, Albania, Croatia, Ukraine, Estonia, Spain.

The session is organized on several sections which will refer to: the evolution of international relations in the context of the current global crisis; challenges for the security environment; the role of international organizations; cooperation and competition – the impact on the security environment.

More information on the conditions of participation at this scientific session and the program of the activity are published on the following website: http://cssas.unap.ro. The persons who want to participate are invited to submit their applications until 20th of October 2010.

Irina CUCU

INSTRUCTIONS FOR AUTHORS

On selecting the articles there are taken into consideration: the area of the subjects presented in the magazine, the actuality of the topic, its novelty and originality, its scientific content and the adequacy to the editorial norms adopted by the magazine. The article should not contain any party political connotations.

The papers' scientific evaluation is done by two scientific experts that are either professors or senior fellow researchers.

The article, written in a foreign language (English, French) may have maximum 10-12 pages (6.000 – 7.000 words) and has to be sent both in print and paper, using Times New Roman font, size 12, one line, and the tables and schemes have to be printed separately. The translation into Romanian will be provided by the editor.

The text has to be preceded by an abstract which is not to exceed 250 words, both in Romanian and English and not more than 10-12 keywords. The papers have to be signed adding the authors's scientific degree, name, first name, the institution he comes from and have to end with a curriculum vitae, which should include the following elements: a short bio, a list of personal papers, birthyear, birthplace, address, city, postal code, country, telephone, fax, e-mail address, photo in jpeg format.

The footnotes are to be included by the end of the article and have to respect the international regulations. Authors can publish only one article by issue.

The text has to present an easy structure, using titles (subtitles). The abbreviations will be marked on the text only at their first mention on the text. It is likely to end the papers with some important conclusions regarding the importance of the research.

The articles will not use classified information.

As the magazine does not have a profitable purpose, the articles cannot be paid.

We accept articles from all the persons interested in publishing articles in STRATEGIC IMPACT magazine. The materials have to comply with the conditions mentioned above and to be of interest for the international scientific community. Thus, it is necessary that the documentation resources used in the elaboration of the articles had in their composition prestigious paperworks or publications widely recognized at national or international level.

Our address is: National Defence University "Carol I", the Centre for Defence and Security Strategic Studies, 68-72 Panduri Street, sector 5, Bucharest, Romania, telephone: (021) 319.56.49; Fax: (021) 319.55.93, e-mail: cssas@unap.ro, web address: http://cssas.unap.ro, http://impactstrategic.unap.ro

After nine years since its first edition, STRATEGIC IMPACT magazine, edited by the Centre for Defence and Security Strategic Studies from the National Defence University "Carol I" is a quarterly scientific magazine acknowledged locally and internationally for the wide area of topics - the political-military present, security strategy and military security, NATO and EU actions, informational society, strategic synthesis and evaluations, a special column "Strategic Event" that studies the strategic impact of the dynamics of the actions undertaken nationally, regionally and globally.

STRATEGIC IMPACT has as collaborators important researchers and personalities within the scientific research area and from the civilian and military university system, both national and international, from the Ministry of National Defence, General Staff, services' staffs, the Ministry of Administration and Interior, Ministry of Foreign Affairs, military units and other state's organizations, NGOs, companies, etc.

The international acknowledgement of the magazine's quality is confirmed by its editions presented on sites belonging to prestigious foreign institutions (Defence Guide, in collaboration with the Hellenic Institute of Strategic Studies – HEL.I.S.S.), The Institute for Development and Social Initiatives – IDIS from the Republic of Moldova – the virtual library for political and security studies. Also, the magazine is included in international databases: CEEOL - Central and Eastern European Online Library, Germany, IndexCopernicus International, Poland.

The magazine is accredited by the National University Research Council and acknowledged as a B+ magazine that demonstrates the potential to become an international acknowledged magazine.

STRATEGIC IMPACT is a representative forum for reflection and debates on topics related to strategy and security for the scientific, academic, national and international community.

At present, STRATEGIC IMPACT magazine is issued separately in two editions, Romanian and English, and disseminated in the domestic and international scientific environment and also to the main institutions involved in security and defence.