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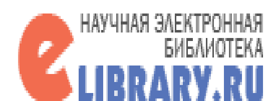

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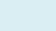

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REVISTA MOLDOVENEASCĂ DE DREPT INTERNAŢIONAL ŞI RELAŢII INTERNAŢIONALE

„Revista Moldovenească de Drept Internaţional şi Relaţii Internaţionale", a fost lansată în anul 2006 ca proiecţie a unui forum ce promovează valorificarea diferitelor opinii, uneori diametral opuse, cu privire la starea actuală a dreptului internaţional şi a relaţiilor internaţionale, familiarizând cititorii săi cu punctele de vedere ale experților şi oamenilor de știință din diferite ţări, atât din Orient, cât şi din Occident.

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Actualmente, publicaţia este o revistă conceptuală despre diferite domenii ale dreptului internaţional şi relaţiilor internaţionale, devenind un centru de atracţie pentru forţele de creaţie, care a obţinut recunoaşterea publicului şi a creat un colectiv larg de autori.

De-a lungul perioadei 2006-2019 în revistă au fost publicate mai mult de 600 de articole a autorilor din peste 25 de ţări (Republica Moldova — 425, Ucraina — 75, România — 53, Federaţia Rusă — 49, Republica Slovacă — 18, Bulgaria — 10, Republica Belarus — 8, Republica Federală Germania — 7, Georgia — 7, Republica Franceză — 6, Grecia — 5, Regatul Spaniei — 3, Azerbaidjan — 4, Turcia — 5, Tadjikistan — 2, Ungaria — 2, Republica Polonă — 2, Cehia - 1, SUA — 1, Republica Populară Chineză — 1, etc.). Spectrul problemelor examinate a devenit extrem de larg. O atenţie sporită este acordată elucidării problemelor teoretico-practice din domeniul dreptului internaţional şi al relaţiilor internaţionale.

MOLDAVIAN JOURNAL OF INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

The „Moldavian Journal of International Law and International Relations" was launched in 2006 as an open forum for different, sometimes diametrically opposite points of view on the current state of international law and international relations, acquainting its readers with the views of scientists and experts from different countries, both in the East and the West.

The journal that publishes articles with *open access*, is licensed under Creative Commons Attribution 4.0 International Public License (CC BY), accredited in the Republic of Moldova as a scientific publication, is included in the international database: International Scientific Indexing (ISI), European Reference Index for the Humanities and Social Sciences (ERIH PLUS), Social Science Research Network (SSRN), Scientific Electronic Library eLIBRARY.RU, Instrumentul Bibliometric Naţional etc., to calculate the impact factor and citation index. The journal uses *double-blind* reviewing — (authors do not know who reviews their paper, and reviewers do not know the names of the authors).

Today it is a conceptual journal about various fields of international law and international relations, which became the centre of attraction of creative forces and managed to find its readers, forming around a wide group of authors.

Over the period 2006-2019 more than 600 articles have been published in the journal, by authors from more than 25 countries (The Republic of Moldova — 425, Ukraine — 75, Romania — 53, The Russian Federation — 49, The Slovak Republic — 18, Bulgaria — 10, The Republic of Belarus — 8, The Federal Republic of Germany — 7, Georgia – 7, The French Republic — 6, Greece — 5, Spain – 3, Azerbaijan — 4, Turkey — 5, Tajikistan — 2, Hungary — 2, Poland — 2, Czech Republic – 1, USA — 1, The People's Republic of China — 1, etc.). Spectrum of the issues was as broad as possible. Particular attention is given to coverage of theoretical and practical issues of international law and international relations.

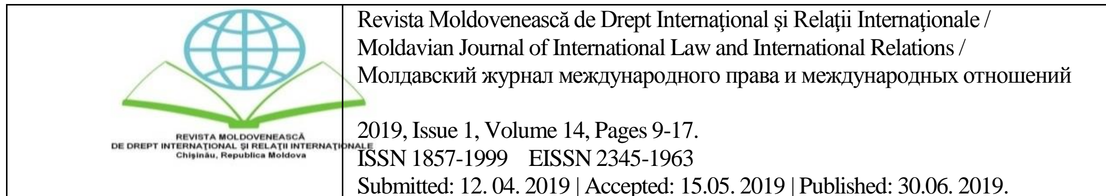
МОЛДАВСКИЙ ЖУРНАЛ МЕЖДУНАРОДНОГО ПРАВА И МЕЖДУНАРОДНЫХ ОТНОШЕНИЙ

Издание «Молдавского журнала международного права и международных отношений» стартовало в 2006 г. как открытая трибуна для различных, подчас диаметрально противоположных точек зрения на современное состояние международного права и международных отношений, знакомя своих читателей с взглядами ученых и экспертов из разных стран, как с Востока, так и с Запада.

Журнал публикует статьи с *открытым доступом* под лицензией Creative Commons Attribution 4.0 International Public License (CC BY), аккредитован в Молдавии как научное издание, включен в различные международные базы данных: International Scientific Indexing (ISI), European Reference Index for the Humanities and Social Sciences (ERIH PLUS), Social Science Research Network (SSRN), Научная электронная библиотека eLIBRARY.RU, Instrumentul Bibliometric Naţional и др. для учета импакт-фактора и индекса цитирования. В журнале используются двустороннее слепое рецензирование (*double-blind reviewing* – рецензент не знает, кто автор статьи, автор статьи не знает, кто рецензент).

Сегодня это концептуальный журнал о самых различных сферах международного права и международных отношений, который стал центром притяжения творческих сил и сумел найти своего читателя, сформировав вокруг себя широкий авторский коллектив.

За 2006-2019 гг. в журнале было опубликовано более 600 статей авторов из более 25 стран (Республика Молдова — 425, Украина — 75, Румыния — 53, Российская Федерация — 49, Словацкая Республика — 18, Болгария — 10, Республика Беларусь — 8, Германия — 7, Грузия – 7, Французская Республика — 6, Греция — 5, Королевство Испания — 3, Азербайджан — 4, Турция — 5, Таджикистан — 2, Венгрия — 2, Польша — 2, Чехия – 1, США — 1, КНР — 1, и т.д.). Спектр рассматриваемых проблем стал максимально широким. Особое внимание уделяется освещению теоретических и практических вопросов международного права и международных отношений.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МЕЖДУНАРОДНОЕ ПУБЛИЧНОЕ ПРАВО

CONTINUITATEA STATELOR: SUCCESIUNEA DE DREPT, CONTINUITATEA ISTORICĂ ȘI PERSPECTIVELE DE DEZVOLTARE A STATALITĂȚII MOLDOVENEȘTI

CONTINUITY OF STATES: SUCCESSION LAW, THE HISTORICAL CONTINUITY AND DEVELOPMENT PERSPECTIVES OF THE MOLDOVAN STATEHOOD

КОНТИНУИТЕТ ГОСУДАРСТВ: ПРАВОПРЕЕМСТВО, ИСТОРИЧЕСКАЯ ПРЕЕМСТВЕННОСТЬ И ПЕРСПЕКТИВЫ РАЗВИТИЯ МОЛДАВСКОЙ ГОСУДАРСТВЕННОСТИ

BURIAN Alexandru *

ABSTRACT:
CONTINUITY OF STATES: SUCCESSION LAW, THE HISTORICAL CONTINUITY AND DEVELOPMENT PERSPECTIVES OF THE MOLDOVAN STATEHOOD

The article analyzes the notion of continuity of states from the point of view of international law and of historical science. The author exposes the various doctrines concerning the succession of the law of the member, while analyzing the various visions on the historical continuity of the states, to demonstrate the development prospects of the moldovan statehood.

Keywords: *continuity of states, the succession law, historical continuity, international law, sovereignty, identity, international recognition.*

JEL Classification: K10, K33, F50, J88.

REZUMAT:
CONTINUITATEA STATELOR: SUCCESIUNEA DE DREPT, CONTINUITATEA ISTORICĂ ȘI PERSPECTIVELE DE DEZVOLTARE A STATALITĂȚII MOLDOVENEȘTI

În articol se analizează noţiunea de continuitate a statelor din punctul de vedere al dreptului internaţional şi al ştiinţei istorice. Autorul expune diverse doctrine privitor la succesiunea de drept a statelor, concomitent analizând diverse viziuni privind continuitatea istorică, pentru a demonstra perspectivele de dezvoltare a statalităţii moldoveneşti.

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Cuvinte cheie: *continuitatea statelor, succesiunea de drept, continuitate istorică, drept internaţional, suveranitate, identitate, recunoaştere internaţională.*

JEL Classification: K10, K33, F50, J88.
CZU: 327.001, 340.1, 94 (4/9).

РЕЗЮМЕ:
КОНТИНУИТЕТ ГОСУДАРСТВ: ПРАВОПРЕЕМСТВО, ИСТОРИЧЕСКАЯ ПРЕЕМСТВЕННОСТЬ И ПЕРСПЕКТИВЫ РАЗВИТИЯ МОЛДАВСКОЙ ГОСУДАРСТВЕННОСТИ

В статье анализируется понятие континуитета государств с точки зрения международного права и исторической науки. Автор излагает различные доктрины и учения о правопреемстве государств, одновременно анализируя различные взгляды на историческую преемственность, чтобы показать перспективы развития молдавской государственности.

Ключевые слова: *континуитет государств, правопреемство, историческая преемственность, международное право, суверенитет, идентичность, международное признание.*

JEL Classification: K10, K33, F50, J88.
УДК: 327.001, 340.1, 94 (4/9).

Problema continuității statului, atât din punctul de vedere a succesiunii de drept, cât şi a continuităţii istorice – este una dintre problemele-cheie ale dreptului internațional și relațiilor internaționale pe tot parcursul existenței umane în cadrul relațiilor interstatale.

Concomitent, aceasta este una dintre cele mai dificile probleme în relațiile internaționale, deoarece afectează în mod direct astfel de instituțiile fundamentale ale dreptului internațional ca statul, care este subiectul de bază a dreptului internaţional, instituţia suveranității și recunoașterii în dreptul internaţional, să nu mai vorbim despre astfel de concepte ca identitatea, moralitatea, etica, politica, ideologia, cu care se împletesc în mod constant, creând uneori conglomerate inimaginabile.

Nu mai vorbim despre faptul, că astfel de concepte ca „ţara" şi „stat", care nu sunt identice, însă care sunt confundate în mod constant, în special în cazul în care apar probleme de interpretare a anumitor aspecte ce țin de identitate, suveranitate națională și de recunoaștere internaţională.

În acest context, apare o întrebare firească despre o continuitatea istorică și succesiunea de drept. Sunt identice aceste noţiuni şi concepte, sau totuși sunt diferite? Sunt influienţate unul de altul, sau fiecare există separat, având aparatul său științific şi metodele sale de cercetare?

Înainte de a răspunde la aceste întrebări, ar fi cazul să încercăm să descifrăm aceste noţiuni, pentru a percepe mai bine legătura dintre ele, sau lipsa acesteia.

În doctrina de drept internațional nu există o opinie unică referitor la raportul dintre noțiunile de „succesiune", „continuitate" și „identitate". Autorii sovietici au manifestat interesul față de succesiunea de drept în primul rând și în principal, din punct de vedere al dreptului tratatelor internaționale și nu au făcut diferențe între conceptele de „continuitate" și „identitate".

Doctrina rusă de drept internaţional recunoaște că Rusia este una dintre succesorii URSS, dar în acest caz se referă la o continuitate a Rusiei față de URSS, iar nu față de Imperiul Țarist.

Aceasta se referă la punctul de vedere juridic. În ceea ce privește continuitatea istorică, atunci continuitatea Rusiei moderne cu imperiul Rus, și chiar cu Rusia Chieveană, este incontestabilă, din punctul de vedere al istoricilor ruși.

Mulți savanţi străini, oamenii de știință şi cercetători, percep, de asemenea, identitatea şi continuitatea ca sinonime. În opinia lui Vladislav Chaplinsky (Polonia), identitatea statului nu poate fi pusă la îndoială, dacă este recunoscut faptul continuității statului, și, dimpotrivă, o întrerupere a

continuității, adică încetarea existenței statului, exclude identitatea[1]. În opinia lui, se vede diferența între identitate și continuitate prin faptul că la soluționarea chestiunii privind identitatea se compară două entităţi statale la diferite momente de timp, în timp ce continuitatea presupune că statul continuă să existe permanent.

În opinia savanţilor M. Bot și K. Schmidt (Germania), continuitatea juridică a statului, exprimată prin succesiunea de drept, corespunde capacității de identitate[2]. Knut Ipsen (Germania) definește continuitatea juridică internațională ca o continuare a existenței subiectului de drept internațional în ciuda schimbărilor semnificative externe sau interne[3].

Alți autori consideră că lanțul *continuitate-succesiune - lipsa continuității/succesiunii* exprimă grade diferite de o relații față de succesiunea de drept, și cred că continuitatea este ceva diferit de succesiune și chiar aceste noţiuni se exlud una pe alta. X. F. Resek (Brazilia) consideră că la baza continuității statului într-o măsură mai mare decât teritoriul și puterea suverană, este factorul populației: este imposibil de imaginat chiar dispariția temporară a populației, în timp ce teritoriul statului se află în afara controlului puterii de stat, ba chiar însăși puterea de stat ar putea să lipsească într-o situație de anarhie[4].

O interesantă poziție exprimă colegii noștri din țările Baltice, Estonia, Letonia și Lituania[5]. Recunoscând, în linii generale, că problema recunoașterei continuității țărilor Baltice cu precedentele entităţi statale, existente în anii 1918-1940, este o chestiune destul de controversată, ei, cu toate acestea, formulează teza că continuitatea, totuși, există, dar ea a fost întreruptă de ocupația sovietică.

Fără a pune sub semnul întrebării metodele folosite de Stalin în cazul "aderării" la URSS a republicilor Baltice în 1940, nu pot fi însă de acord cu faptul că întreruperea ilegală a continuității statale conduce la faptul că însuși **continuitatea** este incontestabilă.

Este cunoscută doar maxima dreptului roman *ex injuria ius non oritur* – acţiunea ilegală (isprava ilegală) nu creează un drept, și doar faptele legale creează dreptul *(ex factis oritur ius)*.

În plus, referindu-se la o lungă perioadă de inexistență reală a țărilor Baltice, o serie de savanți din domeniul dreptului internațional în mod sceptic au apreciat ideea de confirmare a continuității/identitatăţii şi a dreptului de succesiune a acestor state ca „problematică” sau „dogmatic controversată”[6].

Alți savanți din domeniul dreptului internațional insistă, că recunoașterea continuității țărilor Baltice a fost simbolică, sau luată ca o decizie politică, nu neapărat reieșind din aplicarea conştientă a normelor dreptului internațional[7].

Oliver Dörr, chiar și a concluzionat că „această ficțiune, motivată politic, de nu poate fi explicată în cadrul normelor pozitive de drept internațional”[8].

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[1] Чаплиньский В. Органы государственной власти в Польше XVI–XVII веков. В: Вопросы истории. 1977, №12, с. 151.

[2] Citat conform: Аман Э. Взгляд европейских юристов на распад СССР. В: Правоведение. 1999, № 2, с. 220 – 230.

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[8] Dörr O. Op. cit., p. 355 (citat de Мялксоо Л. Op. cit., p. 19).

Lauri Malksoo (Estonia), consideră că statutul juridic al țărilor Baltice nu poate fi evaluat în mod adecvat doar în cadrul abordărilor din punct de vedere al dreptului internaţional. Fiind conştienţi de faptul ce „prevede norma”, este nu mai puțin important, a ști „contextul aplicării (sau neaplicării) a normelor de drept". Mai mult, pur și simplu pentru a cunoaște conținutul normelor de drept, juriștii ar fi cazul (în opinia lui) să însușească „maniera de comportament a statelor”, cât de confuză și lipsită de integritate nu ar fi această manieră, în unele cazuri[1].

Cu toate acestea, în opinia noastră, ar fi incorect de a exclude dreptul internațional, în general, din analiza unor sau altor evenimente, bazându-se doar pe așa-numita „contextul aplicării (sau neaplicării) a normelor de drept”, care uneori include doar așa-numita „dreptul istoric”, „voia lui dumnezeu” și alte pseudo-argumente menite să „justifice” unele sau altele modificări a frontierelor de stat.

În cartea sa „Anexarea sovietică și continuitatea statului: statutul juridic internațional al Estoniei, Letoniei și Lituaniei în anii 1940-1991 și după 1991. Studiu a conflictului dintre cadrul normativ și forța dreptului internațional. (Tartu, Editura universitatea Tartu (Tartu Ülikooli Kirjastus), 2005) Lauri Malksoo destul de rezonabil cercetează problema continuității și succesiunii de drept a țarii sale, și înaintează sobru idei cu privire la interpretarea acestor concepte, pentru că și critică, conaționalii săi, deoarece decade din postulatul ideologic comun care se bazează pe „teoria ocupației”.

În lucrarea sa, autorul pornește de la ipostaza în conformitate cu care dreptul internațional și politica externă rămân de sine stătătoare, deși cu siguranță interdependente, ca fenomene și domenii de cercetare. Prin urmare, interpretările juridice a cazului țărilor Baltice sunt nu numai posibile, dar și inevitabile și necesare. Diferențele de interpretări a acestui caz de către specialiști doar arată (adesea în mod ascuns) importanța valorilor și a politicilor.

Juriştii nu ar trebui să fie înşelaţi cu privire la faptul că dreptul internaţional se bazează pe valori şi că determinarea acestor valori, cât şi alegerea între ele în procesul de creare şi de aplicare a normelor de drept internaţional nu este niciodată un proces pur „juridic”, dar, de asemenea, este un subiect de etică, moralitate[2] şi, prin urmare, în mod inevitabil, şi „politică”[3].

La moment, cercetătorii au două teorii opuse: **„teoria de ocupație”** și **„teoria anexării”**, în încercarea sa de a justifica **continuitatea** unui sau altui stat, atunci când acest lucru este problematic din punct de vedere al dreptului internațional.

Printre așa-numitele moduri primare de a dobândi teritorii se referă **ocupația**.

Ocupația – este ocuparea de către forțele armate ale statului a teritoriului, nu ce-i aparține, însă nu se manifesta prin declararea suveranității asupra ei, și, de obicei, este temporară. **Ocupația** trebuie să se distingă de la **anexare**, de la actul de aderare la un stat a teritoriului străin sau o parte din teritoriul străin în mod unilateral.

Dreptul internațional contemporan distinge trei tipuri de ocupație: Ocupația în stare de război, Ocupația postbelică și Ocupația în timp de pace.

Ocupația în stare de război. Modul și normele de drept privind ocupația militară sunt identificate în acorduri speciale internaționale, adoptate la a IV-a a Conferință de la Haga 1907, precum și de Convențiile de la Geneva din 1949, cât și protocoalele la acestea din 1977. Conform unor documente internaționale ocupația militară este o ocupație temporară efectuată de către forțele armate ale unui stat a teritoriului altui stat prin luarea în sine a celor mai importante funcții de conducere.

Un astfel de teritoriu este considerat ocupat, dacă puterea reală pe acest teritoriu a trecut în mâinile armatei inamice. Statul ocupant este obligat să respecte drepturile omului, să excludă deportările masive și măsurile de executare masivă a populației. Rezistență armată cu toate acestea, nu este factorul determinant a statutului de ocupație. Convențiile de la Geneva din 1949 (articolul 2) stipulează: „Convenția se va aplica, de asemenea, în toate cazurile de ocupație totală sau parțială a teritoriului înaltei Părți Contractante, chiar dacă această ocupație nu va întâlni nici un fel de rezistență”. Un exemplu de o ocupație în stare de război (care în mare măsură a determinat, de asemenea, necesitatea de a îmbunătăți convențiile internaționale în materia dată) pot fi considerate ocupațiile germano-fasciste a teritoriul URSS și a restului Europei în anii 1939-1945.

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[1] Мялксоо Л. Op. cit., p. 20.)
[2] Tomuschat C. Ethos. Ethics and Morality in International Relations // EPIL 9, 1986, p. 127–134.
[3] Мялксоо Л. Op. cit., p. 20-21.

Ocupația postbelica. Modul și normele de drept de ocupație post-război se stabilesc, de regulă, prin tratate internaționale speciale a statelor interesate în mod special pentru această țară/teritoriu, în scopul îndeplinirii condițiilor tratatului de pace — de exemplu, în cazul aplicării contribuţiilor. Un exemplu de astfel de ocupație poate servi sistemul de ocupație adoptat la Conferinţele marilor puteri de la Ialta şi Potsdam privitor la sistemul de zone de ocupație postbelică în Germania și Austria în anii 1945-1949.

Ocupația în timp de pace. Modul și normele de drept a ocupației în timp de pace (engl. non-belligerent), ca și în cazul ocupaţiei postbelice, se stabilesc acorduri interstatale speciale. Cu toate acestea, interpretarea acestui termen este complexă, deoarece există părerea că astfel de acorduri pot fi impuse prin forță.

Frapant caz de manifestare a unei astfel de dualitate este atitudinea față de introducerea trupelor sovietice în țările Baltice, în anii 1939-1940 — dacă s-a întâmplat oare o ocupație? Pe de o parte introducerea trupelor sovietice în țările Baltice s-a produs cu sancțiunea și pe baza deciziilor legitime a organelor legislative superioare ale țărilor Baltice, care au avut un sprijin pronunţat din partea majorităţii cetățenilor. Pe de altă parte — o serie de observatori indică la probabilitatea unui consimțământ nu destul de benevol (de bunăvoie) a republicilor Baltice, astfel cum negocierile au fost efectuate de pe poziții de putere din partea sovietică, și plus, au fost pre-acorduri privind împărțirea Europei de Est. Ca urmare, comunitatea internațională nu a elaborat o atitudine clară față de acest act.

Ca ocupații în timp de pace (ocupaţii neostile), de obicei, sunt considerate și numeroasele misiuni pacificatoare a trupelor ONU, NATO, ODKB și a altor organizații, dacă la o astfel de misiune există mandat ONU, legat de deciziile oficiale a Adunării Generale și/sau Consiliului de Securitate.

Anexarea - este anexarea sau alipirea cu forța de către un stat a teritoriului altui stat (totală sau parțială) în mod unilateral. Dreptului internațional contemporan consideră anexarea ca unul dintre tipurile de agresiune și în prezent, atrage după sine, pe plan internațional, răspunderea juridică.

Anexarea ar trebui să fie diferențiată de *ocupaţie*, care, în sine, nu atrage după sine modificarea juridică a apartenenței teritoriului. Astfel, de exemplu, Bosnia și Herțegovina, aflată încă sub ocupația Austro-Ungariei, din 1878, a fost anexată de ea numai în 1908, iar înainte de a fi anexată, formal a fost considerată teritoriul imperiului Otoman. Republica Turcă a Ciprului de Nord proclamată în 1983, după intrarea trupelor turcești în 1974, a fost recunoscută doar de Turcia, însă, cu toate acestea, nu este inclusă în componența ei.

Anexarea Crimeei este motivată de faptul că Crimeea până în anul 1954 „istoric" a aparținut Rusiei. Totodată, Crimeea a intrat în componența Rusiei, în 1783, iar înainte de asta, aproape 3 secole, a aparținut imperiului Otoman. În acest context, unii cercetători întreabă, de ce dar, nu ar anexa Crimeea Turcia, din moment ce ea a deținut-o „istoric" mai mult?

Alţi cercetători se interesează, de ce Rusia nu ar renunța la Crimeea în favoarea tătarilor din Crimeea — popor, pentru care Crimeea este patria istorică, și care, de asemenea, au deținut Crimeea mai mult decât Rusia?

Însă, în acest context apar întrebările, de ce să nu fie dată Crimeea Greciei sau Italiei, dat fiind faptul că această peninsulă a aparținut cândva Greciei Antice și, mai târziu, Imperiului Roman? Cu atât mai mult, că aceasta s-a întâmplat cu mult timp mai înainte de apariția tătarilor în Crimeea, și „dreptul istoric" anume le-ar fi dat un astfel de „drept". La urma urmei, nu a venit doar Profetul Muhammad la tătarii din Crimeea, zicându-le: „Luați, fraților, Crimeea! Крым – Ваш! Este neutră, nimănui nu aparține acest pământ".

Evident, că toate acestea sunt un adevărat nonsens.

Concomitent, există „precedentul Kosovo", şi este necesar de menționat, că „precedentul Kosovo" – este un exemplu extraordinar de politică de standarde duble, şi a jucat un rol negativ în apariția precedentelor Abhazia, Osetia de Sud și Crimeea.

Aici, fără îndoială, trebuie să evidențiem încă un moment, care influențează procesul continuității.

Aceasta este „Teoria modificării frontierelor administrative" în cadrul imperiilor sau a unor formațiuni statale, care duce la transferul de teritorii la alte noi state, în cazul în care aceste imperii sau a alte formațiuni statale dispar. Acest proces duce la o rupere a continuităţii istorice.

Va spun de la bun început, că „teoria modificării frontierelor administrative” este, ca și în cazul cu „teoria ocupației” și „teoria anexării” - o ficțiune juridică (ficțiune legală)[1]. Cu toate acestea, ca și în cele două cazuri anterioare, o asemenea „teorie” oferă posibilitatea de a lua în considerare problema continuității în afara statutului juridic de evaluare, bazând-se pe „contextul aplicării (sau neaplicării) normelor de drept”.

Chestiunea Crimeei – de asemenea, se referă la modificarea voluntară a hotarelor administrative în anii sovietic de guvernare, ceea ce a condus la conflictul actual între Ucraina și Rusia.

Daca să luăm în considerație faptul, că Ucraina este stat fondator al ONU din 1945, împreună cu URSS, (deci, a fost subiect de drept internaţional şi în componenţa URSS), atunci apare întrebarea, de ce, în 1954, Crimeea a fost anexată Ucrainei doar prin modificare administrativă a frontierelor, şi nu prin acord internaţional, cum prevedea Statutul ONU şi normele de drept internaţional la acea perioadă (transferul de teritoriu poate fi legal efectuat doar prin intermediul unui acord internaţional, sau prin intermediul unui referendum).

Acest lucru, de altfel, este valabil și pentru alte noi state apărute după destrămarea URSS, inclusiv Georgia, Armenia, Azerbaidjan, dar și a altor noi state, frontierele administrative ale cărora au fost voluntaristic modificate în anii de guvernare sovietică, și care a dus, în cele din urmă, la apariția conflictelor din Carabahul de Munte, Osetia de Sud și Abhazia.

De altfel, Ucraina, după destrămarea URSS, a obținut, ca rezultat a modificărilor administrative voluntariste a frontierelor, un imens teritoriu, multe părţi ale căruia nu au nici o legătură istorică cu Ucraina, de exemplu, Sudul Basarabiei și Bucovina, sau aceleași Donbass.

Dacă să ne întoarcem la chestiunea continuităţii ţărilor Baltice, aseasta continuitate ar putea fi, în opinia noastră, recunoscută, dacă nu s-ar fi abuzat cu „teoria ocupației” şi s-ar fi recunoscut existența statelor lor, în cadrul URSS, în calitate de „cvasi-state”.

Desigur, suveranitatea acestor state a fost eviscerată, dar, oare ea nu este eviscerată şi acum, când aceste state sunt membre ale UE și NATO? Oare pe teritoriul lor nu sunt trupe străine? Oare ei nu folosesc moneda unică europeană „euro”, dar nu moneda sa? Ve-ţi spune, că armatele statelor membre ale NATO nu sunt ocupante? Da, dar, din punct de vedere legal, trupele sovietice, de asemenea, nu au fost trupe de ocupație. Și rubla a fost moneda republicilor Baltice, de asemenea, „la cererea oamenilor muncii”, ca și acum.

Eu amintesc despre aceasta nu din considerentele, că țările Baltice „ar trebui” să se întoarcă în cadrul URSS. Doamne ferește! Eu mă refer la faptul că, din punct de vedere legal, este foarte dificil de a da o evaluare obiectivă a tuturor acestor procese, fără a recurge la o varietate de diverse interpretări ce se contrazic, și fără aplicarea diverselor „teorii”.

Aproximativ aceleași probleme apar și în analiza întregului complex de probleme legate de statalitatea moldoveneasca.

Din punct de vedere al dreptului internațional contemporan – Republica Moldova este un nou stat suveran, apărut în urma destrămării URSS, și nu este legată în mod juridic, în special în ceea ce privește succesiunea de drept, cu vechea Moldovă.

Însă, din punct de vedere al continuității istorice, Republica Moldova este indisolubil legată de Moldova medievală, în special de Țara Moldovei, și această relație se observă în toate: teritoriu, etnie, limbă, tradiții, mentalitate și așa mai departe și așa mai departe

Cu regret, în mod constant ni se interzice de a folosi aceste noţiuni şi chiar de a gândi despre această continuitate istorică, explicându-ne, că nu a fost un astfel de stat, Țara Moldovei, că nu au existat astfel de oameni – moldovenii, că nu a fost o astfel de limbă – moldovenească, deoarece toate acestea, au fost inventate de Stalin.

În principiu, problemele irredentismului există nu doar în România. Aceeași problemă există și la alte popoare: albanezii din Kosovo și Macedonia, față de albanezii din Albania, armenii din Georgia, armenii din Carabahul de Munte, ungurii din Slovacia, România (Transilvania de Nord), Serbia și Ucraina (Transcarpatia), irlandezi din Irlanda de Nord, italienii în Dalmația, kazahi în Rusia, Uzbekistan și China, khmerii în Vietnamul de Sud și vietnamezi în Cambodgia, ossetinii în Osetia de

[1] Ficțiune Legală - tehnică juridică, care constă în presupunerea faptului, contrar realității.

Nord și Osetia de Sud, polonezii în Belarus și Ucraina de Vest, rușii în Ucraina, Moldova, Kazahstan și țările Baltice față de limba rusă în Federația rusă, sârbii din Bosnia și Herțegovina, Croația și Kosovo, turcii în Bulgaria, uzbeci în Kazahstan, Tadjikistan, Turkmenistan, Afganistan și Kârgâzstan, ucraineni în Rusia, Polonia, Moldova și România, hutu în Republica Democrată Congo, ş.a.

Cu toate acestea, indiferent de țară și popor, problemele irredentismului indisolubil sunt legate de problema continuității statelor.

În cazul României, discursul privitor la continuitatea ei cu Republica Moldova este lipsit de sens, deoarece din punct de vedere legal nu există nici un motiv.

Din punct de vedere juridic, statalitatea României începe în 1878, când a fost recunoașterea ei internațională ca stat, la congresul de la Berlin, și ea poate pretinde doar la propria sa identitate, obţinută la 1878, și la continuitatea sa doar cu Principatele Valahia și Moldova, dintre Carpaţi şi Prut, dar nu poate pretinde la o astfel de continuitate cu Moldova de Nord (Bucovina) și Moldova de Est (Basarabia), deoarece, la momentul său de recunoaștere în calitate de stat suveran, aceste teritorii făceau parte din imperiul Austriac şi imperiul Rus (în baza acordurilor internaţionale Austriaco-Turc din 1775, şi Ruso-Turc din 1812), şi aceste părţi ale Moldovei nu au participat la procesul de constituire a statului Român.

Relativ continuității istorice, desigur, România poate beneficia de identitatea sa cu Principatele Valahia și Moldova, însă referitor la identitatea cu Moldova, această identitate este incompletă, deoarece Moldova de Nord (Bucovina) și Moldova de Est (Basarabia) pe parcursul a mai mult de 2 secole au fost parte componentă nu a României, ci a altor state (Imperiul Austriac, Imperiul Austro-Ungar, Imperiul Rus, URSS, Ucraina, Republica Moldova).

Republica Moldova, se identifică ca stat independent din 1992, când a fost recunoscută ca stat independent de către ONU, şi din punct de vedere juridic este succesoare de drept a URSS; în ceia ce priveşte drepturile şi obligaţiile RSS Moldoveneşti, şi nu poate pretinde la continuitatea sa juridică cu Ţara Moldovei.

Ţara Moldovei, ca identitate statală, cu statut de stat independent, a existat începând cu secolul XIV, 2 februarie 1365, când a fost recunoscută de regele maghiar şi până la 1538, când a început campania sultanală în Moldova. Formal, Ţara Moldovei, în limita frontierelor sale istorice, a existat în componenţa Imperiului Otoman până la 1775, când a avut loc prima dezmembrare a ţării, Moldova de Nord (Bucovina) fiind alipită la Imperiul Austriac. A doua dezmembrare a Ţării Moldovei s-a produs la 1812, când Moldova de Est (Basarabia) a fost alipită la Imperiul Rus. A treia, şi ultima dezmembrare, s-a produs la 1859, când a s-a format Unia Moldo-Vlahia, redenumită în România în 1862, care a devenit stat independent în 1878, la Congresul de la Berlin.

Relativ continuității istorice, Republica Moldova poate pretinde la identitatea sa cu Principatul Ţara Moldovei, inclusiv Moldova de Vest (Moldova dintre Carpaţi şi Prut) şi Moldova de Nord (Bucovina), dar nu poate justifica astfel de pretenții față de restul României – Muntenia, Oltenia, Transilvania, Banat, Dobrogea.

De asemenea, relativ continuității istorice, Republica Moldova poate pretinde la identitatea sa cu Sudul şi Nordul Basarabiei, actualmente parte componentă a Ucrainei.

Din acest punct de vedere, pentru România, statalitatea moldovenească este, fără îndoială, un pericol, deoarece până în prezent problemele de identitate nu sunt rezolvate nici în România. În mod deosebit, acest lucru se simte în Transilvania, dar ecouri vizibile sunt și în Dobrogea, și în Banat, și în Moldova dintre Carpaţi şi Prut.

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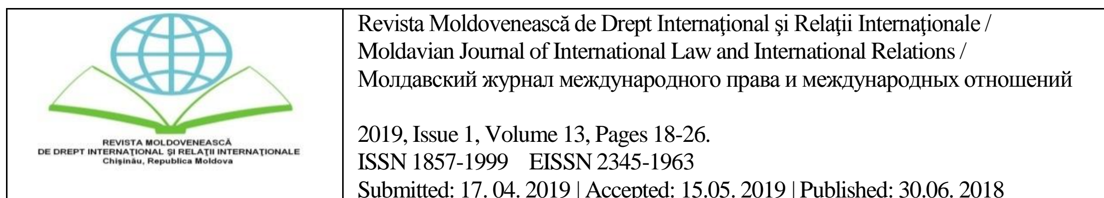

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МЕЖДУНАРОДНОЕ ПУБЛИЧНОЕ ПРАВО

FUNDAMENTAL ELEMENTS OF THE NORTH ATLANTIC TREATY ORGANIZATION'S LEGAL FRAMEWORK

ELEMENTE FUNDAMENTALE ALE CADRULUI LEGAL AL ORGANIZAȚIEI TRATATULUI ATLANTICULUI DE NORD

ОСНОВОПОЛАГАЮЩИЕ ЭЛЕМЕНТЫ ПРАВОВОЙ БАЗЫ ОРГАНИЗАЦИИ СЕВЕРОАТЛАНТИЧЕСКОГО ДОГОВОРА

GENTIMIR Alina Mirabela* / GENTIMIR Alina Mirabela / ДЖЕНТИМИР Алина Мирабела

ABSTRACT:
FUNDAMENTAL ELEMENTS OF THE NORTH ATLANTIC TREATY ORGANIZATION'S LEGAL FRAMEWORK

Paper is focused on the role of the North Atlantic Treaty Organization in the current structural change of the international relations environment. The North Atlantic Treaty Organization's activity is organized not only in function of the principles written in its basic treaties – Treaty of Brussels, Treaty of Washington – but in taking into account the general principles mentioned in fundamental legal norms of the United Nations Organization. The questions that appear nowadays are related to the limits of the NORTH ATLANTIC TREATY ORGANIZATION's activity in the context of the human rights standards protection. The case law of the most relevant human rights international jurisdiction might offer proper solutions without affecting political realities.

Keywords: *North Atlantic Treaty Organization, legal framework, human rights, military activity.*

JEL Classification: K49, F55

REZUMAT:
ELEMENTE FUNDAMENTALE ALE CADRULUI LEGAL AL ORGANIZAȚIEI TRATATULUI ATLANTICULUI DE NORD

Lucrarea se concentrează pe evidențierea rolului Organizației Tratatului Atlanticului de Nord în cadrul modificării structurale a mediului relațiilor internaționale. Activitatea NORTH ATLANTIC TREATY ORGANIZATION este organizată nu numai în funcție de principiile scrise în tratatele de bază – Tratatul de la Bruxelles, Tratatul de la Washington – dar având în vedere și principiile generale menționate în actele normative fundamentale ale Organizației Națiunilor Unite. Întrebările care pot fi formulate astăzi sunt referitoare la limitele activității NORTH ATLANTIC TREATY ORGANIZATION în contextul protecției standardelor drepturilor omului. Jurisprudența celei mai relevante instanțe internaționale ar putea oferi soluțiile potrivite fără ca să fie afectate realitățile politice.

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Cuvinte cheie: *Organizația Tratatului Atlanticului de Nord, cadrul legal, drepturile omului, activitate militară*

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РЕЗЮМЕ:
ОСНОВОПОЛАГАЮЩИЕ ЭЛЕМЕНТЫ ПРАВОВОЙ БАЗЫ ОРГАНИЗАЦИИ СЕВЕРОАТЛАНТИЧЕСКОГО ДОГОВОРА

Статья посвящена роли Организации Североатлантического договора в нынешних структурных изменениях среды международных отношений. Деятельность Организации Североатлантического договора организована не только в соответствии с принципами, изложенными в ее основных договорах - Брюссельском договоре, Вашингтонском договоре, - но с учетом общих принципов, упомянутых в основополагающих правовых нормах Организации Объединенных Наций. Вопросы, которые возникают в настоящее время, связаны с ограничениями деятельности Организации Североатлантического договора в контексте защиты стандартов в области прав человека. Прецедентное право наиболее соответствующей международной юрисдикции в области прав человека может предлагать надлежащие решения, не затрагивая политические реалии.

Ключевые слова: *Организация Североатлантического договора, правовые основы, права человека, военная деятельность.*

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I. Prolegomena

Current structural change of geopolitical relations to the international level raise some essential questions related to one of the most controversial, nowadays, intergovernmental organizations from the perspective of the effective impact of its activity: how has to act North Atlantic Treaty Organization in order to act in accordance with international legal framework? Does North Atlantic Treaty Organization must obey only to its own treaties and partnerships or North Atlantic Treaty Organization has to respect the legal framework of others organizations or states? How „far" North Atlantic Treaty Organization can go with its military actions?

II. Syncretism of the North Atlantic Treaty Organization's Vision. Substantial normative connection with United Nation Organization:

II. 1. North Atlantic Treaty Organization Purposes

Thanks to the simplified content of the own legal framework and the shared values with other international intergovernmental organizations, North Atlantic Treaty Organization might be considered that has all the theoretical and practical arguments to borrow precepts belonging to the United Nations Organization.[1]

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[1] Preamble of the North Atlantic Treaty.

The North Atlantic Treaty is the North Atlantic Treaty Organization (NATO). It was signed in Washington, D.C. on 4 April 1949.

„The Parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments. They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law. They seek to promote stability and well-being in the North Atlantic area. They are resolved to unite their efforts for collective defense and for the preservation of peace and security".

Preamble of the Brussels Treaty.

Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defense, signed at Brussels on 17 March 1948 and entered into force on 25 August 1948.

„To reaffirm their faith in fundamental human rights, in the dignity and worth of the human person and in the other ideals proclaimed in the Charter of the United Nations;

To fortify and preserve the principles of democracy, personal freedom and political liberty, the constitutional traditions and the rule of law, which are their common heritage;

Thereby, the capital goal of the North Atlantic Treaty Organization, which cannot be challenged by anyone to the international level, is „to **maintain international peace and security".** In order to satisfy this goal, the organization is obliged „to take **effective collective measures** for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by **peaceful means**, and in conformity with the **principles of justice and international law**, adjustment or settlement of international disputes or situations which might lead to a breach of the peace".[1]

For another general purpose – „to take other appropriate measures to **strengthen universal peace**" - North Atlantic Treaty Organization might be considered that encourages the "**development friendly relations among nations** based on respect for the principle of **equal rights and self-determination of peoples**".[2]

As well, North Atlantic Treaty Organization might be qualified that contributes to the coordination of multidisciplinary essential activities for international community, fact recognized by both Preamble of North Atlantic Treaty[3] and Preamble of Brussels Treaty.[4] That's why it might be established that North Atlantic Treaty Organization works „to achieve **international co-operation in solving international problems of an economic, social, cultural, or humanitarian character** and in promoting and encouraging **respect for human rights and for fundamental freedoms** for all without distinction as to race, sex, language, or religion".[5]

Moreover, it might be generally accepted that is established a fundamental obligation for both political national and international bodies and public opinion to recognize the vital role of the North Atlantic Treaty Organization: „to be a **center for harmonizing the actions of nations** in the attainment of these common ends".[6]

II.2. North Atlantic Treaty Organization Principles

The same reasoning might be applied when it has to be mentioned the general rules of North Atlantic Treaty Organization's activity.

Thus, taken into account the atrocities of the Second World War, international politicians have ascertained as a common principle for all international and regional intergovernmental organizations ***the principle of the sovereign equality*** of all its Members.[7]

As a guarantee of the precedent principle, it might be recognize that it is imposed to the North Atlantic Treaty Organization level that „all Members, in order to ensure to all of them the **rights and**

To strengthen, with these aims in view, the economic, social and cultural ties by which they are already united;

To co-operate loyally and to co-ordinate their efforts to create in Western Europe a firm basis for European economic recovery;

To afford assistance to each other, in accordance with the Charter of the United Nations, in maintaining international peace and security and in resisting any policy of aggression;

To take such steps as may be held to be necessary in the event of a renewal by Germany of a policy of aggression;

To associate progressively in the pursuance of these aims other States inspired by the same ideals and animated by the like determination;

Desiring for these purposes to conclude a treaty for collaboration in economic, social and cultural matters and for collective self-defense".

[1] Article 1 point 1 of the United Nations Charter.

The Charter of the United Nations was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945.

Preamble of North Atlantic Treaty: „They seek to promote stability and well-being in the North Atlantic area".

[2] Article 1 point 2 of the United Nations Charter.

[3] Preamble of North Atlantic Treaty: „They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law."

[4] Preamble of Brussels Treaty: „to reaffirm their faith in fundamental human rights, in the dignity and worth of the human person and in the other ideals proclaimed in the Charter of the United Nations;

To fortify and preserve the principles of democracy, personal freedom and political liberty, the constitutional traditions and the rule of law, which are their common heritage.

To strengthen, with these aims in view, the economic, social and cultural ties by which they are already united".

[5] Article 1 point 3 of the United Nations Charter.

[6] Article 1 point 4 of the United Nations Charter.

[7] Article 2 point 1 of the United Nations Charter.

benefits resulting from membership, shall **fulfill in good faith the obligations** assumed by them in accordance with the present Charter".[1]

Despite the military character of North Atlantic Treaty Organization's activity, it has to be followed a progressive development of the organization's acts. Consequently, „all Members shall settle their international disputes by **peaceful means** in such a manner that international peace and security, and justice, are not endangered".[2]

The gradual implication of North Atlantic Treaty Organization in concrete litigious situations involves that „all Members shall **refrain** in their international relations from the **threat or use of force against the territorial integrity or political independence of any state**, or in any other manner inconsistent with the Purposes of the United Nations" and North Atlantic Treaty Organization.[3]

Taking over the substance of the principle of fidelity for the intergovernmental organization to each States belongs, North Atlantic Treaty Organization demands to „all Members shall give the organization every assistance in any action it takes in accordance with the United Nations Charter, and shall refrain from **giving assistance to any state** against which the United Nations" and North Atlantic Treaty Organization[4] „is taking preventive or enforcement action".[5]

Not less important, North Atlantic Treaty Organization has the same expectations as other international intergovernmental organizations, such as getting the „insurance that **States** which are **not Members of the organization act in accordance with these Principles** so far as may be necessary for the **maintenance of international peace and security".**[6]

And last but not the least; North Atlantic Treaty Organization might be appreciated that has adopted the principle of noninterference. Hereupon, ***„nothing*** *contained in United Nations' Charter* ***shall authorize the organization to intervene in matters which are essentially within the domestic jurisdiction of any state*** *or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter Vll.*[7]

III. Necessary Prerequisites of the North Atlantic Treaty Organization's Activity

III.1. Hieratic prerequisites of the North Atlantic Treaty Organization's activity:

North Atlantic Treaty Organization has two common issues with others international intergovernmental organizations:

1. *Geographical aria*: North Atlantic Treaty Organization is using its own means and methods in order to fulfill its objectives in a certain region – Europe and North America; other organizations act in the same region and use different ways of action.
2. *Member States*: States, thanks to their membership, oblige themselves to respect the exigencies of a treaty which regulates the intergovernmental organization; sometimes the obligations assumed by States are contrary with each others.

III.2. Dynamic prerequisites of the North Atlantic Treaty Organization's activity:

North Atlantic Treaty Organization has developed two ways of action: peaceful means and armed attacks. The relation between these two dimensions of the North Atlantic Treaty Organization activity. Even the specific character of the organization is a military one; the rule of its activity must be considered the untroubled actions and the exception – the armed attacks.

III.2.1. *Peaceful means* might be considered the first stage of the North Atlantic Treaty Organization's activity and the most used tools for the moment.

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[1] Article 2 point 2 of the United Nations Charter.

[2] Article 2 point 3 of the United Nations Charter.

[3] Article 2 point 4 of the United Nations Charter.

[4] Preamble of North Atlantic Treaty: „They are resolved to unite their efforts for collective defense and for the preservation of peace and security."

[5] Article 2 point 5 of the United Nations Charter.

Preamble of Brussels Treaty: „To afford assistance to each other, in accordance with the Charter of the United Nations, in maintaining international peace and security and in resisting any policy of aggression;

To take such steps as may be held to be necessary in the event of a renewal by Germany of a policy of aggression".

[6] Article 2 point 6 of the United Nations Charter.

[7] Article 2 point 7 of the United Nations Charter.

So, a particular guarantee of the organization's tranquil actions might be considered the commitment itself expressed in relevant treaties which reaffirms „the desire of all member States to live in peace with all peoples and all governments"[1] or „assistance to each other, in accordance with the Charter of the United Nations, in maintaining international peace and security and in resisting any policy of aggression".[2]

Just as important, the perfect proof of the proximity of the North Atlantic Treaty Organization with United Nations Organization is represented by the express provision of the guarantee „to settle any international dispute in which member States may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations".[3]

The reasoning of serene means might be completed by procedural details. Thus, „High Contracting Parties will apply to disputes between themselves the following provisions: The High Contracting Parties will, while the present Treaty remains in force, settle all disputes falling within the scope of Article 36, paragraph 2, of the Statute of the International Court of Justice by referring them to the Court, subject only, in the case of each of them, to any reservation already made by that party when accepting this clause for compulsory jurisdiction to the extent that that Party may maintain the reservation. In addition, the High Contracting Parties will submit to conciliation all disputes outside the scope of Article 36, paragraph 2, of the Statute of the International Court of Justice. In the case of a mixed dispute involving both questions for which conciliation is appropriate and other questions for which judicial settlement is appropriate, any Party to the dispute shall have the right to insist that the judicial settlement of the legal questions shall precede conciliation. The preceding provisions of this Article in no way affect the application of relevant provisions or agreements prescribing some other method of pacific settlement".[4]

Unworried means might be taken to account even they are not necessarily included in specific activity of the North Atlantic Treaty Organization. So, might be taken into consideration as general premises of military activity's prevention „the elimination of conflict in their economic policies, the co-ordination of production and the development of commercial exchanges"[5] or „the direct consultation and in specialized agencies, the promotion of the attainment of a higher standard of living by their peoples and the development of corresponding lines the social and other related services of their countries"[6] or „a better understanding of the principles which form the basis of their common civilization and to promote cultural exchanges by conventions between themselves or by other means".[7]

III.2.2. Armed attacks represents the most sensitive method of conflicts' settlement nowadays, being used only after prolonged political negotiations. Being an exceptional way of action, it must be regulated very strictly by the norms.

Thus, the general principle includes two cumulative operations: first operation represents the military response to a military aggression and the second operation is the information of an international political body. A precise procedure covers the followings steps: „the Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in

[1] Preamble of the Washington Treaty.
[2] Preamble of the Brussels Treaty.
[3] Article 1 of the Washington Treaty.
[4] Article VIII of the Brussels Treaty.
[5] Article I of the Brussels Treaty.
[6] Article II of the Brussels Treaty.
[7] Article III of the Brussels Treaty.

concert with the other Parties,[1] such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area. Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security".[2]

III.3. Limits of North Atlantic Treaty Organization's Activity

European Court of Human Rights had been called to pronounce on the activity of NATO.

„It found that, while international law did not exclude a State's exercise of jurisdiction extra-territorially, jurisdiction was, as a general rule, defined and limited by the sovereign territorial rights of the other relevant States. Other bases of jurisdiction were exceptional and required special justification in the particular circumstances of each case. The Convention was a multi-lateral treaty operating in an essentially regional context and notably in the legal space of the Contracting States. The then Federal Republic of Yugoslavia clearly did not fall within that legal space. The Court was not persuaded that there was any jurisdictional link between the victims of the campaign of air strikes during the Kosovo conflict and the respondent States. So, The Court declared the application inadmissible".[3]

„The Court held that once the applicants had brought a civil action in the Italian courts, there indisputably existed a „jurisdictional link" for the purposes of Article 1 of the Convention and the Italian courts had examined fairly the claims of the Yugoslav applicants regarding the deaths of their relatives as a result of air strikes on 23 April 1999 by the North Atlantic Treaty Organization alliance on the headquarters of Radio Televizije Srbije.Tthe Court found no violation of Article 6".[4]

„It found that the supervision of demining in Kosovo fell within the mandate of the UN Interim Administration for Kosovo (UNMIK) and the issuing of detention orders fell within the security mandate of KFOR, hence the UN, given that the UN Security Council had passed Resolution 1244 establishing UNMIK and KFOR. The UN had a legal personality separate from that of its member states and was not a Contracting Party to the Convention. Since UNMIK and KFOR relied for their effectiveness on support from member states, the Convention could not be interpreted in a manner that would subject Contracting Parties' acts or omissions to the scrutiny of the Court. To do so would be to interfere with the fulfilment of the UN's key mission to preserve peace. The Court concluded that it was not necessary to examine the question of its competence to hear complaints against France about extra-territorial acts or omissions. So, The Court declared the application inadmissible".[5]

IV. Specific Legal Framework of North Atlantic Treaty Organization

IV.1.International Treaties/Partnerships

IV.1.1.North Atlantic Treaty Organization Treaties

IV.1.1.1.Washington Treaty

a) North Atlantic Treaty Organization jurisdiction

North Atlantic Treaty Organization *ratione materiae jurisdiction* assumes that North Atlantic Treaty Organization settles any **international disputes** of member States, which affect **international peace**

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[1] Article IV of the Brussels Treaty „If any of the High Contracting Parties should be the object of an armed attack in Europe, the other High Contracting Parties will, in accordance with the provisions of Article 51 of the Charter of the United Nations, afford the Party so attacked all the military and other aid and assistance in their power".

[2] Article 5 of the Washington Treaty.

Article V of the Brussels Treaty „All measures taken as a result of the preceding Article shall be immediately reported to the Security Council. They shall be terminated as soon as the Security Council has taken the measures necessary to maintain or restore international peace and security. The present Treaty does not prejudice in any way the obligations of the High Contracting Parties under the provisions of the Charter of the United Nations. It shall not be interpreted as affecting in any way the authority and responsibility of the Security Council under the Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security".

[3] ECHR, Banković and Others v. Belgium and 16 Other Contracting States, decision of 19 December 2001. [Online]: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-22099%22]} (Visited on: 09.02.2019).

[4] ECHR, Markovic and Others v. Italy, Decision of 14 December 2006. [Online]: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-78623%22]} (Visited on: 09.02.2019).

[5] ECHR, Behrami and Behrami v. France and Saramati v. France, Germany and Norway, Decision of 31 May 2007. https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-80830%22]} (Visited on: 01.02.2019).

and security and justice[1]: territorial integrity, political independence or security of any of the Parties is threatened.[2]

North Atlantic Treaty Organization *ratione „personae" jurisdiction* allows that North Atlantic Treaty Organization will act only if its **members States** are affected;[3] Member States being United States of America, Canada and European States.[4]

North Atlantic Treaty Organization *ratione loci jurisdiction* is established in Article 6 of Washington Treaty: North America and Europe.

North Atlantic Treaty Organization *ratione temportis jurisdiction* go along with the beginning with 4 of April 1949.[5]

b) North Atlantic Treaty Organization might be considered as institutional guarantor: North Atlantic Treaty Organization Council and subsidiary organs (Defense Committee).

IV.1.1.2. Brussels Treaty

The Goal is in the accordance with the fact that treaty is provided for the organization of military, economic, social and cultural cooperation among member states, as well as a mutual defense clause.

Relation Brussels Treaty Parties and North Atlantic Treaty Organization is a tight relations thanks to the fact that Parties of Brussels Treaty had been transferred, in 1950, its plans to North Atlantic Treaty Organization.

Institutional guarantors might be qualified two kinds of bodies: a. Political Body, which is Consultative Council of Brussels Treaty Parties. b. Jurisdictional Body, which is UN Court of Justice.

The timeline of the treaty is 25 August 1948 – 31 March 2010.

IV.2. Partnerships with others international intergovernmental organizations

General appreciations on North Atlantic Treaty Organization Partnerships:

„Each Party declares that none of the international engagements now in force between it and any other of the Parties or any third State is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagement in conflict with this Treaty".[6]

„The cooperation […] shall not involve any duplication of, or prejudice to, the work of other economic organizations in which the High Contracting Parties are or may be represented but shall on the contrary assist the work of those organizations".[7]

„The High Contracting Parties declare each so far as he is concerned, that none of the international engagements now in force between him and any other of the High Contracting Parties or any third

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[1] Preamble and Article 1 of the Washington Treaty.

[2] Article 4 of the Washington Treaty: „The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened".

[3] Article 5 of the Washington Treaty.

[4] Article 10 of the Washington Treaty: „The Parties may, by unanimous agreement, invite any other European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty. Any State so invited may become a Party to the Treaty by depositing its instrument of accession with the Government of the United States of America. The Government of the United States of America will inform each of the Parties of the deposit of each such instrument of accession."

Article 11 of the Washington Treaty: „This Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which will notify all the other signatories of each deposit. The Treaty shall enter into force between the States which have ratified it as soon as the ratifications of the majority of the signatories, including the ratifications of Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom and the United States, have been deposited and shall come into effect with respect to other States on the date of the deposit of their ratifications."

[5] Articles 12 of the Washington Treaty: „After the Treaty has been in force for ten years, or at any time thereafter, the Parties shall, if any of them so requests, consult together for the purpose of reviewing the Treaty, having regard for the factors then affecting peace and security in the North Atlantic area, including the development of universal as well as regional arrangements under the Charter of the United Nations for the maintenance of international peace and security".

Article 13 of the Washington Treaty: „After the Treaty has been in force for twenty years, any Party may cease to be a Party one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the Governments of the other Parties of the deposit of each notice of denunciation."

[6] Article 8 of Washington Treaty.

[7] Article I of Brussels Treaty.

State is in conflict with the provisions of the present Treaty. None of the High Contracting Parties will conclude any alliance or participate in any coalition directed against any other of the High Contracting Parties”.[1]

IV.2.1.Partnership with UN

Preamble of Washington Treaty reaffirms their faith in the purposes and principles of the Charter of the United Nations Preamble.

Washington Treaty does not affect, and shall not be interpreted as affecting in any way the rights and obligations under the Charter of the Parties which are members of the United Nations.[2]

The right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations (Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security) and armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council.[3]

IV.2.2.Partnership with EU

European Union and NATO co-operation takes place in areas of shared interest, both strategically and operationally, in crisis management in support of international peace and security as well as on defence capability development where requirements overlap working with and for the benefit of all Member States.[4]

IV.2.3.Partnership with OSCE

Areas of NATO – OSCE cooperation are conflict prevention and resolution; post-conflict rehabilitation including border security; countering the proliferation of small arms and light weapons, and arms control; promoting the Women, Peace and Security agenda; counter-terrorism; and addressing emerging security challenges.[5]

Conclusions:

1. North Atlantic Treaty Organization acts in conformity with own treaty which can be interpreted extensively by political, legal, judicial bodies in according with the spirit of international community’s goals: peace and security.
2. United Nations legal framework might be considered the legal framework of North Atlantic Treaty Organization, as well, thanks to the general/international character of the legal norms, principles, purposes.
3. Duplication of membership might create contradictory international obligations for member States thanks to the different character of the intergovernmental organizations activity (military – human rights protections for example). General solution in this kind of situation is to be applied the exception: even human rights – absolute and individual rights – might be violated in order to protect a collective interest as peace and security of a region or whole humankind (Court of Strasbourg preferred rather to consider the applications inadmissible than to analyses the infringement of the European Convention of Human Rights).
4. The population with deeper emotion than a general political goals fulfilled with collateral damages perceives violation of absolute human rights.
5. North Atlantic Treaty Organization missions’ perception is balanced between the idea of protection and the idea of challenges for rivals of this organization: uncertainty, thanks to the inexistence of a clear, complete North Atlantic Treaty Organization legal framework.

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[1] Article VI of Brussels Treaty.

[2] Article 1 of Washington Treaty.

[3] Article 5 of Washington Treaty.

[4] [Online]: https://eeas.europa.eu/headquarters/headQuarters-homepage/28286/eu-nato-cooperation-factsheets_en (Visited on: 01.02.2019).

[5] [Online]: https://www.nato.int/cps/en/natohq/topics_49911.htm (Visited on: 01.02.2019).

6. There is no impartial judiciary international body to analyze North Atlantic Treaty Organization actions. Political bodies cannot be impartial.

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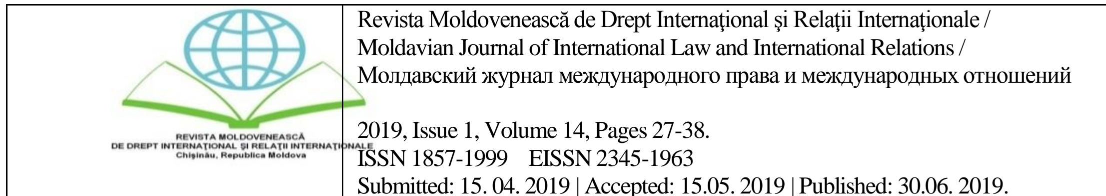
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RELAŢII INTERNAŢIONALE
INTERNATIONAL RELATIONS
МЕЖДУНАРОДНЫЕ ОТНОШЕНИЯ

PROBLEME DE REGLEMENTAREA JURIDICĂ A CONTRACTULUI INTERNAȚIONAL DE DISTRIBUȚIE

PROBLEMS OF LEGAL REGULATION OF THE INTERNATIONAL DISTRIBUTION AGREEMENT

ПРОБЛЕМЫ ПРАВОВОГО РЕГУЛИРОВАНИЯ МЕЖДУНАРОДНОГО ДИСТРИБЬЮТОРСКОГО ДОГОВОРА

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ABSTRACT:
PROBLEMS OF LEGAL REGULATION OF THE INTERNATIONAL DISTRIBUTION AGREEMENT

In this article, the authors discusses and reveals the basic theoretical and legal problems of legal regulation of international distribution agreement. In particular, established that in international business, this agreement is very common, but its design is so far not regulated properly as in foreign countries in particular, and the international legal acts in general. The authors have revealed that so far there is no unified imperative international legal regulation of the international distribution agreement, as well as its unified international definition. Given the lack of international legal regulation of the distribution contract, the means of its non-state regulation deserve special attention. In 1988, the International Chamber of Commerce adopted the Guidelines for drafting international distribution agreements, which are not mandatory but advisory in nature. An international distribution contract by the parties must be concluded based on principles of good faith, honesty and cooperation.

The main conditions of an international distribution contract are: 1) a list of contractual goods that the distributor will promote and sell on the contractual territory; 2) the territory in which the distributor will sell and promote the supplier's products. 3) the price of goods, sales, the use of trademarks and brand name of the supplier, advertising goods supplier, etc. The authors make a fair conclusion that the lack of legal regulation of an international distribution agreement leads to problems of implementation of this contractual construction in the national legal system, and leads to different qualifications and interpretation of this agreement in law enforcement practice. In order to uniformly apply and interpret the distribution contract, both in international and national law enforcement practice, as well as to ensure the protection of the rights of the parties to the contract, the authors propose to adopt a unified document - the International Convention on Distribution Contract and Distributor Activities.

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***Keywords**: international distribution contract, territory, distributor, manufacturer, sub distributors, the exclusive right to distribution and sales.*

JEL Classification: K12, K33

REZUMAT:
PROBLEME DE REGLEMENTAREA JURIDICĂ A CONTRACTULUI INTERNAȚIONAL DE DISTRIBUȚIE

În acest articol, autorii analizează și dezvăluie principalele probleme teoretice și juridice ale reglementării legale a contractului internațional de distribuție. În special, s-a stabilit că în activitatea de afaceri internaționale acest contract este foarte răspândit, totuși construcția acestuia nu a fost încă reglementată în mod corespunzător în țările străine în special sau în acte juridice internaționale în general. Autorii au arătat că până în prezent nu există o reglementare juridică internațională imperativă unificată a contractului internațional de distribuție, precum și o definiție internațională unificată. Având în vedere lipsa reglementării juridice internaționale a contractului de distribuție, mijloacele de reglementare nestatală ale acestuia merită o atenție deosebită. În 1988, Camera de Comerț Internațională a adoptat liniile directoare pentru elaborarea contractelor internaționale de distribuție, care nu sunt obligatorii, ci consultative. Un contract de distribuție internațională de către părți trebuie încheiat pe baza principiilor bunei credințe, onestității și cooperării.

Principalele condiții ale unui contract de distribuție internațională sunt: 1) lista bunurilor contractuale pe care distribuitorul o va promova și le va vinde pe teritoriul contractual; 2) teritoriul în care distribuitorul va vinde și promova produsele furnizorului. 3) prețul mărfurilor, vânzările, utilizarea mărcilor comerciale și a mărcii furnizorului, furnizorului de bunuri de publicitate etc. Autorii fac o concluzie corectă că lipsa reglementării legale a unui contract internațional de distribuție conduce la probleme de implementare a acestei construcții contractuale în sistemul juridic național și duce, de asemenea, la calificări și interpretări diferite ale acestui acord în practica de aplicare a legii. Pentru a aplica și interpreta în mod uniform contractul de distribuție, atât în practica internațională cât și națională, precum și pentru a asigura protecția drepturilor părților la contract, autorii propun să adopte un document unificat - Convenția internațională privind contract de distribuție și activitățile de distribuție.

***Cuvinte cheie:** contract de distribuție internațională, teritoriu, distribuitor, producător, subdistribuitor, drept exclusiv de comercializare și vânzare.*

JEL Classification: K12, K33.
CZU: 341.96.

РЕЗЮМЕ
ПРОБЛЕМЫ ПРАВОВОГО РЕГУЛИРОВАНИЯ МЕЖДУНАРОДНОГО ДИСТРИБЬЮТОРСКОГО ДОГОВОРА

В настоящей статье авторами рассматриваются и раскрываются основные теоретико-правовые проблемы правового регулирования международного дистрибьюторского договора. В частности, установлено, что в международной предпринимательской деятельности данный договор весьма распространенный, однако его конструкция до настоящего момента не урегулирована должным образом как в зарубежных странах в частности, так и в международными правовыми актами в целом. Авторами выявлено, что до настоящего времени унифицированное императивное международное правовое регулирование международного дистрибьюторского договора, а также его унифицированное международное определение отсутствуют. Учитывая отсутствие международного правового регулирования дистрибьюторского договора, особого внимания заслуживают средства его негосударственного регулирования. В 1988 году Международной торговой палатой было принято Руководство по составлению международных дистрибьюторских соглашений, которое носит не императивный, а рекомендательный характер. Международный дистрибьюторский договор сторонами должен быть заключен на основании принципов добросовестности, честности и сотрудничества.

Основными условиями международного дистрибьюторского договора выступают: 1) перечень договорных товаров, которых дистрибьютор будет продвигать, и реализовывать на договорной

территории; 2) территория, на которой дистрибьютор будет осуществлять продажу и продвижение товаров поставщика. 3) цена товаров, объем продаж, использование товарных знаков и фирменного знака поставщика, реклама товаров поставщика и т.д. Авторами делается справедливый вывод, что отсутствие правового регулирования международного дистрибьюторского договора приводит к проблемам имплементации данной договорной конструкции в национальную правовую систему, а также приводит к различной квалификации и толкованию данного договора в правоприменительной практике. В целях единообразного применения и толкования дистрибьюторского договора, как в международной, так и в национальной правоприменительной практике, а также обеспечения защиты прав сторон по договору, авторами предлагается принять унифицированный документ - Международную конвенцию «О дистрибьюторском договоре и дистрибьюторской деятельности».

Ключевые слова*: международный дистрибьюторский договор, территория, дистрибьютор, производитель, субдистрибьютор, исключительное право на сбыт и реализацию.*

JEL Classification: K12, K33
УДК: 341.96

Вопросы правового регулирования международного дистрибьюторского договора не исследованы на должном уровне в национальной и международной коммерческой практике. Отсутствие правового регулирования дистрибьюторского договора как в международной, так и национальной правовой системе, требует научного осмысления данного вопроса и свидетельствует об актуальности исследуемого существа вопроса.

Целью настоящей работы является исследование теоретико-правовых проблем правового регулирования международного дистрибьюторского договора в контексте международного коммерческой практики.

Одним из гражданско-правовых договоров, получивших распространение в практике иностранных, а в последнее время и молдавских предпринимателей, является договор, которым опосредуется организация сбыта товаров. Указанные договоры, именуют дистрибьюторскими договорами, договорами о предоставлении исключительного, или единоличного права продажи или сбыта товаров (Distributorship Agreement, Concession Commerciale, Vertragshandesvertag, Eigenhan-delsvertrag).[1]

До настоящего времени унифицированное международное правовое регулирование международного дистрибьюторского договора, а также его унифицированное международное определение отсутствуют. Кроме того, в соответствии с законодательством многих стран дистрибьюторский договор не подлежит специальному правовому регулированию.

В зарубежных странах дистрибьюторский договор широко используется производителями (поставщиками) для организации сбыта своих товаров на определенной территории, в частности, когда по каким-либо причинам создание в этом регионе филиальной сети является затруднительным. Distributorship в США предоставляет дистрибьютору право вступать во взаимоотношения с несколькими производителями (поставщиками) аналогичных товаров и считается удобной альтернативой договору франчайзинга и агентскому договору. [2]

В Великобритании на практике дистрибьюторский договор именуется соглашением о единоличном праве на сбыт, который предусматривает, что продавец, английская производственная или торговая фирма предоставляет покупателю, иностранной фирме единоличные права торговать на ограниченной территории в отношении товаров определенного вида. [3]

В Нидерландах под дистрибьюторским договором понимается договор, на основании которого одна сторона (дистрибьютор) приобретает у производителя или иного поставщика на

[1] Гражданское и торговое право зарубежных государств / Отв. ред. Е.А. Васильев, А.С. Комаров. М.: Международные отношения, 2005, с. 195.

[2] Каширина Т.В. Дистрибьюторский договор и его место в системе договоров ГК РФ // Закон. 2011, № 65, с.81

[3] Шмиттгофф К.М. Экспорт: право и практика международной торговли / Пер. с англ. М.: Юридическая литература, 1993, с. 132.

основании договора купли-продажи товары и принимает на себя обязательство распространять и перепродавать данные товары третьим лицам от своего имени и за свой счет.

Во Франции дистрибьюторский договор - соглашение между поставщиком и дистрибьютором, на основании которого поставщик поставляет дистрибьютору товары и услуги, а дистрибьютор продвигает их на определенной территории.[1]

В тех странах, где специальное нормативное регулирование дистрибьюторских договоров отсутствует (а это большинство стран, включая Великобританию, США, Францию, Нидерланды, Германию), их правовое регулирование строится в соответствии с общими нормами обязательственного и договорного права. Как отмечает В.Е. Романова, например, во Франции, где отсутствует национальное регулирование дистрибьюторских договоров, общее правило сводится к тому, что дистрибьюторские договоры не должны противоречить основным принципам заключения договора, прежде всего принципу свободы договора, согласно которому стороны свободны при принятии на себя каких-либо обязательств (статьи 1101 - 1369 Гражданского кодекса Франции).

В некоторых странах защита дистрибьюторов осуществляется судебной практикой путем применения к ним по аналогии правил об агентах либо путем применения общих принципов законодательства.[2]

В Европейском союзе (далее - ЕС) в регулировании дистрибьюторских договоров имеет значение, в частности, Регламент Комиссии от 22 декабря 1999 г. N 2790/1999 о применении ст. 81(3) Консолидированной версии Договора о ЕС к категории вертикальных соглашений и к согласованной практике. Как известно, Регламент ЕС N 2790/1999 был создан для регулирования вертикальных отношений, возникающих при реализации двух близких по экономической сущности коммерческих отношений: дистрибьюторских отношений и франчайзинга.

В правовой науке дистрибьюторский договор относится к непоименованным договорам торгово-распределительного характера[3], представляя собой разновидность коммерческой сделки, поскольку его участниками являются предприниматели.

Учитывая отсутствие международного правового регулирования дистрибьюторского договора, особого внимания заслуживают средства его негосударственного регулирования. В 1988 году Международной торговой палатой (далее - МТП) было принято Руководство по составлению международных дистрибьюторских соглашений (далее - Руководство)[4], а в 1993 году - Типовой дистрибьюторский контракт. Монопольный дистрибьютор (далее - Типовой контракт)[5]. Анализ указанных документов проводился Н.Г. Вилковой, И.Н. Герчиковой, Е.В. Смирновой, С.В. Николюкиным и др.

Также стоит отметить еще один документ, посвященный в том числе дистрибьюторским договорам, - Принципы европейского права: коммерческое агентирование, франшиза и дистрибуция (далее - ПАФД)[6], их анализировали М.А. Егорова и В.А. Маслова.

Одним из недавних документов, в котором содержатся положения о дистрибьюторском договоре, являются Модельные правила европейского частного права (далее - Модельные

[1] Романова В.Е. Трансграничный дистрибьюторский договор в странах Европы: Нидерланды и Франция. В: Международное публичное и частное право. 2013, № 1 (70), с. 37.

[2] Вилкова Н.Г. Договорное право в международном обороте. М.: Статут, 2002, с. 388.

[3] Райников А.С. Договор коммерческой концессии как институт обязательственного права и как правоотношение: Дис. ... канд. юрид. наук. М., 2009, с. 13.

[4] Руководство по составлению международных дистрибьюторских соглашений. Публикация № 441 E. Серия: "Издания Международной Торговой Палаты" / Пер. с англ. М.: Консалтбанкир, 1996, с. 87.

[5] Типовой дистрибьюторский контракт МТП. Монопольный импортер-дистрибьютор. Публикация № 646 E. Серия: «Издания международной торговой палаты». 2-е изд. на рус. и англ. яз. М.: Консалтбанкир, 2005, с. 11.

[6] Принципы европейского договорного права: коммерческое агентирование, франшиза и дистрибуция. В: Коммерческое право. 2011. № 1, с.108.

правила ЕЧП)[1]. Дистрибьюторскому договору посвящена отдельная глава 5 «Дистрибуция» книги IV «Отдельные договоры и вытекающие из них права и обязанности».

Как указано в Руководстве и Типовом контракте, они подлежат применению к международным дистрибьюторским договорам и в принципе не предназначены для регулирования одноименных внутренних договоров. Что касается ПАФД и Модельных правил ЕЧП, то они предназначены для регулирования дистрибьюторских договоров, заключаемых в странах ЕС.

Четкого определения дистрибьюторского договора Руководство и Типовой контракт не содержат. Однако во введении к Руководству отмечено, что оно применяется к дистрибьюторским соглашениям, по которым перепродавец организует, сбыт товаров производителя на определенной территории. Это соглашение, по которому дистрибьютор: а) обязуется приобретать и перепродавать от своего имени и за свой счет; б) принимает на себя организацию продаж на определенной территории; в) не создает обязательств для производителя.

Исходя из положений ст. 1 Типового контракта к дистрибьюторским соглашениям следует относить договор, по которому поставщик предоставляет, а дистрибьютор принимает на себя исключительное право на маркетинг (размещение) и продажу товаров, указанных в приложении к договору, на территории, определенной в приложении к договору.

Определение дистрибьюторского договора содержится в ст. IV.E.-5:101 Модельных правил ЕЧП: по этому договору одна сторона, поставщик, обязуется на постоянной основе поставлять другой стороне, дистрибьютору, продукт, а дистрибьютор обязуется покупать его либо принимать, оплачивать и продавать третьим лицам от своего имени и в своих интересах. Приведенная дефиниция не отличается от определения, содержащегося в ПАФД.

Руководство в принципе может использоваться при составлении любых международных дистрибьюторских договоров, хотя здесь и содержится упоминание о том, что дистрибьютору часто предоставляется исключительное право сбыта. Типовой контракт направлен на регулирование отношений с монопольным дистрибьютором-импортером, т.е. лицом, которое единолично осуществляет продвижение и сбыт товаров экспортера на закрепленной за ним территории.

Модельные правила ЕЧП (как и ПАФД) достаточно четко определяют их сферу применения, выделяя три разновидности дистрибьюторских договоров: исключительный дистрибьюторский договор, избирательный дистрибьюторский договор и исключительный договор о закупках. Исключительный дистрибьюторский договор представляет собой договор, в силу которого поставщик обязуется осуществлять поставку продукции на определенной территории или для определенной группы потребителей только одному дистрибьютору (п. 2 ст. IV.E.-5:101 Модельных правил ЕЧП). Избирательным дистрибьюторским договором является дистрибьюторский договор, по которому поставщик обязуется напрямую или опосредованно поставлять продукцию только дистрибьюторам, отвечающим определенному критерию (п. 3 ст. IV.E.-5:101). Исключительный договор о закупках представляет собой соглашение, в силу которого дистрибьютор обязуется покупать, принимать и оплачивать продукцию только у определенного поставщика или указанного им лица (п. 4 ст. IV.E.-5:101).

В литературе поддерживается позиция о том, что международный дистрибьюторский договор отнесен в Руководстве и Типовом контракте к организационным договорам[2]. То же самое можно сказать в отношении ПАФД и Модельных правил ЕЧП.

Основными принципами, которыми стороны должны руководствоваться при исполнении обязательств по дистрибьюторскому договору, называются принципы добросовестности и честного ведения торговли (ст. 2.1 Типового контракта). В Руководстве упоминается принцип

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[1] Модельные правила европейского частного права / Пер. с англ.; науч. ред. Н.Ю. Рассказова. М.: Статут, 2013, с. 236.

[2] Типовой дистрибьюторский контракт МТП. Монопольный импортер-дистрибьютор. Публикация № 646 Е. Серия: «Издания международной торговой палаты». 2-е изд. на рус. и англ. яз. М.: Консалтбанкир, 2005, с. 12; Гражданское и торговое право зарубежных государств / Отв. ред. Е.А. Васильев, А.С. Комаров. М.: Международные отношения, 2005, с. 197.

сотрудничества (раздел 12). Модельные принципы ЕЧП содержат целый ряд установок, в соответствии с которыми строятся частноправовые отношения в Европе, однако в разделе, посвященном дистрибуции, довольно часто встречаются термины с прилагательным «разумный».

Как было установлено ранее, предметом дистрибьюторского договора является организация сбыта дистрибьютором товаров поставщика, определенных договором, на установленной договором территории. Таким образом, одним из ключевых условий, подлежащих отражению в договоре, является установление договорных товаров, продвижение и сбыт которых должен осуществлять дистрибьютор (далее - договорные товары). В Руководстве и Типовом контракте значительное внимание уделяется определению договорных товаров (п. 7.1 Руководства; ст. 1 Типового контракта). В Модельных правилах ЕЧП положений о договорных товарах не содержится, что представляется одним из их недостатков, поскольку условие о договорных товарах является, на наш взгляд, одним из существенных условий рассматриваемого договора.

Существенными условиями рассматриваемого договора являются определение в нем территории, на которой будет действовать дистрибьютор (раздел 8 Руководства; ст. 12 Типового контракта), а также правила о продаже товаров за пределами договорной территории. Модельные правила ЕЧП подобных правил не содержат.

Нет в Модельных правилах ЕЧП условия о так называемой «неконкуренции» дистрибьютора с поставщиком, которое включено в ст. 11.12 Руководства и п. 4.1 Типового контракта.

Организация продвижения и сбыта товаров поставщика предполагает согласование ими еще ряда условий, связанных с рекламой товаров, участием в выставках, ярмарках, условиями о поставках товаров, цене, объеме продаж, использованием интеллектуальной собственности и др.

Модельные правила ЕЧП не содержат специального положения об организации продаж (сбыта). Вместе с тем в обязанности дистрибьютора входит обязанность сбывать продукт. Согласно ст. IV.E.-5:301 дистрибьютор, действующий на основании избирательного дистрибьюторского договора или исключительного дистрибьюторского договора, должен, насколько это возможно, принимать разумные меры для того, чтобы содействовать распространению продуктов.

Важной обязанностью дистрибьютора является обязанность следовать указаниям поставщика в том, что касается, сбыта товаров (п. 11.1 Руководства). В ст. IV.E.-5:304 Модельных правил ЕЧП содержится положение об обязанности дистрибьютора, действующего на основании исключительного или избирательного договоров, следовать указаниям поставщика, направленным на обеспечение надлежащего сбыта товаров либо на поддержание общественного мнения о нем или его узнаваемости.

Одним из важных условий, подлежащих отражению в дистрибьюторском договоре, является обязанность по предоставлению информации, которая закреплена за обеими сторонами договора (пункты 11.10 и 12.5 Руководства; статьи 10 и 18 Типового контракта). В соответствии со ст. IV.E.-5:202 Модельных правил ЕЧП поставщик во время исполнения договора должен предоставить информацию, в частности, о: а) характеристиках продукта; б) ценах и условиях поставки продукта; в) рекомендуемых цене и условиях перепродажи продукта потребителям; г) относящихся к делу связях между поставщиком и потребителями; д) рекламных кампаниях, имеющих отношение к делу. В свою очередь, дистрибьютор должен информировать о: а) заявленных или возможных притязаниях третьих лиц относительно интеллектуальных прав поставщика, б) фактах нарушения третьими лицами интеллектуальных прав поставщика (ст. IV.E.-5:302).

Еще одним важным условием, которое желательно отразить в дистрибьюторском договоре, является условие о распределении между сторонами расходов на рекламу (пункты 11.5 и 11.6 Руководства; ст. 6 Типового контракта), однако подобных положений в Модельных правилах ЕЧП нет.

С положением о рекламе, тесно связана обязанность поставщика передать дистрибьютору рекламные материалы о приобретаемых товарах (п. 12.6 Руководства; статьи 18 и 22 Типового контракта). В соответствии со ст. IV.E.-5:204 Модельных правил ЕЧП поставщик обязан по разумной цене предоставить дистрибьютору все имеющиеся у него рекламные материалы, необходимые для надлежащего распространения и продвижения продукта. В отличие от Руководства и Типового контракта в Модельных правилах ЕЧП предусмотрена возмездная передача рекламных материалов.

В дистрибьюторском договоре необходимо отразить условие о поставках товаров дистрибьютору и ценах (п. 10.1 Руководства; ст. 7 Типового контракта). В Модельных правилах ЕЧП указанному вопросу посвящена ст. IV.E.-5:201, согласно которой поставщик обязан поставить заказанный дистрибьютором продукт постольку, поскольку это осуществимо, а заказ является разумным. Кроме того, поставщик должен предоставить дистрибьютору, в том числе информацию о ценах и условиях поставки продукта, а также рекомендуемых цене и условиях перепродажи продукта потребителям (ст. IV.E.-5:202).

Важным также является определение объемов поставки и гарантируемого минимума продаж. Подобные положения содержит ст. 8 Типового контракта, согласно которой стороны ежегодно договариваются об объеме продаж на предстоящий год; стороны будут прилагать все усилия для достижения согласованного объема продаж, однако его невыполнение не является нарушением стороной договора, за исключением вины такой стороны. Кроме того, стороны могут договориться о гарантированном минимуме продаж и о последствиях его недостижения. Как отмечает Н.Г. Вилкова, в первом случае, когда речь идет об объемах продаж, в обязанности сторон входит приложение всех усилий для достижения согласованного объема продаж как конечной цели сделки, а его недостижение не рассматривается как нарушение одной из сторон договора. Указание на гарантированный минимум продаж во втором случае означает принятие сторонами, прежде всего дистрибьютором, соответствующих обязательств[1]. В п. 11.4 Руководства включено положение о возможном принятии дистрибьютором обязательства о минимуме закупок.

Подобных норм Модельные правила ЕЧП не содержат. Вместо этого в них есть правила об обязанностях сторон уведомить, о снижении объемов поставок. Так, согласно ст. IV.E.-5:203 поставщик обязан в разумный срок предупредить дистрибьютора об ожидаемом снижении объема поставок до уровня значительно ниже того, который дистрибьютор мог обоснованно ожидать. Для целей применения этого положения предполагается, что поставщик должен предвидеть то, что мог бы предвидеть всякий разумный поставщик. Кроме того, в п. 3 ст. IV.E.-5:203 сказано: стороны не могут исключить применение этой статьи полностью или частично, или изменить ее действие при заключении исключительного договора о закупках. Обязанность уведомления о снижении требуемых объемов поставки имеется и у дистрибьютора (ст. IV.E.-5:303 Модельных правил ЕЧП).

Условие о ценах, которыми должен руководствоваться дистрибьютор во время перепродажи товаров, получило отражение в Руководстве, Типовом контракте и Модельных правилах ЕЧП. В соответствии с последним документом поставщик должен предоставить дистрибьютору информацию относительно рекомендованных цен и условиях перепродажи продукта потребителям (ст. IV.E.-5:202).

Важным условием дистрибьюторского договора является условие о дистрибьюторских комиссионных (п. 12.8 Руководства). Интересно, что Руководство предусматривает возможность заключения смешанных агентско - дистрибьюторских соглашений. Положение о комиссионных, включая случаи, когда поставщик осуществляет так называемые прямые продажи, предусмотрено также в ст. 17 Типового контракта. Подобные положения отсутствуют в Модельных правилах ЕЧП.

Дистрибьюторский договор должен содержать условие, предусматривающее использование товарных знаков поставщика и их защиту. Руководство и Типовой контракт содержат достаточно подробные правила на этот счет (например, пункты 11.13 и 11.14 Руководства; ст.

[1] Вилкова Н.Г. Договорное право в международном обороте. М.: Статут, 2002, с. 394.

13 Типового контракта). В Модельных правилах ЕЧП в отношении объектов промышленной собственности содержится лишь правило, согласно которому дистрибьютор обязан передать поставщику информацию, в частности, о: а) заявленных или возможных притязаниях третьих лиц относительно интеллектуальных прав поставщика; б) фактах нарушения третьими лицами интеллектуальных прав поставщика (ст. IV.E.-5:302). Ничего о предоставлении права использования объектов промышленной собственности дистрибьютору в данном документе не говорится.

Относительно конфиденциальной информации соответствующие положения содержат п. 11.15 Руководства и ст. 14 Типового контракта. В Модельных правилах ЕЧП ничего о конфиденциальной информации не сказано.

В соответствии с п. 11.3 Руководства в дистрибьюторском договоре может быть предусмотрено условие, позволяющее дистрибьютору назначать субдистрибьюторов или агентов. Подобные правила содержатся и в Типовом контракте, однако в Модельных правилах ЕЧП они отсутствуют.

Дистрибьюторский договор может быть заключен на определенный либо на неопределенный срок. Обе разновидности указанного условия прописаны в пунктах 13.2 и 13.3 Руководства, а также в ст. 19 Типового контракта, включая правила о его досрочном расторжении. Отдельные положения в исследуемых документах предусмотрены в отношении выплаты компенсации в случае прекращения дистрибьюторского договора (раздел 14 Руководства, ст. 21 Типового контракта).

При формулировании условий международного дистрибьюторского договора необходимо разрешить вопросы относительно юрисдикции и применимого к договору права по вопросам, в нем не урегулированным. В соответствии с разделом 16 Руководства в контракте всегда следует предусматривать применимое к нему право, однако выбор какого-либо определенного права не обязательно препятствует применению общепринятых или императивных норм права страны дистрибьютора, особенно в том случае, когда спор рассматривается судом страны дистрибьютора. Споры разбираются государственными судами данной страны либо арбитражем.

В Типовом контракте предлагается два варианта выбора применимого к дистрибьюторскому договору права. В соответствии с одним из них вопросы, возникающие из данного договора, которые в явно выраженной или подразумеваемой форме нельзя разрешить, используя положения, содержащиеся в самом контракте, регулируются: а) общепризнанными в международной торговле принципами права, применимыми к международным дистрибьюторским контрактам; б) соответствующими торговыми обычаями и в) Принципами международных коммерческих договоров УНИДРУА. Альтернативным вариантом является избрание в качестве применимого права национального права какого-либо государства. При этом в соответствии с п. 24.2 Типового контракта подлежат учету нормы права страны места нахождения коммерческого предприятия дистрибьютора, которые регулируют соответствующие отношения, даже если к контракту применимо иностранное право. Модельные правила ЕЧП подобных положений о подлежащем применению праве не содержат.

В целом нужно отметить: Модельные правила ЕЧП (глава «Дистрибуция») посвящены лишь особенностям правового регулирования дистрибьюторских договоров, это означает, что все остальные вопросы, связанные с их заключением и исполнением, должны решаться в соответствии с общими нормами этого документа. Приводя определения трех разновидностей дистрибьюторских договоров, Модельные правила ЕЧП, по сути, регулируют только две из них, оставляя практически за пределами своего внимания исключительный договор о закупках. Модельные правила ЕЧП не регламентируют вопросы, связанные с предоставлением поставщиком дистрибьютору прав на объекты интеллектуальной собственности (товарные знаки). Модельные правила ЕЧП постоянно оперируют термином «разумный» и связанными с ним дефинициями: разумный заказ, разумный срок, разумная цена, разумные меры, разумные указания, разумные пределы. В частности, дистрибьютор, действующий на основании исключительного или избирательного дистрибьюторских договоров, обязан следовать

разумным указаниям поставщика, направленным на обеспечение надлежащего сбыта продукции либо на поддержание общественного мнения о нем или его узнаваемости. Нужно отметить, что термин «разумность» содержится в Книге I «Общие положения» Модельных правил ЕЧП. Согласно ст. I-1:104 «Разумность» разумность должна быть установлена объективно, с учетом природы и цели совершаемого действия, обстоятельств дела, а также соответствующих обычаев и сложившейся практики. В целом в отсутствие определения терминов, связанных с разумностью, в том числе упомянутого выше термина «разумные указания», судьям предоставлено широкое усмотрение при рассмотрении споров, вытекающих из подобных договоров.

Анализ правого регулирования международного дистрибьюторского договора позволяет сделать следующие выводы:

1. В международных документах отсутствует четкое определение и не раскрывается понятие дистрибьюторского договора.

2. По дистрибьюторскому договору дистрибьютор организует сбыт товаров производителя на определенной территории, а также берет на себя исключительное право маркетинга указанных товаров в приложении к дистрибьюторскому договору. Главной особенностью международного дистрибьюторского договора является то, что сторонами выступают дистрибьютор и поставщик, имеющие принадлежность к разным государствам.

3. При монопольной реализации товаров, дистрибьютор обладает исключительным правом единоличной продажи товаров на оговоренной территории. Как правило, в качестве монопольного дистрибьютора выступает иностранное лицо.

4. Выделяются три вида международного дистрибьюторского договора: 1) избирательный – по такому договору товар производителя реализуют только дистрибьюторы, обладающими определенными критериями; 2) эксклюзивный – договор, по которому дистрибьютор получает исключительное право на единоличную продажу товаров поставщика на закрепленной территории; 3) исключительный – договор, по условиям которого дистрибьютор обязуется приобретать товары исключительно у одного производителя или указанного им лица.

5. Международный дистрибьюторский договор сторонами должен быть заключен на основании принципов добросовестности, честности и сотрудничества.

6. Основными условиями международного дистрибьюторского договора выступают: 1) перечень договорных товаров, которых дистрибьютор будет продвигать, и реализовывать на договорной территории; 2) территория, на которой дистрибьютор будет осуществлять продажу и продвижение товаров поставщика. Следует отметить, что в вышеуказанных документах нет упоминания относительно «не конкуренции» между дистрибьютором и поставщиком на договорной территории. 3) цена товаров, объем продаж, использование товарных знаков и фирменного знака поставщика, реклама товаров поставщика и т.д.

7. В указанных документах закреплены основные обязанности сторон по международному дистрибьюторскому договору: 1) дистрибьютор обязуется: а) сбывать товары поставщика и прилагать усилия в целях увеличения объемов товаров; б) действовать в строгом соответствии с указаниями поставщика в целях обеспечения и организации надлежащей реализации товаров и укрепления позиции поставщика на определенной территории; в) предоставлять информацию относительно нарушения исключительных прав поставщика третьими лицами и др. В частности, поставщик обязан: а) обязан информировать дистрибьютора о ценах, ассортименте товаров, о рекомендуемых ценах продажи товаров розничным продавцам, о взаимоотношениях с другими дистрибьюторами в рамках договорной территории, а также проводимых рекламных кампаниях связанных с продвижением товаров; б) предоставить дистрибьютору различного рода рекламные материалы в целях надлежащей продажи товаров; в) предоставить дистрибьютору товар в соответствии с заказом, а также рекомендуемые цены перепродажи конечным покупателям; г) сообщить дистрибьютору об уменьшении объема поставок и принять для этого необходимые меры.

8. Стороны обязаны установить ежегодный объем продаж товаров и стороны должны прилагать усилия для надлежащей продажи товаров, за невыполнение которого не следует договорных санкции, за исключением случаев наличия вины. Также может предусмотрено

условие о минимальном гарантированном объеме продаж и последствиях его невыполнения. В этой связи Вилкова Н.Г. отметила, что «в первом случае, дистрибьюторский договор может предусматривать обязанности сторон прилагать усилия для выполнения минимального объема продаж с целью достижения цели договора, при невыполнении которой стороны не будут нести никакой ответственности, а во втором случае дистрибьютор берет на себя обязательство выполнить минимальный объем продаж, за невыполнение которого последуют договорные санкции». В этом контексте стороны обязаны сообщать о любом уменьшении объема поставок или объема покупок товаров.

9. Важным условием международного дистрибьюторского договора выступает условие о комиссионных выплатах и имеет место, когда договор носит смешанный характер (агентско–дистрибьюторский), а также когда поставщик осуществляет прямые продажи товаров.

10. Дистрибьютор по данному договору вправе назначать на закрепленной территории субдистрибьюторов, но исключительно с письменного согласия поставщика.

11. Международный дистрибьюторский договор может быть заключен как на определенный, так и не определенный срок.

12. Стороны вправе в договоре установить санкции и выплату возмещения за досрочное прекращение договора.[1]

При заключении международного дистрибьюторского договора стороны должны достигнуть соглашения и урегулировать вопросы проблем применения юрисдикции и порядок применения правовых норм при наличии не урегулированных аспектов. Другими словами, стороны вправе самостоятельно выбирать общие и императивные нормы права, а при их отсутствии руководствоваться нормами закона страны дистрибьютора, в частности, в случаях, когда спор будет рассматриваться судами страны дистрибьютора.

Так в Руководстве и Типовом контракте предусмотрены два варианта решения проблемы применения права. Во-первых, в случае невозможности применить к условиям договора, соответствующие норм права стороны должны руководствоваться общими принципами применяемых к международным дистрибьюторским соглашениям в международном торговом праве, обычаями международного торгового оборота или принципами УНИДРУА, применяемыми для международных коммерческих договоров. Во- вторых, к международному дистрибьюторскому договору может быть применено право страны одной из сторон. В частности, стороны могут применить нормы страны дистрибьютора даже если к договору, возможно, применить нормы иностранного права.

Модельные правила европейского частного права регулируют общие вопросы дистрибьюторского договора, а все остальные вопросы заключения и исполнения договора должны регламентироваться непосредственно данным документом. Раскрывая содержание понятий трех видов дистрибьюторских договоров, между тем правовая регламентация осуществляется только двух видов, тем самым не раскрывает сущность договора на исключительные закупки. Также отсутствует регламентация относительно предоставления дистрибьютору исключительных прав, принадлежащих поставщику (фирменные наименования и товарные знаки). В тексте указанных правил часто встречается дефиниция «разумный»: разумная цена, разумный срок, разумный заказ, разумные указания и др. Однако не раскрывается содержание данного определения, что приводит к проблемам в правоприменительной практике и свободу действии судьям при рассмотрении дел, вытекающих из дистрибьюторских договоров.

Таким образом, на основании вышеизложенного можем констатировать, следующие основные теоретико-правовые проблемы регулирования международного дистрибьюторского:

1. Законодательство, как стран ЕС, так и иных государствах не имеет четкое и единообразное правовое регулирование дистрибьюторского договора.

2. В международном торговом обороте участники дистрибьюторских отношений руководствуются общими международными принципами и обычаями торгового оборота.

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[1] Арсени И. Теоретико-правовые проблемы правового регулирования международного дистрибьюторского договора. В: Верховенство права, Кишинэу, 2016, №1, с. 186.

3. В частности, международный дистрибьюторский договор не получил специального международного правового регулирования в международном акте. При заключении международного дистрибьюторского договора стороны руководствуются актами, принятыми Международной торговой палатой, которые не содержат всех аспектов, касающихся дистрибьюторского договора и носят рекомендательный характер.

4. Отсутствие правового регулирования международного дистрибьюторского договора приводит к проблемам имплементации данной договорной конструкции в национальную правовую систему.

5. Отсутствие унифицированного международно-правового акта, регулирующего дистрибьюторский договор, приводит к различной квалификации и толкованию данного договора в правоприменительной практике, а также не защищает единообразно права сторон по договору.

В целях единообразного применения и толкования дистрибьюторского договора, как в международной, так и в национальной правоприменительной практике, а также обеспечения защиты прав сторон по договору, предлагаем принять унифицированный документ - Международную конвенцию «О дистрибьюторском договоре и дистрибьюторской деятельности», что позволит устранить все коллизии и разносторонние толкования данного договора, и создать фундаментальную базу для регламентирования всех вопросов, связанных с дистрибьюторской деятельностью в целом, и дистрибьюторским договором, в частности, путем имплементации в национальное законодательство. По нашему мнению, такой унифицированный международный документ создаст благоприятную правую среду для международного и национального коммерческого оборота, поскольку суды, разрешая дела, связанные с правоотношениями, вытекающих из дистрибьюторских договоров и, в частности, с участием сторон разной государственной принадлежности, будут руководствоваться данным документом и не будут применять аналогию права или аналогию законодательства, и тем самым создастся баланс в правоприменении.

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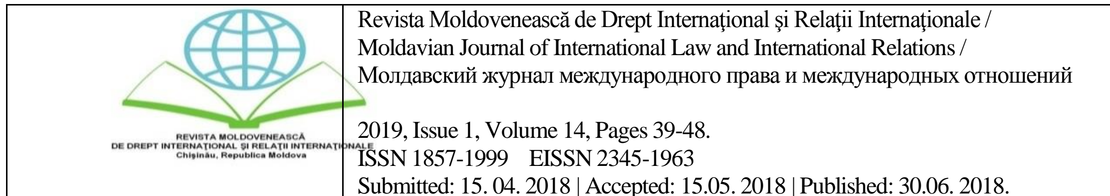
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SINERGIA CONTRIBUȚIEI BĂNCII MONDIALE ȘI UNIUNII EUROPENE ÎN EFORTUL DE MODERNIZARE A REPUBLICII MOLDOVA

SYNERGY OF THE CONTRIBUTION OF THE WORLD BANK AND THE EUROPEAN UNION IN THE MODERNIZATION EFFORT OF THE REPUBLIC OF MOLDOVA

СИНЕРГИЯ ВКЛАДА ВСЕМИРНОГО БАНКА И ЕВРОПЕЙСКОГО СОЮЗА В УСИЛИЯ ПО МОДЕРНИЗАЦИИ РЕСПУБЛИКИ МОЛДОВА

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ABSTRACT:
SYNERGY OF THE CONTRIBUTION OF THE WORLD BANK AND THE EUROPEAN UNION IN THE MODERNIZATION EFFORT OF THE REPUBLIC OF MOLDOVA

Over the last years, joint commitment of the World Bank and European Union to the developments sectors as a development strategy for developing economies has fluctuated.

This article reviews the common experience of the development partners mentioned above, their contribution and impact to the modernization processes in the Republic of Moldova. The paper analyzes the role and approach of the European Union and the World Bank in this development goal. Despite the economic and political diversity, there are common elements that justify a joint regional program. In this context, will share some findings about the impact of the delivered programs, results and some issues related to the implementation processes: EU4Environment Regional Program, Regional Justice Survey and Towards Safer Roads in the Eastern Partnerhip Region.

The analyses made denotes the fact that a joint Donors cooperation carried out through direct dialogue, aims to fit a common effort and for an efficient budget allocation. These greatly support the implementation of regional activities in the national context, including existing plans or strategies and the work forward together as a region using exchange of global and regional knowledge.

Keywords: *Official Development Assistance, World Bank, European Union, globalization, Republic of Moldova.*

JEL Classification: N36, P51

РЕЗЮМЕ:
СИНЕРГИЯ ВКЛАДА ВСЕМИРНОГО БАНКА И ЕВРОПЕЙСКОГО СОЮЗА В УСИЛИЯ ПО МОДЕРНИЗАЦИИ РЕСПУБЛИКИ МОЛДОВА

В последние годы совместная приверженность Всемирного банка и Европейского союза секторам развития в качестве стратегии развития развивающихся стран колебалась.

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В данной статье рассматривается общий опыт упомянутых выше партнеров по развитию, их вклад и влияние на процессы модернизации в Республике Молдова. В статье анализируется роль и подход Европейского союза и Всемирного банка в достижении этой цели. Несмотря на экономическое и политическое разнообразие, есть общие элементы, которые оправдывают совместную региональную программу. В этом контексте мы поделимся некоторыми выводами о влиянии поставленных программ, результатами и некоторыми вопросами, связанными с процессами реализации: региональная программа EU4Environment, региональное исследование справедливости и к более безопасным дорогам в регионе Восточного партнерства.

Проведенный анализ свидетельствует о том, что совместное сотрудничество доноров, осуществляемое на основе прямого диалога, нацелено на согласование общих усилий и эффективное распределение бюджетных средств. Они в значительной степени содействуют осуществлению региональной деятельности в национальном контексте, включая существующие планы или стратегии, а также совместной работе в качестве региона на основе обмена глобальными и региональными знаниями.

Ключевые слова: *официальная помощь в целях развития, Всемирный банк, Европейский союз, глобализация, Республика Молдова.*

JEL Classification: N36, P51
УДК: 327.009, 339.9.

REZUMAT:

SINERGIA CONTRIBUȚIEI BĂNCII MONDIALE ȘI UNIUNII EUROPENE ÎN EFORTUL DE MODERNIZARE A REPUBLICII MOLDOVA

Acest articol trece în revistă experiența comună a partenerilor de dezvoltare menționați mai sus, contribuția și impactul acestora la procesele de modernizare din Republica Moldova.

Lucrarea analizează rolul și abordarea Uniunii Europene și a Băncii Mondiale în acest obiectiv de dezvoltare. În ciuda diversității economice și politice, există elemente comune care justifică un program regional comun. În acest context, vom împărtăși câteva constatări cu privire la impactul programelor livrate, rezultatele și unele probleme legate de procesele de implementare: Programul Regional UE pentru mediu - sectorul forestier; Studiul privind Sondajele Regionale pentru Justiție; Sectorul transporturilor pentru Parteneriatul Estic - siguranța rutieră.

Analizele realizate denotă faptul că o cooperare comună a donatorilor, realizată prin dialog direct, are ca obiectiv un efort comun și o alocare bugetară eficientă. Acestea sprijină foarte mult implimentarea activităților regionale în contextul național, inclusiv a planurilor sau strategiilor existente și a activităților regiunale commune folosind schimbul de cunoștințe globale și regionale.

Cuvinte cheie: *Asistență oficială pentru dezvoltare, Banca Mondială, Uniunea Europeană, globalizare, Republica Moldova.*

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CZU: 327.009, 339.9.

În ultimii ani, angajamentul comun al Băncii Mondiale și al Uniunii Europene față de sectoarele de dezvoltare, ca strategie de dezvoltare pentru economiile în curs de dezvoltare, a fluctuat.

Acest studiu își propune realizarea unei analize detailate privind actuala structură şi mecanismele gestionării Asistenţei Oficiale de Dezvoltare (AOD) în Republica Moldova şi cercetează eficienţa, şi sinergia contribuției ***Băncii Mondiale*** și ***Uniunii Europene*** în efortul de modernizare a Republicii Moldova.

În sistemul relaţiilor economice internaţionale contemporane ***asistenţa oficială pentru dezvoltare*** (AOD) reprezintă un termen relativ nou. Totuși, această noțiune este prezentată în mai multe surse informative ca drept un instrument tehnic desemnat pentru a promova anumite schimbări pozitive în societate (sprijin pentru dezvoltare conform unor criterii de eficiență), semnificația și rolul acestuia rămân încă destul de vagi. În Republica Moldova, AOD, care este oferită de către partenerii externi, constituie un element important în dezvoltarea economiei naționale, o sursă importantă de investiții în

infrastructură, suport pentru elaborarea și dezvoltarea politicilor sectoriale și, nu în ultimul rând, o oportunitate pentru fortificarea capacităților instituționale ale autorităților publice din țara noastră, dar și un imbold pentru implementarea reformelor.

Instituțiile financiare internaționale (IFI) joacă un rol semnificativ în abordarea problemelor globale și elaborarea propunerilor actuale pentru îmbunătățirea eficienței acestora. Fără aceste resurse ar fi fost imposibilă resuscitarea economică, dar și dezvoltarea infrastructurii sau reformarea instituțiilor statului.[1] Printre principalele instituții financiare internaționale de top din Republica Moldova și, la care facem referință în prezentul articol, sunt: Uniunea Europeană (UE) și Banca Mondială (BM). Aceste instituții oferă sprijin financiar și consultanță profesională pentru activitățile de dezvoltare economică și socială în țara noastră și totodată promovează cooperarea și stabilitatea economică. Una dintre prioritățile acestor instituții continuă să fie coordonarea eficace și valorificarea asistenţei externe prin stabilirea unui larg proces consultativ şi dialog între Guvernul Republicii Moldova, sectorul privat şi societatea civilă. Totodată, aceste instituții financiare internaționale acordă o atenţie sporită asigurării transparenţei şi complementarităţii în procesul de coordonare al asistenţei financiare externe. Dar, totuși, considerăm ca unele instrumente noi, dar și multe instrumente existente pot fi implementate mai eficient pentru a ajuta la formarea condițiilor mai bune, crearea locurilor de muncă și susținerea creșterii economice. Pentru a aborda numeroase probleme este necesară cooperarea internațională atât în sfera economică, cât și în cea politică. Mobilizarea cooperării economice și financiare, inclusiv a problemelor legate de transferul resurselor, este una dintre responsabilitățile cheie ale instituțiilor financiare internaționale. În acest caz, colaborări dintre partenerii de dezvoltare adecvată prin intermediul implementării unor strategii şi programe în Republica Moldova este vitală pentru creşterea economică şi dezvoltare. În prezent, Republica Moldova nu duce lipsă de provocări: nevoile de dezvoltare sunt în continuare mari, în timp ce finanțarea investițiilor în toate sectoarele pare a fi mereu deficitară, chiar și în contextul fondurilor structurale semnificative.

Cooperarea dintre Uniunea Europeană și Banca Mondială va îndeplini realizarea unui dublu deziderat: în primul rând, să se minimizeze suprapunerile și ineficiențele în cadrul proiectelor de sector; în al doilea rând, să se aibă în vedere intervenții integrate, care să se susțină reciproc și, astfel, să creeze un tot unitar. În acest context, această coordonare bilaterală a strategiilor, programelor și a proiectelor de investiții este foarte promițătoare și cu siguranță merită să fie continuată la noi în țară. Cu alte cuvinte, misiunea cooperării este de a asigura nu doar „eficacitatea asistenței”, ci și „eficacitatea dezvoltării”.

La etapa actuală în Republica Moldova, sunt trei programe finanțate de UE și executate prin activități de cunoaştere şi consultanţă de către Banca Mondială, în strânsă coordonare cu părțile cheie interesate:

- Programul Regional UE pentru mediu - sectorul forestier;
- Studiul privind sondajele regionale pentru justiție;
- Sectorul transporturilor pentru parteneriatul estic - siguranța rutieră.

Aceste programe se aliniază la câteva din obiectivele enumerate în Cadrul de Parteneriat cu Ţara (CPŢ) al Băncii Mondiale.[2]

Asistența oficială de dezvoltare.

În prezent, problematica asistenței financiare externe este extrem de actuală și complexă. ***Problema alocării asistenţei financiare externe*** ne orientează către două dileme, și anume: ar trebui aceasta alocată în funcţie de nevoi sau în funcţie de capacitatea de absorbţie a ţării beneficiare? Desigur, răspunsul corect ar fi să se ţină cont de ambele aspecte. Cel mai bun tip de ajutor este acela care satisface nevoile ţării respective şi, în acelaşi timp, potenţează efortul propriu de absorbţie. În felul acesta, ideea necesităţii şi capacităţii de absorbţie sunt combinate ideal. Republica Moldova beneficiază de AOD pentru sprijinirea dezvoltării deja de 27 ani, perioada destul de mare, fapt totuși care denotă că

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[1] Bhargava V. The Role of the International Financial Institutions in Addressing Global Issues. In: Global Issues for Global Citizens. 2016, p. 394. [Online]: https://gbdrrrf.org/system/files/privatefiles/international_financial_institutions_ifis.pdf (Vizitat la: 12.07.2019).

[2] Cadrul de parteneriat cu Republica Moldova pentru perioada 2018-2021. [Online]: https://www.md.undp.org/content/dam/moldova/docs/Legal%20Framework/UNDAF%20Moldova%20RO.pdf (Vizitat la: 16.06.2019).

rezultatele acestui proces rămân[1] discutabile. La proclamarea independenței sale, Republica Moldova avea cel mai înalt venit pe cap de locuitor în cadrul URSS. La etapa actuală, Republica Moldova rămâne una dintre cele mai sărace țări din Europa și se confruntă cu provocări în susținerea progresului.[2]

Menționăm că informația ce ține de asistența financiară externă, oferită Republicii Moldova în ultimii ani, poate fi accesată pe platforma de gestionare a asistenței externe (***Aid Management Platform, AMP***).[3] Conform informației generate de AMP, pe teritoriul Republicii Moldova sunt înregistrate ***2 062 proiecte de asistență externă***. Dintre acestea, peste 460 de proiecte sunt în derulare în țară, iar 77 de proiecte finanțate din surse externe sunt monitorizate în cadrul Bugetului de Stat. Totodată, ținem sa menționăm că principalul document de planificare strategică al țării, în perioada de raportare al acestor date, a fost Strategia Națională de Dezvoltare „Moldova 2020",[4] focalizată pe șapte priorități de dezvoltare. Agenda de reforme a Guvernului este determinată parțial de potențialul de integrare europeană, dar progresul este îngreunat de dinamica instabilității politice. Ca urmare a *„Revolutiei Twitter"*,[5] în perioada 2009-2016, Republica Moldova a fost guvernată de o serie de coaliții, caracterizate prin instabilitate politică, înrăutățirea indicilor de corupție, și nemulțumirea societății de calitatea guvernării. Conform datelor disponibile pe Platforma Gestionarea Asistenței Externe[6] privind angajamentele curente structurate pe donatori/creditori, în perioada 2017-2018, Uniunea Europeană reprezintă cel mai mare donator al Republicii Moldova, fiind urmat de alți principali donatori/creditori multilaterali, și anume: Asociația Internațională de Dezvoltare (parte a Grupului Băncii Mondiale), Banca Europeană de Reconstrucție și Dezvoltare, Banca Europeană de Investiții, ONU. Pe de altă parte, în topul creditorilor/donatorilor bilaterali se regăsesc așa state ca: România, Statele Unite ale Americii, Japonia, Republica Federală Germană, Regatul Suediei, Republica Austria, Confederația Elvețiană. Totodată, în luna februarie, 2019, în conformitate cu principiul condiționalității stricte, Uniunea Europeană a redus asistența financiară externă acordată Republicii Moldova.[7] Ca urmare, plățile din cadrul programelor de asistență macrofinanciară și de suport bugetar ale Uniunii Europene au fost suspendate.[8]

Conform Raportului anual privind asistența financiară externă acordată Republicii Moldova de către partenerii de dezvoltare,[9] mecanismul coordonării acesteia poate fi efectuat în diverse moduri, și anume:

- Coordonarea donatorilor se referă la mecanisme și aranjamente concrete, agreate în cadrul comunității donatorilor, prin care să fie eficientizată activitatea acestora în calitate de parteneri în procesul de dezvoltare.

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[1] Lozovanu V. Asistența externă (AOD) și dezvoltare. În ce măsură AOD a contribuit la dezvoltarea Moldovei? 2014. [Online]: http://atelier-doctoral.blogspot.com/2014/04/valentin-lozovanu-asistenta-externa-aod.html (Vizitat la: 7.08.2019).

[2] Dávalos M.E., Nguyen Tu Chi., Matytsin M. Poverty Reduction and Shared Prosperity in Moldova: Progress and Prospects, Poverty and Equity Global Practice World Bank Group, 2016, Washington DC.

[3] Portarul public al Platformei pentru Gestionarea Asistenței externe al Guvernului Moldovei. [Online]: http://amp.gov.md/portal (Vizitat la: 23.08.2019).

[4] Lege Nr.166 pentru aprobarea Strategiei Naționale de Dezvoltare „Moldova 2020". [Online]: http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=345635). (Vizitat la: 05.08.2019).

[5] Morozov E. Moldova's Twitter Revolution. In: FP. April 7, 2009. [Online]: https://foreignpolicy.com/2009/04/07/moldovas-twitter-revolution/ (Vizitat la: 23.05.2019).

[6] Portarul public al Platformei pentru Gestionarea Asistenței externe al Guvernului Moldovei. [Online]: http://amp.gov.md/portal (Vizitat la: 23.08.2019).

[7] Commission implementing decision, amending Commission Implementing Decision C (2017) 7533 of 8.11.2017 on the Annual Action Programme 2017 in favour of the Republic of Moldova to be financed from the general budget of the Union, Brussels, 5.12.2018. [Online]: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/c_2018_8292_f1_commission_implementing_decision_en_v3_p1_1001441.pdf (Vizitat la: 23.05.2019).

[8] Reducerea sprijinului financiar pentru Moldova. [Online]: https://eeas.EURpa.eu/delegations/moldova/54512/uniunea-EURpean%C4%83-confirm%C4%83-reducerea-sprijinului-financiar-din-cauza-deterior%C4%83rii-statului-de_ro (Vizitat la: 27.03.2019).

[9] Raportul anual privind asistența externă acordată Republicii Moldova în anul 2016. [Online]: http://amp.gov.md/portal/sites/default/files/inline/oda_raport_2016.pdf (Vizitat la: 27.03.2019).

- Coordonarea asistenței se referă la mecanisme și aranjamente stabilite, asupra cărora Guvernul țării și donatorii au convenit de comun acord pentru a maximiza eficacitatea asistenței externe pentru dezvoltare la nivel național sau sectorial (implicarea proactivă a partenerilor guvernamentali, stabilirea platformei pentru eficientizarea sistemelor de prognozare contabile și de management al asistenței de către guvern).
- Coordonarea procesului (la nivel național sau sectorial) se referă la integrarea unui sistem de coordonare al asistenței în sistemele guvernului național (elaborarea și implementarea politicilor, guvernare, răspundere etc.) care, în final, asigură atingerea rezultatelor de dezvoltare.

Înainte de a realiza o analiză a programelor comune finanțate de UE și implementate de către Banca Mondială, ținem să menționăm câteva repere importante despre aceste două instituții financiare internaționale. ***Banca Mondială*** este o sursă de asistență financiară și tehnică pentru țările în curs de dezvoltare din întreaga lume. Nu este o bancă în sens obișnuit, ci un parteneriat unic pentru reducerea sărăciei și sprijinirea dezvoltării. Mandatul fundamental al acestei organizații internaționale ține de sprijinirea factorilor de decizie în promovarea echității și incluziunii, macroeconomiei durabile, transparenței și eficienței sectorului public, productivității și stabilității sectorului financiar - elemente fundamentale pentru reducerea sărăciei și promovarea creșterii favorabile incluziunii. Pe parcursul a celor 25 ani de parteneriat cu RM, relația de colaborare a evoluat în regim continuu pentru a reacționa la provocările economice și sociale ale țării noastre. Angajamentul Băncii Mondiale este ghidat de cadrul de parteneriat cu ţara (CPŢ) pentru perioada 2018- 2021,[1] cu misiunea de a susţine tranziţia Republicii Moldova spre un model de dezvoltare şi creştere mai durabil şi incluziv. CPŢ include trei priorități: i) consolidarea statului de drept și responsabilitatea în instituțiile economice; ii) îmbunătățirea accesului incluziv, eficienței și calității serviciilor publice; și iii) îmbunătățirea calității și relevanței educației și formării competențelor relevante pentru locul de muncă. Acestea sunt completate de o temă transversală a schimbărilor climatice.[2]

Principalele riscuri pentru implementarea programului ambiţios al Băncii Mondiale sunt cele politice şi de guvernanţă, clasificate drept înalte, dar şi capacitatea macroeconomică, instituţională şi fiduciară, clasificate drept substanţiale.

Dacă ținem să evidențiem relațiile Moldovei cu ***Uniunea Europeană*** putem menționa că în prezent acestea sunt ghidate de Acordul de Asociere UE – Republica Moldova (AA), care prevede o asociere politică mai puternică și o integrare economică între UE și Republica Moldova, inclusiv crearea pentru Zona de Liber Schimb Aprofundat și Cuprinzător (DCFTA), care a fost semnat în iunie 2014,[3] și a intrat în vigoare totalmente în iulie 2016.[4] Acordul de Asociere subliniază necesitatea unor reforme-cheie prioritare în democrație, statul de drept, drepturile omului și libertățile fundamentale, buna guvernare, o economie de piață funcțională și dezvoltarea durabilă. Asistența UE este sincronizată cu prioritățile și obiectivele stabilite în AA și este încadrată în Cadrul Unic de Sprijin 2017-2020,[5] care concentrează sprijinul UE în 4 domenii largi: dezvoltarea economică și oportunitățile de pe piață; consolidarea instituțiilor și a bunei guvernări, inclusiv statul de drept și de securitate; conectivitate, eficiență energetică, mediu și schimbările climatice; mobilitatea și contactele interumane, inclusiv sprijinul pentru obiectivele de referință privind liberalizarea vizelor și educația, formarea și cercetarea. O dispoziție complementară a Cadrului Unic de Sprijin este dedicat activităților de dezvoltare a capacităților și instituțiilor pentru punerea în aplicare a angajamentelor prioritare care decurg din

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[1] Cadrul de parteneriat cu Republica Moldova pentru perioada 2018-2021. [Online]: https://www.md.undp.org/content/dam/moldova/docs/Legal%20Framework/UNDAF%20Moldova%20RO.pdf (Vizitat la: 16.06.2019).

[2] Idem.

[3] Implementarea Politicii Europene de Vecinătate în Republica Moldova Progresul în 2014 și recomandări pentru acțiune. Bruxelles, 25.3.2015 SWD(2015) 69 final. [Online]: http://eeas.europa.eu/archives/delegations/moldova/documents/press_corner/repulic-of-moldova-enp-report-2015_ro.pdf (Vizitat la: 27.03.2019).

[4] Raport referitor la punerea în aplicare a Acordului de asociere UE- Moldova, 2018. [Online]: http://www.europarl.europa.eu/doceo/document/A-8-2018-0322_RO.html (Vizitat la: 27.03.2019).

[5] Strategia Europeană comună de cooperare pentru dezvoltare Guvernului Republicii Moldova, comunicat de presă. [Online]: https://eeas.europa.eu/delegations/moldova/40537/delega%C8%9Bia-uniunii-europene-%C3%AEn-republica-moldova-%C3%AEmpreun%C4%83-cu-statele-membre-ale-ue-%C8%99i-elve%C8%9Bia_ro (Vizitat la: 27.03.2019).

acordurile UE. În Republica Moldova, UE sprijină modernizarea prin reforme destinate creșterii și creării locurilor de muncă, precum și pentru respectarea drepturilor omului și consolidarea democrației. Integrarea europeană a stat la baza agendei guvernamentale de reforme ale politicilor, însă, reformele care sunt teoretic solide necesită implementare. Sistemul politic vulnerabil, societatea polarizată, mediul extern advers, dezechilibrele de competențe pe piața muncii și șocurile climatice sunt provocări economice pentru Republica Moldova.[1] Conform raportului ***Revizuirea Politicii Europene de Vecinătate***, UE și-a propus ca obiectiv să intensifice cooperarea cu instituțiile financiare internaționale (IFI), în special Banca Europeană de Investiții (BEI), Banca Europeană pentru Reconstrucție și Dezvoltare (BERD), Banca Mondială și Fondul Monetar Internațional (FMI) și organizațiile internaționale relevante pentru dezvoltarea sectorului privat și inițiative care promovează creșterea și angajarea incluzivă și îmbunătățesc condițiile de viață pentru cetățeni.[2] La nivel global, Uniunea Europeana și-a propus ca strategie: aprofundarea parteneriatelor adaptate către vecinătatea estică, consolidarea conexiunilor sociale prin îmbunătățirea schimburilor de mobilitate, culturale și educaționale, cooperarea în cercetare, platforme ale societății civile.[3]

În 2009, Uniunea Europeană (UE) a lansat o inițiativă de politică comună, Parteneriatul Estic (EaP), care are drept ***scop*** aprofundarea și consolidarea relațiilor dintre UE, statele membre și cele șase state vecine ale Estului (Armenia, Azerbaidjan, Belarus, Georgia, Republica Moldova și Ucraina). În acest cadru, toți partenerii s-au angajat să demonstreze și să ofere beneficii concrete vieții de zi cu zi a cetățenilor din regiune (inclusiv RM), concentrându-se pe realizarea a 20 de rezultate pentru anul 2020 în patru domenii prioritare cheie,[4] și anume:

- dezvoltare economică și oportunități de piață;
- consolidarea instituțiilor și buna guvernare;
- conectivitate, eficiență energetică, mediu și schimbări climatice;
- mobilitate și contacte între persoane;

EaP își propune să construiască o zonă comună de democrație, prosperitate, stabilitate și cooperare sporită. Acordurile de Asociere și Zonele de Liber Schimb Aprofundat și Cuprinzător (AA / DCFTA), încheiate în 2014, au readus relațiile dintre UE și Georgia, Moldova și Ucraina la un nou nivel. Acordurile vizează consolidarea asocierii politice și integrarea economică în regiune. Acestea implică reforme semnificative care au ca scop apropierea țărilor partenere de UE, alinierea legislației și standardelor cu cele din UE.[5]

La etapa actuală în Republica Moldova, sunt ***trei programe*** finanțate de UE și executate prin activități de cunoaștere și consultanță de către Banca Mondială, în strânsă coordonare cu părțile cheie interesate.

Programul regional UE pentru mediu - sectorul forestier a fost lansat în RM în 2019 pentru a sprijini politicile ecologice și dezvoltarea durabilă în cele șase țări ale EaP. Acest program este finanțat de Uniunea Europeană, cu un buget de 20 de milioane euro și implementat de trei agenții ONU (UNIDO, UNECE, Mediu ONU), OCDE și Banca Mondială.[6] Obiectivul programului ***regional UE pentru mediu - sectorul forestier*** este de a ajuta țările partenere să-și păstreze capitalul natural și să sporească bunăstarea mediului, sprijinind acțiuni legate de mediu, demonstrând și deblocând oportunități pentru o creștere mai ecologică și stabilind mecanisme pentru a gestiona mai bine riscurile

[1] Banca Mondială în Moldova Sinteza programului de activitate în țară. Aprilie 2018, p. 2. [Online]: http://pubdocs.worldbank.org/en/203121525075159390/Moldova-CountrySnapshot-SM2018-Final-RO.pdf, (Vizitat la: 12.07.2019).

[2] Joint Communication to the European Parliament, the Council European Economic and Social, The Committee and the Committee of the Regions. In: Review of the European Neighbourhood Policy. Brussels, 18.11.2015 JOIN (2015) 50 final. [Online]: http://eeas.europa.eu/archives/docs/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf (Vizitat la: 12.07.2019).

[3] EU Global Strategy: Three years on, looking forward. [Online]: https://eeas.europa.eu/sites/eeas/files/eu_global_strategy_2019.pdf (Vizitat la: 16.06.2019).

[4] 20 Deliverables for 2020: Bringing tangible results for citizens. [Online]: https://eeas.europa.eu/sites/eeas/files/20_deliverables_for_2020.pdf (Vizitat la: 09.04.2019).

[5] [Online]: https://eeas.europa.eu/diplomatic-network/eastern-partnership/419/eastern-partnership_en (Vizitat la: 27.03.2019).

[6] [Online]: https://www.euneighbours.eu/en/east/stay-informed/projects/eu4environment (Vizitat la: 27.03.2019).

și impactul asupra mediului. Programul va fi implementat prin planuri de lucru specifice fiecărei țări, adaptate nevoilor și angajamentelor fiecărei țări partenere (inclusiv RM). Experiența UE va fi utilizată ca referință pentru activități și rezultate. Inițiativa UE pentru mediu se integrează într-un singur cadru strategic, activități care au fost desfășurate în trecut în cadrul mai multor proiecte, contribuind la realizarea modificărilor politice și legislative, făcând planificarea investițiilor mai ecologice, stimulând adoptarea tehnologiilor inovatoare, adoptând noi modele de afaceri și creând locuri de muncă verzi. De asemenea, va promova o mai bună guvernanță a mediului, gestionarea îmbunătățită a ariilor protejate și a pădurilor.[1] Activitățile executate de Banca Mondială vor consta în asistență tehnică, consultanță și analize prin contribuții ale personalului Băncii, consultanți, ateliere, pregătirea manualelor și a documentelor de orientare, activități demonstrative și alte acțiuni comparabile. În ciuda diversității economice și politice dintre cele șase țări, există elemente comune care justifică un program regional comun. Sectorul forestier s-a reformat lent și există încă oportunități de îmbunătățire a guvernanței și de gestionare mai larg, inclusiv a zonelor protejate.[2] Conform rapoartelor accesate pe pagina oficială a ***programului regional UE pentru mediu***,[3] RM va beneficia de experiența Băncii din activități comparabile în alte regiuni. În plus, Banca are prezența fizică și este implicată în dialogul politic continuu, dincolo de gestionarea resurselor naturale în toate țările partenere. Acest lucru permite susținerea angajamentului Băncii în domenii precum guvernanța, dezvoltarea instituțională, comerțul și competitivitatea, de asemenea, în beneficiul ***programului regional UE pentru mediu - sectorul forestier***. Banca Mondială va oferi consultanță și asistență tehnică celor șase țări (Armenia, Azerbaidjan, Belarus, Georgia, Republica Moldova și Ucraina) în protejarea mediului lor natural, în producerea durabilă și legală și comerțul cu produse forestiere și va contribui la asigurarea unei finanțări stabile și previzibile pentru sector. Astfel, activitățile regionale, naționale și locale vor fi sprijinite.

Vecinii din estul UE (Armenia, Azerbaidjan, Belarus, Georgia, Republica Moldova și Ucraina) se confruntă cu provocări similare atunci când este vorba de îmbunătățirea sistemelor de guvernanță internă. Deși progresul poate fi diferit de la o țară parteneră la alta, consolidarea democrației profunde și durabile și respectarea statului de drept sunt încă realizate în toată regiunea. Câteva teme comune apar în majoritatea eforturilor de reformare, de exemplu, a sistemelor judiciare, de la eficiență și echitate, precum și la calitatea justiției. În acest context, sistemele de justiție eficiente și accesibile ar trebui să ofere justiție și echitate litiganților cu costuri și viteză rezonabile, într-un mod transparent și receptiv și cu cât mai multă securitate juridică.[4]

Împreună cu Banca Mondială, UE își propune să evalueze în RM, impactul reformelor în justiție pentru cetățeni prin ***sondaje de justiție regionale*** cu privire la performanța sistemului de justiție în anumite țări din regiune, inclusiv în RM (al doilea program la care facem referință). Sondajele vor permite comparații detaliate ale sistemelor de justiție care funcționează în practică în aceste țări și evaluarea comparativă a performanței sistemului de justiție între țări. Datele generate de sondaje vor informa instituțiile subordonate Guvernului RM și vor oferi o bază de referință pentru a putea măsura impactul viitoarelor inițiative de reformă în justiție. La nivel regional, guvernele din cele 6 țări ale Parteneriatului Estic (Armenia, Azerbaidjan, Belarus, Georgia, Moldova și Ucraina) și 6 țări din Balcanii de Vest (Albania, Bosnia și Herțegovina, Kosovo, Macedonia, Muntenegru și Serbia) vor participa la studiu. În cadrul ***Studiului privind Sondajele Regionale pentru Justiție,*** Banca Mondială împreună cu UE vor căuta sinergii cu acțiunile bilaterale și vor evita suprapunerile și dubla finanțare cu

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[1] Idem.

[2] Implementation completion and results report (TF-13973 TF-14063) on a trust fund grant in the amount of euros 9.00 million (US$ 11.21 million equivalent) to International Union for Conservation of Nature (IUCN) and Worldwide Fund Nature (WWF) for the European Neighborhood and partnership Instrument East Countries Forest Law Enforcement and Governance II Program. June 28, 2017. [Online]: http://documents.worldbank.org/curated/en/988361500058259770/pdf/ICR-Main-Document-P131138-2017-06-30-16-58-06282017.pdf (Vizitat la: 27.09.2019).

[3] [Online]: https://www.euneighbours.eu/en/east/stay-informed/projects/eu4environment (Vizitat la: 27.03.2019).

[4] ANNEX 3 of the Commission Implementing Decision on the Neighbourhood East Regional Action Programme 2018 Part 2 (including one action on the 2019 budget) Action Document for the Support to Rule of Law and Justice in the Eastern Partnership. [Online]: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/c_2018_6298_f1_annex_en_v2_p1_987809.pdf (Vizitat la: 11.03.2019).

inițiativele în curs de desfășurare, precum și cele planificate deja.[1] Studiul regional de justiție va oferi informații despre modul în care funcționează sistemul de justiție și impactul reformelor justiției în Moldova, mai ales prin aprecierea satisfacției, opiniilor și experiențelor cetățenilor și instituțiilor publice. În acest context, evoluează angajamentele bilaterale de eficientizare a cooperării pentru dezvoltarea sectorului justiției și a responsabilității reciproce față de atingerea obiectivelor de dezvoltare naționale.[2]

Al treilea program, la care am vrea să facem referință, este ***Cadrul de cooperare pentru siguranța rutieră a Parteneriatului estic*** (sectorul transportului), considerat un factor crucial al dezvoltării economice și sociale, oferind oportunități pentru paturile sărace și permițând economiilor sa fie mai competitive. Infrastructura de transport leagă oamenii de locurile lor de muncă, educație și serviciile de sănătate; permite furnizarea de bunuri și servicii în întreaga lume; permite oamenilor să interacționeze și să genereze cunoștințe și soluții care favorizează creșterea pe termen lung. ***Comunitatea grupului de transporturi pentru Parteneriatul Estic*** (EAP TP)[3] este un cadru stabilit pentru schimbul de informații și cele mai bune practici privind proiectele de transport în Armenia, Azerbaidjan, Belarus, Georgia, Moldova, Ucraina, și sistem de date în caz de accidente rutiere.[4] Această activitate este finanțată de Uniunea Europeană, prin sprijinul de implementare al Băncii Mondiale. Se planifică ca acest program va contribui la drumuri mai sigure în țările parteneriatului estic. Cadrul de cooperare pentru siguranța rutieră a Parteneriatului Estic este un program pentru schimbul de informații și cele mai bune practici între cele șase țări partenere (Armenia, Azerbaidjan, Belarus, Georgia, Moldova, Ucraina) și statele membre ale UE. Acesta are ca scop consolidarea managementului siguranței rutiere, dezvoltarea de proiecte orientate către măsuri de siguranță rutieră pentru reducerea deceselor și accidentelor rutiere, sprijinirea unei mai bune aplicări a vitezei și altor norme de trafic, precum și îmbunătățiri ale siguranței infrastructurii rutiere în Republica Moldova.[5] Pentru a stabili o abordare comună în ceea ce privește siguranța rutieră și pentru a obține rezultate concrete, în 2017 au fost create trei grupuri regionale de lucru privind siguranța rutieră care acoperă domeniile prioritare, după cum urmează:

- Managementul siguranței rutiere, coordonarea și îmbunătățirea sistemului de date de avarie;
- Gestionarea și aplicarea vitezei și
- Ingineria siguranței și gestionarea punctelor negre.

Echipa Băncii Mondiale oferă expertiză tehnică pentru a sprijini funcționarea celor trei grupuri de lucru regionale.[6] Aceste strategii comune propun acțiuni menite să crească veniturile Fondului Rutier pentru a asigura întreținerea, reabilitarea și modernizarea corespunzătoare a rețelei rutiere în RM. Având în vedere creșterile generale ale mărimii fondului rutier din ultimii ani, totuși, este necesară îmbunătățirea sistemelor de monitorizare a cheltuielilor Fondului Rutier pentru a eficientiza gestionarea și a spori responsabilitatea, întrucât creșterea finanțării numai pentru întreținere este puțin probabilă.

Concluzii:

Uniunea Europeana și ***Banca Mondială*** au dezvoltat un parteneriat puternic și larg, iar programele propuse, finanțate de UE și executate prin activități de cunoaştere şi consultanţă de Banca Mondială își propun să ofere sprijin dezvoltării capacității și activităților de consolidare al instituțiilor legate de punerea în aplicare a Acordului de Asociere Uniunea Europeană - Republica Moldova.

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[1] Notă de concept privind viziunea Strategiei Naționale de Dezvoltare „Moldova 2030”. [Online]: https://cancelaria.gov.md/sites/default/files/document/attachments/viziunea_snd_2030_2_0.pdf (Vizitat la: 11.09.2019).

[2] Idem.

[3] Eastern Partnership Transport Panel. [Online]: https://ec.europa.eu/transport/themes/international/european_neighbourhood_policy/eastern_partnership/transport-panel_en (Vizitat la: 11.09.2019).

[4] Crash data systems in the EaP countries regional guideline common accident dataset. Variables for utilization by EaP Countries. 2019, World Bank.

[5] Eastern Partnership Transport Panel. [Online]: https://ec.europa.eu/transport/themes/international/european_neighbourhood_policy/eastern_partnership/transport-panel_en (Vizitat la: 11.09.2019).

[6] [Online]: http://documents.worldbank.org/curated/en/604221499282920085/pdf/MOLDOVA-CPF-FY18-21-20170629-final-07052017.pdf (Vizitat la: 11.09.2019).

Asistența financiară internațională constituie una din principalele resurse semnificative pe care le are Republica Moldova pentru a fi folosite în scopul dezvoltării și modernizării țării. Totuși, ea reprezintă un punct de sprijin atât din punct de vedere politic, prin felul în care aceasta este condiționată de o serie de reforme, cât și economic, sub forma unui sprijin din partea partenerilor de dezvoltare pentru realizarea scopurilor pe care și le-a propus țara noastră în strategiile sale de dezvoltare.

Deși Republica Moldova este un recipient al asistenței oficiale de dezvoltare în regiune, este de remarcat, cu regret, că în continuare capacitatea de absorbție la nivel național a resurselor alocate este joasă. Pentru sprijinirea implementării strategiilor naționale, aceasta trebuie să fie utilizată mai eficace de către țara noastră, asigurând transparența și credibilitatea care rămân provocări cheie.

În anul 2019, Guvernul Republicii Moldova a depus eforturi considerabile pentru deblocarea asistenței financiare externe, în special a Programelor de suport bugetar, suspendate de către unii parteneri de dezvoltare în februarie anul curent.

Pentru a crește gradul de transparență a utilizării asistenței externe, responsabilității în gestionarea și valorificarea resurselor de care beneficiază Republica Moldova (la etapa de evaluare și monitorizare), ar fi binevenit ca Guvernul RM, Ministerul Finanțelor (unitatea națională de coordonare financiară) și Cancelaria de Stat (unitatea națională de coordonare tehnica) să publice sistematic rapoartele de monitorizare și evaluare pe site-urile lor, inclusiv actualizarea informației despre proiecte/programe de asistență externe pe ***AMP***.

Principalele riscuri pentru implementarea programului ambițios al Băncii Mondiale sunt cele politice şi de guvernanţă, clasificate drept înalte, dar şi capacitatea macroeconomică, instituțională şi fiduciară, clasificate drept substanțiale.

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THE NEOLIBERAL ROOTS OF CHILEAN PROTEST

RĂDĂCINILE NEOLIBERALE ALE PROTESTULUI CHILIAN

НЕОЛИБЕРАЛЬНЫЕ КОРНИ ЧИЛИЙСКОГО ПРОТЕСТА

JANČOVIČ Peter*

ABSTRACT:
THE NEOLIBERAL ROOTS OF CHILEAN PROTEST

Most of Latin American countries adopted neoliberal economic model, later known as Washington Consensus in order to boost their economic performance. Chile has begun with neoliberal reforms during military dictatorship of Augusto Pinochet notably during 1980s. On the one hand, privatisation, marketization, deregulation and other liberal reforms influenced by the economists called Chicago Boys conduced to the economic growth of Chile. This period is well known as the Miracle of Chile. However, on the other hand, Pinochet's era has resulted in rising socioeconomic inequalities among citizens and eventually it has significant impact on nowadays Chilean disorders and protests.

This paper aims to give an overview on neoliberal economic model implemented by Pinochet and the implications of neoliberal reforms on present socioeconomic reality in Chile. The main purpose of the paper is to identify the reasons that have led to contemporary civil protests and find out their historical connections. Due to the fact that Chile is the only South American member state of the Organisation for Economic Co-operation and Development, we use mainly database of the OECD together with database of the World Bank. In conclusion, we confirm the assumption that several reasons of protests from October 2019 have their roots in Pinochet's neoliberal economic model. It follows that 0.045 US$ increase in subway fares in October 2019 was just the initiator of more comprehensive socioeconomic problems.

Key words: *Augusto Pinochet, neoliberalism, protest, inequality.*

JEL Classification: N36, P51

REZUMAT:
RĂDĂCINILE NEOLIBERALE ALE PROTESTULUI CHILIAN

Majoritatea ţărilor din America Latină au adoptat modelul economic neoliberal, cunoscut ulterior drept Consensul de la Washington pentru a-şi spori performanţele economice. Chile a început cu reformele neoliberale în timpul dictaturii militare a lui Augusto Pinochet, în special în timpul anilor 1980. Pe de o parte, privatizarea, marketizarea, dereglementarea şi alte reforme liberale influenţată de economişti numit "Chicago Boys" a dus la creşterea economică din Chile. Această perioadă este cunoscută sub numele de "Miracolul din Chile". Cu toate

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acestea, pe de altă parte, epoca lui Pinochet a dus la creșterea inegalităților socio-economice în rândul cetățenilor și, în cele din urmă, are un impact semnificativ asupra tulburărilor și protestelor chiliene din zilele noastre.

Acest articol își propune să ofere o imagine de ansamblu asupra modelului economic neoliberal implementat de Pinochet și asupra implicațiilor reformelor neoliberale asupra actualei realități socio-economice din Chile. Scopul principal al articolului este de a identifica motivele care au dus la proteste civile contemporane și de a afla legăturile lor istorice. Datorită faptului că Chile este singurul stat Sud-American membru al Organizației pentru Cooperare și Dezvoltare Economică, folosim în principal baza de date a OCDE împreună cu baza de date a Băncii Mondiale. În concluzie, confirmăm ipoteza că mai multe motive de proteste din octombrie 2019 își au rădăcinile în modelul economic neoliberal al lui Pinochet. Rezultă că o creștere de 0,045 USD a tarifelor de metrou în octombrie 2019 a fost doar inițiatorul unor probleme socio-economice mai cuprinzătoare.

Cuvinte cheie: *Augusto Pinochet, neoliberalism, protest, inegalitate.*

JEL Classification: N36, P51
CZU: 321:342.3, 321.6/8

РЕЗЮМЕ:

НЕОЛИБЕРАЛЬНЫЕ КОРНИ ЧИЛИЙСКОГО ПРОТЕСТА

Большинство латиноамериканских стран приняли неолиберальную экономическую модель, позже известную как Вашингтонский консенсус, чтобы повысить свои экономические показатели. В Чили началось с неолиберальных реформ во время военной диктатуры Аугусто Пиночета, особенно в 1980-х гг. С одной стороны, приватизация, маркетизация, дерегулирование и другие либеральные реформы под влиянием экономистов, называемых чикагскими мальчиками, способствовали экономическому росту Чили. Этот период хорошо известен как чудо Чили. Однако, с другой стороны, эпоха Пиночета привела к росту социально-экономического неравенства среди граждан и в конечном итоге оказала значительное влияние на нынешние чилийские беспорядки и протесты.

Цель данной статьи - дать обзор неолиберальной экономической модели, реализованной Пиночетом, и последствий неолиберальных реформ для современной социально-экономической реальности Чили. Основная цель статьи - выявить причины, которые привели к современным гражданским протестам, и выяснить их исторические связи. В связи с тем, что Чили является единственным южноамериканским государством - членом Организации экономического сотрудничества и развития, мы используем в основном базу данных ОЭСР вместе с базой данных Всемирного банка. В заключение мы подтверждаем предположение, что несколько причин протестов с октября 2019 года имеют свои корни в неолиберальной экономической модели Пиночета. Из этого следует, что повышение тарифов на проезд в метро на 0,045 доллара США в октябре 2019 года было лишь инициатором более комплексных социально-экономических проблем.

Ключевые слова: *Аугусто Пиночет, неолиберализм, протест, неравенство.*

JEL Classification: N36, P51
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1. Introduction and literature overview

The history of independent Chile can be described by changing democratic and undemocratic regimes as well as by the alternation of right-wing and left-wing governments. Nowadays, the Republic of Chile is the only South American member state of the OECD with the best ranking according to *Doing Business 2019* report within the South American region.[1] In general terms, Chile is considered as the most consolidated and the most developed state of South America with stable democracy and developed market economy. However, Chile is still one of the most unequal countries in terms of income distribution in the world. In Chile, there have appeared intensive and huge civil protests against the Chilean Government, in October 2019. The aim of this paper is to identify socioeconomic reasons

[1] Doing Business 2019. [On-line]: https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf (Visited on: 15.11.2019).

of contemporary civil protests and find out historical connections to the current socioeconomic state of Chile and of its citizens.

The region of Latin America and Caribbean is traditionally one of the most unequal regions due to the unfair distribution of wealth. McKay argues that in Latin America, there has been reduction in income disparities in the early 2000s resulting from diminution of many of earlier policies based around the Washington Consensus and its orthodox policies.[1] Thus, the neoliberal economic model implemented in many Latin American countries have contributed to an increase in socioeconomic inequalities. The criticism of Washington Consensus was also stressed by Stiglitz who asserted that these policies are not suitable for each developing country because they are not able to react on specific local circumstances.[2]

Augusto Pinochet (his regime 1973–1990) implemented the neoliberal economic model in Chile notably during 1980s in accordance with suggestions of Milton Friedman's students called *Chicago Boys*, who served as technocrats in Chile. In general terms, we particularly agree with the theory of McKay due to the hypothesis we deal with in this paper that Pinochet's economic model, especially deregulation of markets, privatization of the social security system and privatization of some public services have resulted in rising social and income inequality (Sehnbruch).[3] In addition to that, Chile seems to be an exception to the policies applied by other Latin American states since 2000s that consists in partially diminution of neoliberal thoughts.

We use information mainly from database of the World Bank Group, OECD and International Monetary Fund. There exist several approaches how to measure income inequality such as Lorenz curve, Gini coefficient or size distributions. For the purpose of our analysis we use Gini coefficient that measures the extent to which the distribution of income among individuals deviates from a perfectly equal distribution (World Bank). Palma ratio can be characterised as the ratio of income share of 10 % people with the highest disposable income divided by the share of all income received by the 40 % people with the lowest disposable income (OECD). We use general theoretical and statistical methods in this paper.

The intensive demonstrations in Chile began as a reaction of citizens on the rise of subway fares in October 2019. Despite the increase in subway fares for only 3.75 % (0.045 US$) the protests had more serious and historically based reasons such as rising cost of living, multidimensional inequality in Chilean society or call for improvements in social services provided by state or by private companies.[4] The civil protests were directed against the administration of centre-right president of Republic of Chile Sebastián Piñera and his cabinet. There had been other previous protests, like for example student protests in 2006 and 2011 during which students asked for improvements in public education causing differences between rich and poor and thus for elimination of social inequalities.[5] Other demonstrations were held in 2016 where protesters asked for reforms of private pension system as well as for changes in privatized water supply. There is one significant difference between previous protests and demonstration of October 2019 – the extent of October's protest was more comprehensive and related to wide range of everyday human lives.

2. Reasons of protests focused on their origins

The neoliberal educational system in Chile was put into practise by Augusto Pinochet who was influenced by the economists Chicago Boys. Privatization of educational system should initially increase the level of education by competing for students among schools. However, in reality, this system has caused limited access as well as restricted choice of schools for students from lower and middle classes because of private and elitist educational model established in the country. Privatization

[1] Kingsbury D. et al. International Development. Issues and Challenges. London: Macmillan Ltd, 2016, p. 103.

[2] Kingsbury D. et al. International Development. Issues and Challenges. London: Macmillan Ltd, 2016, p. 95.

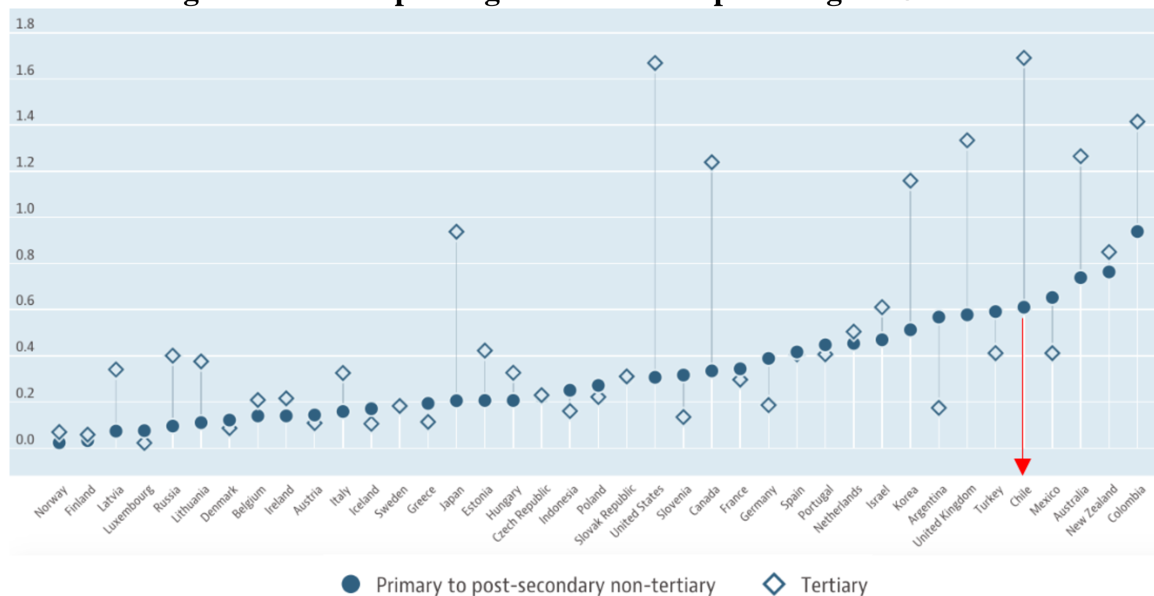
[3] Sehnbruch K. How Pinochet's economic model led to the current crisis engulfing Chile. In: *The Guardian*. [On-line]: https://www.theguardian.com/world/2019/oct/30/pinochet-economic-model-current-crisis-chile (Visited on: 17.11.2019).

[4] Garnham J. P., Alonso N. Why Chile's Massive Protests Started with a Subway Fare Hike. 2019. [On-line]: https://www.citylab.com/equity/2019/10/chile-protest-santiago-metro-public-transit-fare-inequality/600874/ (Visited on: 17.11.2019).

[5] Cabalin C. Neoliberal Education and Student Movements in Chile: inequalities and malaise. 2012. [On-line]: http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1011.4194&rep=rep1&type=pdf (Visited on: 18.11.2019).

of Chile's tertiary education resulted nowadays in one of the highest average tuition fees paid for higher education in the world. The annual average tuition fees paid for bachelor's programmes provided by public institutions exceed 7,500 US$ in 2017/2018.[1] According to Figure 1, households and other private entities spend on tertiary education 1.69 % of GDP. It makes Chile one of the most expensive countries in terms of expenditure on private and public universities, measured as a percentage of GDP. Private spending on primary and secondary education is also high relatively to the rest of OECD countries (see Figure 1). In Chile, there is still significant level of socioeconomic segregation despite the reforms of educational system carried out by Michelle Bachelet's administration. There exists a large number of private schools. Chile is one of the most socially segregated country in the world in terms of the lowest degree of social diversity in schools (high value of no-diversity index).[2] This can be an evidence of the restricted access to education for many citizens.

Figure 1: Private spending on education as percentage of GDP in 2016



Source: OECD

Chilean citizens are dissatisfied with providing expensive and privatized public services. Private ownership and rising prices of some goods and services limit the access of many citizens to them, such as the case of health care services. Chileans also expressed complaints about rising electricity prices or rising cost of privatized water in addition to the higher transportation cost.[3] Based on the review of *SEG Ingeniería* from 2018, Chile is the second most expensive country in terms of electricity prices within the Latin American region (the first place is occupied by Uruguay).[4] Furthermore, the price of electricity in Chile went up by 19 % in 2019.[5] Chile's Constitution of 1980 grants to entitled individuals the property over waters in order to allocate effectively this resource through market forces.[6] Privatized and market-oriented water model is a part of Pinochet's neoliberal reforms and it promotes high local prices. The water tariffs in Chile differs. In Coyhaique the water tariff per cubic

[1] OECD. Education at a Glance 2019. [On-line]: https://www.oecd.org/education/education-at-a-glance/ (Visited on: 19.11.2019).

[2] OECD. PISA 2015 Database, Social segregation in educational system. [On-line]: https://www.oecd.org/pisa/data/2015database/ (Visited on: 19.11.2019).

[3] Gramer R. Miles E. Why Chileans Are Still Protesting Despite Reform Promises. In: *Foreign Policy*. [On-line]: https://foreignpolicy.com/2019/10/23/chile-protests-economic-inequality-reforms/ (Visited on: 1.12.2019).

[4] SEG Ingeniería. Indicadores Energeticos. [On-line]: https://www.segingenieria.com (Visited on: 21.11.2019).

[5] Matamala D. How Economic Concentration and Crony Capitalism Led to the Chaos in Chile. 2019. [On-line]: https://promarket.org/how-economic-concentration-and-crony-capitalism-led-to-the-chaos-in-chile/ (Visited on: 21.11.2019).

[6] Chile's Constitution of 1980, article 19, statement 24.

meter is 2.4 times higher than the tariff in Santiago de Chile.[1] Regional and local differences in water tariffs within Chile make some Chilean areas, especially cities the most expensive relative to the rest of Latin American cities.

One of the results of Pinochet's neoliberal economic model is privatized pension system that was launched in 1981 and that is managed by the private administrators known as *AFP – Administradoras de Fondos de Pensiones.*[2] The Chilean pension system based on individual capitalization became pioneering and it served as an example for other Latin American states but also for several European countries. Thus, the pay-as-you-go system was replaced by one's responsibility for his or her retirement. The pension system became one of the factors of the economic prosperity in Chile through the accumulation of capital. Subsequently, it became a source of investments. However, the pensioners receive relatively low pensions even though the proprietors of AFP have high profits from realized investments of disposable capital accumulated in funds.[3] The net pension replacement rate accounts only 40 % of pre-retirement earnings in Chile in 2016, despite the initial commitment of 70 % income replacement.[4] This indicator measures the effectivity of pension systems. In other words, a retirement income of Chile represents only 40 % of the income earned before retirement, while the OECD average represents 63 %. Nowadays, the result of pension system established by Pinochet consists in inadequate payouts of pensioners.

According to mentioned circumstances, one of the most important reasons of October 2019 demonstration is insufficient welfare state originated in partial privatization and marketization of public services (especially education, health care and pension system) since Pinochet era. The deficiency in welfare state can be proved by lack of expenditure for social purposes. The public social spending as a percentage of GDP amounts 10.9 % in 2018, while the average of OECD countries represents 20.1 %.[5] In addition to that, there are also political inequalities characterised by the elements of the *elitist democracy* with insufficient social participation and the exclusion of citizens from Chilean political system.[6] This type of democracy is a consequence of Constitution established by Augusto Pinochet in 1980 that is still in force, in spite of some revisions. The beginning of neoliberal economic model in Chile was related to undemocratic military regime. Thus, the limited elitist democracy can be considered as a result of country's political development.

The multidimensional inequality of Chile lies in uneven society, material, educational and political inequalities but the most in income inequality. Based on the data of the World Bank, Gini coefficient with the value of 46.6 in 2017 indicates high income disparity among Chilean inhabitants. Chile is the most unequal country within OECD member states and there is one of the most unequal distribution of income in the world, on the basis of Gini coefficient (see Figure 2). Different living standards are also visible through the Palma ratio which was equal to 2.55 in 2017 that indicates the share of all income received by 10 % people with the highest disposable income is 2.55 times higher than the share of all income received by 40 % of population with the lowest disposable income.[7] On the one side, Republic of Chile is developed (as a member of OECD) and high income country with GNI per capita equal to 14,670 US$ in 2018 but on the other side, in terms of the income distribution it is more similar to most of developing countries (see Figure 2). Gross national income in Chile is relatively high in comparison

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[1] Cabello C. Es cara el agua en Chile? Informe de la Siss comparó las tarifas locales con el mundo. 2019. [On-line]: https://www.latercera.com/pulso/noticia/cara-agua-chile-informe-la-siss-comparo-las-tarifas-locales-mundo/761430/ (Visited on: 26.11.2019).

[2] Solimano A. Crecimiento, Desigualdad y Democracia: La Transformación Capitalista en Chile. 2015. [On-line]: https://www.ciglob.org/ciglob_en/wp-content/uploads/2016/08/22-Transformacion-Capitalista-en-Chile-Crecimiento_Desigualdad_y_Democracia_.pdf (Visited on: 27.11.2019).

[3] Ibidem.

[4] OECD. Net pension replacment rates. [On-line]: https://data.oecd.org/pension/net-pension-replacement-rates.htm (Visited on: 27.11.2019).

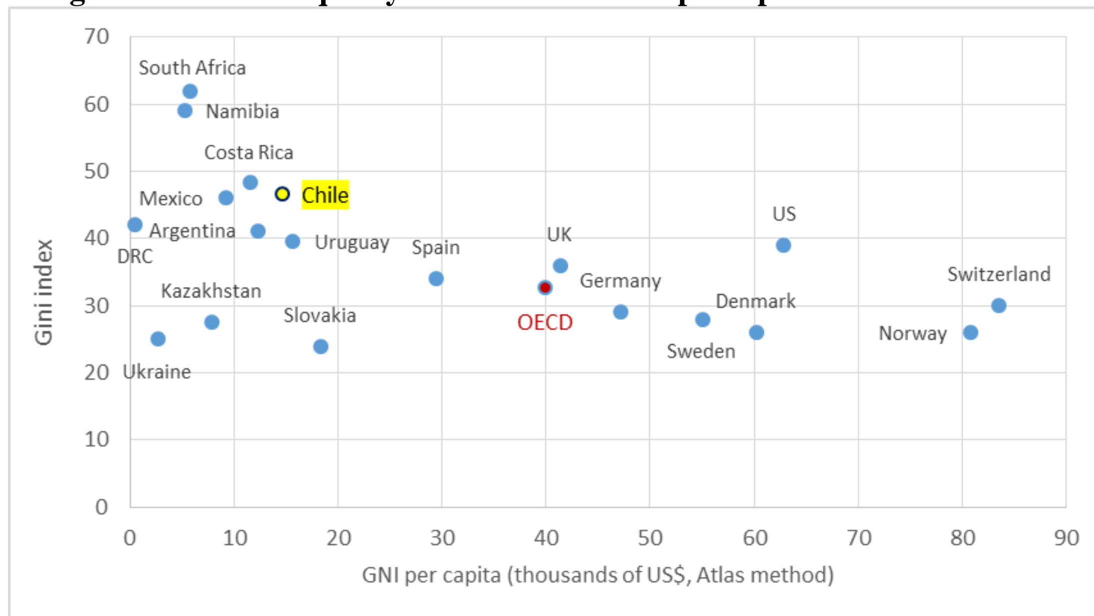
[5] OECD. Social Expenditure Database (SOCX). [On-line]: https://www.oecd.org/social/expenditure.htm (Visited on: 27.11.2019).

[6] Delamaza G. La Disputa por la Participación en la Democracia Elitista Chilena. In: *Latin American Research Review*, p. 274-297. [On-line]: https://www.jstor.org/stable/27919222?seq=1 (Visited on: 29.11.2019).

[7] Delamaza G. La Disputa por la Participación en la Democracia Elitista Chilena. In: *Latin American Research Review*, p. 274-297. [On-line]: https://www.jstor.org/stable/27919222?seq=1 (Visited on: 29.11.2019).

to the rest of Latin American countries but distribution of this income among citizens is considered as one of the most unequitable within the region. One percent of the richest Chileans controls over 33 % of national income.[1]

Figure 2: Income inequality and national income per capita in selected countries



Source: author's own, based on data of World Bank and OECD

During the administration of left-wing president of Chile Salvador Allende (1970 – 1973) there was an attempt to implement the socialist economic model – *la vía chilena al socialismo*. It was exercised through expropriation and nationalization of mining industry and other companies. It led to conflicts with the US government because of the US ownerships and interests in Chile. Salvador Allende attempted to redistribute income in accordance with the ideology of socialism. The idea of income redistribution was realized through increasing of social expenditure, raising of wages and price controls. Allende's policy was also aimed to eliminate the power of monopolies and his agrarian reforms were directed against big landowners –*latifundios*. However, unfavourable economic circumstances (drop in the world prices of copper) together with excessive emission of currency with the aim to fund government expenditure caused rising inflation. It was followed by stagnating production and decline in the GDP growth in 1972 and 1973.[2] Between 1970 and 1974 the income inequality measured by Gini index decreased (see Figure 3) due to the implementation of Allende's socialist and counter-inequality policies.

In 1973, there was a military coup in Chile. On the one hand, the right-wing dictatorship of Augusto Pinochet and neoliberal reforms of Chicago Boys technocrats transformed Chile into economically prospering country since mid-1980s, after the years of economic stagnation. The import substitution industrialization model implemented in 1960s was replaced by free trade with limited government's interventions.[3] The reforms contributed to diversification of the economy, deregulation of markets as well as to liberalization of the international trade. On the other hand, the repressive regime of Pinochet was related to human rights violation, persecution of the opposition and rising of socioeconomic inequality when Gini index nearly reached 60 in 1987 (see Figure 3).

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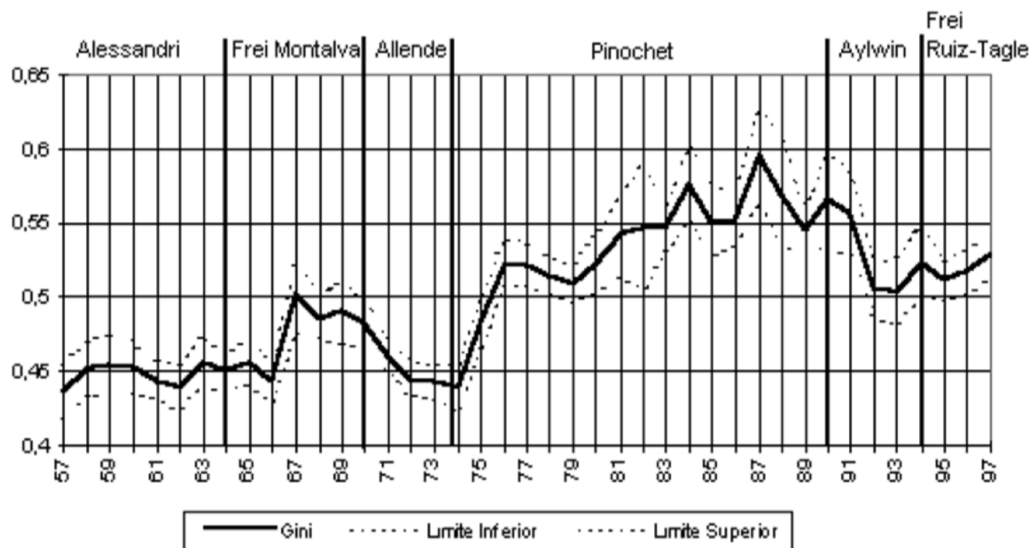
[1] Solimano A. Crecimiento, Desigualdad y Democracia: La Transformación Capitalista en Chile. 2015. [On-line]: https://www.ciglob.org/ciglob_en/wp-content/uploads/2016/08/22-Transformacion-Capitalista-en-Chile-Crecimiento_Desigualdad_y_Democracia_.pdf (Visited on: 2.12.2019).

[2] The World Bank. GDP Growth (annual %) Chile. [On-line]: https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=CL (Visited on: 29.11.2019).

[3] Hourton A. Income Inequality in Chile: 1990 – 2006. 2012. [On-line]: https://www.econ.kyoto-u.ac.jp/projectcenter/Paper/e-12-004.pdf (Visited on: 2.12.2019).

Neoliberal economic reforms, particularly privatization and redistribution of national wealth among small group of individuals were usually carried out to benefit of the elites.[1] The factors of rising inequality consisted in repression threats, elimination of trade unions and the formation of oligopolies that provided public services, instead of perfect competition market's model. High economic concentration in several markets has inhibited market competition up to the present. There was a decrease in real wages as a result of high inflation and unemployment in 1970s.[2] The high poverty rates during Pinochet era have also contributed to rising socioeconomic inequalities. In accordance with the Figure 3, the economic development of Chile under Pinochet dictatorship was accompanied by the rise of income inequality. At the start of 1980s, there were the Debt Crises in Latin American countries that accelerated the rise of income inequality in Chile.

Figure 3: Gini index for Chile in long-term period (1957 – 1997)



Source: Hourton A. Income Inequality in Chile: 1990 – 2006, p. 4.

The period of transition to democracy in Chilean history is known as *Concertación* during 1988 – 2009.[3] It represented political coalition of left-wing and centre-left political parties that governed during four election terms. The last president of this period was Michelle Bachelet and her first administration (2006 – 2010). In this period, there were gradual reforms that preserved free trade with implementation of social policies. Under the left-oriented governments of this era, there was an increase in social spending financed by higher level of taxation and by export revenues due to rising commodity prices. The government spent on employment creation, rising real wages and salaries. There was a reform in Labour Code that strengthened the rights of workers.[4] The result of *Concertación* was a decrease in income inequality (see Figure 3). The value of Gini index dropped from 52.8 in 2000 to 48.2 in 2006.[5]

3. Conclusion

The aim of this paper was to identify socioeconomic reasons of contemporary civil protests and find out historical connections to the current economic state of Chile. Chile's demonstration of October 2019 was provoked by comprehensive socioeconomic circumstances. Protesters called for changes in providing health care, education services and social security reforms. The protests were pointed against

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[1] Rodríguez Weber J. E. Income inequality in Chile since 1850. 2015. [On-line]: http://cienciassociales.edu.uy/unidadmultidisciplinaria/wp-content/uploads/sites/6/2015/05/DT_PHES_No-36-Rodriguez-Weber-Income-inequality-in-Chile-since-1850.pdf (Visited on: 3.12.2019).

[2] Ibidem.

[3] Memoriachilena. Concertación de Partidos por la Democracia (1988 – 2009).

[4] International Labour Office. Poverty, Inequality and Employment in Chile. 2014. [On-line]: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_248029.pdf (Visited on: 29.11.2019).

[5] The World Bank. Gini index (World Bank estimate) – Chile. [On-line]: https://data.worldbank.org/indicator/SI.POV.GINI?locations=CL (Visited on: 30.11.2019).

the administration of centre-right president Sebastián Piñera and his cabinet as well as against the Constitution adopted in 1980, during Pinochet era. To sum up, the reasons of protests consist in insufficient welfare state where social spending amounts only 10.9 % of GDP while the social spending of Western European countries or Nordic states amounts more than 20 % of their GDP. Thus, Chilean citizens are dissatisfied with the redistribution of resources that results in high values of income inequalities. Chile is the most unequal country within OECD member states. In terms of Chile, we can confirm the presence of multidimensional inequality based on uneven society, income disparities, material, educational and political inequalities.

Our analysis has shown that the protests held in Chile in October 2019 have their roots in neoliberal reforms of 1980s carried out by Augusto Pinochet, influenced by technocrats Chicago Boys. While Allende's socialist reforms (1970-1973) tended to reduce income inequality, during Pinochet era income inequality increased to maximum levels. In spite of the decrease in Gini coefficient since 1990, the level of unfair wealth distribution in Chile is still high relatively to other OECD member states, as well to the rest of the world. Pinochet's neoliberal reforms, especially privatization and marketization of health care, education and pension systems have led to high private expenditure on these services. Chileans have to pay high tuition fees in comparison to other countries and there exists low degree of social diversity within schools. People also expressed discontent about rising fares, electricity prices or water tariffs due to privatized water model since Pinochet era. Privatization of pension system in 1981 has led to inadequate payouts of pensioners. Furthermore, Chileans are discontent with the Constitution and elitist democracy established by military dictatorship of Augusto Pinochet. New Constitution for all citizens based on welfare state seems to be inevitable.

The economic prosperity of Chile was driven certainly by neoliberal reforms, later known as Washington Consensus. However, reforms were implemented during undemocratic regime that boost the rise in socioeconomic inequalities and resulted in concentration of wealth and power among elites. The Chileans ask repeatedly for transformation of Chilean society. Economic growth and economic prosperity of country is not always connected to the prosperity of country's citizens. According to that, it is important challenge for central government to connect economic growth with inclusive growth particularly due to Chile's economic potential.

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2. Cabello C. Es cara el agua en Chile? Informe de la Siss comparó las tarifas locales con el mundo. 2019. [On-line]: https://www.latercera.com/pulso/noticia/cara-agua-chile-informe-la-siss-comparo-las-tarifas-locales-mundo/761430/ (Visited on: 26.11.2019).

3. Chile's Constitution of 1980, article 19, statement 24.

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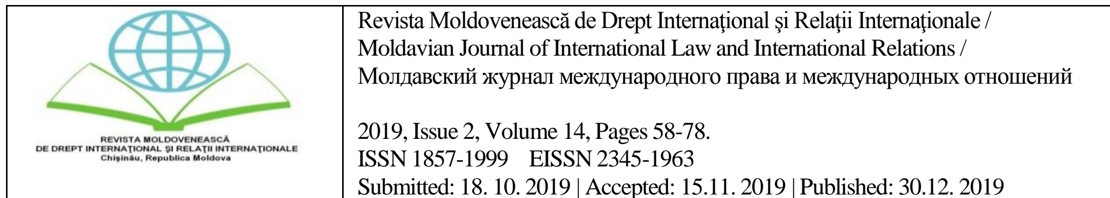
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POLITICAL IDENTITIES IN THE FORMER SOVIET UNION: THE CASES OF ABKHAZIA AND SOUTH OSSETIA

ПОЛИТИЧЕСКИЕ ИДЕНТИЧНОСТИ В БЫВШЕМ СОВЕТСКОМ СОЮЗЕ: СЛУЧАИ АБХАЗИИ И ЮЖНОЙ ОСЕТИИ

IDENTITĂȚI POLITICE ÎN FOSTA UNIUNE SOVIETICĂ: CAZURILE ABHAZIEI ȘI OSEȚIEI DE SUD

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ABSTRACT:
POLITICAL IDENTITIES IN THE FORMER SOVIET UNION: THE CASES OF ABKHAZIA AND SOUTH OSSETIA

Ethnicity and nationalism, as many specialists have pointed out, are volatile concepts whose meaning changes based on various socio-political factors. Strongly connected with the efforts of political elites, and political institutions that they create, these types of identities grow highly politicised. This article analyses the relation between political identities in the ex-Soviet space, particularly the cases of Abkhazia and South Ossetia, and the frozen conflicts. It argues that due to a series of factors linked to the configuration of the Soviet state and deliberate ethnic engineering for political purpose, the ethnic identity in the areas here discussed has become a political construct which influenced the socio-political reality. It examines the stages of the Soviet policies towards the nationalities question and their impact on interethnic animosities. Also, it stresses the radicalisation of the ethnic/national identities, as well as the effect of the politicised identities on the future frozen conflicts.

Keywords: *political identity, Soviet Union, frozen conflicts, Abkhazia, South Ossetia.*

JEL Classification: F29, K33

РЕЗЮМЕ:
ПОЛИТИЧЕСКИЕ ИДЕНТИЧНОСТИ В БЫВШЕМ СОВЕТСКОМ СОЮЗЕ: СЛУЧАИ АБХАЗИИ И ЮЖНОЙ ОСЕТИИ

Этничность и национализм, как указывали многие специалисты, являются изменчивыми понятиями, значение которых меняется в зависимости от различных социально-политических факторов. Тесно связанные с усилиями политических элит и политических институтов, которые они создают, эти типы идентичностей становятся чрезвычайно политизированными. В данной статье анализируется связь между политическими идентичностями на постсоветском пространстве, в частности в Абхазии и Южной Осетии, и замороженными конфликтами. Автор утверждает, что в силу ряда факторов, связанных с конфигурацией Советского государства и преднамеренной этнической инженерией в

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политических целях, этническая идентичность в рассматриваемых здесь областях стала политическим конструктом, который оказал влияние на социально-политическую реальность. В ней рассматриваются этапы советской политики по национальному вопросу и ее влияние на межэтническую вражду. Кроме того, в нем подчеркивается радикализация этнической/национальной идентичности, а также влияние политизированной идентичности на будущие замороженные конфликты.

Ключевые слова: *политическая идентичность, Советский Союз, замороженные конфликты, Абхазия, Южная Осетия.*

JEL Classification: F29, K33
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REZUMAT:
IDENTITĂȚI POLITICE ÎN FOSTA UNIUNE SOVIETICĂ: CAZURILE ABHAZIEI ȘI OSEȚIEI DE SUD

Etnia și naționalismul, după cum au subliniat mulți specialiști, sunt concepte volatile ale căror semnificații se schimbă pe baza diferiților factori socio-politici. Puternic legate de eforturile elitelor politice și de instituțiile politice pe care le creează, aceste tipuri de identități devin extrem de politizate. Acest articol analizează relația dintre identitățile politice din spațiul ex-sovietic, în special cazurile din Abhazia și Osetia de Sud, și conflictele înghețate. Autorul susține că, din cauza unei serii de factori legați de configurația statului sovietic și de ingineria etnică deliberată în scopuri politice, identitatea etnică din domeniile discutate aici a devenit un construct politic care a influențat realitatea socio-politică. Acesta examinează etapele politicilor Sovietice către problema naționalităților și impactul acestora asupra animozităților interetnice. De asemenea, subliniază radicalizarea identităților etnice/naționale, precum și efectul identităților politizate asupra viitoarelor conflicte înghețate.

Cuvinte cheie: *identitate politică, Uniunea Sovietică, conflicte înghețate, Abhazia, Osetia de Sud.*

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The dismemberment of the Soviet Union, seen by many prominent voices as the collapse of the last empire, gave way to a surge of identity manifestations among its multiethnic communities. Taking the form of ethnic nationalism in the context of newly-emerging political reconfiguration, the clashes between various ethnic groups were to become highly politicized. Their escalation and eventual military outburst led to protracted and bitter disputes at the periphery of the ex-Soviet space known as „frozen conflicts”.

When analyzing the concept of nationalism in connection with ethnic identities, Vladimir Kolossov pointed out that communities called nations are social constructs highly related to the efforts of political elites and political institutions that they create. In addition, their existence is deeply rooted in solidarity inasmuch as they are based on the representations about being part of a certain community. Ethnic identity in such case becomes a matter of choice and its expression derives from selected cultural particularities which are volatile and change over time depending on history (and geography).[1] Likewise, by bringing up questions such as „to what degree do category members identify with the polity in which they permanently reside?” or „to what degree and in what form do they identify with another polity?” Rogers Brubaker stresses Max Weber`s remark about race, ethnicity and nationhood as not being fixed analytical concepts but rather „vague vernacular terms whose meaning varies considerably over place and time”.

[2]In the ex-Soviet space, identities have been fluid and change rapidly as a natural response to a collapsing sociopolitical reality and the need to strategically face it. What is more, the cases of Abkhazia and South Ossetia underline the role of political geography as another factor in reshaping

[1] Kolossov V. Ethnic and political identities and territorialities in the post-Soviet states. In: GeoJournal. 1999, 48,2; ProQuest Central, p.71.
[2] Brubaker R. Ethnicy, Race, and Nationalism. In: Annual Review of Sociology. 2009, 35, p. 27.

approaches to ethnic and national identities in an area with overwhelmingly multiethnic societies. Reputable scholars carrying out research in the Caucasus pointed out that an ethnic amalgam with a „world as exhibit" view runs the risk „to freeze ethnicity into categories while ignoring what is really significant, namely, a history of institutionalization that gives rise to organizational expression and systems of political patronage".[1] Consequently, the two frozen conflicts here discussed could serve as case studies for how identities could be officially instrumentalised and exploited, and how finally the manifestation of these politicized identities takes different forms under altering circumstances. Once more, as Kolossov concluded about Peter Burke`s observation, identities can be „multiple and "negotiable", and the same individual or the same group may privilege one identity over another according to the situation and the moment".[2]

The aim of this article is to emphasize the role of the politicized identities in the emergence and maintenance of the frozen conflicts. Much in tone with Dmitri Gorenburg`s approach on state`s authority as an external force "to deliberately shape ethnic identity"[3] I argue that owing to a series of factors intrinsically linked to the configuration of the Soviet state and deliberate ethnic engineering for political purposes, ethnic identity in the area of the frozen conflicts here discussed (including Georgia) has transformed into a political construct which stimulated the existing sociopolitical reality. Therefore, I used the two case studies to stress the institutionalisation of territorial identities in line with the new political structures of the Soviet state; the exploitation of local ethnic identity and its impact on patronage networks and access to resources; the correlation between ethnic persecution and the emergence of the politicized identities; finally, I point out how the identity threats combined with sociopolitical asymmetries in the wake of the changing Soviet system paved the way for the frozen conflicts to erupt.

THE CASE OF ABKHAZIA

The institutionalization of territorial identities

After the fall of the Tsarist Empire in February 1917 Abkhazia`s status and political situation in the context of newly-emerging independent states became a battle ground for the Bolshevik („Red") and imperial („White") armies. The latter were supported by Menshevik forces from the newly-constituted Democratic Republic of Georgia. In the spring of 1918 Abkhazia was firstly incorporated into Georgia – a process of mass repression against both the Abkhaz national movement and civil population. Moreover, in March 1919 the People`s Assembly of Abkhazia, formed under Tbilisi`s surveillance, recognized the status of the region as an autonomous political entity inside Georgia. According to the Georgian Constitution of 1921, Abkhazia (Sukhumi region), the Muslim Georgia (Batumi region), and Zagatala (Zakatalskaya district) were recognized as „inseparable parts of Georgia" with „autonomous administration in the local matters."[4] When the Red Army overturned the Menshevik government of Georgia in March 1921 Abkhazia was proclaimed a Soviet Socialist Republic (SSR) on a par with Georgia. On one hand this was linked to the fact that Abkhaz intelligentsia had been more sympathetic towards Bolshevik ideology which promised independence, on the other hand it represented a counterbalance to Georgian chauvinism. Nevertheless, the status-quo in the region was altered again when the Soviet Union was officially founded in December 1922.

In July 1921 the Commissar of Nationalities, Joseph Stalin, visited Georgia for the first time after the Russian Revolution of 1917. Contrary to Lenin`s advise to gently manage local national policies, Stalin and Sergo Ordzhonikidze[5] suggested more radical measures aimed at totally eradicating the

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[1] O`Loughlin J., Kolossov V., Radvanyi J. The Caucasus in a Time of Conflict. Demographic Transition, and Economic Change. In: Eurasian Geography and Economics, 2007, 48, No.2, p. 135.

[2] Kolossov V. Op.cit., p. 71.

[3] Gorenburg D. Identity change in Bashkortostan: Tatars into Bashkirs and back. In: Ethnic and Racial Studies. May 1999, Volume 22, Number 3, p. 555.

[4] Markedonov S. Abhazia: Historical Context. In: Islam Tekushev, Sergey Markedonov and Kirill Shevchenko, Abhazia: Between the Past and the Future, Prague: Medium Orient, 2013, p. 22-23.

[5] Ordzhonikidze (Sergo by his revolutionary name) was a veteran of the revolutionary movement and a founding member of the Bolshevik Party in 1903. In the early 1920s, a leader of the Bolshevik`s Caucasian Bureau, was a close ally of Stalin`s in Caucasus politics. In 1922, Stalin and Ordzhonikidze got into a serious argument with Lenin on nationality issue. See:

Georgian nationalism. In an attempt to reach a compromise, in March 1922, Georgia, Azerbaijan, and Armenia were integrated into an economic union, known as the Transcaucasian Federation. The abolition of independence caused bitter dissension in the party and a lot of Georgian members were made redundant. Issues such as the form that the Soviet state should take, and the „nationalities question" which referred to the rights of multiple minorities and their role in reshaping Transcaucasia, continued to be hotly debated even after the creation of the Soviet Union. Moreover, the project advocated by Stalin and Ordzhonikidze in order to combat the interethnic violence and economic fragmentation in the region by creating a federal and centralized entity had been rejected by Lenin and represented the trigger in the so-called „Georgian matter" – Lenin`s attempt to block Stalin`s political ascension.

A certain underestimation of the national factor had indeed characterized Lenin`s prerevolutionary theories regarding the engineering of the future Soviet state; after the collapse of the Tsarist Empire, the requests of newly-emerging nations proved that regional autonomy demanded substantial concessions implying administrative and political units along ethnic lines. Finally, in order to strike a balance between excessively centralised and decentralised policies, new federal structures „national in form, socialist in content" were created.[1] According to this mechanism formed of four layers of political-administrative, ethnic, and regional units, the national policy was meant to officially implement a uniform discourse. Nevertheless, due to a series of factors such as geographical position or demographics[2] the organization of ethnic groups resulted in a system characterized by hierarchical differentiation. Consequently, the superior status was held by fifteen nationalities – the union republics (SSR) which formed together the Soviet state and theoretically had the right to secede; on their territory, with decreasing status and directly subordinated to the Soviet republics, followed twenty autonomous republics (ASSR), eight autonomous regions (AO) and ten autonomous districts (*okrug*).

According to the new political structures, in December 1922 the SSR Abkhazia became a „contractual" republic within the Soviet Georgia and part of the Transcaucasian Federation. Based on the new Georgian Constitution of 1922 the Soviet Georgia included: the Autonomous Republic (ASSR) of Adjara, the Autonomous Oblast` (AO) of South Ossetia, and the Soviet Socialist Republic (SSR) of Abkhazia. Despite substantial autonomy, which was granted to Abkhazia the document, emphasizing the contractual relationship with Georgia was rejected by the Transcaucasian Territorial Committee of the Bolshevik Party – a paper which subsequently became the first Abkhaz Constitution and the incident has become a vital point of reference in the Abkhaz struggle for secession.

Indigenization, Patronage, and local Recourses

Lenin`s ideology which had guided the first years of the Soviet Russia particularly emphasized the communist`s duty to combat the two major deviations – „the great Russian chauvinism" and „the local bourgeois nationalism". In other words, Lenin was demanding that Russians were vigilant in order to fight the domineering tendencies of other nationalities, whereas the latter were instructed to develop friendly relationships with their Russian compatriots.[3] No doubt, this ideology stemmed from the existing reality, which the young state had inherited from its imperial past – the consolidation of the Soviet state was highly dependent on the accommodation of its overwhelmingly diverse regional population.

Throughout 1920s the non-Russian nationalities became the Kremlin`s favourite ethnic groups, a situation which not only promoted national language and culture, but also the ascension of local leaders on communist political ladder. The more the state structures consolidated, the more the nationalities issue became a political resourse for both the centre nomenclature and local national elites. In other

Fitzpatrick S. On Stalin`s Team. The years of living dangerously in Soviet politics. New Jersey: Princeton University Press, 2015, p. 29-30.

[1] Bremmer I. Reassessing Soviet nationalities theory. In: Ian Bremmer and Ray Taras, Nation and politics in the Soviet successor states. New York: Cambridge University Press, 1993, p. 9-10.

[2] Coppieters B. War and secession: A moral analysis of the Georgian-Abkhaz conflict. In: Bruno Coppieters and Richard Sakwa. Contextualizing secession, Normative studies in a comparative perspective. New York: Oxford University Press, 2003, p. 187.

[3] Seton-Watson H. Nations and States. An Enquiry into the Origins of Nations and the Politics of Nationalism. London: Methuen&Ltd., 1977, p. 312.

words, these strategies had been particularly fabricated with the aim of integrating the alienated ethnic groups and would have created an organic Soviet entity based on the existance of a sole social class. These policies had characterised the centre-periphery relations between 1920 and 1930, a dialogue in which the local leaders became instrumental in managing the ethnic regions. Owing to the fact that the resources were idiologically loaded and the configuration of the Soviet state was based on a hierarchy directly proportional to advantages, political status of the federal structures turned into a battleground for competing ethnic groups, diametrically opposed to the scope of the original project.

The sovietization of Transcaucasia constitutes an interesting subject when it comes to analyse the evolution of the Georgian-Abkhaz conflict. In contrast to Georgia for which the sovietization had been a period of occupation with negative effects, the Abkhaz perspective is more nuanced, complex, and sometimes even positive. Stanislav Lakoba remarked about the years of 1921-1936 when its local leader had ruled Abkhazia: *„up to the death of its local leader, Nestor Lakoba, Abkhazia had enjoyed a period of stability, interethnic harmony, as well as economic and cultural achievements.”*[1] Considering the hardship of those years, Abkhazia had benefitted from a level of relative autonomy and had registered notable cultural and economic progress, which fortified its identity consciousness, but also deepened the Georgian-Abkhaz cleavage. Moreover, by consolidating the ethnic element, the Soviet nationalities policy had indirectly promoted the patronage and clientelistic networks in the regions with minority groups. This phenomenon disseminated discord even more and exploited negatively the ethnic differences. Undoubtedly, the Soviet policies of indigenisation[2], based on ethnic hierarchies and local leaders in order to counteract the alternative ethnic manifestations, influenced not only the Abkhaz sociopolitical fabric, but also nurtured and exacerbated the rivalries between Sukhumi and Tbilisi.

In the context of *indigenisation*, Lakoba had managed to solve one of the most stringent issues of the region – the lack of both Abkhaz cadres and a mechanism for educating and promoting them. In 1929, the local power structures registered 28.3% of Abkhaz representatives, compared to 10% in 1923.[3] Moreover, thanks to his personal ties with high officials of the Party, not to mention his amicable relationship with Stalin and Ordzhonikidze, substantial funds were channeled into developing the Abkhaz industry. Coal mining in Tkvarcheli region started in 1926; the construction of small power plants in Gudauta, Ochamchira, and Gali regions at the end of 1920s were followed in 1930 by huge power stations in Sukhumi and Tkvarcheli.

Abkhazia`s preferential status and its informal connections built by Nestor Lakoba impacted also on collectivization. The process was postponed up until 1931 on various pretexts such as the particularity of local conditions, the backwardness of agricultural methods, the equipment`s obsolescence or the lack of kulaks. Even when Abkhazia`s reluctance to embrace the collectivization was counteracted, „the center” proved to be more lenient compared to similar cases in the North Caucasus or other regions. Moreover, in February 1931 massive protests against the collectivization took place in Gudauta region. Despite Moscow`s efforts to intervene, the dynamics of the agricultural project remained the same until Lakoba`s death. Soviet figures showed that the collectivization in USSR reached 52.7% in 1931 and 61.5% in 1932; conversely, in Abkhazia up to 1934 it registered only 34.1%.[4]

What is more, the revolts in Gudauta were also provoked by the downgrading of Abkhazia`s political status. This happened in the context of an austerity programme adopted by the Central Committee of CP (b) in 1929 with the aim to reduce bureaucratic cadres in the autonomous republics and regions. Regardless of the fact that the stipulation should not have affected a “contractual” republic, the Regional Committee pressured by Georgian leaders transformed Abkhazia into an autonomous

[1] Shevcenko K. apud Stanislav Lakoba. The Struggle for the National State: Abkhazia in the context of post-Soviet state-building processes. In: Islam Tekushev, Sergey Markedonov and Kirill Shevchenko. Op. cit., p. 11-12.

[2] Korenizatsia or Indigenisation was a pragmatic Soviet policy conceived with the aim to gain influence over the disparate subjects of the former Tsarist Empire. The etymological origin derives from „root” (Koren`); it manifested itself through Moscow`s endorsement of local leaders, languages, culture, and ethnic identities in order to accommodate the periphery for the good functioning of the Soviet apparatus.

[3] Blauvelt T. Abhazia: Patronage and Power in the Stalin Era. In: Nationalities Papers, 35:2. London: Routledge, 2007, p. 208.

[4] Ibidem, p. 213.

republic within Georgia.[1] As the events in Gudauta region coincided with the political changes in Abkhazia, most Abkhaz historians tend to explain this moment as a price paid by the local leader for collectivization. No document can sustain such theory, nevertheless, „the Gudauta incident" synchronized with the decision of the VI-th Congress of Georgia`s Soviets to alter the status of the region. Considering the role of the local bureaucrats in managing political resources, their total control over autochthonous ethnic groups, not to mention Lakoba`s popularity in the region, a certain intervention from Moscow was highly likely. A potential mobilisation of alternative identities which the local leader had managed to exploit, yet the center discovered, makes for a plausible scenario. Nevertheless, the region had maintained its preferential status up until Lakoba`s death in 1936. Along with this reality, the lowering of Abkhazia`s political position added to the existing animosities between Sukhumi and Tbilisi.

Terror, mass Trauma, and politicized Identities (1936-1953)

Nestor Lakoba`s slander and death in December 1936 opened up a new stage for the Abkhaz people. Their resentment over the downgrading of their political status against the Georgians soared in conjunction with the harsh policies which curtailed the freedom they had been so used to. Moreover, the new directives were carried out by Georgian officials, and after Lakoba`s death a wave of purges hit the Abkhaz elites following the same scenario of Moscow`s show trials. In such context all incriminations went to Tbilisi, a situation compounded by the first secretary of Transcaucasia, Lavrenti Beria, and his role in assassinating Lakoba and Lakoba`s family.[2]

Throughout 1937-1938, the purges in the region decimated the superior political, cultural, and academic cadres; in November 1937 out of the 28 members excluded from CEC (Central Executive Committee) of Abkhazia, the majority were ethnic Abkhaz. Civilian population had not been spared either – between July 1937 and October 1938 at least 2.186 people were arrested on political grounds, from which 754 were shot. The same fate had the victims of the show trials in Sukhumi falsely accused of espionage and treason.[3] The physical consequences of these policies resulted in acute demographic imbalances in the region, constituting a new identity drama similar in effect to the tsarist campaigns of *mukhadzhirsvo*.[4] As these policies had been exclusively targeting the Abkhaz, the result was a radical shift concerning political representativeness. The disproportion of local elites characterized the region until 1952; whereas the Georgians held 80% out of the 228 superior positions in the leading apparatus, the rest got split between the Abkhaz (34), the Russians (7), and the Armenians (3).[5]

Physical liquidation of Abkhaz ethnic group was not the only measure through which Stalin`s policies had been implemented. According to his ideology debated in the first Soviet years, Stalin suggested to resolve the nationality issue in the Caucasus by aligning *„backward people and nationalities to the common flow of superior culture"*[6] Compared to the Georgians which had always boasted a notable proportion of highly educated social strata, the Abkhaz were seen inferior and less distinctive. With the rising role of Georgian communist elite in the central apparatus of the state, the sense of superiority increased not only against the ethnic Russians, but also against the Abkhaz minorities. In addition, the subordination of the Abkhaz was following a project of forging the Soviet nation defined as *„a stable community, historically constituted based on language, territory, and*

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[1] „Prilozhenie k Pis`mu Predstavitelei Abhazskoi Intelligentsii Prezidiumu XIX Vsesoiuznoi Conferentsii KPSS(1988). [Online]: http://abkhazia.narod.ru/Glava1-2.htm (Visited on: 29.03.2019).

[2] Knight A. Beria, mâna dreaptă a lui Stalin. [Beria.Stalin`s First Lieutenant]. București: Corint, 2018, p.105-106.

[3] Shenfield S.D. The Stalin-Beria Terror in Abkhazia, 1936-1953. [Online]: https://abkhazworld.com/aw/abkhazia/history/499-stalin-beria-terror-in-abkhazia-1936-53-by-stephenshenfield.html (Visited on: 17.01.2019).

[4] The so-called muhadzhirstvo was the process of the banishment and the emergence of the Abkhaz diaspora during the expansion of the Tsarist Empire in the late XIXth century. According to Thornike Gordadze this phenomenon represented „the first tragic classification which differentiated the two ethnic groups of the region – the Abkhaz and the Georgians." See: Haindrava I. Perceptions of the Georgian-Abkhaz conflict before August 2008. In: Archil Gegeshidze and Ivlian Haindrava. Transformation of the Georgian-Abkhaz Conflict: rethinkingthe paradigm. [Online]: https://www.c-r.org/resources/transformation-georgian%E2%80%93abkhaz-conflict-rethinking-paradigm-georgian-perspective (Visited on: 08.12.2018).

[5] Shenfield S.D. The Stalin-Beria Terror in Abkhazia, 1936-1953…

[6] „Prilozhenie k Pis`mu Predstavitelei Abkhazskoi Intellighentsii Prezidiumu XIX Vsesoiuznoi Conferentsii KPSS(1988g.)", [Online]: http://abkhazia.narod.ru/Glava1-2.htm (Visited on: 29.32.2019).

common economic life; as well as on psychological framework manifested through common culture".[1] The project was aiming to implement a process of cultural and identity uniformity, manifested through what Stalin had called policies of convergence (*sblizhenie*) and fusion (*sliyanie*) of nationalities.

Therefore, the discrimination against the Abkhaz took the form of an intense process of *georgianisation* carried out by Beria. Massive groups of Svans and Mingrelians had been forced to migrate in the region under the command of the newly established Department of Relocation. Disguised as an innovative agricultural process in Georgia SSR, an official note was explaining that the relocation of the collective farms and agricultural workers to ASR Abkhazia had the aim to make up for the local workforce shortages which had prevented the Abkhaz to exploit their rich land.[2] In order to accommodate the newcomers which kept settling in compact groups near Abkhaz villages in Gudauta and Ocheamchira – the only regions with dense autochthonous population – a special housing organization was founded in 1937. At the end of 1939, because of these policies, ethnic Abkhaz accounted for only 18% of the total population of ASR Abkhazia.[3] In reality, as the region is mainly characterized by mountainous landforms, the arable lands in Abkhazia were scarce; in order to accomplish the official project, in 1949 it had been decided that ethnic Turks and Greeks from the region to be deported to Central Asia and replaced with Georgians. Deportation plans were about to be extended over the ethnic Abkhaz between 1949-1951; the cancellation has been often ascribed to official's confidence in the viability of the assimilation project.[4]

At the middle of 1940 cultural liberties in Abkhazia were further damped down. The Latin script of the Abkhaz language adopted in 1926 was switched to Georgian alphabet. Local language was banned in state institutions and schools and replaced with Georgian. Owing to the fact that for most pupils the new language was unfamiliar, they resorted to their native tongue – an act which had been severely punished and amplified the generation`s identity trauma. Academic sphere by 1940 became so politicized that the theory of the Georgian historian Pavle Ingorovka about the Georgian origin of Abkhaz people epitomized the general alignment along the lines of official ideology, resulting in the fabrication of identities and history`s falsification.

Against the backdrop of the deepening Georgian-Abkhaz conflict, a new post-Stalin era discourse on Tbilisi`s deliberate implication in annihilating Abkhaz identity emerged. As Party`s archives have shown, the policies carried out by the Georgian nomenclature in Abkhazia coincided with Kremlin`s directives. Not to mention that the *georgianisation* of the region had been part of a bigger project intending to assimilate the small ethnic groups into the Union republics. Nevertheless, the multiple factors which cultivated alternative identities throughout the common Abkhaz-Georgian history, facilitated a certain Georgian enthusiasm when using their authority over Sukhumi. There is evidence that in many cases Moscow`s orders had been either taken to extremes, or inefficiently exploited when some concessions could have been made at local level. Education and language issues in Abkhazia represented such examples. Whereas the official directives had decided to cancel the use of native languages in official education, they did not mention to exclude these languages from the curriculum. The ban on Abkhaz language had been a measure taken by the local bureaucrats in Tbilisi and Sukhumi; for Abkhaz people it has been constituting a proof of deliberate repression carried out by the Georgians. Gia Nodya, the Georgian scholar, noted: *„The repressive policy against Abkhaz language and culture, led by concrete representatives of Georgian nationalism (not only high officials of the nomenclature, but also ordinary apparatchiki), have created an image of the collective „enemy" which included also the groups of migrants benefitting from social privileges"*.[5]

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[1] Iosif. V. Stalin, „Marxism and the National Question". [Online]: https://www.marxists.org/reference/archive/stalin/works/1913/03a.htm#s1 (Visited on: 22.01.2019).

[2] Haindrava I. Perceptions of the Georgian-Abkhaz… Op. cit., p. 8.

[3] Thomas de Waal. The Caucasus. An Introduction. New York: Oxford University Press, 2010, p. 151.

[4] Shenfield S.D. The Stalin-Beria Terror in Abkhazia, 1936-1953…

[5] Markedonov S. apud G. Nodya. De facto obrazovania postsovetskogo prostranstvo: dvadtsat` let gosudarstvennogo stroitel`stvo. Institut Kavkaza, Erevan 2012, p. 52.

Sociopolitical asymmetries and identity threats (1953-1991)

Nikita Khrushchev`s „thaw" had brought new opportunities to exploit the resources of power in Abkhazia. His strategies and political discourse were aimed to gain an audience as large as possible, which is why the non-Russian minorities were mostly targeted. In an attempt to pacify the interethnic tension as a counteraction to Stalin`s discriminatory policies, the new leader managed indeed to acquire a certain relaxation among Soviet nationalities which included also the Abkhaz and the Georgians. Nevertheless, the relationship between Sukhumi and Tbilisi remained quite the same. Moreover, Khrushchev`s approach to nationalities question created something similar to *korenizatsia* in the 1920s. In order to make up for Abkhaz`s harsh treatment under Stalin`s regime, ethnic representatives started being promoted in the highest political structures which resulted in a process of Abkhaz nomenclaturisation against other ethnic groups.[1] Not to mention that Abkhazia`s promising profile in terms of informal profits – so typical of its bureaucratic networks and newly emerging social classes – offered propitious ground for the new policies to flourish.

It is noteworthy that the region has always been a favorite destination for Kremlin`s ruling elite. Major projects to transform Abkhazia into the most suitable place for Russian royalty started in 1900. With the ample engineering campaigns between 1930-1950 it became a subtropical oasis where both Stalin and Khrushchev built *dachas* which endorsed even more the region`s profile as favorite destination for high officials. Owing to the general prosperity of the Soviet society, but most notably due to increased investment properties and capital injection in the region, starting with the 1950s Abkhazia`s value and status soared.[2]

In conjunction with the new rhetoric concerning the nationalities policy, Georgian resentment against Sukhumi sharpened; not to mention that Stalin`s defamation by the Kremlin had been seen in Georgia as slanders about their national hero.[3] The turnaround in post-Stalin`s Abkhazia resulted in acute asymmetry on sociopolitical level which impacted again on the animosities between the two ethnic groups. For the Abkhaz it meant a period of favoritism translated into political representativeness, incrimination of Ingorovka`s theories, and the switch of Abkhaz language to Cyrillic script.[4] In the same time, the disproportion between the number of Abkhaz cadres and the percent of native population was alarming; it was dangerous not only for increasing interethnic conflict, but also for its role in cultivating national awareness. The policies, which had gradually affected the demographics of the region, gave way to a series of new identity anxieties against the Georgians. Between 1897-1959, the latter`s number had increased six fold; during Khrushchev`s administration the number of ethnic Armenians and Russians equaled or even exceeded the native population, whereas the Georgians became the majoritarian ethnic group of Abkhazia. In such context, „the liberal measures" further applied in ASSR Abkhazia in Brezhnev`s period were perceived by the ethnic Georgians as being abusive and biased – representing a minority group, the Abkhaz held 67% of the administrative positions.[5]

Georgia`s discontent with Moscow`s policies had been counteracted through bureaucratic constraint followed by combined strategies of coopting the nonconformists and repressing the intelligentsia. Despite the center's economic and cultural efforts in the region, Georgian civil society, backed largely by an eclectic intelligentsia, grew increasingly vocal. Its consistent demands for civil rights and protests against center's policies transformed Tbilisi into a source of tension.

Meanwhile, since Abkhazia`s incorporation into SSR Georgia the revision of political status became a main priority for the Abkhaz. Periodically, in 1931, 1957, 1967, and 1977 the representatives of local intelligentsia kept officially requesting to leave Georgia and become a union republic within USSR.

[1] Ivlian Haindrava. Op. cit., p. 9.

[2] Derluguian G. The Sovereign Bureaucracy in Russia`s Modernization. In: Piotr Dutkiewicz and Dmitri Trenin, Russia. The challenges of transformation. New York: University Press, 2011, p. 66.

[3] Similarly, Lavrenti Beria`a denouncement seems to have provoked the same reactions in Georgia. See: Knight A. Op.cit., p. 200-201, 298-299.

[4] Owing to the fact that the Cyrillic alphabet constituted the official script in the Soviet Union, this measure did not impact on the Abkhaz in the way it had done the earlier switch from Latin to Georgian script. In addition, the reformative post-Stalin programme introduced an evident relaxation among local elites; the new alphabet represented an alignment with the existing realities in the USSR and a method to oppose Georgia.

[5] Markedonov S. De facto obrazovania postsovetskogo prostranstvo: dvadtsat` let gosudarstvennogo stroitel`stvo, p. 53.

The consistency of such petitions had been even more impressive considering the fact that they occurred systematically despite the changing Soviet policies. This rather pointed out the Abkhaz apprehensions about Tbilisi`s opportunity to take advantage of their superior status and discriminate against Sukhumi. In the context of demographic imbalance and the alarming increase of ethnic Georgians in the region, the anxieties amplified. In 1970 the number of Georgians was 199.955, whereas the Abkhaz represented only 77.276; by 1979 the former constituted 43,9% of Abkhazia`s population.[1]

Based on the fact that throughout one century the Abkhaz population had become an ethnic minority to the detriment of the Georgians, the image of the latter as the main identity menace permeated the Abkhaz collective consciousness. For the Abkhaz, their neighbors were guilty for usurping their ethnic range through successive waves of immigration, for the repressive policies carried out by Georgian officials, but most gravely, for the brutal measures aimed to annihilate the Abkhaz as a distinct cultural group. The risk of autochthonous population to become completely assimilated with the increasing number of Georgians was alarming. Apart from the process of systematic persecutions, the Abkhaz cultural common fond with the Georgians amplified the existing fears. This became a real issue considering that a superior Georgian identity had been cultivated by Moscow; as a result, Tbilisi`s domineering rhetoric constantly manifested through refusing to accept the Abkhaz as a separate ethnic group.[2]

All this evidence – accumulated under Moscow`s direct surveillance – had transformed the Georgians into the main identity threat of the Abkhaz, whereas the Kremlin represented the only authority capable to regulate the relationship between Sukhumi and Tbilisi. In the context of Gorbachev`s political liberalization the Abkhaz-Georgian tensions underlined the ethnopolitical Georgian tendencies and consequently amplified the Abkhaz demographic vulnerabilities. The national rhetoric of Tbilisi and the claim of Georgia`s lost status after the Soviet incorporation in 1921 posed new threats to Abkhazia. In contrast to Ossetia, whose ethnic range was out of the „national" borders of SSR Georgia, Abkhazia`s natives were inhabiting the official Georgian territory, not to mention the rest of 2000 Abkhaz registered in Adjara. Abkhazia`s anxieties were even more accentuated by its minority position to the detriment of ethnic Georgians – 17% compared to 45%.[3] Georgia`s national aspirations could have deprived the region of the majority argument. In such context, territorial preservation and independent functioning from economic and political perspectives were the most stringent priorities in Sukhumi; their materialization were highly dependent on Moscow, though.

What is more, the strong Moscow-Sukhumi alliance forged throughout post-Stalin period thrived largely on the sociopolitical stability of the region. This stability had been exclusively based on the so-called „ethnic machinery" which provided Abkhazia`s disproportionate access to resources and developed the network of local patronage with the scope of preserving the power;[4] the mechanism of appealing to „the center" in order to regulate its dissatisfaction with Georgia became a recurrent practice of the Abkhaz leaders.

A new petition for Moscow written in March 1989 after the Lykhny gathering stood out for the fact that it was a common expression of Abkhaz intelligentsia and political elite. The fusion between the two resulted in the creation of the National Front „Aidgylara" – the mobilising factor that succeeded to combine the national discourse and the public sphere. In response, the Georgian majority of Abkhazia retorted by accusing the asymmetrical access to profitable sectors, particularly the agricultural lands and their linkage to most coveted products on the Soviet market: tea, tobacco, and citruses. Considering

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[1] Ibidem.

[2] The condescending Georgian attitude towards the Abkhaz had been constantly exercised throughout their common „imperial" history. Moreover, the geographical proximity and the strong cultural and economic bonds added to the issue. The Georgian bolshevik Akaki Mgeladze, Abkhazia`s leader between 1943-1951 stressed Stalin`s opinion on Abkhaz`s origins: „ They [the Abkhaz] are closer to Georgians than Svans, but it doesn`t occur to anyone that Svans are not Georgians. Everyone who knows his or her history well ought to understand that Abkhazia was always part of Georgia. The customs and beliefs of the Abkhaz basically don`t differ from the customs of western Georgians." See: Thomas de Waal. Op. cit., p. 151.

[3] Derluguian G. Op. cit., p.70.

[4] Derluguian G.M. The tale of two resorts: Abkhazia and Ajaria before and since the Soviet Collapse. [Online]: http://georgica.tsu.edu.ge/files/06-History/Soviet%20Era/Derluguian-d.u.pdf, p. 262. (Visited on: 07.04.2019).

the discriminatory nature of Abkhaz-Russian relationship, the Abkhaz national movement appeared as a real threat to Georgia`s aspirations of independence [1]

Against the backdrop of the new political freedoms in the USSR, the Abkhaz`s actions not only accelerated the national movement in Georgia, but also attuned the patterns of the „enemy" to sociopolitical realities: the Abkhaz „separatism" in the context of Georgian frustrations was perceived as part of Moscow`s machinations.[2] Moreover, in the light of Georgia`s tendencies to leave the Soviet Union, it became more clear that to dissociate Russia from the Soviet system was illusory since the policies which Moscow had applied throughout their common history with the Georgians confirmed the new measures favoring the Abkhaz against Tbilisi`s interests. These theories were based on Russia`s earlier actions in the region such as the abolition of Georgian Kingdom in the XIX-th century or the Bolshevik invasion which dismembered the independent Georgia in 1921. Since the two ethnic groups decided to divide the University in Sukhumi along ethnic lines and the Georgian protests against Abkhazia independently joining the Soviet Union amplified, the first violent clashes broke out in July 1989. The anti-Abkhaz sentiments exacerbated not only in Georgia proper, but also within the Georgian community in Abkhazia; likewise, the anti-Abkhaz and anti-communist slogans of protest went hand in hand.

Moscow`s intervention in Tbilisi on 9 August 1989 in order to suppress one of the biggest demonstration in the history of the region constituted the peak of Georgian anti-Russian feelings – the Soviet troops were perceived as foreign forces of occupation.[3] The event represented a turning point not only due to its brutal military action which ingrained in the collective consciousness but also for the fact that it delegitimized the Communist Party and the Soviet Union. Furthermore, the augmentation of animosities between the two ethnic groups with Moscow`s role to mediate, worsened the situation and hastened the transformation of the antagonistic groups into radicalized political actors. Political atmosphere in Georgia had put an end to moderate attitudes: since the events in Tbilisi, the leaders of the national movement managed to align the public opinion with the mobilizing discourse for another way for Georgia. Moreover, the Kremlin`s attempt to solve the crisis by replacing the local cadres were to no avail. In an effort to reconcile with Tbilisi Moscow released from prison the leaders of the national movement, Zviad Gamsakhurdia, Merab Kostava, and Giorgi Chanturia; in august 1989 the Georgian language was recognized the official language of RSS Georgia which provoked much dissatisfaction in Abkhazia and South Ossetia.

The gravest repercussions of political radicalization were to be seen in the uncompromising discourse adopted by both Sukhumi and Tbilisi. Its first manifestation resulted in the split of Abkhazia`s Supreme Soviet and the Declaration of sovereignty proclaimed by the Abkhaz faction on 25 August 1991. The ethnic division manifested again during the two referendums in March 1991 organized consecutively by both parties with the aim to consult people`s decision on the preservation of the Soviet Union and the restoration of Georgia`s independence. As long as the identity crystallization in both cases took the form of requests for cultural and sociopolitical integrity their accomplishment was highly dependent on asymmetrical realities which would have implied some compromise from both sides. The nature of Abkhaz and Georgian requirements was identical as both ethnic groups aimed to preserve their identity range and to counteract the restrictive factors; their approach was dominated by a nationalistic egocentrism derived from the traumas of common history which translated the fear of alterity into antagonistic ethnic language. In the context of Soviet liberalization and weakening of state`s power, the independent movement in Abkhazia and Sukhumi`s tendencies to preserve the Soviet status-quo were directly proportional to Georgia`s actions towards national emancipation and its secession from the USSR. In addition, the Abkhaz pro-Moscow orientations represented a defensive method against the ethnopolitical conflict and the chance to restore Sukhumi`s lost status,[4] in the same

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[1] Zürcher Ch. The Post-Soviet Wars. Rebellion, Ethnic Conflict, and Nationhood in the Caucasus. New York: New York University Press, 2007, p. 120-121.

[2] Markedonov S. De facto obrazovania postsovetskogo prostranstvo: dvadtsat` let gosudarstvennogo stroitel`stvo, p. 56-57.

[3] Cheterian V. War and Peace in the Caucasus. Russia`s Troubled Frontier. London: Hurst &Company, 2008, p. 204.

[4] Kuchuberia A. Iraklii Khintba: razval SSSR stal triggerom etnopoliticheskikh konfliktov na ego okrainakh. In: Kavkazskii Uzel, 18 March 2011. [Online]: https://www.kavkaz-uzel.eu/articles/182478 (Visited on: 24.04.2019).

way as the Georgians aspired to regain the independence from Moscow and to consolidate their state. Both sides resorted to the same discourse in order to blame each other for disloyalty and separatism, and both of them perceived the Kremlin as the central actor to arbitrate the conflict. The last attempt of the two ethnic groups to cooperate – when Zviad Gamsakhurdia put an end to his extreme discourse[1] and managed to approach the Abkhaz national leader Vladislav Ardzimba – was about to form a new Abkhaz parliament in which out of the total 65 seats, 28 were meant for the Abkhaz, and 26 for the Georgian representatives.

In the wake of the official dismemberment of the Soviet Union, and due to the uncompromising attitudes of both Sukhumi and Tbilisi, the dialogue ceased. In the following months, the internal quagmire and political rift between Gamsakhurdia and Eduard Shevarnadze in Georgia influenced the conflict with Abkhazia. The war between Sukhumi and Tbilisi broke out on 14-th August 1992 with Georgian troops entering the territory of the secessionist region.

THE CASE OF SOUTH OSSETIA

Ethnic rivalries in the context of building the new Soviet state

Sergey Markedonov stressed that contrary to Abkhazia, the historical name of South Ossetia had had geographical, cultural-ethnographic, yet not state-political implications. Its politicization was the repercussion of the nationalistic discourse which characterized the area in the wake of the collapsing Russian Empire and the struggle for new independent states.[2] As for the Georgians the region had always been part of their historical heritage, known as Shida Khartli or Samachablo; in May 1918 its territory was integrated into Georgian Democratic Republic.

Similar to Abkhazia`s case, the Ossetian tendencies to self-determination and their rejection to join the Menshevik Georgia gave way to a series of military clashes; in May 1920 the South-Ossetian Bolsheviks declared their loyalty to Russia. The escalation of the conflict from social to interethnic sphere resulted in 4.800 death Ossetians, the arson of 50 villages, and a number of 5000 people having taken refuge across the mountains in tragically conditions.[3] Considering the general friendly relationship between the two ethnic groups, these incidents marked a new stage in the collective consciousness of the Ossetian people. Due to further confrontations with Tbilisi, in April 2007 the South Ossetia`s parliament evaluated the events of 1918-1920 as genocidal actions against the Ossetian population.[4]

In January 1921 South Ossetia was included into The Mountain SSR[5] yet in April 1922 in the wake of the Menshevik Georgia`s defeat it was reorganized as autonomous region (AO) within Georgia. Consequently, a large number of the Ossetians moved into the new capital Tskhinval.[6] It is important to note that the whole Ossetian population constituted a minority group inside Soviet Georgia – two thirds of them were registered on the territory of South Ossetia, whereas the rest which did not exceed more than 1000 people inhabited the rest of the country and were particularly well integrated. Similar to the

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[1] Zviad Gamsakhurdia`s rethoric, first as the leader of Georgia`s national movement between 1980-1990, and further as the president of the country, had been characterised by virulent xenophobia against Georgia`s ethnic groups. See: Markedonov S. „Zemlia i volia Zviada Gamsakhurdia. In: Politcom.ru, 04.04. 2007. [Online]: http://politcom.ru/4379.html, (Visited on:12.05.2019).; Thomas de Waal. Op. cit., p. 138. According to George Hewitt – a prominent specialist in Caucasian languages and a witness of the events in Georgia between 1988-1990 – Gamsakhurdia`s radical nationalism and megalomania, combined with the mistakes made by the international community determined the military clashes between the Abkhaz and the Georgians. See: Markedonov S., apud George Hewitt. The Caucasian Chalk Circle: Abkhazia in the changing regional and world politics through the prism of experts` evaluation. In: Islam Tekushev, Sergey Markedonov and Kirill Shevchenko, Abkhazia: Between the Past and the Future. Praga: Medium Orient, 2013, p. 71.

[2] Markedonov S. Etnopoliticheskie konflikty v Abkhazii i v Iuzhnoi Osetii: prichiny, dinamika, uroki. [Online]: http://valerytishkov.ru/engine/documents/document1996.doc (Visited on: 09.05.2019).

[3] Thomas de Waal. Op. cit., p. 137.

[4] Declaration of the genocide of 1920 in South Ossetia. [Online]: http://www.mfa-rso.su/en/node/362 (Visited on: 10.05.2019).

[5] The Mountain SSR or The Mountain Autonomous Soviet Socialist Republic (Gorskaya ASSR in Russian) was a short-lived autonomous republic (January 1921-July 1924) formed in the Northern Caucasus after the fall of the Russian Empire. It comprised the cities of Vladikavkaz and Grozny, and the following okrugs: Balkar, Chechen, Kabardian, Karachay, Nazran (Ingushetia), Vladikavkaz (Ossetia).

[6] „Tskhinval" represents the Ossetian version of Tskhinvali.

Abkhaz ethnic group the Georgian and Ossetian histories had been intertwined throughout two millenniums. The strong connections between the two entities have been proved by the common military alliances against invading armies and the high rate of intermarriages. However, contrary to the Abkhaz the Ossetian people have always lived in mixed settlements with the Georgians which prevented the formation of distinct ethnic regions. Except the Dzhavski *raion* which registered only 5% of ethnic Georgians, the number of the latter on the whole territory of South Ossetia was relatively high: 43% in the villages of Tskhinvali *raion*, 51% in Leninogorsk, and 16,3% in the capital. Moreover, the impressive rate of intermarriages and the fusion between Ossetian intelligentsia and Georgian cultural elite constituted a typical phenomena of South Ossetia.[1] Concerning the intercommunity relations in the context of Georgian-Ossetian animosities Thomas de Waal has noticed the lack of the real incentive for conflict; he also stressed the political dimension to which the developing hostilities had been led: the small number of the minority group, their high rate of integration within Georgian community, the shorter distance to Tbilisi compared to Vladikavkaz, and the geographical difficulties to communicate with their ethnic kin – all represented missed chances to diffuse the following conflicts.[2]

The division of the Ossetians between the two union republics provoked many protests among the leaders of both regions. It also left an imprint on the collective consciousness as a reference point in Stalin`s process of politicizing ethnic identities. Stalin`s approach to the issue remains controversial, despite Ossetians having been blaming the Soviet leader for his discriminatory campaign which brutally disregarded the anti-Ossetian persecutions of 1918-1920. However, it is important to note that an Ossetian district (*okrug*) inside Tiflis Governorate had been registered in Russian Empire since 1843; between 1859 and 1917 when the revolution broke out, it was attached to Gori (*uezd*) county. Up until 1985 when Rokki tunnel was built, the two groups of the Ossetians had been separated by the natural barrier of the Caucasus mountains; their linguistic difference has remained a distinctive trait ever since[3]. In the process of building and consolidating the Soviet state, their union might have appeared irrelevant and useless.

On both sides of the mountainous range, the Ossetians had faced a process of assimilation, which resulted in evident ethnic degradation. In North Ossetia, the supremacy of the Russian language marked the decline of the local tongue; in the same way, across the mountains in the south the strong integration with the Georgians determined the cultural dilution of the Ossetians. What is more, the creation of the autonomous region of South Ossetia within Soviet Georgia combined with the programs of indigenization and sovietisation obscured the Georgian language and deepend the crisis between the two ethnic groups. In the 1920s during the *korenizatsia* the Ossetian tongue had been promoted to the detriment of the Georgian language and the usage of Russian instead of the Georgian was very common. In addition, those of the Ossetians blatantly outnumbered the number of Georgian schools; between 1921 and 1924, the Georgian school system was even more affected and a great number of teachers were constrained to leave the sector. As a last straw, the Ossetian language became compulsory in Georgian schools. The overall effect of these measures made the Georgian population to internalize an acute sense of discrimination against the Ossetian ethnic group.

One can easily notice that the officialisation of the Ossetian entity inside Georgia and its integration into the federative structures of the Soviet Union can be considered the first significant identity confrontation between the two ethnic groups. Manifested through various tensions and frequently endorsed by the Soviet system, it migrated to a sphere of politicized conflicts. Ossetian incorporation into Soviet Georgia with a lower status and their difficulty to unite with their northern kin in a period of nationalistic fervor cultivated the feeling of discrimination against Tbilisi. Likewise, the creation of the Ossetian autonomous region inside Georgia combined with Moscow`s effort to promote the authochtonous identity during *korenizatsia* increased Georgian sense of inequity; for the Georgian elite it was both the Kremlin and their ethnic neighbours backed up by the Soviet policies who trespassed on

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[1] Markedonov S. De facto obrazovania postsovetskogo prostranstvo: dvadtsat` let gosudarstvennogo stroitel`stvo, p. 89.

[2] Thomas de Waal. Op. cit., p. 137-138.

[3] The population of North Ossetia comprises the groups of Irons and Digors. Their dialects differ from the Kudar`s dialec, the group of South Ossetians. See: [Online]: https://www.opendemocracy.net/en/odr/ossetians-in-georgia-with-their-backs-to-mountains/ (Visited on: 30. 04.2019).

the Georgian rights. Moreover, on political level throughout the completely Soviet period Tbilisi had perceived South Ossetia as an artificial entity – an attitude which inflamed even more the interethnic rivalries. Moscow`s favouritism to South Ossetia had been the general feeling of the Georgians; in the same time the South Ossetians felt politically deprived when compared to North Ossetians or the Abkhaz which held superior statuses within the union republics.[1] As the Georgian scholar, Gia Nodia noted: *„ despite the fact that during the last century the rural population of the region has been predominantly Ossetian, for every Georgian, regardless of how liberal he might be, the area represents a historical province named Shida Kartli or Samachablo."*[2]

Stalin`s policies and their impact on identity stereotypes

Contrary to Abkhazia`s case, the collectivization in South Ossetia was characterized by rapid dynamics: at the beginning of 1930 the process registered 90% of its target. Any attempt at resistance had been crushed and severely persecuted; nevertheless, the whole process was soon reduced to a compulsory contributive quota of 20% per person. In addition, due to a new type of state farms the workers were remunerated at a fixed rate. It is noteworthy that the collectivization in the region started in the same time with the introduction of the compulsory primary education which was adopted in August 1930 as a method to counteract the illiteracy. Despite the fact that measures to fight the phenomenon started in 1926, when the number of the analphabets comprised 15% of the total population, in 1930 the switch to Cyrillic script resulted in the instruction of 90% of the inhabitants, according to Ossetian sources.[3]

Similar to Abkhazia`s case during the process of georgianisation in 1939 the Latin script was replaced with the Georgian alphabet in AO South Ossetia; in the same time North Ossetia was adopting the Cyrillic writing. Moreover, in 1944 the Georgian and the Russian were introduced as main languages in medium education system along with the ban on Ossetian. The situation became dramatic in 1949 when the two languages were imposed also on primary school system. As Georgian education for the then existing 12.000 Georgian /pupils in North Ossetia had been taken care of,[4] the treatment of the South Ossetians constituted a proof of marginalization coordinated by Tbilisi. In 1951, the Georgian language had a tremendous impact on industrial sector of the region, as it became the selective factor of the cadres.[5] In the following year the first secretary of AO South Ossetian, I.G.Imnadze, introduced the use of the Georgian in all bureaucratic activities; the process of georgianisation diminished only in 1956.

In the context of Stalin`s repressive campaigns against the ethnic groups of the region, combined with the large waves of deportations during The Great Partiotic War, the Ossetian occupied a privileged position; that is why they tend to be seen by most historians as „the most Sovietized people of the Cucasus".[6] In addition, compared to their neighbors in the region the Ossetians have always stood out for both their religion and dedication in fighting next to the Russian troops; their soldiers distinguished themselves in the Finish and Japanese Wars, yet most notably in the Great Patriotic War.[7] As Pavel Polian have seen Stalin`s deportation of the ethnic groups in the Caucasus between 1943 and 1944 as a

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[1] ICG Europe Report N°159 Georgia: Avoiding War in South Ossetia. In: Tbilisi/Brussels, 26 November 2004, p. 3. [Online]: http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN019224.pdf (Visited on: 18.04.2019).

[2] Markedonov S. apud Gia Nodia, in „Etnopoliticheskie konflikty v Abkhazii i v Iuzhnoi Osetii: prichiny, dinamika, uroki"…p. 28.

[3] Iuzhnaia Osetia. God za godom (1930g). [Online]: http://osinform.org/31304-yuzhnaya-osetiya-god-za-godom-1930-g.html/ (Visited on: 12.04.2019).

[4] Shirokorad A. Voina i mir Zakavkazya za poslednie tri tysyachi let. Moscova: AST, 2009. [Online]: http://ww38.ereading.club/chapter.php/1007063/10/Shirokorad__Voyna_i_mir_Zakavkazya_za_poslednie_tri_tysyachi_let.html (Visited on: 22.05.2019).

[5] Meleshkina E.I., Kudryashova I.V. Setsessii na postimperskom prostranstve: Kosovo, Abkhazia, Iuzhnaia Osetia, p. 63. [Online]: https://mgimo.ru/upload/iblock/2a6/2a6406aa042750232714e1d1bbde20a3.pdf (Visited on: 24.05.2019).

[6] O`Loughlin J., Ó Tuathail G. (Gerard Toal), and Vladimir Kolossov apud Julian Birch. The Localized Geopolitics of Displacement and Return in eastern Prigorodyy Rayon, North Ossetia. In: Eurasian Geography and Economics. 2008, N. 6, p. 642.

[7] According to Thomas de Waal, the Ossetians have registered the greatest number of the war decorations as „USSR`s hero" among the ethnic groups of the USSR, see Thomas de Waal. Op. cit, p. 136.

way of remuneration or punishment according to their attitudes during The Second World War,[1]the Ossetians have been indeed a favored people. Moreover, one of Beria`s telegrams to Stalin containing details about the deportation of the Chechen and Ingush peoples in February 1944, stressed the implication of the North Ossetians in supervising the displaced groups.[2] It can be noticed that during the whole Soviet process of territorial reorganisation, which manifested through radical change of ethnic composition in the region – having transformed the Caucasus in a hotbed of interethnic wars – the Ossetians, had held preferential status and the role of their nation constituted later the epicenter of the conflicts. Along with the strategies which were forging the young Soviet state and Stalin`s nationality engineering the territorial reforms of the 1930s drew an imaginary line between the favored and discriminated people. When South Ossetia was included in the Soviet Georgia and the town of Ordzhonikidze (Vladikavkaz) became the capital of North Ossetia in 1933, the event was perceived more than a compensation for the loss of the Ossetians. Despite the fact that the events followed Moscow`s decision to organize the two Vainakh[3] okrugs under a single territorial unit, the autonomous Chechen-Ingush okrug, – later the Autonomous Chechen-Ingush Republic – the resentments of the Ingush elite against the privileged ethnic group could not be prevented.

Nevertheless, the identity split between the two groups was based on the distinction between the loyal and disloyal groups after the Russian Empire had crushed the anticolonial resistance of the Muslim people in the Caucasus. When the Cossack`s *stanitsas*[4] had been relocated in the region with strategical purpose, the Ingush settlements got cut off from the fertile lands; in the same time, the Ossetians were encouraged to populate the area along the Georgian Military Highway – the most strategic point in the North Caucasus. For the Ingush these measures had resulted in dramatic economic isolation: having been cramped between the Cossack settlements and mountains, they were forced to move further away from the Georgian Military Highway. While the Ossetians had internalized a feeling of victory throughout the process of state consolidation and identity integration in the Empire, their neighbors felt excluded and added to their sense of alienation – the adoption of Islam and the affiliation to Moscow`s least favored group: the Chechens.[5]

Owing to these factors, combined with the massive waves of the following deportations, the aggravation of identity cleavages materialized through a new affirmation of political geography and ethnoterritorial order in the region.[6] The forced displacement of the ethnic groups made for the Chechen-Ingush AR to disappear from the local political map as its territory has been divided between North Ossetia, Dagestan, Georgia, and Stavropol` kray. Consequently, the central part of the ex-autonomous republic became the okrug Grozny (Groznenskiy); after the eastern part of Stavropol` kray was added a new region, Groznenskaya, was created. As North Ossetia had been geographically and preferentially coupled to the new geopolitical engineering, it received the Prigorodny[7] raion with all the northern territory to Mozdok. In addition, in order to invigorate the ravaged area due to deportations a new relocation programme of South Ossetian peasants to the industrialized area in the north was applied. In a short time period a number of approximately 26.000 South Ossetians settled in the region with the aim to take over the Ingush vacant jobs and houses. By the end of 1940 the Soth Ossetians, ethnic Russians, and the Ossetians from Kazbegi region in Georgia had moved in massive waves to the

[1] Polian P. Ne po svoey vole…Istoria i geografia prinuditel`nykh migratsii v SSSR. In: Total`nye deportatsii ”vozmezdia”narodov Severnogo Kavkaza i Kryma v 1943-1944 gg, O.G.I – Memorial, Moskva 2001. [Online]: http://old.memo.ru/history/deport/ (Visited on: 14.05.2019).

[2] Telegramma L.P.Berii – I.V Stalinu o podgotovke operatsii po vyseleniyu chechentsev i ingushey. 17.II.1944. [Online]: http://www.hrono.info/dokum/194_dok/19440217beri.php (Visited on: 10.05.2019).

[3] The Vainakh ethnic group includes the speakers of the Vainakh languages: the Chechens and Ingush.

[4] Stanitsa was the Cossack village and main unit inside the Cossack Army – the administrative subdivision of the Cossacks in the Russian Empire.

[5] Sokirianskaya E. Getting Back Home? Towards Sustainable Return of Ingush Forced Migrants and Lasting Peace in Prigorodny District of North Ossetia. CPS International Fellowship Program 2005/2006, Open Society Institute, p. 56.

[6] John O`Loughlin et al. The Localized Geopolitics of Displacement and Return… p. 643.

[7] Prigorodny raion (meaning „suburban” in Russian) comprises the territories to the east and south of Vladikavkaz; it also includes a number of small towns and villages which have been disputed since the XVIII-th century.

agriculturally rich areas of the region; they occupied the collective farms and factories, and gradually transformed the place into a preponderantly Ossetian settlement.[1]

In the context of the „thaw" following Stalin`s death there were attempts to rehabilitate the deported ethnic groups in the Caucasus. An official decision was adopted on 9 January 1957 in order to recreate the Chechen-Ingush AR which had been abolished 12 years ago. Despite the effort the new territorial reconstitution did not match to the old borders; the Prigorodny raion along with the strip between North Ossetia and Mozdok remained a part of North Ossetia. Under the circumstances the relocation of Ossetians with the scope of accommodating the newcomers became unrealistic; in addition, a new wave of approximately 22.000 South Ossetians were moved to the region between 1956 and 1959. The arrival of the first Ingush people in 1956 gave way to brutal confrontations which culminated in 1958 with a three-day pogrom against the returning Ingush and Chechens.[2] The Kremlin`s attempt to make up to the deported people by relocating them to Stavropol` kray could not compensate for the loss of their cultural heritage. This identity crisis became a latent conflict, which would intermittently appear in the context of instabilities and identity cleavages in the Caucasus.

Soaring identity clashes in the wake of the Soviet liberalization

According to statistics from the 1989 census, the great majority of the Ossetian community in Georgia SSR were living outside the borders of South Ossetia; their total accounted for 97.658 people compared to 63.200 registered in the autonomous region. In addition, compact groups of Ossetians were populating the Gudzharetsky, Pankisi, and Borzhomi gorges. Ossetian community in Tbilisi was comprising 33.319 people, in Gori – 8.000, and more than 5000 inhabitants in Rustavi. To conclude, compared to Abkhazia, the ethnopolitical conflict between Georgia and South Ossetia was unforeseeable.[3]

Moreover, the period of the last Soviet years in the wake of Gorbachev`s process of social democratization registered a certain political cooperation between Tbilisi and South Ossetia – both overwhelmed with the reformative wave of the CPSU. The national movements, which had appeared in both Tbilisi and Tshkinvali, evolved into associations and political parties and their common fight against the communism determined the harmonization between the National Front of South Ossetia, Adamon Nakhys, and the Georgian Society Ilya Chavchavadze. Nevertheless, when Zviad Gamsakhurdia came to power in Georgia his radical policies and nationalistic discourse put an end to the incipient friendship between the two movements. The first interethnic clashes in South Ossetia took place in the spring of 1989 when the Ossetian national leader Alan Cochiev took sides with Abkazia in response to the division of the University in Sukhumi. On 26th May – the commemorative day of Georgia`s independence in 1918 – violent confrontations between the Ossetian civil population and Gamsakhurdia`s military troops[4] were registered. The events precipitated even more when the Georgians declared their separation from the Soviet Union and the South Ossetians manifested the desire to elevate their political status outside Georgia. Moreover, in August 1989 Georgia officially announced the state language reform with the aim to increase the role of Georgian in all public spheres and implicitly to introduce more constraints to the minority groups.[5]

Faced with the increasing discriminatory policies, by contrast with the official line represented by glasnost` and perestroika, in September 1989 the Ossetian Popular Front addressed a new petition to

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[1] John O`Loughlin et al. The Localized Geopolitics of Displacement and Return…", p. 643-644.

[2] Ibidem, p. 644.

[3] Markedonov S. De facto obrazovania postsovetskogo prostranstvo: dvadtsat` let gosudarstvennogo stroitel`stvo", p. 89-90.

[4] Sammut D. Background to the Georgia-Ossetia Conflict and future prospects for Georgian-Russian relations. In: Report prepared for LINKS, 11 August 2008, p. 7. [On-line]: https://danutm.files.wordpress.com/2008/08/links-reportbackground-to-the-georgia-ossetia-conflict.pdf. (Visited on: 14.11.2019).

[5] The programme aimed not only to officially impose the Georgian language, but also to curtail the access of the minority groups to Georgia`s cultural and other official structures. It had been carried out by introducing compulsory language exams to all candidates for the superior education. Other discriminatory measures included: programs of promoting the Georgian history, the officialisation of national holidays, and the creation of special Georgian military units in the are with minority groups. See: Jones S. Georgia: a failed democratic transition", in Ian Bremmer and Ray Taras, Nations and Politics in the Soviet Successor States. New York: Cambridge University Press, 1993, p. 294-245.

the Supreme Soviet of the USSR and the CC of PCUS. The document was protesting against the antidemocratic and ant constitutional reform of the language; likewise, Tskhinvali was asking that the issue of the unification of the two Ossetian provinces be discussed during the CC plenum on nationalities; in November, the CC of South Ossetia requested the adoption of the Ossetian as the official language of the autonomous region. The projects of the Ossetian national leaders were rejected by both Moscow and Tbilisi. What is more, their attempts to elevate the political status of the region inflamed the spirits of the Georgian politicians. Having taken advantage of their rights to oppose the laws, which could have damaged their national interests the authorities in Tbilisi, deposed the South Ossetian first secretary.[1]

In November 1989 the animosities between the two groups soared dramatically fueled by Gamsakhurdia`s increasing nationalism[2] which materialised through massive Georgian protests in Tskhinvali. The leaders of the Georgian SSR and the first secretary of the CP Givi Gumbaridze who set off to Tskhinvali with 30.000-40.000 people in 400 buses leaving from Tbilisi and other regions of Georgia led the event. In spite of the Georgian effort to describe the action as a peaceful march among the protesters were registered disguised members of the paramilitary groups affiliated with the national movements as well as armed people. When the local population blocked the main roads to the capital of South Ossetia the armed Georgians retaliated by enclosing the region and cutting off all access routes. During the campaign, Ossetians travellers underwent brutal treatment; a number of six people were killed and 400 injured.[3]

Moreover, the ascension of the national leaders in Georgia`s political apparatus along with Gamasakhurdia`s election as the head of Georgia`s Supreme Soviet increased both the nationalistic discourse and the ethnopolitical rift with the minority groups. On 9 December 1990 the local leaders held legal elections for people`s deputies in South Ossetia without Tbilisi`s consent, though. Consequently, Georgia declared them invalid and abolished the independence of the autonomous region. A state of emergency was declared in Tskhinvali and all the Ossetian attempts to negotiate the situation were radically rejected. The new atmosphere of war between the two ethnic groups lasted for 2,5 years; throughout this period both ethnic groups had looted, committed ethnic cleansing and crimes against civilians, as well as many other abusive actions. Moscow`s efforts to restore the order by sending troops in the region did not help.[4]

Nevertheless, Moscow`s role in the context of the confrontation between Tbilisi and South Ossetian have been widely condemned and still remains a controversial topic. According to the Ossetian sources the Russian garrisons in the region did not counteract the atrocities committed by the Georgian National Guard against the population of Tskhinvali; meanwhile, the Georgians have claimed that the leaving Russian army in the wake of the Soviet dissolution provided the South Ossetians with arms and ammunition. Moreover, in January 1992 a new South Ossetian referendum was asking for the union with North Ossetia and the inclusion in the Russian Federation. In the same year the president of the Supreme Soviet of Russia, Ruslan Khasbulatov, described the Georgian actions against the Ossetians as genocide and an important detail which might led Moscow to pay attention to the latter`s request. New arms of Russian origins were found soon in the Ossetian`s possession. Both the Georgians and Eduard Shevarnadze, the new interim president of Georgia, accused the intervention of the Russian troops and Moscow`s role in maintaining the conflict, though Tskhinvali kept denying any help from Russia.

Regardless of any deliberate possible role of Moscow Georgia`s defeat on both its separatist fronts suited the former`s strategical and political plans in the region. Due to Shevarnadze`s moderate line, the

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[1] Dennis Sammut. op. cit., p. 8.

[2] Gamsakhurdia`s position against the Ossetians was much more uncompromising compared with that against the Abkhaz or Adjarians – minorities which he accepted as indigenous. By contrast, the rights of the Ossetians as autochthonous people were radically rejected and accompanied by a xenophobic discourse. See: Svante E. Cornell. Small Nations and Great powers: A study of ethnopolitical conflict in the Caucasus. London: Routledge Curzon, 2001, p. 150-158.

[3] Parastaev A. North and South Ossetia: Old conflicts and new fears. [Online]: https://www.saferworld.org.uk/downloadfile.php?filepath=downloads/pubdocs/ArmedOssetia. (Visited on: 01.06.2019).

[4] Starovoitova G. Natsional`noe samoopredilenie: podkhody i izuchenie sluchyaev. [Online]: http://www.vehi.net/politika/starovoit/02.html (Visited on: 12.03.2019).

armed conflict was ceased on 14 July 1992; the event was perceived as a victory at that time and consisted in the establishment of a Joint Control Commission (JCC) as a peacekeeping organization in conjunction with representatives of the three parts of the conflict: South Ossetia, Georgia, and Russia. When Georgia joined the Commonwealth of Independent States (CIS) and further subscribed to a friendship accord with Moscow through which the latter was allowed to keep its military bases on Georgian soil for the next 25 years, Russia`s preeminence in determining the status-quo of the two ethnic regions has been officialised.

Conclusions

Owing to the fact that one of the most defining features of the frozen conflicts in the ex-Soviet space remains their intrinsic linkage to the collapse of the Soviet system – which provoked an identity redefinition manifested through the replacement of the ethnic factor with the national one – the post-imperial legacy[1] represents a key-factor whose omission could produce but insufficient evidence. This means that many of the current contradictions of the frozen conflicts could be explained through Moscow`s failed attempt to accommodate its centralized policies to interethnic relations; it became an issue which outlived the Soviet Union and displayed grave incompatibility with the new post-Soviet realities. As some scholars have put it the process of fabricating the Soviet civil nation was characterized by the uniform dissemination of the norms of law, state, and culture and their equal enforcement on the Soviet territory;[2] the attempt was inconsistent with the other local policies which had accompanied the principles of building and consolidating the multiethnic Soviet state. The organization of the Soviet Russia into territorial-administrative units had been based on national compartmentalization; moreover, the following measures to accommodate the amalgam of nationalities to the new Soviet consciousness had been defined by the policy of *korenizatsia* which aimed to forge a submissive nation and gradually absorb the titular nationalities into the Soviet mechanism. What is more, the institutionalization of the term „titular nation" raised awareness of the existing inequalities which accompanied the Soviet system; this phenomenon caused an acute sense of discrimination among various ethnic groups. The process of identity institutionalization, which had been a consequence of promoting and consolidating the ethnic nationalism, became an organic cell of the Soviet state; in the same time the newly created ethnopolitical units displayed identity attachments nurtured by the principles of the union republic. According to Sergey Markedonov, the incongruity between the administrative units made for the minority groups feel strangers beside the titular nations and this produced a sense of illegitimacy.[3] In Abkhazia and South Ossetia the issue was particularly evident as the struggle to alter their political status had been indirectly fueled by Moscow`s policies. Furthermore, the territorial compartmentalization along ethnic and religious lines had also institutionalized authority centers whose loud echo after the fall of the USSR would be particularly heard in the area of the frozen conflicts. The case of Georgia is most relevant in this sense – an ex-union republic which inherited the leading structures of the three ethnopolitical entities officialiased by the Soviet Union. Along with the liberalization process which intensified Georgian self-determination tendencies, Tbilisi had to put up with the privileged status of these autonomous subjects; in the wake of the new sociopolitical context at the end of 1991 the claim on their own self-determination was expressed in South Ossetia, Abkhazia and Adjara. To summarize, the Soviet territorial engineering had indirectly invested the minority groups with power to self-government; this resulted not only in antagonism towards the titular nation – the latter having been also frustrated for the political asymmetry – but also in a constant contestation of its legitimacy as an authority over the smaller ethnic groups. Based on the fact that the preferential status of the minorities had been Moscow`s project, Russia was

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[1] By post-imperial legacy, I understand the various dynamics of certain Imperial and mostly Soviet Russian historical contexts which affected the fermentation of national self-consciousness among the people of the region, and whose presence could be traced even after the fall of the Soviet Union.

[2] Elena I. Meleshkina, Irina V. Kudryashova. Op. cit., p. 61.

[3] Markedonov S. Conflicty na Kavkaze: sovetskaya preliudiya. [On-line]: https://www.nlobooks.ru/node/1133/ (Visited on: 07.01.2018).

perceived as the sole authority which could decide over the requests in the region; likewise, Georgia`s right to preside over the ethnic groups on its territory was ultimately seen as an act of discrimination.[1]

Russia`s role in the process which had paved the way for the following frozen conflicts in the ex-Soviet space constitutes a hotly debated topic among scholars. While the Russian Empire had managed to conquer the Caucasus and keep it together over a significant period, the Soviet Union consolidated and integrated these territories into the mechanism of a single state unit – it submitted the whole region to its highly centralized bureaucratic structures. The collapse of the empire was followed by the reconfiguration of the political map based on ethnic and territorial principles. The hierarchy of the new administrative units, „led" by the titular nations represented the core of the Soviet federalism. Apart from the ideology of the new socialist state, it is noteworthy that the ethnofederalism constituted a way of both managing the post-imperial legacy and accommodating the multiethnic society. As Christoph Zürcher has noticed, the first task in implementing the Soviet project was the organization of the territorial authority, since centralization implied administrative units subordinated to the center. Moreover, in the context of the imperial disintegration and rising nationalism, the issue of state unity became a priority; not to mention that the legitimacy of the young Soviet state, both domestically and externally, implied a certain guarantee for the rights of the nation's „liberated from the tsarist oppression".[2] In other words, Karl Marx`s theory on nationality issue reduced the nationalism to a trivial factor in the process of building the socialist world.[3] Seen rather as a historical product in the context of rising capitalism and an instrument through which the imperialism defended the interests of the bourgeoisie, the nationalism was about to succumb to the new communist society based on class solidarity. Briefly, Marx`s prescription for nationalism was the removal of national differences. Nevertheless, the Russian communist leaders not only failed to put in practice such theories on local levels, but also insisted on improvising various policies which intensified identity affirmation, stressed the cleavage between the multiethnic groups, and prepared the ground for the future frozen conflicts.

In addition, the nationality issue in the USSR had been perceived as a phenomenon typical of the post-imperial Russia, taking into consideration that the Soviet theoreticians made a sharp distinction between the bourgeois and socialist nations; the latter occurring in the Soviet society before becoming an inseparable part of a single Soviet nation. However, the emergence of the own identity consciousness among the non-Russian groups dismantled the assessment of the Soviet ideologues which had neglected the repercussions of their policies during the process of consolidating the socialist society. Therefore, the promotion of schooling and education along with urbanization and industrialization in the 1960s produced a new local elite among the non-Russian nationalities identical in its profile and aspirations to the Russian „socialist bourgeoisie" of the 1930s-1950s. Their pride of having taken part in the local socialist project was obscured by the ethnofederal structures along with the supremacy of the titular and Russian elite. This was also the case with the workers and peasants which due to urbanization and education became aware of their national identity and role in building the socialist society.[4]

The struggle for acquiring the status of the titular nation was particularly fierce in Abkhazia as its identity had already undergone a terrible crisis in the context of the tsarist ethnic discrimination. In South Ossetia it had occurred to a lesser extent indeed yet the new reconfiguration of the Soviet state which imposed the administrative-territorial division affected both regions. Moreover, under Stalin`s administration a great majority of Georgians had held key-positions in the superior apparatus of the Georgian SSR; in the same time, the two minority groups – the Abkhaz and the Ossetians – were blatantly underrepresented. This was even graver considering that Georgian nomenclature was also in charge with the highest positions in the two regions.

Abkhazia`s political identity had been nurtured and exacerbated by its constant positioning against the privileged Georgian ethnic group. The fear of assimilation and even extinction had been reflected in

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[1] Fortin J. Post-Communism or Post-Colonialism? Soviet Imperial Legacies and Regime Diversity in East Europe and the Former USSR. McGill University, Montreal July 31 2008, p. 202-203.

[2] Christoph Zürcher. Op. cit., p. 24.

[3] Ian Bremmer apud Roman Szporluk. Reassessing Soviet nationalities theory. In: Ian Bremmer and Ray Taras. Op. cit., p. 9.

[4] Hugh Seton-Watson. Op. cit, p. 318.

the fact that all the tensions between the center and periphery manifested preponderantly in the spheres of culture and language. The latter constituted the trigger for expressing all anti-Georgian frustrations as a result of imposing the Georgian script between 1938 and 1954, the compulsory introduction of the Georgian language in the Abkhaz education system, and the selection of the cadres based on ethnic considerations. Sukhumi`s consistent protests requested to independently join the RSFSR; they manifested intermittently in 1931, 1956, 1967, and 1977. From this perspective, the situation had been similar in South Ossetia when the Latin alphabet of South Ossetian language was switched to Georgian in 1939; the imposition of Georgian language on both education system and industrial sphere followed. In conjunction with the conspicuous disproportion of cadres and the process of territorial relocation, which had been initiated in the tsarist times, the ferment of the identity consciousness took the form of the national discourse. To cite Ronald Grigor Suny while arguing the „making of nations": *„when they [people] begin to define who is within the group and who are the'others', when they begin to gain the capacity to act in whatever 'interests' they believe they share (which may be opposed to those of the 'others'), the formation takes on a coherence and consciousness that allows it to act collectively."*[1]

Much in tone with Soviet volatile policies, the thesis of „the friendship of nations" which dominated the Soviet discourse after Stalin`s denouncement accompanied by „the new historical community – the Soviet people" left insignificant space for the expression of ethnopolitical protest. As a consequence of the preferential policies nurtured by the federal structures and the nationality policies of the previous years between 1970 and 1980 the ethnic cadres soon produced the future leaders of the national movements. In Georgia, the leader of the national movement and then the first president of the country was the philologist and translator Zviad Gamsakhurdia; in the same way, Vladislav Ardzimba, – a specialist in the history of the Hittites – represented the national sentiments and self-determination tendencies of the Abkhaz people.[2]

Against the backdrop of the liberalization in the last Soviet years, the democratization of society in the Caucasus coincided with soaring criminality, favoritism, and ethnic „nepotism" as free expressions of the practices cultivated by the communist system. The lack of alternatives and the faint sociopolitical models which followed after Stalin`s totalitarianism left a strong imprint on the relationship between Tbilisi and the two ethnic groups. In the context of perestroika, the escalation of tension produced an acute separation of the Georgians, Abkhaz and Ossetians. Based on their requests concerning their political statuses the armed confrontation that followed proved the political identity behind them. The appeal to Moscow in such context represented a logical occurrence as well as a logical course of historical events of the region.

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[1] Suny R.G. The Revenge of the Past, Nationalism, Revolution, and the Collapse of the Soviet Union. Stanford: Stanford University Press, 1993, p. 6.

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НАУЧНЫЕ СООБЩЕНИЯ

THE RUSSIAN NATION BETWEEN THE SOVIET PAST AND THE EURASIAN FUTURE: SEEKING POST-SOVIET IDENTITY

NAȚIUNEA RUSĂ ÎNTRE TRECUTUL SOVIETIC ȘI VIITORUL EURASIATIC: CĂUTAREA IDENTITĂȚII POST-SOVIETICE

РУССКИЙ НАРОД МЕЖДУ СОВЕТСКИМ ПРОШЛЫМ И ЕВРАЗИЙСКИМ БУДУЩИМ: ПОИСК ПОСТСОВЕТСКОЙ ИДЕНТИЧНОСТИ

GRIGOROVA Darina[*]

ABSTRACT:
THE RUSSIAN NATION BETWEEN THE SOVIET PAST AND THE EURASIAN FUTURE: SEEKING POST-SOVIET IDENTITY

The article analyzes the changes in the perception of the concepts of „citizen" and „nationality" in the USSR and modern Russia.

Russia has always been and will be a multinational state regardless of its format of governance – Romanov Empire, Soviet Union or pro-Soviet Russia. While in the period until 1917 religion was the determining national principle in the empire – practicing the Eastern Orthodox religion was sufficient to call someone a Russian regardless of his ethnic origin, in the period by 1991 the Soviet system chose the social principle as substitute for the national one by the concept of „Soviet citizen".

The disintegration of the Soviet Union (1991) provoked a crisis in the national consciousness of the post-Soviet society, which the power holders tried to prevent with the formal introduction of the concept of „Rossiyanin", entailing, however, only a civil affiliation to the Russian Federation.

Keywords: *citizen, nationality, identity, ethnic origin, disintegration, collapse of the USSR, Russian, Slavic, European, Eurasian.*

JEL Classification: K10, K33, F50, J88.

REZUMAT:
NAȚIUNEA RUSĂ ÎNTRE TRECUTUL SOVIETIC ȘI VIITORUL EURASIATIC: CĂUTAREA IDENTITĂȚII POST-SOVIETICE

În articol se analizează schimbările care au avut loc în percepția conceptelor de „cetățean" și „naționalitate" în URSS și Rusia modernă.

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Rusia a fost întotdeauna și va fi un stat multinațional, indiferent de forma sa de guvernare-Imperiul Romanov, Uniunea Sovietică sau Rusia pro-Sovietică. În timp ce în perioada de până în 1917 religia a fost principiul național determinant în imperiu – practicarea religiei ortodoxe de Est a fost suficientă pentru a numi pe cineva rus, indiferent de originea sa etnică, în perioada 1991 sistemul sovietic a ales principiul social ca substitut pentru cel național prin conceptul de „cetățean sovietic”.

Dezintegrarea Uniunii Sovietice (1991) a provocat o criză în conștiința națională a societății post-sovietice, pe care deținătorii de putere au încercat să o prevină odată cu introducerea oficială a conceptului de „Rossiyanin”, implicând, totuși, doar o afiliere civilă la Federația Rusă.

Cuvinte cheie: *cetățean, naționalitate, identitate, origine etnică, dezintegrare, destrămarea URSS, rus, slav, european, euroasiat.*

JEL Classification: K10, K33, F50, J88.
CZU: 327.001, 340.1, 94 (4/9).

РЕЗЮМЕ:
РУССКИЙ НАРОД
МЕЖДУ СОВЕТСКИМ ПРОШЛЫМ И ЕВРАЗИЙСКИМ БУДУЩИМ:
ПОИСК ПОСТСОВЕТСКОЙ ИДЕНТИЧНОСТИ

В статье анализируется изменения произошедшие в восприятии понятий «гражданин» и «национальность» в СССР и современную Россию.

Россия всегда была и будет многонациональным государством, независимо от формата управления – Романовская империя, Советский Союз или просоветская Россия. Если в период до 1917 года религия была определяющим национальным принципом в империи-исповедуя Восточную православную религию, достаточно было назвать человека русским независимо от его этнического происхождения, то в период до 1991 года советская система выбрала социальный принцип в качестве замены национального понятием «советский гражданин».

Распад Советского Союза (1991 г.) спровоцировал кризис в национальном сознании постсоветского общества, который властители пытались предотвратить формальным введением понятия «россиянин», влекущим, однако, лишь гражданскую принадлежность к Российской Федерации.

Ключевые слова: *гражданин, национальность, идентичность, этническое происхождение, дезинтеграци, распад СССР, русский, славянин, европеец, евроазиат.*

JEL Classification: K10, K33, F50, J88.
CZU: 327.001, 340.1, 94 (4/9).

Introduction

Russia has always been and will be a multinational state regardless of its format of governance – Romanov Empire, Soviet Union or pro-Soviet Russia. While in the period until 1917 religion was the determining national principle in the empire – practicing the Eastern Orthodox religion was sufficient to call someone a Russian regardless of his ethnic origin, in the period by 1991 the Soviet system chose the social principle as substitute for the national one by the concept of „Soviet citizen”.

The disintegration of the Soviet Union (1991) provoked a crisis in the national consciousness of the post-Soviet society, which the power holders tried to prevent with the formal introduction of the concept of „Rossiyanin”, entailing, however, only a civil affiliation to the Russian Federation.

Kremlin's attempt – mostly through Yeltsin and then more hesitantly under Putin – to impose the formal model of „Rossiyska” and „Eurasian” identity failed. The issue of a national idea of new Russia remains open and the fact that it was the main topic of the Valdai Discussion Club, organized by Putin in 2013, was not a mere chance.

Putting refers to 1991 as the year of the „geopolitical revolution” and „peaceful transformation of the Soviet regime” with the state slowly beginning to regain its prestige. Words with negative connotation, such as „collapse” and „disintegration” of the USSR are replaced with the more balanced „transformation”, while Russia is formally announced as successor of the Soviet Union.

From a foreign political perspective, Putin began the Eurasian „Reconquista" or the restoration of the Russian influence in the pro-Soviet space − the „Eurasian" has replaced the „Soviet".

Unlike the Enlightened absolutism of Catherine the Great, who declared the Russian Empire as „European", under Putin's *Enlightened authoritarianism*, modern Russia has been described as „unique Eurasian state"[1], which has also changed the orientation of the state. Putin's specific steps to the Eurasian orientation of post-Soviet Russia involved the establishment of the Eurasian Economic Community (ЕврАзЭс) in 2000 and the Customs Union among Russia, Belarus and Kazakhstan (effective as of 2010). According to Putin, the Customs Union will be „a real integration breakthrough, which will radically change the economic and geopolitical configuration of the Eurasian area"[2].

From the perspective of domestic policy, Putin sacralized the power in line with the Russian traditions, while the ideological vacuum after 1991 began to be filled with the ideology of patriotism. „People's protection" („сбережение народа") − Russia's most important public goal, set by Aleksandr Solzhenitsyn – has become a part of Putin's understanding of the national idea.

Yet, what kind of patriotism will new Russia have – Russian or Rossiyan, Slavic or Eurasian?

The mechanisms of establishment of a national idea in post-Soviet Russia are a new political language, new national holidays and controlled national memory - which, however, will combine Soviet traditions with post-Soviet/Russian realities - and new national heroes.

1. **The new political language**

In Putin's political dictionary, patriotism is formally defined as „all-Russian patriotism", which should be „one of the major uniting factors". Unlike Medvedev, who avoids the use of the concept of „ideology", Putin speaks about an „ideology of agreement" as „the most secure method of building a sustainable immunity against any types of intolerance and separatism"[3].

Putin's political language contains concepts of Russia's conservatism of the second half of the 19th century. The Balkans' Eastern Orthodox mission is replaced with „a civilizational mission in Eurasia" and Putin pronounces Russia as „guardian of the true Christian values" (which, however, entails the existence of false Christian values outside Russia).

It is not a mere chance that Putin chose Ivan Ilyin, one of the most conservative representatives of the Russian White émigrés of the 20th century, as an ideologist of the United Russia party, headed by him. The very slogan „United Russia" belongs to the White émigrés of the Civil War period. On the one hand, Russian conservatism has always protected the ideas of strong centralized power, which corresponds to the Presidential Republic and is enshrined in the 1993 Constitution. On the other hand, the concept of „conservatism" is not discredited in modern Russia unlike liberalism, which the public associates with oligarchy, privatization and the plundering of public assets in the beginning of the 1990s.

Unlike Putin, Medvedev uses liberal wording in defining *the Rossiyska nation*. Medvedev associates the Russian nation with democracy, i.e. not with its uniqueness like Putin but on the contrary, with the universal liberal values: „The main issue is to combine the national traditions with the fundamental sets of democratic values [...] What are these principles? How do they look like today? First, this is freedom and justice. Second, this is the civic dignity of man. Third comes his prosperity and social responsibility"[4].

At its latest news conference in December 2013 Putin openly stated that conservatism is Russia's ideology as a counterbalance of the non-liberal West. At the same time, a tendency of rediscovery of the Russian culture has begun. It is not a mere chance that the impressive ceremony at the opening of the Winter Olympics in Sochi featured exclusively symbols of the Russian culture.

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[1] Путин В. В. Прямая речь. Вестник Российской нации. [Online]: http://www.rosnation.ru/index.php?D=31 (Visited on: 13.11.2019).

[2] Председатель Правительства России В.В. Путин представил в Государственной Думе отчёт о деятельности Правительства Российской Федерации за 2010 год. 20.04.2010. [Online]: 2019http://premier.gov.ru/events/news/14898/ (Visited on: 25.04.2019)

[3] Путин В. В. Прямая речь. Op. cit.

[4] Медведев Д. А. О национальной идее. Главы из книги Николая и Марины Сванидзе. [Online]: http://medvedev.kremlin.ru/book (Visited on: 15.03.2019). Пак той. Выдержки из выступлений Д.А. Медведева. Вестник Российской нации. [Online]: http://www.rosnation.ru/index.php?D=50 (Visited on: 13.11.2019).

2. **Controlled national memory – „fair history"**

The symbolism of national memory can hardly be distinguished from the mythological image of the past, developed at school but then destroyed at university. The university education, however, is for a limited number of people, while the school-created idea of the national past remains as lasting memory uniting the society and the national community. Every political crisis changing the system or even more – the state borders - alters the public attitude towards history and makes it more demanding in an effort to find a new identity.

After the disintegration of the Soviet Union (1991), in modern Russia, the memory about the Great Patriotic War (1941–1945) turned into one of the strongest signs of the past uniting and, at the same time, dividing the Russian society. On the one hand, Victory Day, 9 May, remains uniting and sacred for all Russians, regardless of the social and political affiliations. On the other, the partial and the extreme – negative or positive (almost religious) – attitude towards the historical role of Stalin divides the post-Soviet society into two irreconcilable camps – a tendency, which - rather than weakening – has been gradually strengthening in the past 20 years.

The painful attitude of both the state and the society namely towards this period of the Soviet history is due to:

– the historical trauma after 1991 having created the „phantom pain"[1] over the Soviet area: it is particularly strong regarding Ukraine – closest to the Russians but seeking independence at all costs;

– the national problem having reached the Russians for the first time (so familiar to the Balkan peoples), namely, the non-coincidence of the ethnic and political borders (over 20 million Russians live outside the territory of the Russian Federation);

– disappointment with the neoliberal reforms of Yegor Gaidar having resulted in the transformation of Stalinism into a form of social protest;

– the attempt of certain post-Soviet republics (mainly the Baltic states) to replace rather partially the past restoring the cult towards the Nazis (especially Estonia) or the cult towards the collaborationists (in Ukraine, under president Yuschenko, Stepan Bandera was declared a national hero). The post-Soviet republics condemn the Soviet Union but do not object to their Soviet borders (while a part of the USSR, Lithuania received the capital Vilnius and the southern territories once belonging to Poland, Ukraine – Crimea, Georgia – South Ossetia, etc.)

– the European Parliament decision to proclaim 23 August an European Day of Remembrance for Victims of Stalinism and Nazism incorrectly equalizing the two phenomena by a specific referral to 23 August 1939 (the Molotov-Ribbentrop Non-Aggression Pact), quite forgetting the 1938 Munich Agreement.

Equalizing Stalinism and Nazism from an academic perspective is not an object to a dispute. Albeit close in many respects, the two phenomena are different enough so as not to be equalized. The academic circles, however, are far from influencing the public opinion, which is more dependent on political speculations or ignorance.

How has Russia responded? With the appeal for „fair history". „The fair history is the key to the building of confidence-based relations between the peoples"[1]…

The „fair history" appeal belongs to the presidential administration chief of staff, Sergey Naryshkin, the closest aide of the Russian President and the person, who is best informed about the future steps of Dmitry Medvedev.

On 15 May 2009, the Russian President issued Decree No. 549 establishing a Commission to counter attempts to falsify history to the detriment of Russia's interests, headed by Sergey Naryshkin. The very name of the commission has become a target of public irony – what about the falsifying attempts that are not to the detriment of Russia's interests?

Such a commission does not contribute to the development of a new national idea.

3. **Preservation of Soviet symbols:**

The symbols, related to the victory in the Great Patriotic War, that are sacred for all generations in Russia up to the present day are:

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[1] Нарышкин С. Е. Честная история – ключ к формированию доверительных отношений между народами, с. 1. [Online]: http://obrazovanie.viperson.ru/data/200908/naryshkin.pdf (Visited on: 19.09.2019).

a) on the one hand, 9 May, Victory Day (but having the Mausoleum fully packed during the solemn parade on the Red Square, which is a stylistic indicator about the absence of restoration ambitions with the fully pragmatically-minded power-holders);

b) on the other hand, the national anthem - Glinka's music approved as an anthem under Yeltsin, was replaced by the Soviet anthem under Putin. Sergey Mikhalkov again wrote this third text but the new melody symbolizes not so much the totalitarian past, as certain liberal authors criticized it, but rather 1943, the year of its creation. Then, the International was not played any longer and the Soviet army was on the offensive largely due to the national upsurge caused by the heroes of Holy Russia revived by Stalin. The national anthem of 1943 was the music of Victory, which could not be compared even to Glinka's Patriotic Song.

4. **New national holidays**

Yeltsin's unfortunate choice of 12 June as Independence Day[1] (which gives rise to the natural question: „Independence from whom?”, and the reply: „From the Soviet Union”. It is as if Great Britain starts observing 4 July) failed to unite the nation. It is perceived just as a day off even today although Putin renamed it to the Day of Russia.

Putin's choice of 4 November as uniting „Rossiyan” national holiday is not successful both because, unlike the indifference with which the public treats 12 June, there is a sharp public reaction regarding 4 November and from a Day of National Unity and Reconciliation[2] it has turned into a day of disunity – the march of the Russian nationalists.

Putin's mistake is that he would not pay attention to another proposal for a new uniting holiday marking the battle at Borodino[3], which is a part of the cultural tradition of the Russian society. Every schoolchildren knows Lermontov's „Borodino”, Tolstoy's „War and Peace” and has listened to Tchaikovsky's overture „1812”.

If we speak about a nation – the Russian one, it was namely after the Patriotic War in 1812 that its awakening began with the participation of everyone – both the people and the aristocracy. At the same time, 1612 – the year of Kremlin's liberation from the Polish-Lithuanian invaders – has no resonance in the Russians' national memory.

5. **The United History Schoolbook: a „canonical version” of Patriotic Education or a History of the Communist Party of the Soviet Union (Bolsheviks)? Short Course.**

„I fully agree that there should be some canonical version of our history”, Vladimir Putin’s statement at the first conference of the All-Russia People Front, on Mars 2013.[4]

The Russian President hardly has in mind the creation of a new canon. That was not achieved in Soviet times although many efforts were made to this effect (Putin would not use this vocabulary in his subsequent statements unless the question is about a Freudian slip, of course). The canon does not allow an alternative view, while history, as all humanitarian disciplines, is supposed to teach critical thinking rather than political sycophancy.

The academic community is reserved regarding the idea of an united history book even if at school and not at university level.

The disputes around the development of a Russian historical standard about high school teaching outline several dividing lines for the historical community:

– ideological approach

The fear of ideologization of the past exists among the part of the Russian community having lived within the Soviet Union although under the Constitution of the Russian Federation “no ideology may be instituted as a state-sponsored or mandatory ideology.”[5]

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[1] 12 June 1990 is the date of proclamation of the Declaration of Independence of the Russian Soviet Federative Socialist Republic from USSSR, author's note.

[2] In December 2004, President Putin decreed a law on celebrating 4 November as the Day of National Unity, author's note.

[3] Тишков В. А. Эхо Москвы. Передача „Мы” от 2 ноября 2010 г. [Online]: http://www.echo.msk.ru/programs/we/723287-echo.phtml (Visited on: 15.03.2019).

[4] Путин поддержал идею единого «канона» преподавания истории Росси. – РИА Новости. [Online]: http://ria.ru/society/20130329/929918860.html (Visited on: 30.03.2019).

[5] Конституция Российской Федерации. Глава 1. Основы конституционного строя. Чл. 13, ал. 3. [Online]: http://www.constitution.ru/10003000/10003000-3.htm (Visited on: 10.01.2019).

– the assessment of Stalin

However, the approach towards the past within the Russian society is also ideological – biased, depending on whether it adheres to liberal, conservative or Stalinist values. The Liberals cannot tolerate the balanced assessment of Stalin. Prof. Andrey Zubov (MGIMO-University) suggests introducing a „moral criterion" and stigmatizing the Soviet regime like the Nazis in Germany[1]. At the same time, the historians, who approve Stalin, call him „efficient manager" in the Guide for high school teachers of A. V. Filipov (2007), provoking a public scandal with this interpretation.

– new terms and periodization

The new single history concept draft of 2013 replaced the term of „Kievan Rus" with „Ancient Rus" and „Ancient Russian State". Curiously enough, regardless of the national passions in Ukraine, „Kievan Rus" is still a legitimate concept in the history textbooks.

The politically correct explanation of „Ancient Russian State" is that „it consists not only of Slavs but also of Nomads and people from the Turkic world". As Acad. Aleksandr Chubaryan confesses this idea belonged to a Kazan, i.e. Tatar historian, who even insisted to introduce the term of „Eurasian state" already during that period but a compromise was reached by introduction of the new term of „steppe corridor"[2].

Indeed, apart from the Slavs, the Turkic people are also representatives of medieval Russia. „Kievan Rus" was introduced as a political term already in the 19th century. On the other hand, the direct relation between Ancient-Kievan Rus is Christianity, which is a part of the European culture, has nothing to do with the Turkic people within Russian territory. Undoubtedly, there is a Tataric-Mongloian element in the Russian culture and language at domestic level but they are not leading. The abandoning of the concept of „Kievan Rus" is a political and ideological decision but it will neither improve relations with the Ukrainians nor satisfy the ambitions of the Tatar historians.

Another revoked term is „Tatar-Mongol yoke". It has been replaced with „dependence of the Russian lands on the Golden Horde". The purpose is not only to give up the concept of „yoke" but also the ethnic characteristic of its bearers – the Tatar-Mongol people, so as to avoid troubles in the interpretation given by Tatarstan, which is in itself - even if not ideological - a purely political approach to history and would hardly produce the desired result.

The new concept introduces the definition of „Eurasian context". While, until recently, the Eurasian terminology tended to be mostly a part of the geopolitical vocabulary of the Russian foreign policy towards the East, as of 2013 this concept is officially included in the periodization of the Russian history which implies its mass use.

Until the establishment of the cultural and historical standard, the Eurasian concept had existed only within the range of concepts of the followers of neo-Eurasianism and in particular, Aleksandr Dugin, who is not popular outside the conservative circles. Different conclusions can be drawn from the failure of his party, Eurasia (2001–2003). Yet, its reinstatement in 2012 as well as the plans to run in the 2016 parliamentary elections – which they would hardly do independently but most probably as part of the All-Russia People Front – also speaks for itself.

The Eurasian trace in the new historical and cultural standard that would be the navigator of the authors of the united schoolbook is also confirmed by the absence of classical definitions of the rule of Peter the Great: „Westernisation" and „Europeanization" are replaced with „modernization", which is already ideological auto-censorship (I would not call it censorship because there are no such instructions. Obviously, the question is about a Soviet-styled supererogation/reflex).

The neglecting of the „Europeanization" can even be called academic incorrectness because it was namely under Peter that Russia became secularly Europeanized creating a modern state along with the empire. In religious terms, Russia underwent Europeanization for the first time under Vladimir with the adoption of Christianity.

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[1] Нужен ли единый учебник по истории — дискуссия в «Воскресном вечере» В. Соловьева. В: Православие и мир, 4 март 2013. [Online]: http://www.pravmir.ru/nuzhen-li-edinyj-uchebnik-po-istorii-diskussiya-v-voskresnom-vechere-v-soloveva/ (Visited on: 10.01.2019).

[2] Альбац Е., Цуканова Л. Единый учебник для разорванного общества. Нужна ли нам единая история? Александр Чубарян vs Андрей Зубов… Ibid.

Conclusion

The „canonic” history is a part of the programming of patriotism as a new ideology of post-Soviet Russia and is a symptom of the Russians’ most important problem after 1991 – the national one. In the 20th century and not only then (also in 1812), Russia showed that no country or a group of countries can conquer it from the outside but it can provoke self-destruction, if it wishes. This happened in 1917 and 1991 as in both cases the national factor was particularly strong.

However, ideology always stifles patriotism regardless of its aspects – left, right, centrists, etc. It is not a mere chance that the modern ideology established after the end of the Cold War – globalization – is against patriotism and sovereignty of the national memory. The neoliberal universalism of the market opposes the social functions of statehood.

High culture is prestigious and only the state can make it generally accessible. The market adapts itself to the mass taste, which is far away from classics in all respects. The state encourages the theoretical and the fundamental science (strategy of the future), which is considered losing by the market, oriented towards the applied science (the tactics of the present day).

Against the backdrop of this new fight of the 21st century – the fight between the market and the state having replaced the one about the separation of powers and democracy (from 1789 to 1991), Russia chose for itself the definition of „social state” (under the Constitution of 1993), on the one hand, and, on the other, oriented itself towards patriotism as protective mechanism against globalization following the Western model. Russia itself prefers its model of globalization – the Eurasian one, which is pragmatic but also conservative as an ideology and a counterbalance of neoliberalism.

Yet, Eurasianism can be successful only in foreign political terms as the Russian version of globalization. Besides, it should be pragmatic, as it has been so far, and not ideological, while on the domestic plain the focus should be on restoring the concept of „Russian” and not „Rossiyska” culture and, thence, the rehabilitation of the concept of „Russian”, along with „Rossiyanin”. The first should imply national affiliation – Russian is a person, who is a part of the Russian culture regardless of his ethnic roots, while Rossiyanin should signify civil/political affiliation.

The national idea of post-Soviet Russia that would neutralize the national factor for destabilization of the state cannot be either „Eurasian” or „Rossiyska” but only „Russian”, as part of the Russian culture, which is European!

If a definition of the political system of post-Soviet Russia of Putin is to be given, it involves *Enlightened authoritarianism* with Eurasian democracy. It should not be forgotten, however, that it has been inherited from Yeltsin.

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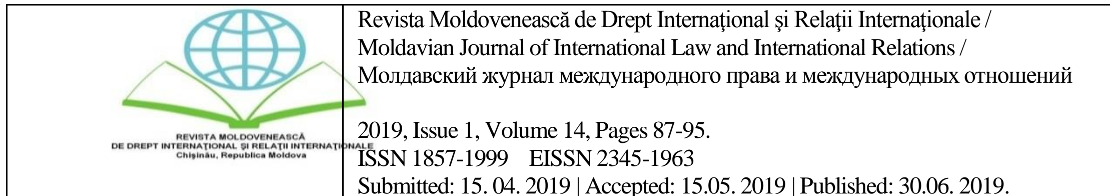
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TRIBUNA DISCUŢIONALĂ
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THE SITUATION OF ROMA POPULATION IN SLOVAKIA IN 1945-1948

SITUAȚIA POPULAȚIEI ROMILOR ÎN SLOVACIA ÎN 1945-1948

СИТУАЦИЯ ЦЫГАНСКОГО НАСЕЛЕНИЯ В СЛОВАКИИ В 1945-1948 ГОДАХ

JANAS Karol*

ABSTRACT:
THE SITUATION OF ROMA POPULATION IN SLOVAKIA IN 1945-1948

The end of World War II left the Roma people in a difficult situation. The outbreak of the Slovak National Uprising and the subsequent occupation of Slovakia deteriorated their position significantly. Considering the Roma people were persecuted upon actual legislative acts, applicable laws and lower legislative standards before the war, they were exposed to even more prosecutions, incidents, excesses and brutal interventions after the occupation ended.

Although such actions had no support in the legislation in force, they were mostly the result of the hitherto subduing hatred and antipathy of Slovak civitas toward Roma ethnic groups. A sad fact is that German occupants had always had enough helpers among Slovak radicals engaging in assassinations because not only the German occupation army, but also Slovak radicals committed unprecedented cruelty against Gypsies. Such inhumanity escalated especially due to their believe that German armed forces, which occupied Slovakia, guaranteed impunity to Slovak radicals.

Another undeniable fact is that direct physical liquidation of Roma people occurred in almost every part of Slovakia in the period just after the occupation of Slovakia by the German Army. Such brutality had never been happening before. Those Roma who were suspected of helping partisans, possessing weapons, or stealing military material were assassinated immediately. In addittion, several Roma settlements were burnt down in Slovakia. Therefore Roma dwellers welcomed the end of battles and the advancing war front moving off the borders with relief and they believed that their situation would improve.

Unfortunatelly, the position of Roma people would not change significantly after the war front moved. Although the felonious homicide efforts had stopped, all attempts to improve their living conditions failed immediately. Fortunately, the Roma community stopped struggling for mere survival, however, their living conditions did not change much.

Keywords*: Roma communities, Persecution, Second World War, Legislative Acts, Migration, Communist Party.*

JEL Classification: F51, Z18, K37, K23

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РЕЗЮМЕ:
ПОЛОЖЕНИЕ ЦЫГАНСКОГО НАСЕЛЕНИЯ В СЛОВАКИИ В 1945-1948 ГОДАХ

Окончание Второй мировой войны поставило цыганский народ в трудное положение. Вспышка Словацкого национального восстания и последующая оккупация Словакии значительно ухудшили их положение. Учитывая, что до войны цыганский народ подвергался преследованиям на основании фактических законодательных актов, применимых законов и более низких законодательных норм, они подвергались еще большему преследованию, инцидентам, эксцессам и жестоким вмешательствам после окончания оккупации.

Хотя такие действия не нашли поддержки в действующем законодательстве, они были главным образом результатом подавления ненависти и антипатии словацких граждан к этническим группам цыган. Печальным фактом является то, что немецкие оккупанты всегда имели достаточно помощников среди словацких радикалов, занимающихся убийствами, потому что не только немецкая оккупационная армия, но и словацкие радикалы совершали беспрецедентные жестокости против цыган. Такая бесчеловечность обострилась особенно из-за их веры в то, что немецкие вооруженные силы, оккупировавшие Словакию, гарантировали безнаказанность словацким радикалам.

Еще одним неоспоримым фактом является то, что прямая физическая ликвидация цыган происходила почти во всех частях Словакии в период сразу после оккупации Словакии германской армией. Такого зверства еще никогда не случалось. Те цыгане, которые подозревались в оказании помощи партизанам, владении оружием или краже военного имущества, были немедленно убиты. Кроме того, в Словакии было сожжено несколько поселений цыган. Поэтому цыганские жители с облегчением приветствовали окончание сражений и продвижение фронта войны за пределы границ и считали, что их положение улучшится.

К сожалению, положение цыганского народа существенно не изменится после того, как фронт войны сдвинется с места. Хотя преступные попытки убийства прекратились, все попытки улучшить условия их жизни немедленно провалились. К счастью, община цыган перестала бороться за простое выживание, однако условия их жизни не сильно изменились.

Ключевые слова: *общины цыган, преследование, Вторая Мировая война, законодательные акты, миграция, Коммунистическая партия.*

JEL Classification: F51, Z18, K37, K23
УДК: 323.1, 341.2, 342.7

REZUMAT:
SITUAȚIA POPULAȚIEI ROME DIN SLOVACIA ÎN 1945-1948

Sfârșitul celui de-al Doilea Război Mondial i-a pus pe romi într-o situație dificilă. Izbucnirea Revoltei Naționale Slovace și ocuparea ulterioară a Slovaciei le-au deteriorat semnificativ poziția. Având în vedere Romii au fost persecutați la real acte legislative, legile aplicabile și inferioare standardelor legislative înainte de război, au fost expuși chiar mai multe urmăriri penale, incidente, excese și intervențiile brutale după ocupația s-a încheiat.

Deși astfel de acțiuni nu au fost sprijinite în legislația în vigoare, acestea au fost în cea mai mare parte rezultatul urii și antipatiei slovace față de grupurile etnice Rome. Un fapt trist este că ocupanții germani au avut întotdeauna destule ajutoare printre radicalii slovaci care s-au angajat în asasinate, deoarece nu numai armata germană de ocupație, ci și radicalii slovaci au comis o cruzime fără precedent împotriva țiganilor. Această inumanitate a escaladat în special datorită faptului că ei cred că forțele armate germane, care au ocupat Slovacia, au garantat impunitatea față de radicalii slovaci.

Un alt fapt incontestabil este că lichidarea fizică directă a Romilor a avut loc în aproape fiecare parte a Slovaciei în perioada imediat următoare ocupației Slovaciei de către armata germană. Asemenea brutalitate nu s-a mai întâmplat până acum. Acei romi suspectați că ar fi ajutat partizanii, deținând arme sau furând materiale militare au fost asasinați imediat. În plus, mai multe așezări Rome au fost incendiate în Slovacia. Prin urmare, locuitorii romi au salutat sfârșitul bătăliilor și avansarea frontului de război care se îndepărtează de la granițe cu ajutor și au crezut că situația lor se va îmbunătăți.

Din păcate, poziția romilor nu s-ar schimba semnificativ după mutarea frontului de război. Deși eforturile criminale au încetat, toate încercările de a-și îmbunătăți condițiile de viață au eșuat imediat. Din fericire,

comunitatea romă a încetat să se lupte pentru supraviețuire, însă condițiile lor de viață nu s-au schimbat prea mult.

Cuvinte ceie: *comunitățile de romi, persecuție, Al Doilea Război Mondial, acte Legislative, Migrație, Partidul Comunist.*

JEL Classification: F51, Z18, K37, K23
CZU: 323.1, 341.2, 342.7

Situatin of Roma Community after the Second World War

Persecution and victimization of Slovak Roma during World War II caused that they entered the postwar period totally impoverished. The Roma were famished, pediculous, and were dying massively of various infectious diseases such as typhoid. They often survived the war hidden in the woods in huts and shacks having been afraid of coming out of their shelters. They were completely demoralized, without livelihood supply and with no jobs.[1] It was hard and rare for them to find a job in newly established industrialized society. They mostly worked as wage workers and only received payments in kind instead of salaries. During the post-war period, the competitive advantage of original professions such as blacksmithing, musicianship and barter trade, which used to be complemented by occasional and seasonal work, was lost because the population in Roma communities had been rising tremendously. The growth of Roma population caused that the number of their primitive localities increased and their traditional lifestyle and negative stereotypes expanded. Regrettably, not only day-labourer work, but also begging, stealing and parasitizing on the periphery of society prevailed in their community during that time. Because of that the basis for political economy and social coexistence between Roma and non-Roma villagers evaporated. Still, there was lack of job opportunities and a large number of Roma lived in horrible conditions in Gypsy slums.[2] They were often up to two kilometres far from other villages, so both the distance and the status barrier generated their segregation. People from Slovak villages almost never visited Gypsy settlements so Roma lived on their own, spurned, depended on themselves.[3]

In comparison, the Slovak majority had had almost equally severe living conditions during the post-war period, especially in Eastern Slovakia. This fact triggered more problems between Slovak majority and Roma minority and their coexistence became even harder, tense and more complex especially in the most underdeveloped areas in eastern part of Slovakia. All these troubles determined negative attitudes, opinions and prejudice that reflected reluctance in solution of Roma issues at the lowest levels of local governments.[4] Therefore Roma were under tighter control of local authorities in some dictricts and their migration was monitored.[5] Even demands for repressive tools that worked during World War II such as establishing labour camps reappeared.[6] Moreover, inquiries for removing or demolishing Gypsy homes, which were typically situated on road sides during the war period, were issued and forced.[7]

Some more troubles were evoked by attempts to establish settlements for originally nomadic wandering and by war devastated Roma minority. Sooner or later, such attempts were facing bitter resentment and antipathy all over Slovakia. Slovak majority was refusing to coexist with Roma people and tried hard to prevent them from moving closer. Several illustrations from different parts of Slovakia follow: in April 1945, immediately after the front went through, the District National Committee in

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[1] Jurová Anna. Slovenskí Rómovia v Československu v rokoch 1945-1947. In: Človek a spoločnosť [online]. 2009, Volume 12, Number 1, p. 1-23.

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[5] State Archive of Žilina, Office Archive of Liptovský Mikuláš, fund (f) County Notary Office in Liptovský Mikuláš, box 1, unit number (u. no.) 4534/1945.

[6] State Archive of Nitra, Office Archive of Topoľčany, f. Municipality of Topoľčany, box 257, u. no. 230/1946.

[7] State Archive of Nitra, Office Archive of Topoľčany, f. Municipality of Topoľčany, box 257, u. no. 5870/1945.

Prievidza wanted to move Roma settlers to municipalities of Tužina and Nemecké Pravno. Other Roma from Prievidza district were to be moved to abandoned houses in the village of Chvojnica.[1] There were enough spare rooms and houses available after the Germans, who fled with the retreating German Army, abandoned them. However, people living in the villages refused to accept Roma population entirely. Even the public notary himself sabotaged such regulation in Tužina. Finally, they came to a conclusion that did not differ very much from solutions that used to be implemented during the previous regime. They moved Roma population to remote places behind the villages.[2] Despite the fact that Slovak citizens succeeded in preventing Roma inhabitants having been moved in their municipalities, a lot of people were complaining about areas being polluted by Gypsies to various authorities long time after that. They were also afraid of dirt and mess such as carrion and perished animals produced by Roma living nearby and the citizens were worried about the possibility of spreding infectious diseases.[3] Such concerns were mostly reasonable and legitimate because it turned out that even if Slovak authorities were friendly and helpful to them, Roma community was not ready yet to adapt to new, much higher social standards. Another example of this is Spiš region, where the houses abandoned by German soldiers, who fled from Slovakia with the retreating German Army, were vacated so Roma people moved in. After the end of the war, Roma also moved in houses abandoned by the Carpathian Germans. Some houses in towns and villages such as Levoča, Kežmarok, Spišské Podhradie, Medzev and Spišská Nová Ves were of high historical value. However, Gypsies were incapable of valuating their homes and in no time the houses were devastated by them completely. In the area of Liptov the locals even wanted to take advantage of the post-war chaos and tried to get rid of Roma minority. Alike in Uhorská Ves, where Roma inhabitants had lived for more than 150 years, their Local National Committee wanted to displace them from the village after the war. When their effort failed, the Roma settlement was burned down mysteriously. There were complications with Roma housing in Dobrá in Trenčín too. People complained that Roma dwellings are situated in the most lucrative part of the village where locals wanted to build a house of culture.[4] Similarly, in Trenčín region the District National Committee of Trenčianska Teplá municipality requested to move foreign Roma citizens out of the village because the rate of thefts rose after their arrival.[5] Nevertheless, there were also some other, more positive cases. There were not any troubles with Roma inhabitants in Požitavie. They were hardworking and self-sufficient. They mostly made their living as craftsmen, musicians and door-to-door traders. They bartered second hand clothes, old rags and other things in exchange for porcelain plates. They made bricks in the village of Machulince.[6] In Chyzerovce they produced drills with wooden handles.[7]

Legislative Acts Relating to Roma Population

At the beginning of the post-war period the political representatives were not interested in solving Roma issues. The postwar government did not pay close attention to ethnic problems and did not arise Roma matters. The government was dealing with actual topical problems and adopting ad hoc solutions in response to these issues. Economy recovery and restoration of the country after war were the priorities they were engaged with, hence Roma issues were marginalized. The resolutions they adopted were random, without deeper concept. One of these examples is the effort to delimit uncontrolled movement of Roma around Czechoslovakia. It was considered to be one of cardinal problems. Stopping Roma people from switching places failed despite all efforts to eliminate that tendency. It was even forbidden to keep draught animals or large vehicles and their prospects of changing locations

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[1] State Archive of Trenčín, Office Archive of Bojnice, f. District National Committee in Prievidza, box 2, u. no. 1875/1945.

[2] State Archive of Trenčín, Office Archive of Bojnice, f. District National Committee in Prievidza, f. District Office in Prievidza, box , u. no. D-1394-1/1945.

[3] State Archive of Trenčín, Office Archive of Bojnice, f. District National Committee in Prievidza, box 2, Zápisnica rady Okresného národného výboru, 22. April 1945.

[4] Považský hlas, Volume 3, Number 14, 25. April 1947, p. 3.

[5] State Archive of Trenčín, Office Archive of Trenčín, f. District National Committee in Trenčín, box 42, u. no. 21676/1945.

[6] Commemorative Book of the Municipality of Machulince, p. 76-78.

[7] Bátora Marián. Zlaté Moravce. Zlaté Moravce: Mestský úrad, 1998, p. 239.

constantly were restricted. The efforts to prevent Roma from wandering and strolling led to a decision to identify all places where Roma resided permanently. To do so, nationwide census of nomadic wandering Roma was made in 1947.[1] It took up again the lists of partial census in 1945 and in 1946 which had been carried out before in several districts only. On June 11, 1945 the Slovak National Council took a decision to make lists of all Roma citizens of productive age being able to work. Within this context, the correspondence dating back to June 11, 1945 between the Slovak National Council for Internal Affairs and the District National Committees as well as Regional National Security Commands was preserved.[2] The aim was to prevent Roma from stealing, migrating and following their negative stereotypes.[3] In August 1945, Slovak National Council Decree no. 105/1945 Coll. that provided legal basis for the establishment of first post-war labour camps in Slovakia was ratified. This specific act applicable only in the Slovak part of the Czechoslovak Republic was of limited validity till the end of April 1947. Re-education of politically and socially non-conformist persons was the main argument for creating such camps. Permanent job avoidance was defined as antisocial behaviour in the regulation. Generally, Decree of the Presidnent no. 88/1945 Coll. concerning universal work duty applied to the Czechoslovak Republic. It was valid from October 17, 1945. Economy restoration, performing work duty in public interest and involving free workforce to cleare wartime damage were the aims of the regulation. After Beneš Decree no. 88/1945 Coll. was issued, all people who frivolously did not start their assigned jobs were regarded as being antisocial elements. All Roma of productive age should have been involved in damage restoration caused by the war. Upon District National Committee orders Roma workers should have been included in various types of field work. Their wages should have been determined by their family conditions. At the same time, the District National Committees were instructed to monitor the lifestyle of all Roma more strictly. Unfortunately, the results achieved by the proceeding were poor, considering the fact that a large number of Roma did not work at all. People of antisocial behaviour were to be selected for camps by the chairmen of District National Committees and the National Security Station.[4] Between 1945 and 1947 there were 18 labour camps in Slovakia where people classified as antisocial, mainly Roma, were included. However, that did not help either. The preserved data show that there were 14 Roma out of 86 who attended work for local forest service in a village of Východná in Liptov. In Liptovský Mikuláš a majority of 60 productive age Roma had never appeared at work. In Važec out of 79 Roma capable of working only 23 worked. Only 5 out of 20 worked in Pavlová Ves. In Liptovská Mara only 3 Roma worked as railway construction builders and 2 as road workers. Roma from Liptovská Teplička worked on airport construction in Poprad.[5] Other data were from Trenčín of January 10, 1946. Upon the request of the District National Committee, local authorities had been obliged to input data about the number of Roma who constantly refused to work within one month since there were plans for opening labour camps shortly.[6] Whereas the responses were very poor, the regulation was issued by the District National Committee in Trenčín repeatedly in June 1946. The feedback was inadeqate again and the lists had been received only from three municipalities.[7]

Another Roma census was taken in Slovakia in 1946. It was even less accurate than the one taken in 1945, because it was conducted only due to war damages, compensation for destroyed dwellings. The

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[1] Segľová Lucia. Počet Rómov v Turci v dobových a súčasných štatistikách. In: Romano džaniben, 2014, Volume 21, Number 1, p. 19.

[2] State Archive of Trenčín, Office Archive of Trenčín, f. District National Committee in Trenčín, box 26, u. no. 3432/1945.

[3] State Archive of Žilina, Office Archive of Liptovský Mikuláš, f. District National Committee in Liptovský Mikuláš, box 22, u. no. 2460/I-III/1945.

[4] Varinský Vladimír. Tábory nútenej práce na Slovensku v rokoch 1941-1953. Banská Bystrica: Univerzita Mateja Bela v Banskej Bystrici, Fakulta humanitných vied. 2004, p. 20-21.

[5] State Archive of Žilina, Office Archive of Liptovský Mikuláš, f. District National Committee in Liptovský Mikuláš, box 22, u. no. 4534/1945.

[6] State Archive of Trenčín, Office Archive of Trenčín, f. County Office of Local National Commitees in Bošáca, box 2, u. no, 181/1946.

[7] State Archive of Trenčín, Office Archive of Trenčín, f. County Office of Local National Commitees in Trenčín, box. 9, u. no. 217/1946.

census in 1946 was not taken all over Slovakia, but only in those areas where Roma properties were damaged.[1]

Migration of Roma to Bohemia and Moravia

After the war and Czechoslovakia restoration, the economic situation was better in Bohemian part of the country. The situation of Slovak Roma was much more complex than in Bohemia. Between the end of the Second World War and the beginning of the 1950s, there was tremendous lack of job opportunities in Slovakia.[2] The situation in Bohemia was different. There were enough job opportunities in fields of agriculture and forest industry after the Germans were displaced. That was the main reason why some Roma families had left Slovakia and moved to Bohemia.[3] They were mainly headig to Czech-German border and to industrial areas in northern parts of Bohemia and Moravia, where the original German population was expelled from.[4] Overall, the situation for Roma population who remained in Slovakia was really challenging. They were poor, very often they lived without basic sanitary conditions, with no access to education and many of them were illiterate. Migration to Bohemia and seeking for job opportunities was a rough-and-ready solution for most of them. However, Roma migrants were not welcomed even if they relocated only for a short period of time to find seasonal jobs.[5] The massive migration of Roma from Slovakia to Bohemia and Moravia led to new legislative acts and measures taken by administration. Interior Commission in Bratislava submitted a Draft of Measures to the Ministry of Interior in Prague in September 1946 regulating rambling life of Roma ethnic groups. According to it, regular detailed reports were to be submitted and detailed records of Roma population were to be prepared. Probably, it was the draft measure that triggered the census of Roma minority in Czechoslovakia that was taken upon the decree issued by Václav Nosek, the Minister of Interior.[6] The census in 1947 covered whole Slovakia. District National Committees were responsible for conducting the survey and they obtained data from local municipalities.

A lot of complaints about the Roma being unable to domiciliate or engage themselves in nation´s aspirations resulted in another census in 1947. Some other crimes committed by Gypsies such as vagrancy, thefts or begging were dealt with as well. The Memorandum addressed to the Presidium of the Commission of Deputies in Bratislava of June 28,1947 was the current document of that period. Eight chairmen of District National Committees in Trenčín, Trenčianska Turná, Hámry, Mníchova Lehota, Soblahov, Kubra, Kubrica and Opatová municipalities signed the document. It applied to both domestic and nomadic Gypsies, who were strolling, drinking, stealing and commited public niusance and disturbance. If their carriages blocked the traffic on the roads they were addressed as enemies of the republic and working people. The Memorandum also pointed out that the Roma undermine the country's prestige among foreigners who came to Slovakia as the internationally well-known spa Trenčianske Teplice was located nearby the complaining villagers. Removing Roma families from the villages and replacing them into labour camps was suggested. In this context, it is interesting that in the Memorandum even Roma musicians were not designated as people having proper livelihood. Such radical attitude was not seen in other parts of Slovakia.[7]

Subsequently, the Ministry of Interior promoted registration of migrating Roma and all persons living in nomady way of life due to escalating number of complaints and problems threatening the coexistence in the country. All Roma who were constantly changing locations were counted even if

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[1] State Archive of Žilina, Office Archive of Liptovský Mikuláš, f. District National Committee in Liptovský Mikuláš, box 12, u. no. 7292/1945.

[2] Pavelčíková Nina. Několik poznámek k proměnám identity spojeným s příběhy českých a slovenských Romůnve 20, století. In: Romano džaniben. 2010, Volume 16, Number 2, p. 81.

[3] Pavelčíková Nina. Romové v českých zemích v letech 1945-1989. Praha: Úřad dokumentace a vyšetřování zločinů komunismu, 2004, p. 25.

[4] Schuster Michal. Zákaz kočování z roku 1958 a jeho důsledky. In: Bulletin Muzea romské kultury. 2008, Volume 17, p. 159.

[5] Pavelčíková Nina. Co „konečné řešení" nevyřešilo (Romové na Moravě a ve Slezsku v letech 1945-1947. In: Milý Bore. Profesoru Ctiboru Nečasovi k jeho sedmdesátým narozeninám věnují přátelé, kolegové a žáci. Brno: Historický ústav AV ČR, Historický ústav FF MU, Matice moravská. 2003, p. 330-335.

[6] Šuvada Martin. Rómovia v slovenských mestách. Bratislava: POMS, 2015, p. 26.

[7] State Archive of Trenčín, Office Archive of Trenčín, f. County Office of Local National Commitees in Trenčín, box 11, u. no. 3824/1947.

they stayed at one place during the winter.[1] Alike those who were inprisoned or kept in institutions for criminals or hospitals were included. Because of concerns that the registration would be opposed by Roma community, it was carried out under the supervision of National Security officers.[2] The registration generated data on family name, number of family members, their age and eventual occupation.[3] At the same time the inspection included all types of entertainig businesses such as roundabouts, carrousels, merry-go-rounds, house-to-house sale and grinding services. Foreign Roma who were running such business were to be punished and expelled from Czechoslovakia.[4] The Public Health Commission in Bratislava involved the census and asked the District National Committees for efficient cooperation because of potential health threats to the population, as Roma often suffered from infections and communicable diseases.[5] Data acquisition resulted in interesting outcomes. According to statistics, 84, 438 people of Roma origin lived in Slovakia.[6] 16,752 Roma lived in Bohemia and Moravia, which counted about 16,000 people more since the end of the war. This increase was caused by migration of Slovak Roma to Bohemia. On the one hand, the Slovak Roma made workforce for desired restoration of Bohemia and Moravia, but on the other hand, seen as prospective settlers they were undesirable.[7]Admitting the results of the census were interesting, it did not bring practical solutions but only confirmed that Slovak Roma migrated to Bohemia and Moravia. Despite the census was carried out, the movement of Roma from Slovakia to Bohemia and Moravia could not be prevented. One of the reasons was the lack of interest of lower state administration authorities responsible for solving the situation. Slovakia as part of Czechoslovakia was ruled by communist dictatorship after February 1948. The regime continued until November 1989, when the communist regime was finally broken down. During the period of communist dictatorship, the state approached the Roma matter with intensity that differed, but most often it was beyond caring of responsible institutions at all levels.

Conclusion

After the Communist Party took power in February 1948 there were two different approches to the Roma. One of them implied persecution and victimization even though officially it was presented as the idea of re-education and had been executed through labour camps. It was legally based on the Slovak National Council Decree no.7 issued on March 23, 1948 that enabled establishment of labour camps. A special commission was appointed to registrate people in the camps. The internment applied not only to antisocial people, but also to those who committed minor economy or political offences. The Interior Commission that was composed of representatives of the Interior, Justice and Social Welfare Commissions launched their activities in May 1948. By December 1948, they had a total of 80 meetings. 2,377 proposals were submitted altogether out of which 1,608 people were integrated into five labour camps. 615 of them were denoted as people with antisocial behaviour, 8 were job opportunity ignorants, the others were political and political economy inmates. In November 1948, Act No. 247/1948 Coll. came into effect that repealed the act from March according to which the previous so called labour camps in Slovakia were renamed into forced labour camps. Physically and mentally fit people from the age of 18 to 60 who avoided employment, constantly refused to work, or endangered

[1] State Archive of Nitra, Office Archive of Nitra, f. District National Committee in Zlaté Moravce, box. 196, u. no. 196/1951.

[2] State Archive of Nitra, Office Archive of Nitra, f. District National Committee in Zlaté Moravce, box. 89, u. no. 11026-11200/1947.

[3] State Archive of Trenčín, Office Archive of Považská Bystrica, f. County Office of Local National Commitees in Pružina, box 2, u. no. 3728/1947.

[4] State Archive of Nitra, Office Archive of Nitra, f. District National Committee in Zlaté Moravce, box 86, u. no. 2924/1947.

[5] State Archive of Trenčín, Office Archive of Trenčín, f. County Office of Local National Commitees in Svätý Kríž nad Váhom, box 5, u. no. 2781/1947.

[6] Jurová Anna. Vývoj rómskej problematiky na Slovensku po roku 1945. Bratislava: Spoločenskovedný ústav Slovenskej akadémie vied v Košiciach, Goldpress, 1993, p. 24.

[7]Jurová Anna. Súpis Cigánov – Rómov v roku 1947 (na príklade mesta Košice). In: Človek a spoločnosť, 2014, Volume 17, Number 3, p. 1-15.

the creation of democratic system were groupped in them. There were six forced labour camps established in Slovakia between 1948 and 1951.[1]

The other approach was different. The relation state vs. Roma minority was of assimilative disposition and the endavor aimed to balance the standard of living between Slovak majority and Roma minority. But the assimilation was implemented without taking into account the ethnic or cultural specifics of Roma community. The facts that during the post-war period they started to be aware of their rights and started to ask for them were not taken into consideration.[2] Sadly, their demands did not have notable impact on the government because the main goal was to assimilate Roma population completely. In terms of that approach prevailing in the 1950s, the most important task in the postwar period was the social and cultural integration of Roma population and the reformation of their lifestyle.[3] Summing up, dealing with the situation of Roma inhabitants was indeed complex and challenging.[4] Extensive effort and high-level performance of many public authorities would have been required. Considerable state investments were needed, in particular for improving housing conditions and facilitating access to employment opportunities, as well as making complete changes in education approach to Roma community.[5] Unclear and constantly changing concepts as well as unconcern at all levels were the barriers the local policy makers faced and together with lack of finance necessary for Roma situation improvement the obstacles became unbeatable. The state administration authorities often addressed the Roma issues spontaneously, without sufficient experience or knowledge, taking only the changing political situation and economy development into consideration. In that respect, the conceptual framework was unclear, unable to reach the required results. The only attribute they had in common was that they denied accepting the status of an independent nationality. Consequently, the engagement in Roma matters was limited to social enhance achievement of, in reality, socially and culturally underdeveloped community, but de jure, nonexistent Roma population.[6]

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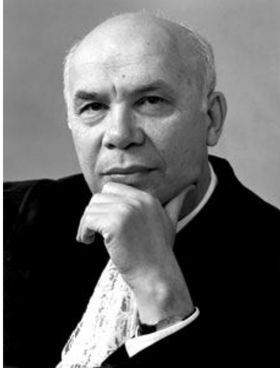

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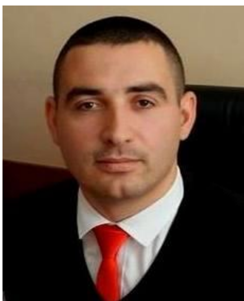

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Documentul trebuie salvat în MS Word, formatul de pagină A 4, marginile paginii: sus şi jos - 2 cm, dreapta - 1,5 cm, stânga - 3 cm, Font - Times New Roman; Dimensiune font - 12, spaţiere - 1,5. Aliniere pe lăţime, un spaţiu la stânga - 1,5. Numerotarea paginilor este consecutivă, secvenţială, în partea de jos a paginii, pe centru.

Redactarea textului:

Despărţirea manuală în silabe a cuvintelor (transferul din rând în rând) este inacceptabilă. Figurile şi tabelele trebuie să fie numerotate, să aibă denumire, legendă şi subiect. Titlurile lor şi trebuie să fie prezentate în text după alineatul care conţine un link de referinţă la ele.

Exemplarele autorului:

Fiecare autor al articolului obţine doar un număr al revistei, indiferent de numărul de autori.

Consiliul Redacțional

Anexa 1

Exemple de referinţe bibliografice:

Referințele (citatele) de la sfârșitul fiecărei pagini trebuie să conțină semnele de punctuaţie şi să urmeze aceleaşi reguli ca şi plasarea lor în descrierea bibliografică.

Dacă textul nu este citat de o sursa originală, dar de un alt document, atunci se utilizează următoarele cuvinte la început de referinţă: citat de: (citând sursele împrumutate):

Exemplu:	Citat de: Dumitru Mazilu. Drept diplomatic. București: Editura Lumina Lex, 2003, p. 115. Citat de: Alexandru Burian. Drept diplomatic și consular. Chișinău: Editura ARC, 2003, p. 154.

La amenajarea secvențială a referințelor (citatelor) primare și repetate se utilizează termenul ”Ibid.” sau (”Ibidem”):

Referinţă primară	Jeffrey Mankoff. Politicii externe Ruse: întoarcerea unei Mari Puteri în politică. Lanham, Md.: Rowman & Littlefield, 2009, p. 217.
Referinţă repetată	Ibid., p. 47 *sau* Ibidem., p. 47.

La amenajarea nesecvențială a referințelor (citatelor) primare și repetate, când referințele urmează nu concomitent una după alta, se utilizează termenul *Op. cit.* (opus citato) şi este prezentat folosind caractere cursive:

Referinţă primară	Jeffrey Mankoff. Politicii externe Ruse: întoarcerea unei Mari Puteri în

	politică. Lanham, Md.: Rowman & Littlefield, 2009, p. 217.
Referinţă repetată	Jeffrey Mankoff. *Op. cit.,* p. 65.

Anexa 2

Exemple de „Listă bibliografică" (bibliografie):

Lista bibliografică este plasată după textul articolului cu titulatura „Bibliografie". Toate link-urile din listă sunt numerotate secvenţial şi sunt aranjate în ordine alfabetică.

Descrierea unei cărţi cu un singur autor:

Exemplu	Jeffrey Mankoff. Politicii externe Ruse: întoarcerea de mare putere politica. Lanham, Md.: Rowman & Littlefield, 2009. XII + 359 p.

Descrierea unei cărţi cu trei sau mai mulţi autori:

Exemplu	David G. Victor... [et al.]. Gaze naturale şi geopolitică: din 1970 pînă în 2040. New York: Cambridge University Press, 2006. xxv + 508 p.

Descrierea unui articol publicat într-o revistă:

Este necesar de a indica numele autorului articolului, denumirea articolului, denumirea revistei, anul, numărul ediției sau volumul, numărul paginei de la începutul și sfârșitul articolului.

Exemplu	Serghei Lavrov. Rusia şi lumea în secolul XXI. În: Rusia în afacerile globale. Iulie-septembrie 2008, Vol. 6, nr. 3, p. 8 - 18.

Descrierea unei teze de doctorat:

Exemplu	Vladislav Boiko. Securitatea energetică în contextul globalizării. Teză de doctor în ştiinţe politice. Moscova, 2012. 250 p.

Descrierea unui autoreferat a tezei de doctorat:

Exemplu	Yuri Jukov. Centrismul politic în Rusia. Autoreferatul tezei... candidat în ştiinţe politice. Sankt-Petersburg, 2012. 24 p.

Descrierea publicaţiilor ştiinţifice electronice:

Pentru surse de electronice, trebuie să specificaţi practic aceleaşi informaţii ca pentru reviste: autorul, titlul, numele site-ului (sau secţiune a site-ului) şi URL-ul. Articolul ar trebui să conţină noţiunea [On-line]:; informaţii la data de partajare pe reţeaua electronică (după fraza „Vizitat la:" indica data, luna şi anul): (Vizitat la: 03.02.2012).

Exemplu	Burian Alexandru, Gurin Corina. Procesul decizional în politica externă şi influenţa lui asupra negocierilor. În: Revista Moldovenească de Drept International şi Relaţii Internaţionale. 2011, nr. 4, p. 39 - 55. [On-line]: http://www.rmdiri.md/pdf/RMDIRI20114.p.df/. (Vizitat la: 07.09.2012).

Anexa 3

REGULAMENTUL
cu privirea la recenzarea articolelor ştiinţifice în
„Revista Moldovenească de Drept Internaţional şi Relaţii Internaţionale"

1. Articole ştiinţifice primite de redacţia *Revistei Moldovenești de Drept Internațional și Relaţii Internaţionale* trec prin Instituția de recenzare.

„Revista Moldovenească de Drept Internaţional şi Relaţii Internaţionale" a adoptat un sistem de patru niveluri de recenzare a articolelor și materialelor prezentate spre publicare:

Primul nivel – recenzarea de către Redactorul-şef (*main editor peer review*);

Al doilea nivel - recenzie de „nivel deschis" (*open peer review* - autorul şi recenzentul se cunosc reciproc) – recenzia este transmisă la redacție de către autor;

Al treilea nivel - recenzie de nivel „orb-unilateral" (*single-blind* – recenzentul știe despre autor, autorul - nu);

Al patrulea nivel - recenzie de nivel „orb-dublu" (*double-blind* - atât recenzentul, cât și autorul, nu ştiu unul despre altul).

2. Fiecare articol ştiinţific necesită să aibă recenzii:

- deschise: *primul nivel* – recenzia (decizia) redactorului-șef; *al doilea nivel* - recenzia unui recenzent oficial, specialist în domeniu (doctor sau doctor habilitat);

- confidențiale (oarbe): *al treilea nivel* – recenzia redactorului științific sau a unui membru al consiliului redacțional sau al colegiului de redacție; *al patrulea nivel* – la decizia consiliului redacțional și recenzentul poate fi doar din exterior.

3. Toate articolele științifice, primite de Consiliul redacţional al revistei, sunt supuse obligatoriu recenzării „orb-dublu" (*double-blind* - atât recenzentul, cât și autorul, nu ştiu unul despre altul). Această recenzare este efectuată de către experți externi din baza de date de experți (recenzori) ai revistei, la solicitarea Consiliul redacţional.

4. Analizând recenziile, redacţia evaluează prezenţa în articole a elementelor de actualitate a problemei științifice pe care autorul pretinde să o soluționeze. Recenzia necesită să descrie în mod clar valoarea teoretică sau aplicativă a investigației, și să coreleze constatările autorului cu conceptele ştiinţifice existente. Un element de bază al recenziei ar trebui să fie aprecierea de către recenzent a contribuţiei personale a autorului articolului la soluţionarea problemei. Este necesar de a menţiona în recenzie corespunderea stilului, logicii şi nivelului de accesibilitate a expunerii științifice a materialului de către autor, precum şi un aviz privind fiabilitatea şi valabilitatea concluziilor.

5. După primirea recenziilor, redacția analizează articolele prezentate şi adoptă decizia finală, în baza unei evaluări complete, privitor la publicarea sau ne-publicarea articolelor. În baza deciziei adoptate autorului i se comunică, prin e-mail sau poştă, informația cu privire la evaluarea articolului şi decizia adoptată. În cazul că se refuză de a publica articolul, recenzenţii rămân anonimi.

6. Colegiul de redacţie îşi rezervă dreptul de a trimite articolul la o recenzie suplimentară externă anonimă (double-blind). Redactor-şef, în asemenea caz, trimite recenzentului o scrisoare în care solicită recenzarea, atașând la scrisoare articolul şi modelul conform căruia se recomandă de a efectua recenzia.

7. Prezența recenziilor pozitive nu este un motiv suficient pentru publicarea articolului. Decizia finală privitor la publicarea articolului este adoptată de consiliul redacțional.

8. În cazul în care există o critică substanţială din partea recenzentului, însă articolul, la general, este evaluat pozitiv, consiliul redacțional poate aprecia articolul ca polemic și poate decide de a-l publica în rubrica „Tribuna discuțională".

9. Originalele recenziilor sunt păstrate la „Revista Moldovenească de Drept Internaţional şi Relaţii Internaţionale".

RUBRICA REVISTEI
OUR JOURNAL
О НАШЕМ ЖУРНАЛЕ

REQUIREMENTS
to papers for publication in the
„Moldavian Journal of International Law and International Relations”

„Moldavian Journal of International Law and International Relations” being a scientifico-theoretical journal admits for publication articles in Moldovan (Romanian), Russian, English, Spanish, French, German (optional author) languages, containing the results of original research, designed in accordance with the „Requirements for the articles”.

An Editorial Board of the „Moldavian Journal of International Law and International Relations”, accept manuscript for publication corresponding to the edition profiles, no more than 20 pages, including figures and tables. The manuscript should contain only original material, performed at a high academic level, reflecting the author's research results, completed no more than one year before publication, and containing a clear element of creation of a new knowledge. The materials which earlier were not published and have been not intended to the simultaneous publication in other editions for printing are accepted. Articles are exposed to obligatory reviewing, in accordance with the ***Appendix 3***. For post-graduate students (competitors) the review of the supervisor of studies is obligatory. We print only articles which have received only positive reviews.

The rules mentioned above apply to all the material sent to the journal for publication. The Editorial Board has the right not to accept materials to the publication in a case of: a) non-compliance of the paper with the requirements for its publication; b) plagiarism; c) inappropriate content of the presented paper to the journal profiles.

In cases when the requirements are not respected the editorial board has the right not to examine the manuscript. The editors reserve the right to reduce the volume of the article (if it is necessary), exposing it to editorial revision, make editorial (which do not change the general sense) changes in the author's original. Editors can publish materials without sharing author’s opinion (in order of discussion). Authors are responsible for the selection and accuracy of the facts, quotes, and other information. Journal will only publish one article per author in each volume of the issue.

The number of authors should not be more than two people. Author (s) sent to the editor two copies of the article (signed by the author both in print and electronic form and send the article in electronic form by e-mail at: alexandruburian@yahoo.com , alexandruburian@mail.ru

The paper shouldn't exceed 1,5 printer's sheet of the typewritten text of format A4 (60 thousand characters, or 16-20 pages of text), including tables, list of references and drawings (schemes). At drafting of bibliographic references in English it is necessary to specify official English-speaking names of journals.

In order to place an article in the journal you should present following documents: an application, information about the author (s), an article, one author (s) photograph in JPG form, annotation provided (abstract) in three languages (Romanian, Russian and English) in a volume of 100 words, keywords (5 - 7 words). Abstract should not contain references to the quoted literature, tables and figures.

Information about the author (s) contains: author's name, affiliation, post a scientific degree, an academic status, mailing address, e-mail address and telephone number Author's name should be listed under the article's title on the right.

Technical requirements to registration of the manuscript for the publication:

Title of the article should not exceed three lines. The title should be given only in capital letters (Times New Roman 16) and centred. Literary sources used in the paper should be submitted in one list at the end (bibliography). Bibliographical list is presented after the text item in accordance with the ***Appendix 2.*** Footnotes to the literature mentioned in the text are mandatory and must be prepared in the bottom of the page in accordance with the ***Appendix 1.*** References to the foreign sources are given in a foreign language and are followed in the case of translation into Romanian and Russian indication of the translation. The numbering of the sources is given in the order mentioned in the text. References to unpublished works are not permitted. The bibliography is given in alphabetic order according to the first letter of authors surnames. Acronyms and abbreviations should be deciphered in a place of the first mention in the text. In text presented in Romanian, English, French, German or Spanish language, German inverted commas („pads”) should be used; in text presented in Russian language the French inverted commas («fur-trees») are used.

Page Setup:

The document must be saved in MS Word, A 4 page format, page margins: top and bottom - 2 cm, right - 1.5 cm, left - 3 cm Font - Times New Roman; font size - 12, line spacing - 1,5. Alignment on width, a space at the left - 1,5. Numbering of pages is through, in the bottom of the page, on the centre.

Text drafting:

Using of manual transfer (manual hyphenation) is unacceptable. Figures and tables should have a caption and subject headings and should be presented in the text after the paragraph containing a link to them.

Author's copies:

Each author obtains only one issue of the journal, regardless of the number of authors.

The Editorial Board

Appendix 1

Example of bibliographic footnotes:

Punctuation and prescribed punctuation in citations should follow the same rules as their placement in the bibliographic description.

If the text is not cited by the original source, but by another document, then following words are used: in the beginning of the reference: *Quoted by*, with a reference to the citing sources of borrowed text:

Example:	Quoted by: Ernst Gabriel Frankel. Oil and Security A World Beyond Petroleum. The Netherlands: Springer, 2007, p. 115.

«Ibid.» or (Ibidem) are used in the sequential arrangement of primary and repeated references.

Primary	Jeffrey Mankoff. Russian foreign policy: the return of great power politics. Lanham, Md.: Rowman & Littlefield, 2009, p. 21.
Repeated	Ibid., p. 47.

Op. cit. (opus citato) is used in repeated footnotes containing item to the same document without following the primary reference and is presented using italics.

Primary	Jeffrey Mankoff. Russian foreign policy: the return of great power politics. Lanham, Md.: Rowman & Littlefield, 2009, p. 217.
Repeated	Jeffrey Mankoff. *Op. cit.,* p. 65.

Appendix 2

Examples of a bibliography:

Bibliographical list is placed after the text article and is supplied after the notion „Bibliography”. All links in the list are numbered sequentially and are arranged in alphabetical order.

Book with one author:

Example	Jeffrey Mankoff. Russian foreign policy: the return of great power politics. Lanham, Md.: Rowman & Littlefield, 2009. xii + 359 p.

Book with three and more authors:

Example	David G. Victor ... [et al.]. Natural gas and geopolitics: from 1970 to 2040. Cambridge; New York: Cambridge University Press Cambridge University Press, 2006. xxv + 508 p.

The paper from the journal:
Article from a journal should contain following description - author (s), article title, journal name, year, and page number of the beginning and of the end of the article.

Example	Sergei Lavrov. Russia and the World in the 21 st Century. In: Russia in global affairs. July-September 2008, Vol. 6, nr. 3, p. 8 – 18.

Dissertation

Example	Vladislav Boiko. Energy security in the context of globalization. Political Science Dissertation. Moscow, 2012. 250 p.

A dissertation synopsis:

Example	Yuri Jukov E.H. Political centrism in Russia. Dissertation synopsis … candidate in political science. Saint Petersburg, 2012. 24 p.

Description of the electronic scientific publications:
For electronic sources, you need to specify practically the same information as for journals: author, title, name of the site (or section of the website) and the URL. The item should contain the notion [On-line]:; information on the date of the electronic network share (after „Visited on:” indicate the date, month and year): (Visited on: 03.02.2012) is used in referring to the e-resource e-mail address.

Example	Chietigi Bajpaee. China’s Quest for Energy Security. In: Power and Interest News Report. February 25, 2005. [On-line]: http://www.pinr.com/. (Visited on: 07.09.2011).

Appendix 3

PROVISION
about the reviewing of scientific articles in
„Moldavian Journal of International Law and International Relations"

1. Scientific papers received to the Editorial office of „Moldavian Journal of International Law and International Relations", pass through peer review process.

„Moldavian Journal of International Law and International Relations" comprises a four-level system of peer review articles:

1st level – reviewing by the editor (main editor peer review);

2nd level – an open peer review (the author and the reviewer know each other) – a review is submitted to the editor by the author;

3rd level - one-sided i.e. „blind" peer review (single-blind - the reviewer knows the author, but the author - doesn't know the reviewer);

4th level – double-blind peer review (neither reviewer nor author know about each other).

2. Each scientific article must be accompanied by a review:

– Open: 1st level – a review (conclusion) of the editor; 2nd level – a review of official reviewer, specialist of appropriate scientific profile (doctorate or PhD);

– Closed (blind): 3rd level – a review done by a scientific editor or a member of the editorial board; 4th level - a review done by the decision of the editorial board and only external.

3. All scientific articles, received by the Editorial Board of our journal are subject to mandatory review by bilateral double-blind („double-blind" - the reviewer does not know who the author of the article is, the author does not know who the reviewer is). This review is carried out by external experts from the expert database of experts (reviewers), at the request of the Editorial Board.

4. An editorial board, making the evaluation of reviews, draws attention to the relevance of the scientific problem to be solved by the author. The Review should clearly describe the theoretical or applied significance of the study; correlate the author's conclusions to existing scientific concepts. An essential element of the review should be the assessment a personal contribution to the solution of the issue by the reviewer. Correspondence to the style, logics and the availability of the narration to the scientific nature of the material and obtaining of the conclusions about the reliability and validity of the findings – are key aspects that must be noted in the review.

5. The issue about the received articles is considered after the obtaining of reviews, and then the final decision, based on the evaluation of reviews about the publication or refusal to publish articles, is made. On the basis of the decision the author (s) is sent a letter by e-mail or mail, which provides a general assessment of the article and the decision. In the case of failure in the publication, the reviewers remain anonymous.

6. The Editorial Board has the right to direct the article for additional external anonymous peer review. Editor in Chief directs the reviewer a letter asking for peer review. The letter includes an article and a recommended form of review.

7. The presence of positive reviews is not sufficient grounds for the publication of the article. The final decision on advisability of publication is taken by the editorial board.

8. In cases when the article is composed by a significant proportion of criticisms that have been made by the reviewer, as well as the overall positive recommendation, the Editorial Board can attribute the material to the category of polemical material and print it in the manner of scientific debate.

9. The Review originals are stored in „Moldavian Journal of International Law and International Relations".

RUBRICA REVISTEI
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ТРЕБОВАНИЯ
к оформлению статей для публикации в «Молдавском журнале международного права и международных отношений»

Научно-теоретический журнал «Молдавский журнал Международного права и международных отношений» принимает к публикации статьи на молдавском (румынском), русском, английском, испанском, французском, немецком (по выбору автора) языках, содержащие результаты оригинальных исследований, оформленные в соответствии с «Требованиями к оформлению статей».

Редакция «Молдавского журнала международного права и международных отношений» принимает к публикации рукописи, соответствующие профилям издания, не более 20 страниц, включая рисунки и таблицы. Рукопись должна содержать только оригинальный материал, выполненный на высоком научном уровне, отражая результаты исследований автора, завершенных не более чем за год до публикации и содержать очевидный элемент создания нового знания. К печати принимаются материалы, ранее не издававшиеся и не предназначенные к одновременной публикации в других изданиях. Статьи подвергаются обязательному рецензированию, в соответствии с ***Приложением 3***. Для аспирантов (соискателей) обязательна рецензия научного руководителя. Печатаются только статьи, получившие положительные рецензии. Гонорар за публикации не выплачивается.

Настоящие правила распространяются на все материалы, направляемые в редакцию журнала для публикации. Редакция вправе не принять материал к публикации в случае: a) несоблюдения автором правил оформления рукописи; b) выявления элементов плагиата; c) несоответствия материала тематике журнала.

В случае несоблюдения настоящих требований редакционная коллегия вправе не рассматривать рукопись. Редакция оставляет за собой право при необходимости сокращать статьи, подвергая их редакционной правке, вносить редакционные (не меняющие общего смысла) изменения в авторский оригинал. Редакция может опубликовать материалы, не разделяя точку зрения автора (в порядке обсуждения). Авторы несут ответственность за подбор и достоверность приведенных фактов, цитат и прочих сведений. В одном номере журнала может быть опубликована только одна статья одного автора.

Число авторов статьи не должно быть более двух человек. Автор (ы) присылают в редакцию 2 экземпляра статьи (подписанные автором) в печатном виде и направляют статью в электронном виде по электронной почте по адресу: alexandruburian@yahoo.com , alexandruburian@mail.ru

Объем статьи не должен превышать 1,5 п. л. машинописного текста формата А4 (60 тыс. знаков, или 16-20 страниц текста), включая таблицы, список литературы и рисунки (схемы). При оформлении библиографических ссылок на английском языке необходимо указывать официальные англоязычные названия журналов.

Для размещения статьи в журнале необходимо предоставить в редакцию заявку, информацию об авторе (ах), статью, фотографию автора (ов) в формате JPG, аннотацию (резюме), представленную на трех языках (румынском, русском, английском) объемом – до 100 слов, ключевые слова (5-7 слов). Аннотация не должна содержать ссылок на цитируемую литературу, рисунки, таблицы.

Информация об авторе (ах) содержит: ФИО авторов, место работы, должность, ученую степень, ученое звание, почтовый адрес, электронный адрес и контактный телефон. ФИО автора должно быть указано под названием статьи справа.

Технические требования к оформлению рукописи для публикации:

Название статьи не должно превышать трех строк. Название должно даваться только заглавными буквами (Times New Roman 16) и располагаться по центру. Литературные источники, использованные в статье, должны быть представлены общим списком в ее конце (Библиография). Библиографический список приводится после текста статьи в соответствии с ***Приложением 2.*** Сноски на упомянутую литературу в тексте обязательны и должны быть оформлены внизу страницы в соответствии с ***Приложением 1.*** Ссылки на иностранные источники даются на иностранном языке и сопровождаются в случае перевода на румынский и русский язык указанием на перевод. Нумерация источников идет в последовательности упоминания в тексте. Ссылки на неопубликованные работы не допускаются. Список литературы (библиография) дается в алфавитном порядке по фамилиям первых авторов. Сокращения и аббревиатуры должны расшифровываться по месту первого упоминания в тексте статьи. В тексте на румынском, английском, французском, испанском языке используется немецкие кавычки („лапки”), в тексте на русском языке используются французские кавычки («ёлочки»).

Параметры страницы:

Документ должен быть сохранён в формате MS Word. Формат страницы А 4; поля страницы: верхнее и нижнее – 2 см, правое — 1,5 см, левое — 3 см. Шрифт - Times New Roman; кегль — 12; межстрочный интервал — 1,5. Выравнивание по ширине, отступ слева — 1,5. Нумерация страниц — сквозная, внизу страницы, по центру.

Оформление текста:

Использование ручных переносов (manual hyphenation) неприемлемо. Рисунки и таблицы должны иметь нумерационный и тематический заголовки и должны быть представлены в тексте после абзацев, содержащих ссылку на них.

Авторские экземпляры:

Каждому автору полагается один авторский экземпляр номера журнала вне зависимости от количества авторов статьи.

Редакционный совет

Приложение 1

Пример оформления библиографических сносок:

В библиографических сносках расстановка знаков препинания и предписанной пунктуации должна подчиняться тем же правилам, что и расстановка их в библиографическом описании.

Если текст цитируется не по первоисточнику, а по другому документу, то в начале ссылки приводят слова: Цит. по: (цитируется по), Приводится по: , с указанием источника заимствования:

Пример оформления:	Цит. по: Крупянко М.И., Арешидзе Л.Г. США и Восточная Азия. Борьба за «новый порядок». М.: Международные отношения, 2010, с. 325.

При последовательном расположении первичной и повторной ссылок используют слова «Там же» или «Ibid.» (ibidem) для документов на языках, применяющих латинскую графику:

Первичная	Гаджиев К.С. Геополитика. Учебник для бакалавров. М.: Издательство Юрайт, 2012, с. 27.
Повторная	Там же, с. 47. или Ibid., p. 47.

В повторных сносках, содержащих запись на один и тот же документ, не следующих за первичной ссылкой, приводят заголовок, а основное заглавие и следующие за ним

повторяющиеся элементы заменяют словами «Указ. соч.» (указанное сочинение), «Цит. соч.» (цитируемое сочинение), «Op. cit.» (opus citato):

Первичная	Жинкина Ю.В. Стратегия безопасности России: проблемы формирования понятийного аппарата. М.: Российский научный фонд, 1995, с. 87.
Повторная	Жинкина Ю.В. Указ. соч., с. 67. или Жинкина Ю.В. *Op. cit.*, p. 65.

Приложение 2

Примеры оформления списка библиографии:

Библиографический список приводится после текста статьи и следует после слова «Библиография». Все ссылки в списке последовательно нумеруются и располагаются в алфавитном порядке.

Описание книги одного автора:

Пример оформления	Гаджиев К.С. Геополитика. Учебник для бакалавров. М.: Издательство Юрайт, 2012. 479 с.

Описание книги четырех и более авторов:

Пример оформления	David G. Victor ... [et al.]. Natural gas and geopolitics: from 1970 to 2040. Cambridge; New York: Cambridge University Press Cambridge University Press, 2006. xxv + 508 p.

Описание статьи из журнала:

Для статьи из журнала нужно указать автора (ов) статьи, название статьи, название журнала, год, номер выпуска и страницы начала и окончания статьи.

Пример оформления	Конобеев В.Н. Геостратегия США в Евразии. В: Проблемы управления. 2008, №1 (26), с. 87 – 97.

Описание диссертаций

Пример оформления	Ганюхина Т.Г. Модификация свойств ПВХ в процессе синтеза: дис. ... канд. хим. наук: 02.00.06. Н. Новгород, 1999. 109 с.

Описание авторефератов диссертаций:

Пример оформления	Жуков Е.Н. Политический центризм в России: автореф. дис. ... канд. филос. наук. М., 2000. 24 с.

Описание электронных научных изданий:

Для электронных источников нужно указать практически те же данные, что и для журналов: автор, название статьи, название сайта (или раздела сайта) и адрес URL. В записи обязательно должен присутствовать текст [On-line]:, при ссылке на электронный ресурс после электронного адреса в круглых скобках приводят сведения о дате обращения к электронному сетевому ресурсу (после слов «дата обращения» указывают число, месяц и год): (Дата посещения: 02.03.2012)

Пример оформления	Китай встает на «правильную сторону истории» в Персидском заливе. В: Мировая политика и ресурсы. [On-line]: http://www.wprr.ru/?p=2591. (Дата посещения: 07.01.2012).

Приложение 3

ПОЛОЖЕНИЕ
о рецензировании научных статей в журнале
«Молдавский журнал международного права и международных отношений»

1. Научные статьи, поступившие в редакцию журнала «Молдавский журнал международного права и международных отношений», проходят через институт рецензирования.

В журнале «Молдавский журнал международного права и международных отношений» принята четырехуровневая система рецензирования статей:

1й уровень — рецензирование главным редактором (main editor peer review);

2й уровень — открытое рецензирование (open peer review — автор и рецензент знают друг о друге) - рецензия, представленная в редакцию автором;

3й уровень — одностороннее «слепое» рецензирование (single-blind — рецензент знает об авторе, автор — нет);

4й уровень — двухстороннее «слепое» рецензирование (double-blind — оба не знают друг о друге).

2. Каждая научная статья должна иметь рецензии:

– открытые: 1й уровень — рецензия (заключение) главного редактора; 2й уровень официального рецензента – специалиста соответствующего научного профиля (доктора или кандидата наук);

– закрытые (слепые): 3й уровень — научным редактором или одним из членов редколлегии; 4й уровень — по решению редколлегии и только внешнее.

3. Все научные статьи, поступившие в редакцию нашего журнала, подлежат обязательному двустороннему слепому рецензированию (double-blind — рецензент не знает, кто автор статьи, автор статьи не знает, кто рецензент). Это рецензирование производится сторонними специалистами из базы экспертов-специалистов (рецензентов), по поручению редакции.

4. Редколлегия при оценке рецензий обращает внимание на наличие в материале актуальности решаемой автором научной проблемы. Рецензия должна однозначно характеризовать теоретическую или прикладную значимость исследования, соотносить выводы автора с существующими научными концепциями. Необходимым элементом рецензии должна служить оценка рецензентом личного вклада автора статьи в решение рассматриваемой проблемы. Целесообразно отметить в рецензии соответствие стиля, логики и доступности изложения научному характеру материала, а также получить заключение о достоверности и обоснованности выводов.

5. После получения рецензий рассматривается вопрос о поступивших статьях и принимается окончательное решение на основе оценки рецензий об опубликовании или отказе в опубликовании статей. На основе принятого решения автору (авторам) по e-mail или почте направляется письмо, в котором дается общая оценка статьи и принятое решение. При отказе в публикации рецензенты остаются анонимными.

6. Редколлегия вправе направлять статьи на дополнительное внешнее анонимное рецензирование. Главный редактор направляет рецензенту письмо с просьбой о рецензировании. К письму прилагаются статья и рекомендуемая форма рецензии.

7. Наличие положительных рецензий не является достаточным основанием для публикации статьи. Окончательное решение о целесообразности публикации принимает редакционная коллегия.

8. При наличии в статье существенной доли критических замечаний рецензента и при общей положительной рекомендации редколлегия может отнести материал к разряду полемичных и печатать его в порядке научной дискуссии.

9. Оригиналы рецензий хранятся в редакции журнала «Молдавский журнал международного права и международных отношений».

RUBRICA REVISTEI
OUR JOURNAL
О НАШЕМ ЖУРНАЛЕ

Declarație
privind etica publicaţiilor ştiinţifice şi baza juridică a politicii editoriale a revistei „Revista Moldovenească de Drept Internațional și Relații Internaționale"

Colegiul de redacţie al publicaţiei periodice ştiinţifico-teoretice şi informaţional-practice „Revista Moldovenească de Drept Internaţional şi Relaţii Internaţionale" aderă la principiile de etică a publicaţiilor ştiinţifice acceptate la nivel internaţional, reflectate, printre altele, în recomandările Comisiei pentru etică a publicațiilor științifice (Comisia pentru publicație etică (COPE) (http://publicationethics.org/about/guide), Ghid pentru etica publicațiilor științifice (editura etică Resource Kit) Elsevier editor (https://www.elsevier.com/editors/publishing-ethics), Codul de etică și deontologie profesională a cercetătorilor și a personalului universitar din Republica Moldova, aprobat de către Consiliul Naţional de Atestare şi Acreditatare la 23.05. 2012 (http://edu.asm.md/tc_userfiles/cod-etica.pdf).

Termeni-cheie:

Etica publicațiilor științifice — un sistem de reguli de conduită profesională în relațiile dintre autori, recenzenţi, redactori, editori şi cititori în crearea, diseminarea și utilizarea publicațiilor științifice.

Redactor — un reprezentant al revistei sau editurii științifice, responsabil pentru pregătirea materialelor pentru publicare, precum și menținerea contactului cu autorii și cititorii publicațiilor științifice.

Autor — o persoană sau un grup de persoane (grup de autori), care participă la crearea şi publicarea rezultatelor cercetării științifice.

Recenzent — expert care acționează în numele unei reviste științifice sau editurii și realizează expertiza materialelor ştiinţifice prezentate de către autor pentru a determina posibilitatea publicării lor.

Editor — persoană juridică sau fizică care exercită editarea publică a unei publicații științifice.

Cititor — orice persoană care a făcut cunoștință cu materialul publicat.

Plagiat — atribuție intenționată a dreptului de autor a unei alte opere de artă sau știință, idei sau invenții ale altor oameni. Plagiatul poate fi o încălcare a legii drepturilor de autor și legii brevetelor și poate atrage după sine răspunderea juridică ca atare.

1. Principiile de etică profesională în activitatea redactorului şi editorului

Membrii consiliului editorial au următoarele responsabilități:

1.1. Să ia în considerare toate materialele manuscrise furnizate de autor, și să ia o decizie obiectivă cu privire la posibilitatea publicării lor, pe baza relevanței și a fiabilității studiului, precum și profilul de specialitate al revistei.

1.2. Să aibă atitudine respectuoasă față de autor, indiferent de rasă, sex, orientare sexuală, religie, origine, naționalitate, statutul social, preferințele politice sau a altor calități subiective;

1.3. Să respecte dreptul autorului de proprietate intelectuală, să împiedice divulgarea rezultatelor cercetării utilizarea acestora în scopuri personale fără consimțământul autorului;

1.4. Să excludă din articol materialele care conțin falsificarea rezultatelor și a plagiatului, precum și copierea multiplă a informațiilor și atribuirea falsă a dreptului de autor;

1.5. Să asigure confidențialitatea și anonimatul recenzării materialelor manuscrise;

1.6. Să angajeze în calitate de recenzenţi a articolelor doar specialiștii de înaltă clasificare.

2. Principiile etice în activitățile recenzentului

Recenzentul este responsabil pentru respectarea următoarelor principii:

2.1. Să efectueze expertiza ştiinţifică confidenţială a materialelor științifice manuscrise prezentate spre publicare de către autor, care are ca scop îmbunătățirea calității acestora şi ajutarea consiliului editorial să ia o decizie cu privire la posibilitatea publicării rezultatelor studiului;

2.2. Autorul/coautorul manuscrisului nu poate acționa în calitate de referent al articolului său;

2.3. Să refuze să recenzeze articolul în cazul când dispune de o insuficientă competență pentru această abilitate sau incapacitatea de a furniza recenzia manuscrisului într-un timp specificat;

2.4. Să asigure o maximă obiectivitate a recenziei pe baza relevanței, meritelor științifice, originalitatea și autenticitatea rezultatelor cercetărilor efectuate de autor. Orice critică a naturii subiective, care decurg din relațiile personale ale recenzentului cu autorul sau orice alte motive, sunt inacceptabile și nu sunt permise;

2.5. Să raporteze toate cazurile de posibile conflicte de interese;

2.6. Să nu păstreze copii ale manuscrisului și nu-l transmită la alte persoane terţe. În plus, informațiile furnizate în manuscrisele peer-revizuite, nu pot fi folosite în propriile cercetări înainte de publicarea lor fără consimțământul autorului;

2.7. Să verifice claritatea prezentării materialului în curs de revizuire pentru ca acesta să conțină link-uri către toate datele utilizate din lucrările publicate anterior;

2.8. Să argumenteze concluziile sale cu privire la manuscrisele peer-revizuite, astfel încât autorului și membrilor consiliului editorial să le fie clar obiectivitatea și legitimitatea acestora;

2.9. Să informeze membrii consiliului editorial, în cazul în care manuscrisul în curs de revizuire are o asemănare semnificativă cu articole publicate anterior, adică, cazuri de *plagiat*.

3. Principiile pe care trebuie să le ghideze autorul publicațiilor

Autorul — este persoana care a avut o contribuție personală la formarea și interpretarea rezultatelor cercetării. Prin furnizarea manuscrisului în vederea editării și difuzării comunității științifice a conținutului acestuia, autorul trebuie:

3.1. Să se bazeze exclusiv pe date precise și reale, precum și interpretarea lor obiectivă, evitând declarații inițial false și frauduloase cu privire la rezultatele obținute;

3.2. Să nu prezinte materialele manuscrise pentru examinare spre publicare în mai mult de o revistă, și să nu participe multiple și duplicate publicații, care sunt considerate ca fiind *autoplagiat*;

3.3. Să dezvăluie toate sursele de sprijin financiar sau de altă natură pentru studiu, în rezultatul cărora a fost pregătit manuscrisul, cu menționarea separată a rolului și contribuției fiecărei părți;

3.4. Informații de conversații personale sau corespondență pot fi folosite în cercetare numai cu acordul scris al persoanei căreia îi este furnizat;

3.5. Textele și informațiile grafice derivate din rezultatele publicate ale studiilor altor persoane, trebuie să fie prevăzute cu referire la activitatea relevantă. În plus, activitatea de același subiect, rezultatele care au influențat cursul studiului, ar trebui să fie anunțate în lista de referințe;

3.6. Atunci când a fost depistată o denaturare semnificativă sau constatări eronate în manuscrisul acceptat spre publicare sau articolul deja publicate este obligat să notifice consiliului editorial de a face corecții, negări sau revocarea lucrărilor;

3.7. În cazul luării deciziilor de către consiliul editorial privitor la publicarea manuscrisului, autorul este de acord cu transferul drepturilor la publicarea și difuzarea acestuia (în versiunile electronice și pe hârtie), inclusiv plasarea informațiilor bibliografice în bazele de date Science Citation, SCOPUS, Web of Science și versiunea full-text al Bibliotecii Electronice Științifice (elibrary.ru) în acces liber.

Consiliul Redacțional

RUBRICA REVISTEI
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Declaration on the ethical and legal basis of the editorial policy of the „Moldavian Journal of International Law and International Relations”

The Editorial Board of the scientific-theoretical and information-practical periodical publication „*Moldavian Journal of International Law and International Relations*“ commits to the internationally accepted principles of publication ethics expressed in the recommendations of the Committee on Publication Ethics (COPE) (http://publicationethics.org/about/guide), Elsevier Publishing Ethics Resource Kit (https://www.elsevier.com/editors/publishing-ethics) and the Code of ethics and professional deontology of the researchers and academic staff in the Republic of Moldova, approved by the National Certification Board and Acreditatare at 23.05. 2012. (http://edu.asm.md/tc_userfiles/cod-etica.pdf).

Key terms

Publication ethics is a system of professional conduct standards in relations between authors, reviewers, editors, publishers and readers when creating, disseminating and using scientific publications.

The ***Editor*** is a representative of the research journal or the publisher responsible for selecting and preparing materials for publication and encouraging communication between authors and readers of scientific papers.

The ***Author*** is a person or a group of persons (group of authors) who produce a manuscript that contains the results of their scientific research.

The ***Reviewer*** is an expert acting on behalf of the research journal or the publisher and providing scientific evaluation of authors’ works in order to consider their publishing.

The ***Publisher*** is a legal entity or a natural person responsible for publication.

The ***Reader*** is any person who has familiarized themselves with the published materials.

Plagiarism is a wrongful appropriation of another author’s scientific or artistic work, ideas, discoveries or inventions. Plagiarism may be a violation of copyright law and patent law and, as such, can entail legal liability.

The Code of Conduct for Editors-in-Chief and Publishers

Editors have the following general responsibilities:

1.1. Editor is bound to consider all materials of the manuscript submitted by Author. The final responsibility for accepting or rejecting the manuscript (based on its relevance, integrity, and fitting into the journal profile) without any personal and ideological favoritism or malice rests with Editor;

1.2. Editor should treat Author respectfully, regardless of their race, ethnicity, gender, sexual orientation, religious beliefs, origin, citizenship, social status or political preferences of the author and other subjective qualities;

1.3. Editor is obligated to observe the intellectual property rights of Authors by keeping in confidentiality all data provided in the manuscript without using them for personal purposes or transferring to the third parties;

1.4. Editor should exclude from publishing all plagiarized or falsified materials, as well as take serious steps in case of redundancy and false attribution of authorship;

1.5. Editor ensures confidentiality and anonymity of the review process;

1.6. Editor should invite only highly professional specialists as Reviewers.

The Code of Conduct for Reviewers

Reviewing of the submitted manuscript should be based on the following major principles:

2.1. Reviewer maintains confidentiality concerning the scientific inquiry of the manuscript, which is intended to improve its quality and helps the editorial board to finalize their decision on publishing the results of research;

2.2. Author/Co-author of the manuscript cannot act as Reviewer;

2.3. If Reviewer recognizes that either the manuscript is not related to their scholarly background or the time allocated for review is not enough, it immediately sets the ground for refusal;

2.4. When reviewing the material submitted for publication, Reviewers are obligated to be objective in their evaluation of the manuscript. All suggestions and judgements should be based on the relevance, integrity, and originality of the results of research performed by Author. Any critical statements of a subjective nature arising from personal attitudes to Author or other reasons are not acceptable;

2.5. Reviewers should disclose all conflicts of interest that may arise;

2.6. Reviewer is not allowed to keep any copies of the manuscript or transfer the materials under review to any other side. The manuscript cannot be used for personal research purposes prior to its publication unless special permission is obtained from Author;

2.7. Reviewer ensures that the manuscript is coherently written and contains all references to the cited or used works;

2.8. Reviewer should support their conclusions about the manuscript, thus ensuring that Author and Editor understand the basis of all comments and judgements;

2.9. Reviewer should point out if the manuscript bears considerable similarities to the works published earlier, i.e., report on plagiarism.

The Code of Conduct for Authors

Author is a person who has made a worthy contribution to the process of research or interpretation of its results. Author submitting their manuscript for the purpose of publishing and distribution in the scientific community should strive to comply with the following rules:

3.1. Authors should rely upon exceptionally accurate and actual data, as well as their unbiased interpretation without permitting any false or fraudulent claims about the obtained results;

3.2. Authors are not allowed to submit the same manuscript to any other journal for publication, in whole or in part, when it is being considered by Journal. In addition, they should not participate in multiple and redundant publications, which is regarded as self-plagiarism;

3.3. All research funders, as well as other sources of support, should be clearly identified and listed in the manuscript, including indication of the role of each contributing party;

3.4. Data obtained in the private talk or correspondence can be used only subject to prior written approval from the person, who provided them;

3.5. Graphic or textual data from the works published by other authors should be indicated with reference to the source, from which they were taken. Besides, all works published elsewhere and covering similar issues, which influenced the research, should be given in the list of references;

3.6. If Authors discover significant errors and incorrect conclusions in their manuscripts, either accepted for publishing or already published by Journal they should immediately inform Editor about it in order to take appropriate steps, such as correction, disclamation, or retraction;

3.7. As Editor makes the final decision to publish the manuscript, Authors agree with the transfer of the right to publish and distribute their published work (in print and electronic versions), as well as with that the bibliographic data will be included in the science citation databases SCOPUS, Web of Science and the full text will be freely available in the Scientific Electronic Library (elibrary.ru).

The Editorial Board

RUBRICA REVISTEI
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Декларация
об этических и правовых основах редакционной политики журнала «Молдавский журнал международного права и международных отношений»

Редакционная коллегия научно-теоретического и информационно-практического периодического журнала «Молдавский журнал международного права и международных отношений» придерживается принятых международным сообществом принципов публикационной этики, отраженных, в частности, в рекомендациях Комитета по этике научных публикаций (Committee on Publication Ethics (COPE) (http://publicationethics.org/about/guide), Руководстве по этике научных публикаций (Publishing Ethics Resource Kit) издательства Elsevier (https://www.elsevier.com/editors/publishing-ethics), Кодексе этики и профессиональной деонтологии исследователей и университетских кадров Республики Молдова от 23.05. 2012 г. (http://edu.asm.md/tc_userfiles/cod-etica.pdf).

Основные термины:

Этика научных публикаций — это система норм профессионального поведения во взаимоотношениях авторов, рецензентов, редакторов, издателей и читателей в процессе создания, распространения и использования научных публикаций.

Редактор — представитель научного журнала или издательства, осуществляющий подготовку материалов для публикации, а также поддерживающий общение с авторами и читателями научных публикаций.

Автор — это лицо или группа лиц (коллектив авторов), участвующих в создании публикации результатов научного исследования.

Рецензент — эксперт, действующий от имени научного журнала или издательства и проводящий научную экспертизу авторских материалов с целью определения возможности их публикации.

Издатель — юридическое или физическое лицо, осуществляющие выпуск в свет научной публикации.

Читатель — любое лицо, ознакомившееся с опубликованными материалами.

Плагиат — умышленное присвоение авторства чужого произведения науки или искусства, чужих идей или изобретений. Плагиат может быть нарушением авторско-правового законодательства и патентного законодательства и в качестве такового может повлечь за собой юридическую ответственность.

1. Принципы профессиональной этики в деятельности редактора и издателя

На членов редакционной коллегии возлагаются следующие обязанности:

1.1. Рассматривать все материалы рукописи, предоставляемые автором, и принимать объективное решение о возможности их публикации, исходя из актуальности и достоверности проведенного исследования, а также соответствия профилю Журнала.

1.2. Уважительно относиться к автору вне зависимости от его расы, пола, сексуальной ориентации, религиозных взглядов, происхождения, гражданства, социального положения, политических предпочтений авторов или иных субъективных качеств;

1.3. Соблюдать право автора на интеллектуальную собственность, не допуская раскрытия данных исследования или использования их в личных целях без согласования с автором;

1.4. Исключать из публикации материалы, содержащие фальсификацию результатов и плагиат, а также многократное копирование информации и ложное приписывание авторства;

1.5. Обеспечивать конфиденциальность и анонимность рецензирования материалов рукописи;

1.6. Привлекать к рецензированию статей исключительно профильных специалистов высокого класса.

2. Этические принципы в деятельности рецензента

Рецензент несет ответственность за соблюдение следующих основных принципов:

2.1. Осуществлять конфиденциальную научную экспертизу авторских материалов рукописи, которая призвана улучшить ее качество и помочь редакционной коллегии принять решение о возможности публикации результатов проведенного исследования;

2.2. Автор/соавтор рукописи не может выступать в роли ее рецензента;

2.3. Отказываться от рецензирования в случае недостаточной для этого квалификации или невозможности предоставить рецензию рукописи в указанные сроки;

2.4. Гарантировать максимальную объективность рецензии на основе актуальности, научной значимости, достоверности и новизны результатов исследования, проведенного автором. Любые критические замечания субъективного характера, проистекающие из личного отношения к автору или каких-либо иных причин, неприемлемы и не допускаются;

2.5. Сообщать о всех случаях возможного конфликта интересов;

2.6. Не хранить у себя копии рукописи и не передавать ее материалы иным лицам. Кроме того, сведения, приводимые в рецензируемой рукописи, не могут быть использованы в собственных исследованиях до опубликования без согласия автора;

2.7. Проверять ясность изложения рецензируемого материала и наличие в нем ссылок на все используемые сведения из ранее опубликованных работ;

2.8. Аргументировать свои выводы о рецензируемой рукописи так, чтобы автору и членам редакционной коллегии была понятна их объективность и правомерность;

2.9. Информировать членов редакционной коллегии, если рецензируемая рукопись имеет значительное сходство с ранее опубликованными статьями, то есть о случаях плагиата.

3. Принципы, которыми должен руководствоваться автор научных публикаций

Автор — лицо, которое внесло свой индивидуальный вклад в формирование и интерпретацию результатов исследования. Автор, предоставляющий рукопись с целью опубликования и распространения в научном сообществе содержащихся в ней сведений, должен:

3.1. Опираться исключительно на точные и реальные данные, а также их объективную интерпретацию, не допуская изначально ложных и мошеннических заявлений о достигнутых результатах;

3.2. Не подавать материалы рукописи на рассмотрение к публикации в более чем один журнал, а также не принимать участие в многократных и дублирующих публикациях, что расценивается как самоплагиат;

3.3. Раскрывать все источники финансовой или иной поддержки исследования, по результатам которого подготовлена рукопись, с отдельным указанием роли и вклада каждой стороны;

3.4. Информация из личной беседы или переписки может быть использована в исследовании только с письменного согласия лица, которое ее предоставило;

3.5. Текстовая и графическая информация, заимствованная из опубликованных результатов исследований иных лиц, должна быть приведена с указанием ссылки на соответствующую работу. Кроме того, работы в рамках схожей тематики, результаты которых повлияли на ход исследования, должны быть оглашены в списке литературы;

3.6. При обнаружении существенных неточностей или ошибочных выводов в принятой к публикации или уже опубликованной рукописи требуется уведомить об этом редакционную коллегию Журнала для внесения корректировки, опровержения или отзыва работы;

3.7. При принятии редакционной коллегией решения о публикации рукописи автор соглашается с передачей права на ее издание и распространение (в электронной и бумажной версиях), в том числе на размещение библиографической информации в базах научного цитирования SCOPUS, Web of Science и полнотекстовой версии в Научной электронной библиотеке (elibrary.ru) в свободном доступе.

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