Some considerations regarding the Romanian criminal law during the period of the communist regime. Post-communist transition and reconstruction justice. Current positions on national identity and the process of European integration PART II

Valentin-Stelian BĂDESCU Ph.D
Romanian-German University in Sibiu, Romania
Associate researcher at
Institute for Legal Research, "Acad. Andrei Rădulescu "
of the Romanian Academy
Member of the Romanian Committee for
History and Philosophy of Science and Technology
of the Romanian Academy
valentinbadescu@yahoo.com

Liviu DONE Ph.D in progress
"Alexandru Ioan Cuza" Police Academy in Bucharest, Romania
Doctoral School of Public Order and National Security

Abstract: *The establishment of Communism in Romania meant not only the violent pursuit of the political will of the "proletariat" but also the constitution of a constitutional architecture to maintain and develop the new social order. The state became the essential instrument of communist political action, having the "historical" mission to transform capitalist society into a communist one, to eliminate the "old ruling class" (capitalist, bourgeois, political, legal and security institutions national or education and culture, etc.). This "revolutionary" action meant the destruction of the Romanian political, economic and cultural elites that had crystallized in the period between the two world wars. On this virgin site, cleansed of "the tares of the bourgeois classes and of her servants," she was preparing to establish and sow a new dominant class, "truly democratic, with country love". The new political class came from workers and peasants, authentic representatives of "the people." In this social reconstruction a special role was played by the new reformed state, renewed in its ideological foundations and whose alveoli were populated with new representatives of the popular population. The reform of the state and the communist society concerned the structure and functions of the state, administrative, judicial, law enforcement, national security (military, information services) and the construction of complicated institutions with economic and social functions. This institutional transformation was oriented both to the structures of the state bodies and to the policy of "cadres", to select and fix new leaders and bureaucrats in the structures of power. The new societal leadership was found in the structure of organizations whose efficiency was determined by the quality of those selected to occupy the various functions of power.*

Keywords: *Romanian criminal law; justice; communism; national identity; European integration.*
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Introduction

In the first part of our study, we exposed the results of our research and observations on the establishment of the communist regime in Romania after the coup d'état of 23 August 1944 and we have come to discover that all legal acts and deeds carried out by the foreign power were fulfilled for a well-established purpose, namely the suppression of the elites of the national culture through a directed and institutionalized repression subjected to severe ideological control.

I then did the critical examination of the periods, themes and attitudes that had the pretense of explaining life as it was in the time of sad memories, which can only be compared to the negation of the Phanariot era, which were only the wrong systems which have nothing to do with the freedom and dignity of the human person, with the rule of law and constitutional democracy.

But you will say: how it was possible. Well, we are trying to do this by demonstrating how criminal law has been used as a repressive instrument in the service of power,

7. Criminal law, repressive instrument in the service of power

However, the origins of the totalitarian penal system are evident in the communist constitutions, which reduce the gesture of intellectual or religious beliefs in the act of undermining public order. The generous grant of social rights (the right to rest, the right to retirement and family protection) is one of the ways in which the new regime in Romania imagined a social sui generis pact. In return for ensuring the material life framework, in the planning conditions, the community of citizens gives up the critical exercise of individual freedoms. Repression is intended to sanction those who do not subscribe to the founding clauses of the new totalitarian society. In search of political legitimacy, the new communist power has created its own laws, which have provided legal support to the repressive measures adopted against any form of opposition. The legislation underlying the repression in communist Romania experienced fluctuations from one stage to the next, depending on the internal and external context. Always in the pre-emergence of the crackdown, changes were made to the provisions of the Penal Code [96].

7.1. ***Important doctrinal aspects regarding criminal policy.*** Thus, in the doctrine of law, it is admitted that criminal policy [97] is defined as „a set of procedures likely to be proposed to the legislator or actually used by him at a given moment in a particular country to combat the criminal phenomenon" or „all the measures and means of prevention and combating of the criminal phenomenon, as well as the principles of elaboration and application of these means and measures, expressing a certain conception regarding this phenomenon and pursuing a certain finality" [98]. In another sense [99], criminal policy is equally a science and a art [100], which consists of discovering and rationally using the best possible solutions to the various background and form factors that the phenomenon of crime raises [101]. The criminal policy is a component part, a narrower field of the general state-building policy, between the goals, the fundamental principles, the methods and the means of realization, the general policy of the state, on the one hand, and that of its criminal policy on the other part has a close connection. The criminal policy aims at defending against the crimes of the social relations and social values around and through which these relations have been formed [102], ensuring the security climate necessary for the activity of building the new society and continuously improving the social relations, re-educating the antisocial elements in the view of their transformation into conscious members of society, the abolition of the social and individual causes of the crimes and the gradual removal of the criminal phenomenon from the life of society [103].

Criminal policy uses the same methods and means but adapted to the specifics of the fight against crime. In this respect, in the legal doctrine, some authors [104], acknowledge that the issue of crime prevention is closely related to the existence of crime. In any society there is, besides real crime, whether hidden or relevant latent criminality involving all those who undermine criminogenic factors are in danger of slipping on the slope of crimes, the fight against criminality therefore implies not only measures such as those who have committed offenses not to repeat facts but also taking action to prevent those who are on the point of committing criminal offenses to step on such a road. That is why criminal law brings its specific contribution to the fight against crime; by applying the punishments, the infringer influences him in order not to repeat the offense (special prevention); at the same time, the concrete sanction is likely to influence (by intimidation) and others to refrain from committing criminal acts (general prevention). It is thus clear that the legal response to crime can only be directed against actual crime, not latent, since criminal law cannot intervene unless the legal order has been disturbed by a crime (post factum). Regarding the history of criminal law, we note that in any social order the purpose of the criminal law was and is the defense of the respective social order against crime

as a form of struggle of the "isolated individual against dominant relations". We recall in this regard that many theories have been developed over time to explain fundamentally the so-called right to punish and determine the purpose of punishment and the functions by which this purpose can be realistically best [105]. Thus, we notice that in the criminal law literature the numerous theories regarding the fundamental right to punish were systematized in three groups, namely:

a) *absolute theories*, which see the purpose and fundamental punishment in its very nature. Punishment serves its purpose and is the legal, necessary and ineluctable consequence of the offense;

b) *relative theories*, which impute punishment to a foundation and purpose in the face of punishment itself, namely a political and utility purpose, the prevention of crime and the repair of the evil caused by its commission;

c) *mixed theories* that tend to appropriately associate the two previously exposed theories. In the positivist school doctrine, which marked a clear progress in legal thinking, the right to punish was an inevitable natural necessity, a means of defending legitimate social interests [106]. From this point of view, it has been stated that all these theories start from the conception that criminal law, the criminal law are placed above the classes, and that they defend the interests of the entire society. Even when the class character of society is not established, the role of an impartial defender of the interests of all social classes is attributed to criminal law. In this context, it was stated that the fear of disclosing the narrow, class-based goal of criminal law prevents the law from providing this purpose [107]. Referring to the system of contemporary criminal law, it can be seen that it marks a considerable progress in terms of the criminal policy and the means of fighting it. Old feudal practices, backward conceptions of the phenomenon of crime, and the means of fighting it have remained largely past. The expression of the will of society, criminal law enshrined the principles of criminal policy such as the principle of the lawfulness of criminalization and punishment, equality before the criminal law, the humanization of punishments, and so on. According to a current opinion, "*precisely because it expresses the will of an exploitative minority, criminal law cannot actually accomplish these capitalist principles, the defense of private property over the means of production that devotes the dominion of capital to labor. Naturally, this real purpose of the punishment was not recognized in the science of criminal law and in the previous legislation, but it is clear from the content of the legislation and the practice of its application. It was recognized as the purpose of the "social defense" punishment against crimes, but it is ignored that the criminal phenomenon was generated, ultimately, by the very contradictions of capitalist society and that "the defense of society" actually means defending the causes of crime. Therefore, in the system of previous criminal law (bourgeois), the punishment appears to be unfair, because it suppresses an act in which the person has not been able to freely choose between the conduct required by law and antisocial conduct. Because of this, punishment could not influence the offender. But even if such influence would be possible, it would not have sustainable results, because after the execution of the sentence, the convict falls again under the influence of criminogenic factors. The same objectivist position, ignoring class character, was also adopted by contemporary criminals. Criminal law was thus expressed as expressing the interests of the "nation", "society", etc., although in reality it expresses the will and the dominant interests"* [108]. We do not favor this opinion for the reasons we will show in a section devoted to this phenomenon.

Furthermore, the same opinion states that "the criminal law of 1969 was subsequently recognized as an indispensable means of achieving the state's criminal policy on the side of the crime against the criminal phenomenon. For example, the purpose of the criminal law was formulated, in clear terms, by the provision in Art. 1 of the Criminal Code, stipulated that "*the Criminal Law protects against Romania the sovereignty, independence and unity of the state, the socialist property, the person and its rights, as well as the entire order of law*". This wording clearly shows both the character of the class and the concordance between the purpose of the law and the purpose of the criminal policy of our state. In the interest of society, our criminal law defended the state against crimes as the main instrument for achieving the policy in our country and, therefore, for the realization of the criminal policy; property as the foundation of the new society; the person whose multilateral development was the goal of the entire activity of the state and, in general, the order of law, which was also a sine qua non condition of the building of the new society. The purpose of our criminal law thus

formulated was to defend society in its entirety and in the interest of the whole people, the class character of our law and our criminal policy deriving from the content of protected social relations and values. This purpose of the law corresponds to the purposes of the criminal policy of our state, on the side of the reaction against the criminal phenomenon [109]. The legal provision examined shows that the defense of the society takes place "against crimes", which means that the reaction made on the basis of criminal law is directed against the facts which this law provides as crimes and only against them. Therefore, both the reaction to offenses that did not constitute offenses, but administrative or disciplinary deviations, as well as the entire preventive action directed against the social causes of crime, which constitute the other side of our criminal policy, remain outside the criminal law [110].

In addition, we emphasize that the Criminal Code in force has reflected on both the ideas of the classical criminal school and the ideas of the positivist school. Not only the progressive ideas related to the execution of criminal sanctions, as far as possible in an open environment, such as arrest at home, art. 218 Cr. Code, which emphasizes the alignment of the Romanian Criminal Code with the great currents of European criminal law science [111]. On this issue, criminal science [112] generally recognizes criminal law as a preventive function and a repressive function. In terms of preventive function, it is presented in a double aspect: a general prevention function and a special prevention function. Thus, special prevention is directly achieved as a result of the punishment of condemnation, representing that finality attributed to punishment as a means of reeducation. This form of prevention is first carried out at the time of punishment by forcing the offender to understand the inevitable consequences to which the one who violates the criminal law is exposed.

In addition, special prevention is being carried out in the process of executing the criminal sanction following the inevitable suffering of the punishment, the modern doctrine rejects the idea that the punishment should be executed under the most severe conditions, even cruelly, in order to have maximum preventive effectiveness. Such a line of thought could lead to physical and psychological suffering added to those inherent in punishment what the law forbids. Unlike special prevention, we note that general prevention is being done at the time when the criminal law is being enacted because the addressees of the law are aware of the requirements of society in relation to their behavior; a second time is the application of the punishment of a person who has violated the criminal law, it highlights for all citizens that punishment can become a reality if it does not voluntarily comply with the prescriptions of the law. Finally, the execution of the sentencing sentence also exerts a general preventive influence. As a rule, this preventive action does not even apply to individuals who by their structure and conscience do not intend to abide by the law (these people do not need any other excuses to behave properly) or to those who are determined to violate the law in order to leads an easy life and pleasure. General preventive influence is exerted on those who are in the two categories, ie, those who are tempted to violate the law, but who are afraid of the consequences that such conduct might attract. Moreover, we show that general preventive action is real and effective when criminal law is applied with determination and promptness. Any failure of the authorities in this direction may result in a weakening of the effectiveness of this form of prevention [113]. And concludes the distinguished author "from the previous exposures it was possible to see that in every social order, criminal policy, criminal law and punishment, expressing the will and legal conscience of the ruling class in that order, aim at defending against crimes, social relations essential to the existence of that society, relations that ensure the dominant position of the class holding the economic and political power" [114].

7.2. ***Criminal policy in Romania during the transition to communism*****.** But what in Romania actually happened between 1944-1964?

After the coup of August 23, 1944, the Communist regime was established in Romania under the direct pressure of the Soviet forces of occupation, against the will of the Romanian people, in the geopolitical situation after the end of the Second World War. This process has gone through a troubled transition period between 1945 and 1947, which ended with the forced abdication of King Michael on December 30, 1947, and the adoption of the new Constitution of April 1948, which overturned political pluralism, devoted to the complete seizure of power by the communist forces and the establishment of the regime of "popular democracy" [115].

The December 30, 1947 state coup (named in Communist historiography and the „*Proclamation of the Romanian People's Republic*" or „*Republic Day*") represents the illegal forceful action that took place between December 30, 1947 and January 3, 1948, when the Romanian Communists, supported by the Soviet military occupants, imposed on King Michael by blackmail and threatening the signing of an act of abdication, proclaimed the Romanian People's Republic (in violation of the constitution in force at that time) and forced the Royal Family to leave the country. The fundamental political changes brought about by the coup d'état took place without the approval of the Romanian nation, which was not consulted by a referendum on the change of the form of government [116]. Communist Romania 1947-1989 is an unofficial name, sometimes used with reference to the communist period in the history of Romania where the country was known with the official names of the Romanian People's Republic and the Socialist Republic of Romania, respectively. During this period, the Romanian Communist Party (which was called the Romanian Workers' Party between 1948-1965) was, de facto, the only political party that dictated by government the public life in Romania [117].

After the end of the Second World War, the Soviet Union pressed for the inclusion in the post-war governments of representatives of the Communist Party of Romania, recently reintroduced into law (the party was forbidden in 1924 on the grounds of accepting the Communist thesis "of the oppressed peoples' Imperial Romania to self-determination until the state separation"), while non-Communist leaders were constantly eliminated from political life, although from a constitutional point of view, 1944 through the Royal Decree no. 1265 [118] was a moment of constitutional rebirth. To this end, the constitutional order crystallized after September 5, 1940, characterized by authoritarian rule, was removed, creating the prerequisites for restoring the legal framework established in 1866 and revising the fundamental act of 1923. The bloc of Democratic Parties mentioned here including the Communist Party decided to establish a democratic, , granting rights and fundamental freedoms to all citizens [119]. By Royal Decree no. 1626 / 31.08.1944 the Constitution of 1923 was reinstated with some reservations. Thus, art. IV specified that "a special law will establish the conditions in which magistrates are immutable." Article III of the legal normative act mentioned provided; "A decree issued following the decision of the Council of Ministers will organize the National Representation. Until the organization of the National Representation, the legislative power is exercised by the King, at the proposal of the Council of Ministers "Decree-Law no. 1849 / 11.10.1944 for the amendment of the Royal Decree no. 1626 / 31.08.1944 [120] provided in the unique article the following: "Special laws shall stipulate the conditions in which all those who in any capacity and in any form have contributed to the disaster of the country, especially in connection with the war against the nations, may be prosecuted and sanctioned -Use ". The constitutional restoration was, however, deceiving, determined by the Armistice Convention between Romania and the Allied Powers, considered a true capitulation, not a free armistice agreement [121], becoming the legal instrument by which the limitation of sovereignty was regulated. Moreover, the Armistice Convention may be considered a constitutional act requiring a new international status of Romania which the Soviet power dictates to the Romanian state [122], through which the freedoms granted to the citizens of the Kingdom are voided by legal substance. The Allied Control Commission established after the signing of the Convention aimed to interfere with Romania's internal order and implicitly to limit sovereignty.

The constitutional practice after 1944 had different rules from a democratic regime: a constitution modified by decree-law by an assembly that did not have a power as a derived constitutive power and the action of a Council of Ministers with legislative attributions. Thus, the coordinates of a constitutional practice different from the framework provided by the fundamental law of 1923, put back into effect, were drawn. The request by the government to the government to submit his mandate and his refusal to resign brings a novelty in the constitutional state life of 1945-1946, materialized in the royal strike that materialized in the sovereign's refusal to receive audiences and sign decrees. The documentary history of the 1946 political year reveals a period of fundamental degradation of constitutional institutions and public freedoms - through the elaboration of electoral laws and defrauding of elections, followed by the opening of the Assembly of Deputies by Royal message.

The mutations that the Groza government imposes on the level of the functioning of the state powers, mutations contrary to the constitutional framework of 1923, are validated [123]. Important mutations

intervened regarding the bicameral structure of the Parliament. By Royal Decree 2218 of July 13, 1946 [124], the Senate's activity was suppressed, and the organization of the National Representation was limited to the Assembly of Deputies who legitimized, by false delegation, the authority of the single party, while the extension of political rights by the recognition of the right to vote was doubled the annulment of their actual relevance. Taking over the provisions of the Royal Decree no. 2218 regarding the exercise of the legislative power, the new Electoral Law no. 560 / 1946 [125], maintained some provisions from the interwar period. He maintained the principle of the universality of the vote - extended it to women, the military, and the judiciary - but narrowed him down to the category of the unworthy. They were considered unworthy, according to art. 7, the persons condemned as guilty for the disaster of the country, as well as the persons who held public dignity in the period 1940-1944, the purpose of this regulation was to eliminate from political life, pluripartidism and implicitly historical parties. There is, however, a derogation in respect of persons convicted of political offenses or in camps for democratic actions, to which the legislator conferred the right to vote and to be elected, a measure that favored the former illegal communists. With regard to age as a criterion of eligibility, the legislator set the age of 25 years with two limitations - apart from the above mentioned - active soldiers and judges. These limitations of the right to be elected are explained by the fact that at that time: the magistrates were involved in the coordination of the electoral process and the army had not yet been reorganized [126].

Moreover, using the occupant's preferred instrument, which replaced the force of law with the right of force by imposing the right to the promise of power, through Law no. 363 of December 30, 1947 [127], the Assembly of Deputies declared, first of all, that it took note of the abdication of King Michael I for him and his descendants. Then the law abrogated the Constitution of 1866 with the amendments of March 29, 1923, those of September 1, 1944 and the following. Abrogated, implicitly, all normative acts that brought amendments to the Constitution, such as Law no. 560 on the elections for the Assembly of Deputies and the Law on the Organization of the National Representation of July 15, 1946, both promulgated "by package" by Royal Decrees [128] and denounced by the opposition as profoundly unconstitutional in relation to the 1923 Constitution which provided for the bicameral of the Romanian Parliament, as they abolished the Senate, and the sovereign was deprived of the constitutional right to abolish the Parliament, the Assembly of Deputies conferring on him the exclusive power of self-dissolution. Already, through the Moscow accord, the king had restricted his royal powers to the institution, including his right to dismiss the government [129]. Romania became Republic. Article 4 of Law no. 363/30 December 1947 provided that "the Legislative Power shall be exercised by the Assembly of Deputies until its dissolution and the constitution of a constitutive legislative assembly, which shall be made at the date fixed by the Assembly of Deputies". The executive power was to be exercised by a presidium consisting of 5 elected moms, mostly by the Assembly of Deputies, of the personalities of the public, scientific and cultural life of the People's Republic of Romania (RPR), who on the same day appointed a new Council of Ministers "(Article 6). The RPR Presidium did not hold much, it disappeared on February 25, 1948, when, through Law no. 32 [130], with the dissolution of the Assembly of Deputies, until the establishment of the Grand National Assembly (MAN), the legislative power will be exercised by the Government, its legislative acts being ratified by MAN. Although the law no longer says anything about the Presidium, it will be re-established.

The statute of justice ceases to be an integrative one in the paradigm of constitutionalism in 1866 and reiterated in 1923, the suspension of the magistrates' inability to become a habit used to alter a mechanism whose functioning was intended to guarantee the set of individual freedoms and to act as a barrier against hegemony of the executive. The institutionalization of "people's courts" was the consequence of a foreign and unknown legislative and ideological practice in domestic law. Existing and applied in Soviet space, the solution of the popular judge has the capacity to provide a way of institutionalizing the presence of the "popular" factor within a system that has a "bourgeois" monopoly on recruitment. The reinforcement of the government on March 6, pro-communist in its essence, placed Romania on an unwanted path, imposed from the outside, as a consequence of the prior understandings and concessions policy and domination characteristic of the post-war world. This echoed not only with the elimination of multiparty and parliamentary democracy in the political

life, but also with the unleashing of a terrible terror over the political elite in the past; in parallel with the abolition of the PNT, PNL, PSDR, etc., the extermination in the communist prisons took place not only of their outstanding figures, but also of the militants, the adherents and sometimes their sympathizers. The Communist Party that had formed had controlled and dominated the entire social space, dismantling civil society; dissent - in the original sense of the term, minority opinion - was severely sanctioned, so that public "debate" was a triumphal ritual incontinence [131]. Under these circumstances, it is no wonder that and how the PCR "won" the election each time with over 99% of the votes. The act from December 30, 1947, represents the end of the monarchical ruling form and the beginning of the republic, a form of government that Romania regulates constitutionally today. The constitutional period to come and which the new communist constitutions are called upon to legitimize has its own characteristics: private property becomes the socialist property of the working people from cities and states, and pluripartidism, the fundamental premise of democracy, will gradually be replaced by the single party, the only one to coordinate under a legitimate appearance, the whole activity of the state as well as the destinies of the people.

So, in 1948 the Communists took over the entire political power in Romania. There is the total liquidation of the ruling class, of all elites and many other Romanians, of the common people. From 1948 to 1964, over two million Romanians were imprisoned in Romania, and over two hundred thousand were liquidated in brigades and camps. We believe that the Romanian people must be offered by the Jewish international bodies and the state of Israel for the Holocaust committed by the Communist Jews against the Romanians, a sum with many zeros in dollars or euros.

During the communist regime in Romania, especially during the period of Gheorghe Gheorghiu-Dej's (1948-1965) Stalinism, the new regime under the influence and starting from the directives of Moscow sought to redefine the characteristics of society in order to impose a new model political, economic and social power, but also to effectively control the population.

Having suffered from an acute crisis of legitimacy, a fact that was apparent for the entire communist era, the PCR / PMR sought to find and implement policies to ensure the elimination of any form of political opposition. In the case of the repression, which has embraced many forms and manifestations, and which evolved according to the external and internal context, the legislation represented, first of all, a political instrument through which whole categories of people, very often in a way arbitrarily, were defined as opponents of the regime and subjected to political detention.

If at the declarative level, the regime of "democracy and popular legality" (self) defines itself as a regime that reaches new heights in respecting human rights and fundamental freedoms, practice demonstrates that the regime, through its institutions of force (Security and Militia) has used criminal law to justify numerous abuses [132]. In order to give a legal form to these atrocities, after the elimination of the last obstacle - the liquidation of the monarchy and the proclamation of the People's Republic of Romania - a new Criminal Code was developed and adopted. Criminal Law in the Socialist State "expresses the will of the dominant class in society; it is a sharp weapon to defend the interests of this class; she devotes that criminal policy that is in the interest of the dominant class" [133]. We will analyze criminal law as a repressive instrument in a distinct section of this study.

7.3. *Criminal policy in communist Romania*. Communism as a political system was based on the principle of class struggle, a political principle according to which "who is not with us is against us" and must therefore be liquidated. In Romania, communism was an isolated phenomenon, without access to the masses, being embraced mainly by a part of the national minorities. That is why he could not be imposed and was not accepted by the great mass of Romanians after his import from the Soviet Union. In order to enforce and survive wherever it was exported, Communism used murder, violence and terror. The Armistice Convention signed by Romania in Moscow on September 12, 1944, was used by the Red Army and Soviet advisers as a legal basis for a Soviet supra-government, which, under the pretext of defaulting the country, imposed a series of laws, "and when not managed to organize movements of the so-called Patriotic Fighting Formations ", meant to destabilize the country, to impose Romanian Communist ministers and prefects, or allogenic who came along with the occupation troops. In this way a series of laws, decrees and other antidemocratic measures

were imposed, such as the cleaning of the army, the gendarmerie, the state administration, the judiciary, the body of lawyers, the deportation of German engineers and foremen from the Soviet Union Romania, Armenians and even Romanians, Basarabians, for the reconstruction of the USSR Between 23 August 1944 and December 1989, they were convicted, tortured, murdered, tortured or interned in camps, prisons, labor colonies, thousands, hundreds of thousands of Romanian citizens for the sole reason that they were active or passive anticommunists. It is shocking that all these atrocities were committed by the new state with the help of the new right of Communist origin. The main instrument of communist repression was criminal law as an expression of the new "state of communist law" [134].

Thus, in paragraph 1 of the "General Provisions" of the amended Penal Code [135], the principle of non-retroactive application of criminal provisions was provided for: "No one shall be punished for an act which, at the time of the offense, was not provided for law or condemned to other penalties or subjected to other security measures". Retrospective enforcement was only laid down in the Penal Code in the case of security measures or could accompany or replace criminal penalties. Article 4 provided that "Laws providing for security measures also apply to offenses committed prior to their enforcement". This provision allowed the issuing of the decrees, decrees and secret orders of the Ministry of Internal Affairs, on the basis of which the deportations started, the work settlements were established or the compulsory domicile for certain categories of citizens was established. By Decree no. 187 of April 30, 1949, the content of Article 1 was modified, but it was stated only that: "The criminal law has the purpose to defend the RPR and its order of law against dangerous facts for society by applying social protection measures to persons committing such deeds" [136].

The main instrument used by the communist authorities to justify acts of repression was Article 209 of the Criminal Code. This article criticizes "social conspiracy." The changes that took place between 1953 and 1957 transformed this article into a true tool within reach of the Securitate. Article 209 was added to it by Decree no. 202 of May 14, 1953, included in Section 1a, which condemns the "undermining of the national economy and the counterrevolutionary sabotage". By Article 2091, these offenses were punishable by hard labor between 5 and 25 years and the total or partial confiscation of wealth. If the punishment was considered serious, the capital punishment could be applied. In 1957, Article 209 underwent further changes. In the first version of it, shaming was considered an offense. The punishment was correctional imprisonment from 6 months to 3 years and the correctional interdiction from 1 year to 3 years for the offense of "establishing secret associations for the violent overthrow of the state order or the establishment of links with persons from abroad for the purpose of deception" the punishment was correctional prison from 3 to 7 years and the correctional interdiction from 3 to 5 years. By Decree no. 469 of 1958 was a crime. Thus, the punishment was increased to hard labor from 15 to 25 years and civic degradation from 5 to 10 years for the offense of "initiation or participation in organizations aiming to change the social order existing in the state". Propaganda in favor of such an organization or its support was punished with the correctional prison from 3 to 10 years.

Economic crimes were sanctioned in accordance with the provisions of Article 268 of the Penal Code, which, in 1958, had been amended a number of times. For minor offenses such as "poor quality or non-compliance," "lack of care," "degradation of tractors", imprisonment of up to 5 years, fines and confiscation of goods were provided. The same punishments were applied to those who opposed to collectivization. In order to condemn the adherents of armed resistance movements, Articles 207-218 of the Penal Code have undergone changes in the sense of tightening punishments by Decree no. 318 of 1958 and Decree no. 1 of 1959. By applying Decree no. 318, the "violent acts", which were criminalized by Article 207 of the Penal Code, became "acts of terror" and the initial punishment, which was between 5 and 10 years imprisonment and 3 to 12 year old civilian degradation, became a death penalty confiscation of property. Decree no. 1 brought a new amendment to Article 207 of the Penal Code, stating that: "The attempt to commit acts of terror is punished as a deed." The campaign against the intellectual elite, launched in 1958, triggered new changes to criminal legislation. By Decree no. 318 for "crimes of homicide, co-operation with the enemy in peacetime or war, disclosure of secrets concerning the country's defense capability" specified in articles 184-188 of the Penal Code, the punishment was increased to the death penalty. Another increase in the death penalty was based on

Article 194, index 2, which criticized "the secrecy of foreign states, counter-revolutionary organizations, or private individuals when they are in the service of foreign powers" [137].

The regime encouraged collaborators. Thus, by Decree no. 469 of 30 September 1957, Article 228 of the Penal Code adds a provision which calls for cooperation with the investigating bodies because "persons who have informed the competent authorities or who, even after the culprits have been discovered and the prosecution has begun, facilitated their arrest". Article 228 Penal Code sanctioned the omission to denounce the correctional prison from 1 to 2 years. The sentence was increased to the correctional prison from 3 to 10 years by Decree no. 318 of 1958.

8. The Soviet model: source and topic of Romanian Criminal Law

Communism in Romania was imposed by the Communist Party of the Soviet Union (P.C.U.S.), the motivation for these actions of liquidation of the overlapping classes and of the property we find in the works of the communist ideologist - V.I. Lenin. „The dictatorship of the proletariat - said Lenin - does not mean the end of the class struggle, but its continuation into new forms. The dictatorship of the proletariat is the class struggle of the proletariat, which defeated and took in its hands the political power, against the defeated bourgeoisie, but which was not destroyed, which did not disappear and ceased to resist resistance, enhancing its resistance,, [138]. The entire communist legal system was built and worked on the principle of class struggle following the Stalinist model. I.V. In his speech of May 4, 1935, on the problem of cadres, Stalin said, "We must first learn to cherish people*, cherish cadres, and cherish every activist who can be of use to our common cause*" [139].

Moreover, the written and audiovisual press, the speeches of the party and state organs, the textbooks in the school abound in phrases such as: "Only in socialist society, for the first time, it acquires true value and enjoys a real protection of those social relations look at the attributes inherent in the person, those absolute rights in which each person is in a relationship with all other members of society, opposing everyone's right to enjoy life, health, personal liberty and personal dignity - every member of society having the duty to refrain from any act by which they would violate that report by attaining its object, the life, the health, the freedom, the dignity of man" [140]. The ideological foundations of the state constituted the fundamental premise of the pragmatic communist show. It started from the belief in the Leninist Marxist telos of the building of the communist society as a legendary Arcadia conceived consciously by the Man, rightly said, by the proletariat. This radical reform was to begin with a ruthless repression of the former "exploiting classes". For the new social reformers the repressive moment was essential, and the negative consequences will be felt for a long time. The main tool of communist repression was justice as an expression of the new "state of communist law" [141]. The functioning of the Communist state, its performance or its deficiency depended functionally on the new structure of the institutions, on the rationalization and the ranking of competences, on the connection of the control and decision system, but also on the capacity of the party functionaries and activists, ministers, etc., to meet the normative requirements of the new bureaucratic colossus of the communist rule of law.

Without making a historic excursion to the rule of law, it must be noted that in the specialized doctrine or in common thinking, the rule of law evokes the idea of a rational state, limited in its powers and prerogatives by the Law, in contrast to the state abusive and discretionary, the prototype of which was the absolutist feudal state or the despotic states revealed by history. After the French Revolution and the development of bourgeois democracy, the state power was rationalized and ordered through a complex network of Soviet norms to protect society from the abuses and whims of the sovereign or political power. The theory of state self-limitation through Law is significant for the evolution of policy rationality. But the complexity of the relationship between the State and the Law can lead us to a difficult to overcome contention. The state is limited by the Law; but the Right itself is the result of the legislative process that is carried out through state bodies (legislative power, government, local power). Exceeding doctrinal controversies and political disputes, there is a consensus on the importance of the right for political stability and dynamics, but also for the good functioning of the state. Citizens understand that right is the guarantor of freedom and shielding from abuses

of political power. The problem remains open and the unfortunate experiences of the totalitarian state (fascist, Nazi or communist) show us how an oppressive, tyrannical, undemocratic state, linking the citizens in servitude and obedience, operates in a legal regime established by the state in the contempt of the humanist principles of liberty. The concrete understanding of the rule of law, the interaction of the state with the legal regime can build us on dialectics and oppression in contemporary society.

Likewise, "The explorer who wanted to ask many more things, but only in the presence of the culprit asked: "Does he know his sentence? "No", the officer replied (...). "But does he even know he was actually convicted?" "Neither", said the officer, and smiled at the explorer, "Cannot", said the explorer, crossing his hand over his forehead, then did not even know what echo his defense had been? „He did not have the opportunity to defend himself", the officer replied, as if speaking for himself, unwilling to offend the explorer by telling things of his own". The lines above, written by Franz Kafka in 1919 (Penitentiary Colony) [142], seem to preface the way in which justice is performed in communist regimes. Almost simultaneously with the publication of Kafka's work, Lenin, referring to the destruction of Tsarist justice, he said nonchalantly: "Let us cry that we, without transforming the old Justice, we suddenly threw it into the garbage! We have thus cleansed the path of true popular justice. „Such a righteous justice would also know Romania in the second half of the last century [143].

The repressive apparatus acted throughout the regime as a whole. The other institutions have best understood the role of the judiciary. The real utility of the justice reform is set out in a report of another repressive institution, DGSP, immediately after its establishment. The "New Justice" had new tasks that the old justice could not fulfill: "Popular justice, through its content and tasks, occupies a diametrically opposed position to bourgeois justice. As a result of the reform of the judiciary in 1948, the popular tribunals were set up as the laws that are to be applied to strike on the one hand the interests of the bourgeoisie and on the other hand to protect the interests of the working people„ [144]. Thus, the right was created for him to be able to cope with the new tasks that came to him. Soviet theories in this field concerned the first stage of the establishment of the new system of law as having the following main objectives: conquering power and breaking the old state apparatus and creating the new one, destroying the old class regime, nationalizing the means of production and taking over the national economy. The Minister of Justice, whose minister at that time was Lucreţiu Patrascanu, played an essential role in this, and he was involved in all three activities, bringing to his service the expertise in legislative matters.

Also, according to the Soviet model, in the field of criminal law, the offense has acquired class character. The object of the offense is implicitly resulting from the socially dangerous nature of the act. If it infringed the rule of law, the offense was implicitly directed against the regime of popular democracy. As for offenses directly directed against the regime, they were considered the most dangerous. Therefore, the main function of the criminal punishment has become the annihilation of the political adversary [145], and the historiography of the last two decades has pointed out that the Communist regime in Romania has practically calmed down the Soviet regime. However, certain aspects of the organization and functioning of the regime were not deepened, and the researchers were, in many cases, pleased with the formulation of sentencing sentences, but without being burdened with the "dissection" of communist-led institutions for the purpose of seizing and preserving political power. The case of Justice seems to us to be edifying from this point of view. Although the judiciary, together with the legislative and the executive, are an essential component of the modern state, too few of the studies devoted to the history of Romania in the second part of the 20th century have dealt with aspects related to the evolution of the organization and the functioning of Justice [146]. In other words, continuity and discontinuity in Romanian criminal law.

9. Continuity and discontinuity in Romanian criminal law. At new times, all of us!

This assertion of the above title might surprise, but the Communist assumption of political power did not mean the destruction of the old capitalist state, but its transformation into the sense of the new ideology. More important than the organizational structure, the transformation is noticeable in the sphere of the finalities,

the goals to be achieved by the new state structure. The construction of the new society had a teleological component aimed at a society of communist welfare, but also specific methods and techniques to reshape this ideal. The pragmatic moment was the abolition of the former dominant classes, and for that purpose the state practices were repression, coercion, terror and injustice. The construction, economic and social part will follow "the cleansing of society by reactionary elements, hostile to the new society."

We know that right is the essential ligament that maintains the solidity of the state building. The institutional structure, the delegation of competences and responsibilities, the status of leaders, chiefs and subordinates, politicians and technocrats, bureaucracy are disciplined and regulated by legal norms. Thus, his right and his servants played an important role in the building and transformation of the communist society. One of the first objectives of the political leadership was the change of the judiciary. As a result, the organization and functioning of the county courts, the prosecutor's office and the organization and functioning of the Ministry of the Interior and of the secret services were modified. These changes in structure and operation result in restructuring, eliminations from the public services of the unwanted ones, qualified judiciary (officers, prosecutors, etc.), officers, officials, etc. Changing the "cadres" in justice meant a counter-selection that would affect the quality of the act of justice on a long-term basis, generating unlawfulness, injustice, intolerance and aggression, even by those who expected judicial protection and legality. In fact, legality was a form of injustice and violence, achieved through laws with a strictly outlined purpose and then realized. The new investigators, judges, officers, or non-commissioned officers were "people in favor", with elementary or graduate studies of fast legal schools for a few months but devoted to the "communist cause" meant to „exploiters and class enemies. Undoubtedly, there were many servants of justice in the old apparatus, rapidly changing the moral and professional conscience to maintain their position or not to be subjected to irrational and unfair repression.

In another key of approach, we will surprise again, but the truth must be said, however painful it may be. We still use the old wood language and the ideological approach tributary to the legal doctrine of the Communist period [147], even though after 1989 we have established a new political order that affected the judicial and legislative system, as we said, „*in new times, all of us!*".

10. Some considerations regarding Communist lawyers

The social and moral effects of that justice given to power by the lawyers of the moment deepened in the consciousness of the people. The victims of this "lagging" repression, like most citizens, have tried the desperate feeling of the loss of freedom made by the so-called legal advocates of the constitutional order. The political processes against the so-called "enemies of the working class" were multiplying, the courts were working non-stop, and the court sessions extended all night. The camps and dungeons became incurable, and abusive arrests without legal trial were a common practice. The popular tribunals with improvised judges and popular referees have generated injustice, illegality and abuse from ignorance and resentment, but also from an ideologically fugitive belief. But the time of popular judges and prosecutors has passed, paving the way for the new generation of professional lawyers trained and educated in the new legal technique and ideology. After the abolition of law professors from universities and the partial filtering of the "judiciary" (judges, prosecutors, and experts), legal faculties were revived with new improvised and mediocre "specialists" in "legal sciences" suited to true social science - Marxist philosophy. The philosophy of law, legal sociology, criminology, social psychology, legal psychology, logic and rhetoric have been eliminated or reduced to caricature, marginalized and labeled as "bourgeois pseudo-sciences" meant to create a false social consciousness, indoctrinating and instigating people in order to make the capitalist bourgeoisie dominated. Communist devotees with a modest level of general culture and legal specialty training, many of them out of the repressive structures of the "new democracy," some deposed by a devastating struggle for power, others ineffective under the "practical sense", invaded positions comfortable and well-paid university education.

It was not only the teachers that were the result of a curious, interesting, political partisan "selection", but also their students, future students. The evaluation criteria did not refer to the intelligence, culture,

personality, skills needed for the domain, but "healthy social origin" (children from people of the people, workers and peasants), being avoided by the children of parents quoted as bourgeois, intellectuals , non-members of the Communist Party. A new communist scholasticism dominates in the legal education infused by the principles of the new Marxist theology. This educational technique incited class consciousness, stimulated aggression against the enemies of the regime, exerted an administrative righteousness, and gained personal consciousness with Marxist dogmatic ideas and principles (and exaggerated and distorted by the narrow minds of new ideologues). Thus, to establish a conflict space between "us and you", between the Communists and the others, and whose purpose was the repression of the "others", or the conversion to the doctrine of the new "elite," baptized "vanguard of the working class".

The anthropological vision of the Communist jurist was simple, dogmatic, unwavering and yet oriented by a humanist ideal of the "new man" contrasting with the negative elements (enemies of the pope) that had to be eliminated. Beyond the criterion of "healthy origin", professional and social selection was also made for foundry skills, ideological fauvism (called abnegation and devotion to the communist cause), and resentment (for the impoverished enemies of communist society). Thus selecting the new lawyers will be dressed in the clothes of power, will organize and realize the great communist toughness. A central role in this judicial policy was the resentments man who wanted to be a justice, the one who had a cunning past, a bad or modest situation in the old regime. From here, many torturers, activists, delinquents, pro-prosecutors and fanciful bureaucrats have emerged, as do the inflexible judges, the ideal executors of political provisions. But the exceptions, people of moral and professional promise, which kept a minimum of legality, morality and decency in those troubled times of "enthusiasm and communist revolution", should not be forgotten. The legal dogma galvanized the minds of the Themis servants with simple and irreconcilable ideas, with a lack of understanding of man and his existence, of values, freedom and culture. At the same time, he created a caste consciousness, a bureaucratic arrogance, depriving the outsiders, the others. S has been a bureaucratic ethos that will quickly expand to other administrative or political structures, digging a gap between civil servant and citizen.

From the traditional division of the state powers (legislative, judicial and executive) there remained an asymmetric report of force and domination in which the political power (executive power) exercised over the legislature and the judicial bodies. Justice is the technical instrument of the political power embodied by the Communist Party, which is the only true representative of the people. The "theoretical" source, the doctrinal taking of the judicial function was the famous Soviet dogmatism Vishinski; a sort of Soviet Robespierre, politically and legally grounding the odious murders committed by the Soviet political leadership. Political decisions were infallible in the legal sphere, and lawyers became the fearful and obedient performers of the great and wise "political liers." Communist justice realizes a bizarre couple between repression and the ideal of communist humanism. The party, the communist morals and the firm arm of the popular justice achieved the stability and "progress" of the communist society. Education, supervision and punishment formed the triad of communist politics. The organs of social vigilance (security, militia, party activists and founders) ensured the evolution of justice from primitive repression to legal, conscious society discipline. In order to give us a true picture of the communist system, we will have to investigate the enormous legal work exhibited in countless criminal cases that testify to the technique of suppressing freedom with the help of the law. With the passage of time, the repressive political side has diminished, and justice only maintained the system through an excessive bureaucracy of the act of justice, exercising the pedagogical function of mass education, especially through "on-the-spot" processes. From serious theft or embezzlement affecting public patrimony to small crimes, the courts went to businesses, gathering employees in production halls or in halls, judging trials, and thus fulfilling the repressive and preventive function. The expected effect of these criminal dramas has not been achieved and criminal statistics did not record the diminution or stopping of economic crime through this educational intervention of "criminal pedagogy". Moreover, their consequences are translated, to a great extent on other temporal coordinates, to our "protocol" justice today, to a century from the Great Union and ten years after our accession to the European Union.

11. The legal sciences in Romania a century from the Great Union and ten years from the integration in the European Union

11.1. ***Considerations on the system of values and moral imagination*****.** I have been passionate and fascinated by the idea that the principles of value and value recognition work in the university community. When I think of value I do not necessarily think of the intrinsic value of some people who belong to this community; I think of the value of the law school in Romania and I think these principles should characterize the academic community and are capable of creating solidarity because the law has real life in the practice of its application and it seems to me as important as the theoretical perspective, is the practical perspective on the Law [148], both starting from that *minimum moralia* - moral authority. It is the only authority through which individual consciousness gives you the ability to distinguish between good and evil, between vice and virtue, justice and injustice seems to be at everyone's fingertips. We live in a baroque inflation of moral competence, in a world whose main disorder is likely to be that all its members feel morally in order, or that everyone feels their disorder as negligible. That's why I was so impressed with an expression I read somewhere that I like so much, not just to overestimate it, but to use it. This is the case with Russell Kirk's "moral imagination", even though the phrase comes from Edmund Burke's masterpiece "Reflections on the Revolution in France" [149]. "Moral imagination" is the foundation for human dignity and teaches us that we are more than empty monkeys. As Burke suggested in 1790, "education and literature lose meaning if they lack moral imagination". And, as he has left it to be understood, the spirit of religion always supports moral imagination, but also a whole set of manners. In the absence of such an imagination, to quote again from Burke, "we call out of this world of reason, order, peace, virtue and fruitful penance into the antagonistic world of madness, vices, confusion, and permanent regrets" [150].

Meditation often works by adding meaning and enriching meaning by raising an expression that can only be a successful metaphor to an almost monadic degree of prestige theoretically. This operation must be possible only if the one who meditates loves so much the author, that - what a beautiful thing this is about Romanian! - He's letting his words go. Harvesting one or two words from a text that you like and keep in mind until they yield new meanings is, I believe, the highest form of intellectual love for a text or for its author. I am convinced that this happened in Kirk's mind when he read and reread this beautiful passage of Burke's masterpiece: "All the decent curtains of life are brutally thrust. All ideas built over time over others, furnished in the wardrobe of the moral imagination possessed by the heart and validated by understanding, so necessary to cover the nakedness and wrath of our nature, to raise it to a rank worthy of our own eyes, are cast into the air as ridiculous, absurd and outdated ". Obviously, this is a fragment in which Burke describes the effects of the French Revolution and, by extension, the effects of any revolution. What reproaches a conservative spirit of revolutions, that is to say the realization of the radical project, is precisely the enormous shock to which the profound layers of social life are subjected. A revolution always implies a massive aggression of politics in the deep space of ethics that builds on the daily life of the community. Morales, politeness, expressions of common sense, impudence, decency are, in the end, the victims of the political and social tsunami that is the revolution [151].

At first reading the Burkeman fragment quoted above, we would be tempted to believe that "moral imagination" is rather a literary expression, an exercise of pure writer's talent, without epistemic significance. To Russell Kirk, however, the term called him sufficiently clear and bloody to give him conceptual value. So, "moral imagination" is the reservoir of moral rules that is found in each of us and which, through its production, compensates for the adamic fall, creating a high aura for man, which is actually small. We have to mean something important in our own eyes so we can respect. Similarly, the species must be seen by each of us as having nobility and destiny, as a depository of "permanent things" if you will, giving it historical scope - make it much more than the sum of the individuals who make it, that is far more than a herd. "Moral imagination" is not, however, fantasy and fabulous, because it does not save the fall and the smallness of men by their embellishment, but through the production of rules, of high moral standards, whose observance generates the

overcoming of the natural condition. In this sense, Burke's text is very clear: moral imagination covers the frightened nakedness of man as he is in his natural state. The second important element for understanding "moral imagination" comes from the fact that Edmund Burke, as she is referring to, is ruled by the heart and validated by reason. Certainly, after Pascal's observation that the heart has its own reason that reason does not know, a certain date given to the heart in this process is to be recognized, but "moral imagination" exists only to the extent that what produces the heart is validated by reason. Kirk wrote a lot about this concept, refining it and explaining it more clearly in time. Thus, "moral imagination", different from how we have seen the creative, artistic imagination, is different and intuitive because in this case the mysterious mechanisms of the subconscious play the determining role. "Moral imagination" is patronized by heart and reason.

11.2. ***From the moral imagination to the legal imagination*****.** It is not accidental in this work that I have evoked this concept of moral imagination, from which I left, I tried to introduce the concept - which is the moral imagination panda - of legal imagination. Before Edmund Bur or Russel Kirk resumed this concept, using and developing, the phrase "moral imagination", Aristotle spoke of equity in a sense that points to moral imagination; and from there to the legal imagination. We only evoke that, in fact, Aristotle's no-mummy ethics precurs the ethics of Jesus. I think there is no other example of practicing moral imagination in the history of mankind in such a creative and perfect way as Jesus did. If we are talking about moral imagination, that is to say transforming moral rules into moral facts that do not crush life, not to crush man, not to be merely an expression of a sanction, but to increase man's soul and direct it for good, then I think that indeed, the brilliant representation of moral imagination is found in the Gospels. We have not insisted on this aspect of the work, because if we read the four gospels, we will find this ability to turn moral rules into life, in signs of good, goodness and love. The most important source of moral imagination, beyond the cultural sources I was talking about, is love; and the ethic of love, which Jesus establishes and which practically revolutionizes not only ethics but the whole world, is the most important source of moral imagination and one of the most beautiful and moving Romanian words that can be heard in the villages, is "come to mankind" or "I was human". It is full of "humanity" every day, not only at the birth or resurrection of the Lord. Or as he says, according to theologians called the Golden Rule: Everything you want people to do to you, do it the same! It is not a passive thing, it is not a contemplative thing, it is an active thing in the positive: Do it! What you want to be done to you. It's brilliant. And conversely, with a word that we have in folk wisdom and is also found in the wisdom of other peoples, the negative expression of this idea is: What do you not like to do to others!

This is the reason why I felt the need, after having documented the recent history of Romanian law during communism, to urge reflection on my fellow lawyers, regardless of the profession they are practicing, about *the link that exists between the idea of justice, moral imagination and legal imagination*. Because we cannot do justice if we do not have the moral meaning of the term, and on the other hand if, by trying to work in this area of law, we do not have the legal imagination for justice not to be simply a sentence but to be a fact of creation that comes to serve man and his soul, since the concept of justice is founded on the idea of freedom. It is, in fact, a school that has deeper roots in history, because the idea of freedom has been outlined in the old Greek philosophy. However, unlike the Greeks who have developed this idea of freedom but have not seen the criterion of justice in it, the contemporary American school outlines two concepts of justice, starting from the idea of freedom. This is, on the one hand, the liberalism that has John Rolls as a representative [152]. In the theory of justice he starts from the premise that society that builds equal spaces of freedom for its members is just. And it goes on to say that society is right, which, through its constitutional foundations, allows the coexistence of different, even irreconcilable doctrines. What John Rolls does not say is that when certain doctrines conflict with the foundations, constitutional fundamentals of society, there must be a solution. He does not say what the solution is. You can accept different, irreconcilable doctrines, sets of different values, even irreconcilable, but when a certain doctrine, certain values deny the right to existence of others, when there are conceptions that, taking advantage of tolerance towards them, become intolerant to others, then I think there must be a reaction.

And, that's why, I am closer to the other concept of justice founded on Robert Nozik's freedom of thought [153], which starts from the idea that freedom is undoubtedly the foundation of justice but goes on to

say that justice involves a multitude of criteria - which draws us close to the idea of legal imagination - and, moreover, in this set of criteria of justice, among which there is merit, there is equality, there is need, the most important is the criterion of reciprocity. And by affirming this idea, it is a continuation of a whole school of economic and philosophical thinking, which states that the exchange between people is the source of their mutual enrichment. It is not just about material exchange - economic exchange, exchange of economic values, although this exchange is extremely important and we could not conceive today's world without the economic exchange that had begun before the Phoenicians, but they were the first big traders of the world, we could not understand this prosperity today without economic exchange; but beyond that is the spiritual exchange, the exchange of spiritual values, since we are born, when we begin to learn the words, from that moment we begin to change with those around us - first of all with our parents, then with relatives, friends - ideas, feelings, perceptions; We enrich the others this way, and they enrich us. And when we get a certain cultural maturity, at that moment those exchanges become extremely important, because through dialogue between us, through dialogue between cultures, through dialogue between civilizations, we all enrich each other. With this condition: There is no, on the one hand, the idea of exclusivity, of fundamentalism, of intolerance.

And then, myself a conservative liberal, but not a liberalist who loses the sense of community identities leading to a world without dimensions, a world empty of content, I think we need community identities, starting from the family, from the village where we are born, from the commune where we live, from the city, the neighborhood we live in, to the area of the national community and, in our case, further to the sphere of the community that is the European Union. If these group, group-like identities are not retained in their identities, the risk is that, at some point, we lose national values and lose European values as well. This also implies a sense of belonging, the sense of defending the identity of these concentric communities. You have to be faithful to them and defend them. Sin is that today's world is slowly dissolving the feelings of belonging, globalization is very insidious and tends to dissolve identities. I am not saying that globalization itself is a new thing, because the technical civilization has melted across the world and the European technical values have gone globally through the phenomenon of globalization, but the reverse is the loss of community identities, community values, of community spiritual values as a result of this process of technical globalization. I think we must keep our soul, beyond trying to live as comfortable as possible, to be as prosperous as possible.

11.3. ***The role of justice and legal professions in the rule of law*****.** From this perspective, the role of justice and legal professions in the rule of law in Romania during the 100th anniversary of the Great Union [154], but nowadays, seems to us to be of great importance, because there is no form of human organization, with both stateless, without a body of law and jurists, whether they were called a praetor, a jurisprudent, a county, a judge, a procurator, etc. Even Greater Romania was not possible without the colossal effort of the lawyers to create institutional unity, and I refer here strictly to the legal institution, to the concept. The act of union was a declarative, enthusiastic one. Then we were left to translate the unit and get it done. If I think about the legal professions 100 years ago, the first thought that comes to my mind is the special respect that the Romanians of those times had before the judge, prosecutor, lawyer, notary or porter. But there were times of human solicitude to God and the law as the only authorities, and the representatives of these authorities - the priests and jurists of all categories, had their share of the highest social consideration. I want to say that it is no wonder the decisive role of the jurists in the key moments of history, including the achievement of the Romanian unitary state. If we look at the list of delegates at the Great National Assembly in Alba Iulia on 1 December 1918, we find the jurists overwhelmingly. As such, today we evoke a past that we are proud of! A past that has forced generations of lawyers over time and compels us [155].

We are speaking at this anniversary moment about the extraordinary role that legal professions have in the rule of law. We all see - but - that all the justice departments are going through difficult attempts, being subject to avalanche of attacks. The crime of image being committed to the freedom of expression, destruction of authority and respectability. Legal professions have to defend themselves, instead of being left to create, according to the role that each has. Today there are many more lawyers than in 1918, several legal and related professions, but unfortunately, even if we are more than just in the old days, I cannot fail to notice that the role of legal professions in the rule of law of Romania has greatly weakened. And, naturally, I cannot help

wondering what the causes are. An explosive trend that appears very clear is that of decreasing justice and of all its protagonists. One of the causes is to feed the judiciary with statements from the investigating authorities, which always specify the profession of the suspect / defendant, if he is a lawyer, judge, prosecutor, notary, legal adviser, and bailiff or insolvency practitioner. Even if there are isolated cases, they appear generalized and equate to denigration of the profession in public opinion. Logical jurists call this practice "diabolical generalization", very effective in its destructive effect. It is a simple logic of the ordinary man: how can I trust in justice when judges, prosecutors, lawyers, notaries, executors are the ones who break the law? The public opinion no longer considers that this is an isolated case of an exception. The dark aura extends over the whole. Therefore, I would suggest the analysis of the possibility of introducing a reservation regarding the specification of the profession in the communications of the authorities. It is true that the European Directive on Enhancing the Presumption of Innocence does not explicitly provide for this. It only refers to the presumption of innocence of citizens, regardless of the profession they practice! But it is a matter that we should think about because it has the effect of dissolving the judicial authority and, implicitly, destabilizing the rule of law [156].

One fact is clear: there is a certain passion, a kind of media revenge against lawyers, stronger, more organized than against other professions. As we all know, this European directive has not been transposed into national law, being blocked for a long time, like the much debated and disputed laws of justice, in political controversy, with all the suicide of attacks on justice professionals. It has even come to speak in a pejorative way about "lawmakers", who are those who want to escape offenders by making clientele laws. Justice itself has become an apple of discord in our day, which divides society and creates parallel states instead of the rule of law. I have the feeling that we are permanently parasitic of manipulation, legal words and concepts have improper connotations depending on who is accessing this language scientifically. We're going to be ridiculous all sorts of ratings commentators are abusing our specific language. Unfortunately, there are also political forces, political characters, not just media, that parasite the real and systemic anti-corruption fight - making a personal brand of it, giving themselves to society's justices and keeping those who are legitimated by society to perform the act of justice. Legal professions are constantly being attacked, minimizing their role in the rule of law because they pose a threat to those who have no other choice but to take power and control, including with the support of secret services. All the scandals relating to the protocols with these services were able to give a blow to public respect for justice and law, as if the entire body of magistrates were involved in it.

We live in a so-called post-real era, in which public emotion takes precedence over any logical argument. It is enough to stir up the emotion by a phrase like "the super immunity of lawyers" or, more recently, the "super immunity of magistrates" to create an adverse public that, in the face of corruption, does not read the next line, which says that lawyers suspected of criminal do not benefit from the ban on searches under the umbrella of professional secrecy, or that judges and prosecutors have forms of accountability well defined by law. Even if I am the advocate of conspiracy theories, I also think about the objective causes that have led to the decreasing of the legal professions and their role in the rule of law in order to understand what we can do to restore respect for these professions and to strengthen their legitimate role. Such an objective cause is related to the evolution of society in postmodernity, where the boundaries between legal and non-juridical sciences are attenuated, the hierarchie flatter and the crises of professional identity are emerging. This is a social trend that we cannot directly counteract, but we cannot stand aside by waiting for the legal professions to be removed from the game. Earlier we talked about an "inflation" of legal and related professions. In the context of the fight against crime, terrorism and organized crime, these professions, even some of them, have acquired judicial powers of investigation, search, enlistment, etc. According to the new regulations, even the National Supervisory Authority for Personal Data Processing may come to search our computers, check the equipment used by the companies processing personal data. And who does not do data processing nowadays? [157].

All of these issues create confusion about the practice area of each professional, but also about the judiciary as a whole, triggering an identity crisis for the judiciary and legal professions. This results in the dissolution of authority, the loss of respect for it and the law. A hundred years ago, each one knew its identity, knew exactly what place and role it had in society, and did not claim the role of another. The peasant left the

field, the engineer was building construction and appliances, the jurist interpreted and applied the law, the politician left or right politics. Today, nobody knows what role each one has. There is no left and right left, and the place of the intellectuals is taken by "opinions" of all kinds acting in the new media. Anyone who can "give their opinion" by going to the online platform in front of a large audience, can disinform and dissolve the authority established by law at a glance. Whoever can say that justice is unfair, generalize that judges and prosecutors are corrupt, starting from isolated cases. Personally, I say here that I agree with the right to opinion, but be clear: opinions are not equal, some are endorsed, they come from professionals, from people who claim ownership of the word, concept, from people who really know what they say and think with their minds. Our identity crisis is also due to the "struggle" between the legal professions to win a certain monopoly over a field of activity. It is a sign that we have to sit at the table of the interprofessional talks. There is no time for vanity, nor to cultivate "interprofessional conflicts" created and maintained artificially, often without a proper early solving! This does not mean to give up, but to win. The approach is difficult and imposes the genuine solidarity of all legal professions and practitioners in a world where competition often fades competence. The legal professions, each in their own right, need to know what they have to do, in the sense of adapting, but without losing their identity, and that is even a particularly difficult problem. From this point of view, it seems that tomorrow is no longer certain as we prepare. In order to move on, in order to know what we want, it is necessary for our lawyers to understand what we are and to take into account the fact that there have been many changes in the socio-economic conditions in which we exercise our professions and have become it is obvious that it is time to develop new strategies for professional development. I say this at this conference and I think we cannot afford a moment's respite. All legal professions are and must be interested in their future. They all want us, those who exercise dignity in their professions, responsible involvement in the construction of their future.

On the other hand, a hundred years ago, the laws were sustainable, they came to tradition and their respect in public consciousness. The old codes lasted for decades and even a century and a half for the Civil Code. In this context, no one doubted the authority of the law or the magistrate called to apply it. Today, the new laws and those entitled to do or apply them have become the subject of tabloids. No important law can survive for even a year without controversy, constitutionally and politically attacked. And then where does authority and respect from it? It seems that no one thinks of citizens' priorities, but of political, individualistic ones. The balance of fundamental rights and principles is unbalanced. After each "policy event", periods of silence disappeared. "To taste" the success of a legislative change is an attitude that characterizes an era that has fallen. "Such moments" have become a constant that we must accept and adapt to whenever there is a national legislative change that has a direct or indirect impact on the legal professions, especially when the European trend, including European justice "reorientates" and "reprofiles" the legal professions.

Continuous adaptation I believe is the only solution for things to evolve normally from a functional point of view. It is time to adapt to the interprofessional tendencies, not to deny them. Therefore, one question should be asked: how can a law of justice, or any other law, including the judicial authority called upon, be enforced in this informational tumble that stifles any analysis? It is true that the tabloidization of all cultural, including legal, approaches is an unstoppable trend in the era of technology. But we cannot stand with cross arms because we risk running out. At least that's what all the predictions that speak of the impact of artificial intelligence are showing. Lawyers are the first to be replaced by robots, but judges are not safe given the trends of creating online conflict resolution platforms. I have recently read that two Oxford researchers - Carl Frey and Michael Osborne - have shown that there is a probability of 94% that by 2033 the services of lawyers and notaries be taken over by algorithms. It may be exaggerated, but we cannot ignore or deny the impact of artificial intelligence on legal professions. I have reminded of this "attack of algorithms" as I believe that in order to raise awareness and impose the role of legal professions in the rule of law, we must think about how justice will look over 20-30 years.

11.4. ***Considerations regarding the future of justice in Romania*****.** I believe that in the new context, in Romania we need to reassess the way we think and act, as jurists. We must rethink our role in the rule of law and how we can strengthen it. I believe that legal professions need to enter into force in image campaigns, asserting their role and identity, taking into account new social realities and evolution prospects. The current

rule of law will not remain too long since we are now fully interconnected and the changes are rapidly accelerating in all areas, and justice and the legal professions will not be exempted. So, we need to think in the future about what changes are happening and how we can contribute to a better rule of law. We need a strategy of affirming professional identity, strengthening the judiciary and the role of lawyers in the rule of law. I am convinced that we, Romanian legal professions, have not been, are not and cannot be given a "historical stumbling". The cultural model of the jurists of the times around and after 1918, the "psychological billing" of the Romanian jurist, based on authentic, professional and moral values, the integration of "going" to the dynamics of our professions exerted in contemporary times, but especially the professional structure based mostly young people, well trained and devoted to the service of truth and justice, are a guarantee that we will remain in the great family of modern world lawyers. Let's not forget, no algorithm will ever replace the genius and beauty of human conception. And still in the postmodern way: it is up to us to make another world, fit for us if we do not like it. From the height of my age, I would like a country as Petre Ţuţea, where the rule of law is one of man's virtues and where the law does not forgive, but the judge, yes.

What does Romania lack from a legal point of view? What is lacking in Romanian justice? There are two questions here, because one is Romania, the judiciary is only part of a part of Romania. It's part of the state's powers.

Romania lacks the patience to do things well, the patience to lead things to the end, the patience to build professionals. It sometimes lacks the necessary discernment to cherish professionals no matter where they work. I believe that Romania needs good turning, good winegrowers, good teachers, and good electricians. A good craftsman deserves the same honesty, and I would say a title of doctor honoris causa, as well as a professor at the university. The condition is that he performs in his profession and that is why I advocate for a reappraisal of the criteria of appreciation in the Romanian society. Because we are, if we are talking about the past and the culprits of the past, we are the victims of a communist conception: the ambition of parents was to see their university children and sit in an office. That was the ambition of the parents. No matter what their parents did, they said, "Do not work as much as a child, as I work. First of all, this shows that something was wrong about work, because in the end work must not be a chore, an inconvenience; you must like what you do. And then, you do not think it would be bad for your child to do what you do. After that, what is again suspicious in this idea is the desire for evasion. This is an escape from reality. You want to build for your child a kind of paradise in which he does nothing and eventually live surrounded by rivers of milk and honey. That's the paradise; but it's not on the ground. We lack the cult of labor. I hope to get there, because otherwise, in the European competition we are in, we always lose the ground. After that, there is a global competition where Europe is always losing ground. Because, unfortunately, this conception of labor is not only in the post-communist countries. You need this cult of work and detail.

From a legal point of view, we lack consistency; first of all legislative coherence. We need a better ordering of the normative space because, as Professor Valeriu Stoica said, "The true homeland we live in is the legal and constitutional space. Our freedom is created by this legal and constitutional space" [158]. And if this space is a mess, a pot, which means we actually swim in a hatchery. It's like being in a jungle - you cannot be free in a jungle; you have to get busy every day to organize it. We need this organization. It is true that a reason for this legislative chaos is even the unreasonable way in which the European directives have sometimes been accepted. Sometimes your queue was taken carelessly to integrate these enormous sets of norms into the Romanian legal system without losing consistency without losing the organization without losing order. But as today's jurists are very many and there are many more, my hope is that, slowly, they will create this legislative coherence.

Conclusions

I wrote these lines both to signal the importance of the science of law in the development of contemporary society and to honor the memory of the dead in communist prisons, starting from the precept expressed by Auguste Comte, according to which "We do not fully know such a science as long as we do not

know its history" [159]. And that's why, from this perspective, with sorrow in my soul, I must say that, in my humble opinion, the Centenary Year was a missed one. The lack of a coherent program, the indifference and debilism of politicians, and the lack of a national voice at the top of the state led to a semi-fiasco. We saved our cheek by the much-bold of the Templars Cathedral of the Nation and the studies dedicated to the Centenary of the Romanian Academy. And a few, just a few serious events, here, around the country. It will pass and this year will pass into eternity (when we were writing these lines, I was expecting to come to Santa Claus too). There is a clear need for a balance sheet. About 80% of my text this year was centenary. It seemed to me a fundamental theme, once enormous for a nation, to be celebrated with dignity, fastness and responsibility. Our politicians did not have a coherent national plan, a well-established strategy, although they knew the need for such a project in 2014 - because de facto Romania entered the Transylvanian and Bucovinians in the Great War of 1914 - nothing was done. Everything was drowned on the run, unprofessional and often by a perfect kitsch. The topic of Bessarabia and Bukovina was missing in public space, or you cannot talk about Union if you do not speak about the two Romanian provinces. Even today, we do not have a collection, a set of fundamental books like the Romanian Union. Okay, I know that a few have appeared over the years, but they had to be re-edited, if not completed because Soviet armies and Bolshevik actions in World War I could not be researched in the years of Communism with acrivia. The volumes should have been published in international and distributed languages, especially now that the Hungarian irredentism appears again at the horizon. A bad slogan - Romania 100 - which led to the conclusion in the bosom of the young generation that Romania is alive, is only 100 years old. Okay, I do not even say the logo tricolor is wrong. The official color of the stick is blue and not red! Moreover, there was no educational program for students, schoolchildren, students to explain their astral moment from December 1, 1918. The Ministry of Education was totally lacking. That's when history was reduced to an hour in the curriculum. I wish all budget officials, all public officials who cut leaves to dogs to give written explanations of what they did for the Centenary! I know it's needed because it's a tough year. From the existing public information, Hungary is preparing an extensive anti-Trianon campaign in the years 2019-2020. Obviously anti-Romanian! And we emptied our verbal munitions, emptied the bag with pompous statements. He is waiting for some to say, "Let me, too, Madame, with the Centenary, that he has passed". Hard times come! I still have hope!

Hope is not just the canvas of a ship that swells to take us out of a black and tumultuous sea and to push us into a quiet harbor of life. Hope is not just an unspoken, mysterious thought, deeply nestled in the heart of the traveler. Hope is the fire that keeps the desire, the cause of fulfillment, drawing and redesigning, thousands of times, the pattern of later fabulous realities. Hope is the fears of those who roam the seas of probable destiny, which are written to each of us. Those who go on the road with only one anchor - faith in the good God. Those who know the joy of fulfillment as a liberation and give the shore tame on the wilderness of water, just to sow hope in other hearts. Hope is wandering through our paradise scarred, coming and coloring joyfully the face of people, calling the little hands of a child in the mother's hand when no one believes, strangling tears of happiness under the glasses of their parents just to give the moment of silence to the hours of sleeping. Hope is curing us of distrust. It raises our eyes above the blue vault in which it bathes, like the birds, our untold dreams, unknown to anyone. Outside us. Hope comes from nowhere and leaves anywhere. Hope has the heels soaked in a field of bricks and carols through our lives with exuberance. He does not count his steps, but he sets his heels deep into the heart of our souls, raising a field of cherries that crack in bloom, one by one, a rainbow of magic, in the hearts of those who by chance witness the passage, you are ashamed at the thought that they were the elect. Hope leaves behind it a misunderstood joy, unknowing to us until then, that we cling to as a last miracle. When the words do not get anymore, the rest of them tells the heart. On syllables. Because hope answers, when and when, to a name. Next to us. How simple it can be ... It's enough to shout it. Call her to lead you in the labyrinth of the reconstruction of Romanian justice in its ingrained, current, crushed position between the national annihilation and the hammer of the European integration process!

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