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CONCEPTUAL FOUNDATIONS, TACTICAL-FORENSIC PECULIARITIES, AND APPLICATION PROSPECTS OF THE CANADIAN PHASED INTERVIEW MODEL IN CRIMINAL PROSECUTION

FUNDAMENTELE CONCEPTUALE, PARTICULARITĂȚILE TACTICO-CRIMINALISTICE ȘI PERSPECTIVELE DE APLICARE ALE MODELULUI CANADIAN DE AUDIERE ÎN FAZE „PHASED INTERVIEW MODEL" ÎN ACTIVITATEA DE URMĂRIRE PENALĂ

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Abstract: *The research conducted by preparing this article (scientific study) focuses on analyzing international experience regarding interview tactics, specifically the Canadian "Progressive Interviewing Model" (PIM) - also known as the "Phased Interview*

Model" – which represents a modern approach to obtaining statements during criminal investigations. The article highlights the fundamental principles of this methodology and its phased structure, which delineates successive stages of the interview aimed at achieving distinct tactical objectives: preparation and planning by law enforcement officials, establishing psychological rapport, developing the dialogue, verifying the accounts provided, strategically using evidence, and evaluating the information obtained after the interview concludes. Particular attention is paid to the model's flexibility, allowing for the adaptation of tactical-forensic procedures to the individual characteristics of the interviewee, the specifics of the investigative situation, and the concrete circumstances of the criminal case. In this context, the study examines the role of investigative communication, the importance of psychological rapport, the use of free narrative, and mechanisms for the objective verification of statements against existing evidence. The research also analyzes the advantages and limitations of applying the Progressive Interviewing Model, highlighting its contributions to reducing the risk of false statements and strengthening the protection of the interviewee's rights, while also addressing controversial aspects related to the incorporation of procedures specific to accusatorial interviewing techniques. Furthermore, a comparative analysis of the Canadian model is conducted in relation to the Reid Technique and the PEACE Interview Model – methods that influenced the design and development of this methodology.

Keywords: *Phased Interview Model, interrogation tactic, PEACE model, Reid technique, psychological contact, strategic use of evidence, criminal prosecution.*

Rezumat: *Cercetarea realziată prin elaborarea acestui articol (studiu științific) este consacrată analizei experienței internaționale în domeniul tacticii audierii, cu accent asupra Modelului canadian de audiere „Progressive Interviewing Model" (PIM) sau „Phased Interview Model", ea având ca abordare modernă procesul de obținere a declarațiilor în cadrul investigațiilor penale. Articolul științific evidențiază principiile fundamentale ale acestei metodologii, precum și structura sa etapizată, bazată pe delimitarea unor faze succesive ale audierii, orientate spre realizarea unor obiective tactice distincte: pregătirea și planificarea activității reprezentanților organelor de urmărire penală, stabilirea contactului psihologic, dezvoltarea dialogului, verificarea versiunilor prezentate, utilizarea strategică a probelor și evaluarea informațiilor obținute după finalizarea audierii. O atenție sporită este acordată caracterului flexibil al modelului, care permite adaptarea procedeelor tactico-criminalistice la particularitățile individuale ale persoanei audiate, la specificul situației investigative și la circumstanțele concrete ale cauzei penale. În acest context, sunt examinate rolul comunicării investigative, importanța contactului psihologic, utilizarea relatării libere, precum și mecanismele de verificare obiectivă a declarațiilor prin raportarea acestora la materialul probator existent. În cadrul cercetării sunt analizate, de asemenea, avantajele și limitele aplicării Progressive Interviewing Model, fiind evidențiate atât contribuțiile sale la reducerea riscului obținerii unor declarații false și la consolidarea respectării drepturilor persoanei audiate, cât și anumite aspecte controversate legate de preluarea unor procedee specifice tehnicilor de audiere cu caracter acuzator. Totodată, este realizată o analiză comparativă a modelului canadian în raport cu The Reid Technique și PEACE Interview Model, metode care au influențat conceperea și dezvoltarea acestei metodologii.*

Cuvinte-cheie: *Phased Interview Model, tactica audierii, modelul PEACE, tehnica Reid, contact psihologic, utilizarea strategică a probelor, urmărire penală.*

1. Introduction

Questioning is one of the most complex criminal investigation activities, requiring the investigating officer to possess a high level of professionalism, a solid general knowledge base, and the ability to competently apply specific forensic-tactical techniques. Every accused person, suspect, witness, or victim is a distinct individual characterized by unique psychological, behavioral, and cognitive traits, necessitating an individualized approach to the questioning process.

In practice, even individuals intending to recount known circumstances in good faith may make statements containing errors, inaccuracies, confusion, subjective interpretations, or elements of imagination. Furthermore, situations may arise where the person being questioned is unable to accurately recall the events they witnessed or were involved in. In such instances, the investigating authority is obliged to identify gaps in the statements and take the necessary tactical measures to address them. However, traditional questioning methods do not always suffice to achieve evidentiary objectives. In such cases, the investigating officer must resort to alternative lawful questioning techniques capable of stimulating memory recall and facilitating the most complete and accurate possible recounting of the information held by the person being questioned. In this context, I. V. Dvoreanscov states,

> "...of particular interest are specific (non-traditional) interviewing methods, understood as the set of techniques based on reducing the influence of conscious and/or volitional control exercised by the interviewee over the content of their statements and their own behavior during the interview" (Dvoryanskov, 2006, p. 53).

Authors V. Jitariuc and V. Rusu consider that the interview constitutes an interaction between the person being questioned and the representative of the criminal investigation authority, aimed at obtaining testimony, that is, information (data, messages) regarding facts relevant to the case (Jitariuc et al., 2025, p. 414).

Traditionally, the hearing is considered a key element of criminal investigation proceedings; conducting it effectively requires not only in-depth theoretical knowledge but also a high level of psychological preparedness on the part of the person conducting it. In this

context, the view expressed by S. I. Usachev is pertinent: the practical effectiveness of a hearing depends largely on the professional experience accumulated by law enforcement officials (Usachev, 2021, p. 143). Achieving the specific objectives of a hearing requires more than just the impeccable observance of all procedural rules governing this investigative action, or the assurance of conditions that preclude any influence on the interviewee by trial participants or other parties with an interest in a specific outcome. Of decisive importance is the investigative body's ability to effectively leverage the communicative dimension of the hearing process (Sokolov, 2023, p. 13). In this regard, specialized literature emphasizes that a decisive factor in the hearing's effectiveness is the establishment of genuine communicative rapport between the investigating officer and the interviewee, achieved by creating a psychological climate conducive to dialogue. Such a climate facilitates the free, complete, and truthful exchange of information relevant to the criminal case (Repin, 2020, p. 53).

Furthermore, the tactical specifics of any interrogation must be determined by taking into account the totality of circumstances unique to each criminal case. Thus, the selection and application of forensic-tactical techniques are determined by the procedural status of the person being questioned, their individual and psychological characteristics, the state of the criminal investigation at the time of the interrogation, and their presumed willingness to provide a statement (Trubkina, 2018, p. 193).

Studying the experience of foreign states regarding the detection and investigation of crimes, as well as leveraging and implementing positive elements thereof within national practice, constitutes a key avenue for refining the state's criminal and criminal procedural policy. Adopting and adapting international best practices contributes to modernizing the operations of criminal investigation bodies and enhancing the efficiency of the evidence-gathering process in criminal cases (Kubarev, 2021, p. 88).

2. Materials and Methods

The theoretical and methodological basis of the research is grounded in contemporary doctrinal concepts within the fields of forensics, criminal procedure, and forensic psychology, focusing on

modern interview models developed in the practice of criminal investigation agencies across various states. The study's theoretical foundation draws upon the works of established researchers in the field of interview tactics, examining the role of investigative communication, the importance of psychological rapport, the nuances of the statement-gathering process, and the limits of using psychological influence techniques when interviewing suspects. The research is based on an analysis of the concepts and principles underpinning the Canadian *Progressive Interviewing Model (PIM)*, also known as the *Phased Interview Model*, as well as the methodologies that influenced its development. Methodologically, the research employs a set of scientific methods, notably: doctrinal analysis, used to examine specialized literature and theoretical concepts regarding interview tactics; the comparative method, used to identify the specific characteristics of interview models across different legal systems; systemic analysis; and scientific generalization. Principles of cognitive psychology applied to investigative work play a significant role in underpinning the research, particularly those concerning the mechanisms of memory, communication, statement formation, and the assessment of the veracity of information obtained during the interview.

3. Results and Discussion

One of the interviewing models currently gaining increasingly widespread recognition in international practice is the *Canadian Progressive Interviewing Model*, developed by Darren Carr, a specialist with the *Royal Canadian Mounted Police (RCMP)*. In professional literature, this model is known by two names: the "*Phased Interview Model*" and the "*Progressive Interviewing Model*" *(PIM)*. The difference between the two terms lies solely in the conceptual emphasis placed on the same methodology. The term "*Progressive Interviewing Model*" *(PIM)* highlights the progressive nature of the interview, based on the gradual and systematic deepening of the information provided by the interviewee. Conversely, the term "*Phased Interview Model*" emphasizes the structuring of the interview process into distinct, successive stages, each with clearly defined tactical objectives. In essence, the two terms are used interchangeably, as they refer to the same interviewing methodology, one grounded in a phased and progressive ap-

proach to obtaining and verifying information relevant to the criminal case.

According to the methodology's creator, Darren Carr, the goal of the *Progressive Interviewing Model* is to create the necessary conditions for the interviewee to freely and comprehensively share the information they wish to provide, without being subjected to pressure or premature confrontation. The model aims to elicit the most extensive and spontaneous narrative possible, while simultaneously steering the interview toward identifying verifiable contradictions and inconsistencies between statements and other forms of evidence, as well as gradually dismantling accounts that lack veracity. Under this approach, the emphasis is not on rapidly obtaining a confession, but rather on the progressive gathering of information and the critical assessment of the statements' credibility against the body of evidence as a whole (Parker, 2017, p. 30).

The *PHASE model* is grounded in a phased interviewing process characterized by a clear distinction between non-accusatory and accusatory interviewing techniques. This phased structure allows the interviewer to adapt their tactical approach based on the progression of the communication process and the information obtained during the interview, without prematurely resorting to confrontation or direct accusations. Notably, the non-accusatory component of the *PHASE model* bears significant similarities to the *British PEACE methodology* (Glushkov, 2024b, pp. 34-39; Bull, 2023, pp. 80-91), as both prioritize obtaining the most comprehensive and accurate information possible from the interviewee. During this stage, the interviewer seeks to elicit a free and detailed account of the facts, avoiding any influence on the statements or the exertion of psychological pressure on the interviewee. Once obtained, the information undergoes a rigorous process of analysis and evaluation against the body of evidence gathered in the case. This phase involves identifying and examining any contradictions, inconsistencies, or discrepancies between the interviewee's statements and other available evidence, factors that enable an assessment of the credibility of the account provided and guide the subsequent tactical investigative strategy for the interview (Shaw, 2020, p. 12).

In the specialized literature, the *Canadian PHASE model* (*Pro-*

gressive Interviewing Model) is sometimes identified with or linked to the *British PEACE methodology* due to similarities in the general principles governing the conduct of interviews. Both models promote a non-accusatory approach focused on the progressive gathering of information, the development of effective communication with the interviewee, and the critical evaluation of statements against the body of evidence. However, while the two methodologies share a number of common principles, they are not identical.

Such an association is not unfounded, as the *Canadian PHASE model* (*Progressive Interviewing Model*) retains the fundamental principles established by the British PEACE methodology, and certain stages of the two models exhibit clear similarities. Nevertheless, the Canadian model is not merely a copy of the British methodology; rather, it represents an adaptation of that methodology to the specific characteristics of the legal system, judicial practice, and law enforcement operations in Canada (Snook, 2020, pp. 261-273).

The PHASE model was developed following an extensive two-year research program conducted by the Royal Canadian Mounted Police (RCMP). The need to develop a new interviewing methodology was driven by mounting criticism of the *Reid technique* (Glushkov, 2024a, pp. 23-29), criticism stemming from numerous cases where the media and academic research highlighted practices likely to elicit false, unreliable, or involuntary confessions due to psychological pressure exerted on suspects. However, when reforming its interviewing practices, the RCMP did not opt to fully adopt the PEACE methodology. Although the British model provided an effective framework for gathering and analyzing information, it lacked sufficient tactical procedures to effectively handle situations where the interviewee was uncooperative or refused to provide explanations regarding the incident under investigation. Consequently, it was necessary to develop a model that retained the non-accusatory philosophy and information-gathering focus of the PEACE methodology while integrating, within the bounds of Canadian law and professional policing standards, certain useful tactical elements from the *Reid technique* (Andronik et al., 2015, pp. 171-176), without adopting practices prone to creating psychological coercion or the risk of eliciting unreliable statements. Consequently, the *Canadian PHASE* (*Progressive Interviewing Model*) was created as

a hybrid methodology combining principles of interviewing based on the progressive gathering of information with the selective and controlled use of tactical confrontation techniques, applicable solely in a manner that respects the fundamental rights of the interviewee and the requirements of a fair process.

The importance and effectiveness of this model were officially recognized in 2014, when the *Progressive Interviewing Model* (PHASE) was adopted as the national training standard for all Royal Canadian Mounted Police (RCMP) personnel. Subsequently, the methodology was implemented by other law enforcement agencies in Canada, including the Canadian Police College, the Royal Newfoundland Constabulary, and the Edmonton Police Service, thereby confirming its relevance and applicability to modern investigative interviewing practice.

The PHASE (Progressive Interviewing Model) is fully compatible with the Canadian legal framework, including the principles enshrining the voluntary nature of statements and the individual's right to remain silent. Conceptually, it is a hybrid interviewing model that combines two distinct components: non-accusatory interviewing, which constitutes the central and predominant element of the process, and accusatory interviewing, employed only when there is a sufficiently robust body of evidence to support the conclusion that the individual was involved in the commission of the offense. The methodology is structured into six successive phases, each with clearly defined tactical objectives and a primary focus on the collection, verification, and evaluation of information rather than on obtaining a confession. However, this assertion is not without controversy, as certain stages of the model allow for the use of tactical techniques that may indirectly lead the interviewee to admit to the facts. In this context, A. A. Șaevici defines the Progressive Interviewing Model as

> "... a structured methodology for conducting the hearing, designed to enhance the efficiency of the information-gathering process and to mitigate risks associated with manipulation, coercion, or the provision of untruthful statements. The model is developed with regard to the behavioral characteristics of the suspect and aims to build the investigator's competence in initiating and maintaining an effective dialogue by

establishing a relationship of trust, employing modern communication management techniques and specific cognitive interview procedures" (Șaevici, 2025, pp. 222-223).

This definition highlights a key feature of the Canadian PHASE Model: its focus on the strategic management of communication, as opposed to approaches based on confrontation or psychological pressure. The investigator is not trained to seek an immediate confession, but rather to foster an atmosphere of cooperation and trust that facilitates the spontaneous and comprehensive disclosure of information relevant to the criminal case.

Among the defining characteristics of the *Canadian PHASE* model is its predominantly non-accusatory nature, as the majority of the interview process unfolds in a format oriented towards dialogue and cooperation. Such an approach facilitates the establishment of a relationship of trust between the investigator and the interviewee, helping to reduce psychological resistance and create an environment conducive to open and complete communication. However, it is important to note that the model's creators have not entirely abandoned the accusatory approach (Denault, 2023). *The Progressive Interviewing Model* integrates a flexible set of tactical procedures, encompassing both techniques specific to information-gathering models and certain accusatory techniques; this grants the investigator the freedom to select and apply, based on the specific circumstances of the case and the progression of the interview, those methods best suited to achieving the intended objective. A central role in this methodology is played by the concept of the "*Strategic Use of Evidence*" (SUE) (Clemens, 2013, p. 79; Forensic Interview Solutions), which entails the gradual presentation and utilization of evidentiary information held by law enforcement authorities. Through the planned and timely use of evidence, the investigator can verify the veracity of the interviewee's statements, identify contradictions, and assess the credibility of the account provided, all without infringing upon the individual's procedural rights or resorting to coercive methods. In developing the model, the authors proceeded from the premise that behavioral analysis, examined in great detail in the specialized literature (Butoi et al., 2014) and used to detect deception, offers low reliability and cannot serve as a sufficient indicator for assessing the sincerity of statements. For this rea-

son, the *Progressive Interviewing Model* eschews deception-detection techniques based on interpreting non-verbal behavior, a hallmark of the *Reid technique* (Chen, 2021). Instead of behavioral assessment, the methodology advocates for the concept of *Objective Veracity Assessment* (OVA), an objective evaluation of a statement's truthfulness, by systematically comparing the information provided by the interviewee against objective data and other evidence gathered in the case. Under this approach, credibility assessment relies not on the investigator's subjective impressions of the interviewee's conduct or reactions, but on analyzing the consistency between their statements and the established facts and evidence. To ensure procedural transparency, safeguard the rights of participants, and allow for subsequent verification of the hearing's legality and proper conduct, the methodology recommends a full audio-video recording of the interview; where video recording is not feasible due to objective constraints, an audio recording should be made at a minimum.

The methodological guide for the *Canadian Progressive Interviewing Model* (PHASE) is structured into three main parts (excluding the introduction), each dedicated to fundamental aspects of organizing and conducting the investigative interview.

The first part of the work is dedicated to examining the essential elements of the investigator's professional activity and their role in the efficient management of the interview process. Particular emphasis is placed on the professional and personal qualities the investigator must possess, such as integrity, ethical conduct, empathy, impartiality, communication skills, and openness toward the interviewee, which are considered indispensable for establishing a relationship of trust and conducting an effective interview. Furthermore, the study analyzes issues arising from biases and cognitive distortions, which can compromise the investigator's objectivity when evaluating information and making decisions during the criminal investigation. The authors highlight that the influence of these psychological factors can lead to the misinterpretation of evidence, the formulation of flawed investigative hypotheses, and a reduction in the impartiality of the interview process. Subsequently, the limitations of methods for detecting deceptive behavior are examined, emphasizing that identifying lies solely based on behavioral reactions or non-verbal cues

does not offer sufficient reliability. In contrast to such practices, the methodology places great importance on active listening, regarded as one of the most effective tools for facilitating communication, eliciting detailed information, and critically evaluating the interviewee's statements. The guide also analyzes the risks associated with the use of fabricated evidence and inappropriate tactical methods, highlighting the negative consequences such practices can have on the legality of the interview, the credibility of the evidence, and the observance of the individual's fundamental rights. In this context, a comparative analysis is conducted between accusatorial and non-accusatorial interview models, highlighting the advantages of approaches focused on gathering information and establishing a genuine dialogue with the interviewee. A key recommendation is the mandatory audio recording of all interviews, a measure viewed as an essential safeguard for ensuring procedural transparency, protecting the rights of participants, and allowing for the subsequent verification of the legality and fairness of the criminal investigation proceedings. Furthermore, the authors examine various categories of false testimony and the factors that contribute to their occurrence, paying particular attention to the psychological vulnerabilities of suspects. It is emphasized that such vulnerabilities can be exploited, either intentionally or unintentionally, through the use of inappropriate interview techniques, potentially leading to statements lacking authenticity and undermining the objectives of the criminal proceedings. Finally, the Guide underscores the importance of managing the duration of the interview, noting that exceeding reasonable time limits can negatively affect the interviewee's psychophysiological state, thereby diminishing the quality, accuracy, and credibility of the information provided. From this perspective, proper planning of the time allocated for the interview is essential to ensuring the efficiency of the information-gathering process (Șaevici, 2025, p. 223).

The second part of the methodological guide is dedicated to analyzing the regulatory framework governing the conduct of interrogations within the Canadian legal system, with particular emphasis on the guarantees enshrined in the Canadian Charter of Rights and Freedoms. This section examines the constitutional principles and criminal procedural rules that establish the legal boundaries of inter-

rogation activities and the mechanisms protecting the fundamental rights of individuals subject to criminal investigation. Specifically, it analyzes legal requirements regarding the exercise of the right to silence, detention procedures, the right to legal assistance and effective access to counsel, as well as the legal and procedural risks arising when these rights are restricted or violated. The authors highlight that adherence to these guarantees is an indispensable condition for the legality of the interrogation and the admissibility of statements obtained during criminal proceedings. Furthermore, a comparative analysis is conducted regarding interrogation procedures for individuals deprived of liberty versus those questioned while at liberty, highlighting differences in both the applicable legal regime and the procedural safeguards afforded to suspects in each scenario. Special attention is paid to Canadian case law, which has played a pivotal role in shaping judicial practice regarding interrogations. The text examines judicial precedents concerning the admissibility of statements, particularly the principle of voluntariness, which is considered a fundamental pillar of Canadian criminal procedural law. In this context, the criteria developed by Canadian courts to assess the voluntary nature of statements are examined, as are the circumstances that may indicate a violation of this principle. Relevant factors include the exertion of psychological or moral pressure on the person being questioned, misleading that person, making unfounded promises, or other forms of influence capable of compromising the freedom of will and the authenticity of the statements. Furthermore, the authors analyze the provisions of the *Youth Criminal Justice* Act (2003), which govern the specific procedures for questioning minors. The analysis highlights the special requirements imposed by Canadian legislation to protect minors within the criminal justice process, taking into account their psychological vulnerability and the need for additional procedural safeguards designed to ensure the effective exercise of their rights and to prevent the obtaining of statements that are influenced or lack a voluntary character.

The third part, which constitutes the methodological core of the guide, is dedicated to a detailed presentation of the structure of the Canadian *PHASE* Model and the principles governing the phased conduct of the interview process. This section outlines the successive

phases of the methodology, the tactical objectives specific to each stage, and the recommended procedures for obtaining and evaluating relevant information during the criminal investigation.

Through this phased structure, the *Progressive Interviewing Model (PHASE)* aims to ensure rigorous interview planning and the continuous adaptation of the investigator's tactical approach to the unfolding dialogue and the information gathered during the communication process. Each part represents an integrated component of a unified investigative strategy aimed at obtaining complete, credible, and verifiable information.

Structurally, the non-accusatory phase of the *PHASE* Model consists of six successive stages, each with a well-defined tactical objective, contributing to the gradual acquisition and verification of information relevant to the criminal case. These stages are: 1) *preparation for the interview*; 2) *establishing psychological rapport* with the interviewee; 3) *developing the interview topic*; 4) *identifying inconsistencies*; 5) *Strategic Use of Evidence (SUE)*; and 6) *summarizing and concluding the interview.*

Subsequently, the author A. A. Șaevici, along with other researchers, conducts a detailed analysis of each stage comprising the non-accusatory phase of the Canadian *PHASE* Model, examining both their theoretical foundations and their practical application in investigative interviewing. The analysis highlights the distinct role of each stage in implementing an interview strategy based on the progressive collection and systematic verification of information, in accordance with the principles of modern forensic tactics (Șaevici, 2025, pp. 223-224).

1) *Review, Preparation and Planning.* At this stage, the investigator carries out the preliminary activities necessary to organize the hearing, performing a complex analysis of the existing materials in the case file, the goals pursued by the hearing and the individual characteristics of the person to be heard. The preparation of the hearing involves the thorough study of the administered evidence, the statements of witnesses and other participants in the trial, as well as the evaluation of the information already available regarding the circumstances of the crime. At the same time, the investigator establishes the tactical-forensic strategy of the interview, formulates the specific objectives of each stage, elaborates the sequence of questions and antic-

ipates the possible scenarios regarding the evolution of the dialogue, including the likely reactions and behavior of the person interviewed. Such planning allows the hearing to be conducted in a coherent, flexible manner and adapted to the particularities of each criminal case.

2) *Introduction and explanation of legal obligations.* The second stage is dedicated to establishing psychological and communicative rapport between the investigator and the person being questioned. The primary objective is to create a favorable psychological climate, grounded in mutual respect, trust, and open communication, that facilitates an efficient hearing and the active participation of the interviewee in the dialogue. During this phase, the investigator explains the individual's procedural rights and obligations, while also providing necessary clarifications regarding the legal aspects of the hearing procedure. Fully and clearly informing the person of their procedural status and the safeguards available to them is essential to ensuring the hearing is conducted lawfully and fairly. Once these formalities are completed, the investigator seeks to develop an effective communicative relationship with the interviewee. This process not only facilitates dialogue on matters relevant to the criminal case but also allows for the gathering of additional information regarding the interviewee's psychological traits, communication style, and behavior, elements that can guide the subsequent choice of investigative tactics. The success of this stage is evidenced by the interviewee's active and voluntary engagement in a constructive dialogue, demonstrating that a sufficient level of trust and mutual understanding has been established between the participants, a prerequisite for the effective conduct of the subsequent stages of the hearing process. A fundamental principle of this stage is that the decision of the suspected person not to make a statement does not preclude the investigator from initiating and maintaining communication. However, any interaction must strictly respect the individual's right to make a free and informed choice between cooperating with law enforcement authorities and exercising the right to remain silent. Consequently, the investigator is obliged to maintain a constant balance between the need to continue the dialogue and the obligation to refrain from exerting any form of pressure or influence capable of impairing the interviewee's freedom of will or the effective exercise of their procedural rights (Șaevici, 2025, p. 224).

Regarding the essence of psychological rapport during the hearing, I. V. Kubarev and S. S. Bargan consider that it

> "consists of creating a psychological atmosphere conducive to the hearing, one that optimizes interaction and relationships among all participants in this criminal procedural act". To achieve this objective, at the beginning of the hearing, the person is informed of their procedural rights and obligations and is provided with the necessary explanations regarding the legal aspects of the hearing procedure. Subsequently, the investigator initiates a phase of getting to know and communicating with the person being heard; this serves a dual purpose: on the one hand, it allows for the supplementation and clarification of information regarding the person's character, and on the other, it contributes to their psychological preparation for active participation in the dialogue concerning the circumstances of the criminal case. According to the cited authors, "psychological rapport can be considered established when the person being heard actively engages in a constructive dialogue, demonstrating a willingness to communicate and answer questions posed by the investigator. At this stage, a sufficient level of trust and cooperation is established among the hearing participants, facilitating an efficient exchange of information" (Kubarev et al., 2021, p. 89).

3) *Dialogue*. The dialogue stage focuses on fostering open and constructive communication with the suspect. During this phase, the interviewee's statement is primarily delivered as a free narrative, even when there are objective grounds to believe that certain assertions might be untruthful. However, this methodology does not imply a completely passive attitude on the part of the investigator. On the contrary, the investigator's role is to ensure the interviewee remains focused on the subject and theme of the interview. To this end, clarifying or guiding questions may be posed to minimize digressions from key investigative aspects and to prevent the interviewee from dwelling excessively on secondary details or matters irrelevant to establishing the facts of the case. Thus, the investigator strikes a balance between allowing the interviewee to freely share information and ensuring the interview remains focused and efficient. Freedom

of narrative does not preclude the tactical steering of the communication process; rather, it entails moderate, justified intervention by the investigator, undertaken solely to elicit complete, coherent, and relevant information. During this stage, the investigator employs open-ended questions and utilizes techniques specific to the cognitive interview (Kassin et al., 2010, pp. 39-55; Bolatkhanova, 2016a, pp. 62-67; Bolatkhanova, 2016b, pp. 76-80) to elicit the most detailed and accurate statements possible. At the same time, particular attention is paid to identifying and noting any indications that the interviewee is avoiding providing details on specific aspects of their account. Such indications may include: abruptly cutting off the narrative regarding certain facts; providing incomplete information that is known to, or should be accessible to, the interviewee; avoiding the disclosure of data concerning evidence or circumstances that might already be known to the criminal investigation authorities; disrupting the chronological order of the events described; and the presence of contradictions in the description of objects, phenomena, or circumstances relevant to the case. The fundamental objective of this stage is to prompt the suspect to present their own version of events without the use of psychological pressure and without the premature formulation of accusations. Information obtained during the free narrative is of particular importance for the subsequent stages of the hearing, as it enables the investigator to analyze the version presented, identify aspects requiring further verification, and plan the strategic use of evidence (Șaevici, 2025, pp. 224-225).

The person being questioned presents information through a free narrative, even when there is an objective basis to suspect the veracity of their statements. However, the investigator's role at this stage is not entirely passive; they must ensure the interviewee stays within the scope of the established topic and steer the dialogue toward aspects relevant to the criminal case. To this end, the investigator may, when necessary, ask clarifying or guiding questions designed to prevent the interviewee from digressing into irrelevant reflections or matters unrelated to the subject of the investigation. Furthermore, the investigator pays close attention to, and separately records, any indications that the interviewee is avoiding elaboration, such as: abruptly cutting off the account of previously addressed facts; omitting information known to the

interviewee; selectively providing details in relation to evidence already held by the criminal investigation authority; failing to present events in chronological order; and inconsistencies in the description of objects, events, phenomena, or other relevant circumstances. Information obtained during the free narrative is crucial for the successful completion of the final stages of the questioning, as it enables the investigator to identify further lines of inquiry, detect potential contradictions, and plan the strategic use of evidence in subsequent phases of the process (Kubarev et al., 2021, pp. 89-90).

4. V*ersion Challenge.* In situations where the suspect's statements contradict facts known to the criminal investigation authority or contain gaps and inconsistencies, the investigator employs the *Strategic Use of Evidence* (SUE) technique (Clemens, 2013, p. 79). According to some authors (Kubarev I. V. and Bargan S. S.), this method allows for verifying the veracity of the version presented by the interviewee without turning the communication process into a direct confrontation or a premature formulation of accusations. During this stage, the interviewee is asked to provide explanations regarding identified contradictions, discrepancies between their statements and objective data gathered during the investigation, and any gaps in their previous account. The investigator thus aims to give the person an opportunity to clarify contentious issues and explain their position, while respecting the principle that statements must be voluntary. The questioning process at this stage should take place in a calm, balanced, and unbiased atmosphere, avoiding accusatory language, psychological pressure, or suggestions that the person is intentionally withholding information about the crime under investigation. Maintaining a neutral and professional attitude is essential for the investigator to preserve the objectivity of the interview and avoid triggering a defensive reaction from the interviewee. After the person being questioned provides their account, the investigator formulates clarifying questions aimed at delving deeper into contentious issues and further elucidating unclear circumstances. If there are sufficient grounds to believe that the information provided does not reflect reality, the person being questioned may be given the opportunity to voluntarily acknowledge the erroneous or untruthful nature of their statements. Such an approach helps reduce psychological confrontation, maintain a constructive di-

alogue, and achieve the most objective investigative results possible. Should the dialogue fail to yield the expected results, with the person continuing to maintain a version of events incompatible with the objective data gathered, the investigator may proceed to the next stage of the methodology, employing other tactical techniques.

5. *Accusation and Persuasion.* This stage is resorted to only when there is objective evidence regarding the suspect's involvement in the commission of the offense, and previous stages of the interrogation have not yielded effective results. Transitioning to this phase requires a sufficient evidentiary basis and a justified tactical need to further probe the position of the person being questioned. During this stage, the investigator may employ persuasion techniques aimed at encouraging the suspect's cooperation and prompting them to provide additional explanations regarding the circumstances of the case. However, the fundamental goal of this phase is not to secure a confession at any cost, but rather to obtain relevant and verifiable information that contributes to establishing the facts of the case. The application of tactical methods at this stage must strictly adhere to the legal limits established by legislation and case law, particularly the principles concerning the voluntary nature of statements, the right to remain silent, the prohibition of psychological coercion, and the obligation to respect the dignity of the person being questioned.

6. *Post Interview Review.* Following the interview, the investigator conducts a comprehensive analysis of the information obtained, comparing the interviewee's statements with data and circumstances already established during the investigation. This stage aims to assess the informational value of the statements, their degree of coherence, and their compatibility with the existing body of evidence. The analysis process involves evaluating the reliability of the statements, identifying any contradictions or aspects requiring further verification, determining the advisability of conducting subsequent interviews, and documenting the results obtained during the investigative procedure. This stage is of particular importance for the continuation of the criminal investigation, as it enables the investigator to determine the investigation's future direction, formulate new investigative hypotheses, and make tactical decisions based on an objective analysis of the accumulated information.

Information obtained during the hearing is deemed confirmed or refuted following a logical analysis and a comparison with evidence already existing in the criminal case. Consequently, the informational value of the statements is not assessed in isolation, but rather in relation to the totality of established circumstances and the evidentiary material gathered. In this context, even if the person being questioned remains silent throughout the entire hearing or consistently and deliberately denies all the circumstances raised, the investigator does not resort to psychological pressure tactics. On the contrary, the investigator seeks to obtain information through alternative communication methods, such as indirect questioning or repeatedly revisiting specific episodes of the offense, in order to identify new avenues for dialogue and to clarify the circumstances of the case.

The transition to the accusatory phase of the interrogation can occur in two situations: 1) when the interviewee's statements reveal indisputable facts demonstrating their involvement in the commission of the crime, and these facts align with and are corroborated by evidence gathered during the criminal investigation; 2) when all attempts to establish psychological rapport and effective communication with the interviewee have proven unsuccessful. This phase is characterized by the use of psychological influence techniques aimed at engaging the individual in the communication process and eliciting a sincere admission of the facts. However, the distinctive feature of the *PHASE* Model, compared to other accusatory interrogation tactics, is that it does not require analyzing the interviewee's non-verbal behavior for the purpose of subsequently increasing psychological pressure. At the same time, the methodology imposes a significant restriction regarding the formation of biases or preconceived conclusions by the investigator, as such assessments are largely subjective in nature and can compromise the objectivity of the interrogation process (Kubarev et al., 2021, pp. 90-91).

According to a group of researchers (B. Snook, W. Fahmy, L. Fallon, C. J. Lively, and others), this methodology is presented as being geared towards minimizing conflict between the investigator and the interviewee, as well as reducing the likelihood of errors and false confessions. To a certain extent, this assessment is justified, particularly when the model is compared to traditional, accusatory interrogation

tactics. However, given that the *PHASE Model* was developed by integrating elements from both the *PEACE Model* and the *Reid Technique*, it incorporates certain procedures derived from the interrogation methodology devised by J. Reid and F. Inbau (Inbau et al., 2013), procedures whose admissibility and compatibility with modern interrogation principles may be open to critical debate. These researchers also criticize certain techniques outlined in the *Progressive Interviewing Model (PIM)* guidelines, noting that some of the procedures employed retain elements characteristic of traditional accusatory approaches, which may jeopardize the voluntary nature of statements and the objectivity of the interrogation process.

However, the authors in question highlight, in particular, the following problematic aspects:

1) *Certain forms of minimization tactics can increase the likelihood of eliciting false confessions.* These tactics aim to diminish the subjective perception of the offense's gravity and the interviewee's assessment of the crime's negative consequences, as well as to create a misleading impression that admitting guilt could lead to avoiding or significantly reducing legal liability for the act committed;

2) *The distortion or evidence manipulation* is another aspect criticized by researchers. These practices involve either artificially creating the impression that non-existent evidence exists (claiming that certain evidence exists when, in reality, it has not been obtained) or artificially exaggerating the importance and probative value of existing elements, with the aim of using them against the suspect to induce a confession (Snook et al., 2020, pp. 261-273).

Another critical issue is the use of leading questions; such questions can prompt interviewees to provide inaccurate information, thereby distorting the perception of actions or circumstances and, consequently, compromising the authenticity of any confessions. However, the methodological guide for the Progressive Interviewing Model (PIM) notes that the use of leading questions may be necessary in certain situations, specifically to encourage uncooperative suspects to initiate a dialogue and participate in the interview process. In this context, the guide outlines five distinct types of leading questions that can be used to "fix" or "focus" the interviewee on a specific version of events and steer them toward a particular response.

Although the methodology warns against the excessive use of leading questions and advises investigators to aim for "accounts free from the influence of leading questions and other forms of information contamination", the risk of compromising the authenticity of statements cannot be entirely ruled out.

> Thus, researchers I. V. Kubarev and S. S. Bargan conclude, "The Canadian model proposes avoiding premature accusatory conclusions, aiming instead to prompt the interviewee to provide detailed explanations regarding the offense committed and to compare their statements with the evidence available in the case. Shifting the focus from obtaining a written confession of guilt to the non-confrontational identification of contradictions and discrepancies in the available information ensures proper respect for the individual's fundamental rights and freedoms, thereby contributing to greater efficiency in the process of uncovering and investigating crimes" (Kubarev et al., 2021, p. 91).

4. Conclusions

The evolution of contemporary forensic interrogation tactics is directed towards striking an optimal balance between the need to obtain information relevant to criminal investigations and the obligation to respect the fundamental rights and freedoms of the person being questioned. In this context, examining modern interrogation models developed in the practice of various states is of particular importance for refining traditional methods of obtaining statements and adapting them to the current demands of criminal proceedings. The Canadian *PHASE* model highlights a paradigm shift in the approach to interrogation by shifting the focus from obtaining a confession of guilt to the objective collection, verification, and evaluation of information provided by the interviewee. Structuring the process into successive phases, preparation and planning, establishing psychological rapport, developing the dialogue, verifying accounts, the strategic use of evidence, and post-interrogation analysis, provides law enforcement officials with a coherent methodological framework capable of ensuring a logical, controlled, and scientifically grounded interrogation process. A key element of the model is the recognition that the ef-

fectiveness of the interrogation depends largely on the quality of the official's preparation. Preliminary study of the case materials, analysis of the interviewee's personality, evaluation of available evidence, and the formulation of an appropriate tactical strategy are indispensable prerequisites for conducting an effective interrogation and avoiding premature conclusions regarding a person's guilt.

Furthermore, research highlights the fundamental importance of psychological rapport and investigative communication in the process of gathering information. Establishing an atmosphere grounded in respect, trust, and cooperation should not be viewed merely as a tactical procedure, but rather as a necessary methodological prerequisite for encouraging free narrative accounts and enhancing the quality of the statements obtained. At the same time, a critical analysis of the model reveals that its hybrid nature, stemming from a combination of *PEACE* principles and elements drawn from the *Reid* technique, gives rise to certain doctrinal controversies. The use of methods such as minimization tactics, specific forms of strategic evidence disclosure, or leading questions can create risks regarding the influencing of statements and the occurrence of false confessions if applied beyond legally established limits. Consequently, the model's effectiveness depends not only on its methodological structure but also on the professional training, ethical responsibility, and ability of law enforcement officials to distinguish between legitimate tactical influence and impermissible psychological pressure.

Comparing the Canadian model with practices in other legal systems reveals that many of its fundamental principles are also reflected in modern recommendations for conducting interviews: the need for thorough preparation by law enforcement officials, an assessment of the interviewee's personality, the establishment of psychological rapport, the provision of opportunities for a free narrative, the verification of statements against other forms of evidence, and the critical analysis of the information obtained. These elements confirm the universal nature of certain tactical-forensic principles, regardless of the specific features of the procedural system in which they are applied.

Ultimately, the Canadian *Progressive Interviewing Model (PHASE)* should not be viewed as a universal solution or an absolute substitute for other interviewing methods, but rather as a valuable methodo-

logical tool that fosters an investigative culture grounded in science, strategic communication, and respect for procedural safeguards. Implementing its principles, adapted to the specificities of the national criminal procedural system, can help enhance the quality of criminal investigations, reduce the risk of obtaining unreliable statements, and strengthen the legitimacy of the evidence-gathering process. While the professional experience of criminal investigators (and prosecutors) remains a crucial factor, it must be underpinned by solid theoretical knowledge, scientifically validated methods, and continuous training capable of addressing the complexities of modern criminal investigations.

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ANALYSIS OF THE PLACE AND DATE OF THE OPENING OF SUCCESSION UNDER THE CIVIL CODE OF THE REPUBLIC OF MOLDOVA. COMPARATIVE LAW ASPECTS

ANALIZA LOCULUI ȘI A DATEI DESCHIDERII MOȘTENIRII ÎN REGLEMENTAREA CODULUI CIVIL AL REPUBLICII MOLDOVA. ASPECTE DE DREPT COMPARAT

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Abstract: *The opening of succession triggers the transmission of the estate. Its date determines the circle of heirs and the law applicable ratione temporis, while its place, a notion of substantive law, must be distinguished from international jurisdiction, territorial competence and the law applicable to the succession, even where habitual residence serves as the connecting factor for several of them. Three successive and insufficiently coordinated reforms in the Republic of Moldova* (Laws No. 133/2018, No. 134/2024 *and* No. 251/2025) *have affected these coordinates. Using the comparative, historical and systemic methods, the study examines the Civil Code of the Republic of Moldova against Romanian, German, French, Russian and Ukrainian law, Regulation* (EU) No 650/2012 *and the 1996 Treaty between the Republic of Moldova and Romania on Legal Assistance, testing each alleged gap against a concrete legal situation and the rules in force. The*

date of opening has acquired new functions, whereas the place of opening no longer determines the competent notary and survives mainly as the criterion of the international jurisdiction of the courts. Several apparent gaps are filled by existing rules, notably as regards the representation of the descendants of a commoriens and the successions of persons habitually resident abroad. Narrower deficiencies remain: a possible artificial order of deaths for persons declared dead after disappearing together; the lack of a specific procedure for rectifying the date of death; the misalignment of Art. 80(2) of Law No. 246/2018 with the Civil Procedure Code; conflicting transitional rules for successions opened in the first quarter of 2026; and the silence of the 1996 Treaty on dual nationality. Targeted de lege ferenda proposals are formulated.

Keywords: *opening of succession, habitual residence, international jurisdiction, commorientes, declaration of death, acceptance of succession.*

Abstract: *Deschiderea moștenirii declanșează transmiterea patrimoniului succesoral. Data deschiderii determină cercul moștenitorilor și legea aplicabilă în timp, iar locul deschiderii, noțiune de drept material, trebuie delimitat de competența internațională, de competența teritorială și de legea aplicabilă succesiunii, chiar dacă reședința obișnuită servește drept criteriu de legătură pentru mai multe dintre acestea. Trei reforme succesive și insuficient corelate, operate în Republica Moldova prin legile nr. 133/2018, nr. 134/2024 și nr. 251/2025, au afectat aceste coordonate. Utilizând metoda comparativă, istorică și sistemică, studiul analizează Codul civil al Republicii Moldova prin raportare la dreptul român, german, francez, rus și ucrainean, la Regulamentul (UE) nr. 650/2012 și la Tratatul din 1996 dintre Republica Moldova și România privind asistența juridică în materie civilă și penală, verificând fiecare pretinsă lacună pe o situație juridică concretă și în raport cu normele în vigoare. Data deschiderii a dobândit funcții noi, în timp ce locul deschiderii nu mai determină competența notarului și se menține, în principal, ca criteriu al competenței internaționale a instanțelor. Mai multe aparente lacune sunt acoperite de normele existente, în special reprezentarea descendenților unui comorient și moștenirile persoanelor cu reședința obișnuită în străinătate. Rămân deficiențe mai restrânse: posibila ordine artificială a deceselor persoanelor declarate decedate care au dispărut împreună, lipsa unei proceduri specifice de rectificare a datei decesului, necorelarea art. 80 alin. (2) din Legea nr. 246/2018 cu Codul de procedură civilă, normele tranzitorii contradictorii pentru moștenirile deschise în primul trimestru al anului 2026 și tăcerea Tratatului din 1996 cu privire la dubla cetățenie. Sunt formulate propuneri de lege ferenda punctuale.*

Cuvinte-cheie: *deschiderea moștenirii, reședința obișnuită, competența internațională, comorienții, declararea decesului, acceptarea moștenirii.*

1. Introduction

Article 2162(1) of the Civil Code of the Republic of Moldova (hereinafter, CC RM) defines succession as the transfer of the patrimony of a deceased natural person to one or more persons. As long as a person is alive, there is no succession (*nulla viventis hereditas*), only potential entitlements. The legal fact that turns these entitlements into rights

is the opening of succession, which is fixed by two coordinates: the moment, which determines the circle of heirs and the law applicable *ratione temporis*, and the place, which has traditionally served to designate the competent authority. Throughout the article, the terms "date" and "moment" of the opening of succession are used interchangeably, except in section 4.2.1, where the distinction between the day and the moment of death is the very object of the analysis.

The place of opening must also be distinguished from three neighbouring notions, all the more so as habitual residence serves as the connecting factor for several of them. In this article, the "place of opening" is the notion of substantive succession law defined by Art. 2166 CC RM; "international jurisdiction" is the power of the authorities of the Republic of Moldova, as opposed to those of another State, to deal with a succession; "territorial competence" is the allocation of a succession among domestic notaries and courts; and the "applicable law" is the law governing the succession under the conflict-of-laws rules or a treaty (section 4.3.1).

Both coordinates have been affected by three legislative interventions in only seven years. Law No. 133/2018 replaced, from 1 March 2019, the criterion of the last domicile with that of habitual residence. Law No. 134/2024 abolished, from 20 July 2024, the exclusive territorial competence of the notary in succession proceedings. Law No. 251/2025 reintroduced, from 1 April 2026, the acceptance of succession within twelve months of the date of its opening. The research question is whether these interventions have preserved the coherence of the legal framework and, where they appear not to have done so, whether the resulting gaps are real or are already filled by other provisions in force. The article presents the state of the art and the research aim (section 2), the materials and methods (section 3), the results and their discussion (section 4) and the conclusions (section 5).

2. State of the Art and Research Aim

In the legal scholarship of the Republic of Moldova, the place and moment of the opening of succession were analysed under Arts. 1440 and 1443 of the Civil Code in its original version (Bănărescu, 2017). A commentary on the 2019 provisions annotates them article by article, identifying their German source and the case law of the Court of Justice of the European Union (hereinafter, CJEU) on habitual residence

(Cazac, n.d.). Conflicts of jurisdiction in successions with a foreign element were examined after the 2019 reform (Șeremet, 2020), and Law No. 251/2025 has been severely criticised (Cazac, 2025). Our previous research addressed the principles of intestate succession, the classes of heirs and the status of the surviving spouse (Chironachi, 2025; Mihalache & Chironachi, 2026; Voicu & Chironachi, 2025a, 2025b).

In Romanian legal scholarship, the relationship between the place of the opening of succession and notarial competence has recently been re-examined (Boar & Boar, 2025), while the capacity to inherit is treated as a general condition of the right to inherit (Bob-Bocșan, 2025, p. 43). The international literature has described habitual residence as an unstable connecting factor (Atallah, 2015; Pfeiffer, 2016), discussed the possibility of dual habitual residence (Pazdan & Zachariasiewicz, 2021) and reported errors by national authorities in applying it (Krūmiņš, 2019). Rules on commorientes have been examined both formally (Wang, 2022) and comparatively (Hammond & Batariwah, 2024), and the declaration of death in the context of armed conflict has prompted recent research (Uhrynovska & Onyskiv, 2022).

None of these works examines the effects of Laws No. 134/2024 and No. 251/2025 on the two coordinates together. The aim of the research is to assess the current regulation of the moment and place of the opening of succession in the law of the Republic of Moldova and to compare it with the solutions of other legal systems. The working hypothesis is that the two coordinates have evolved in divergent directions: the importance of the date has increased, while the domestic procedural role of the place has diminished, without the legislature having aligned all the affected provisions.

3. Materials and Methods

The research material consists of the legislative texts in their consolidated versions in force on 5 October 2026, their earlier versions (used to establish the exact moment of each amendment), the case law of the CJEU and the legal scholarship cited. The comparative method takes Romanian law as its main comparator and, as secondary comparators, German law, the source of the 2019 provisions; French law, as a representative of the Romanist tradition; and Russian and Ukrainian law, which share the tradition of the Soviet codifications of 1963-1964. Regulation (EU) No 650/2012 (hereinafter, the Regulation)

and the 1996 Treaty between the Republic of Moldova and Romania on Legal Assistance in Civil and Criminal Matters (hereinafter, the 1996 Treaty) serve as systemic benchmarks. The historical method was used to reconstruct the stages of the legal framework on the basis of the original texts in force in the Republic of Moldova, namely the Civil Code of 1964 and the Civil Code of 2002 in its original version, and systemic analysis and teleological interpretation were used to identify inconsistencies between the Civil Code, procedural legislation and transitional rules. To avoid overstating the deficiencies, each apparent gap was tested against a concrete legal situation and examined in the light of the solutions already offered by the provisions in force, including procedural and transitional ones; only the gaps that withstand this test give rise to de lege ferenda proposals. Quotations from the legislation of the Republic of Moldova are the authors' translations.

4. Results and Discussion

4.1 Evolution of the Legal Framework in the Republic of Moldova

The Civil Code of 26 December 1964, which remained in force in the Republic of Moldova until 12 June 2003 (Art. 3(a) of Law No. 1125/2002) and was modelled on the Civil Code of the RSFSR (Civil Code of the RSFSR, 1964, Arts. 528-529), regulated succession in its Section VII (Arts. 561 et seq.). Succession opened on the day of death of the deceased and, for a person declared dead, on the day determined under Art. 21(3) (Civil Code of 1964, Art. 562), namely the day on which the judgment became final or, where the person had disappeared in circumstances posing a threat of death, the day of presumed death, which the court "may" recognise as the day of death. The place of opening was the deceased's last permanent place of residence, defined as the place where a person "permanently or predominantly" resides (Art. 17), and, if that place was unknown, the location of the property or of its main part (Art. 563). The Code contained no rule on commorientes. Civil Code No. 1107/2002, in its original version, refined the temporal criterion: the moment of opening was that of death or the date on which the judgment declaring death became final (Art. 1440(2)). The place was the last domicile and, failing that, the location of the assets, with priority given to the most valuable part of the immovables (Art. 1443). Article 1441 regulated commorientes, and Art. 1442 applied the same rule to persons declared dead following

their disappearance in the same circumstances, regardless of when the respective judgments became final.

Law No. 133/2018 recast Book Four of the Civil Code, modelling it on the German Civil Code (Cazac, n.d.). Under Art. 2165 CC RM, "succession opens at the moment of death of the deceased, whether physically established or declared by a final court judgment". Article 2166 replaced domicile with the place where the deceased "had his or her habitual residence at the time of death and, if that habitual residence is not known, the place where the assets, or the principal part of them by value, are located". The explanatory note to the 2016 draft announced a rebuttable presumption, conceived as a transitional rule to be repealed once the Regulation became binding on the Republic of Moldova, that the last habitual residence was located at the last domicile (Ministry of Justice of the Republic of Moldova, 2016), but the adopted text did not retain it. The commorientes rule was carried over into Art. 2168, whereas former Art. 1442 was not.

Law No. 134/2024 repealed Art. 11(3)(a) and (b) of Law No. 246/2018 on notarial procedure, provisions that reserved succession proceedings for the notary of the place where the succession opened. Under the new Art. 69(1), the application to open proceedings may be filed "with any notary", and competence belongs to the first notary seised who has registered the file in the Electronic Register of Succession Files and Wills. The same law replaced, in Art. 41^1(1) of the Civil Procedure Code of the Republic of Moldova (hereinafter, CPC RM), the court "of the place where the succession opened" with the court "of the place where the succession proceedings are conducted". Article 462^1 CPC RM, however, continues to tie the international jurisdiction of the courts to the place of opening. Finally, Law No. 251/2025, whose entry into force was postponed to 1 April 2026 by Law No. 330/2025, abandoned the acquisition of the estate by operation of law and reintroduced acceptance within twelve months (Art. 2391(1) CC RM).

4.2 The Moment of the Opening of Succession

4.2.1 Established Death and Declared Death

Article 2165 CC RM assimilates declared death to physically established death, a solution confirmed by Art. 168(4). For a person declared dead, however, Art. 168(3) establishes only the "day of death": the day on which the judgment becomes final or, if the person disap-

peared in circumstances posing a threat of death or giving grounds to presume death in an accident, the day of presumed death, which the court "may", but is not required to, declare as the date of death. In this situation, the criterion of the "moment" is thus reduced to a calendar day. The wording reproduces almost literally Art. 21(3) of the 1964 Code (section 4.1), so that the calendar criterion for declared death is a legacy of the Soviet codification that survived the transition from the "day" to the "moment" of death. The Romanian Civil Code (hereinafter, CC RO) deems the person, where no hour is indicated, to have died in the last hour of the established day and allows the date of death to be rectified (Art. 52(1) and (3)). German law, for its part, applies the presumption of simultaneous death both to deceased persons and to those declared dead (§ 11 Verschollenheitsgesetz).

As a rule, the compared systems link the opening of succession to the moment of death (Art. 954(1) CC RO; § 1922 BGB; Art. 720 of the French Civil Code). Ukrainian law, however, has retained the calendar criterion of the Soviet codifications: succession opens on the day of death or on the day from which the person is declared dead (Art. 1220(2) of the Civil Code of Ukraine). Russian law has replaced it with the moment of death but, as a rule, still uses the day on which the judgment becomes final for a person declared dead (Art. 1114(1) of the Civil Code of the Russian Federation). The Regulation does not fix the moment of opening but subjects it to the law applicable to the succession (Art. 23(2)(a)).

The consequences of reducing the moment to a day must be assessed together with Art. 2168 CC RM. If a father (F), who disappeared in a flood on 10 March 2025, is declared dead with that day as the day of his presumed death, while his son (S) died in hospital on the same day, the order of deaths cannot be established. No gap arises: Art. 2168 presumes that they died simultaneously and excludes each from the succession of the other. The Romanian fiction of the last hour would instead make F survive S and inherit from him, creating an order of deaths that corresponds to no established fact; the solution of the law of the Republic of Moldova is the more coherent one (section 4.2.2) and requires no such borrowing.

A genuine difficulty arises where spouses A and B disappear together on 1 June 2024 and their deaths are declared in separate proceedings. If the circumstances of the disappearance did not pose a

threat of death or, although they did (for example, a shipwreck), the courts do not use the option provided in the second sentence of Art. 168(3), the days of death are those on which the two judgments became final, for example 10 September and 20 November 2026. The order of deaths is then fixed by the dates on which the judgments became final, Art. 2168 no longer applies, and B inherits from A, although nothing shows that B survived A. Former Art. 1442 excluded this result; following its abandonment, the outcome depends on the pace of the two cases and on judicial discretion, the only remedy being an appeal seeking to have the day of presumed death set (Art. 300(3) CPC RM), which is available only where the circumstances posed a threat of death.

Nor is there a specific procedure for correcting the date where evidence later shows that the person died on another day. Article 301 CPC RM regulates only the annulment of the judgment where the person reappears or his or her whereabouts are discovered, and it is doubtful whether the establishment of a death "at a certain date and in certain circumstances" (Art. 281(2)(e) CPC RM) may contradict a final declaratory judgment. Revision for newly discovered essential circumstances (Art. 449(b) CPC RM) allows the judgment to be reopened, but only within three months of the discovery and no later than five years after the judgment became final (Art. 450), whereas evidence of the actual date of death, such as the discovery of remains, may emerge much later. The date may be decisive: if a person declared dead with a day of death set in 2026 actually died in 2024, he or she could not have inherited from a parent who died in 2025. Romanian law provides for rectification in such cases (Art. 52(3) CC RO).

In relations with Romania, death is declared by the courts of the State of which the person was a national when the last news of him or her was received, under their own law (Art. 38 of the 1996 Treaty), so that the date of death of a Romanian national living in the Republic of Moldova is set under Romanian law; this follows from the Treaty rather than from a gap in domestic law. Finally, a person who reappears is protected by the restitution rules of Art. 169 CC RM, whereas Ukrainian law also prohibits the heirs of a person declared dead from alienating, for five years, the immovables acquired by succession (Art. 47(2) of the Civil Code of Ukraine; Uhrynovska & Onyskiv, 2022).

4.2.2 Commorientes and Co-deceased Persons

Article 2168 CC RM presumes that persons with reciprocal or unilateral succession rights, where it cannot be established that one survived the other, died simultaneously, and provides that the estate of each passes to his or her own heirs. The provision also covers deaths occurring in different circumstances (co-deceased persons) and is therefore broader than Art. 725-1 of the French Civil Code, which applies only to persons who die in the same event.

The compared systems reach the same result by different routes. Romanian law provides that such persons lack the capacity to inherit from each other (Art. 957(2) CC RO), and German law establishes a presumption of simultaneous death (§ 11 Verschollenheitsgesetz). Russian law deems persons who died on the same day to have died simultaneously where the moment of each death cannot be established (Art. 1114(2) of the Civil Code of the Russian Federation), and Ukrainian law opens their successions simultaneously and separately (Art. 1220(3) of the Civil Code of Ukraine). The Regulation excludes reciprocal inheritance only where the successions are governed by different laws that regulate the situation differently or not at all (Art. 32), and the 1996 Treaty contains no rule on the matter. The rule that neither person inherits from the other has been formally demonstrated to be the only one compatible with elementary requirements of coherence in devolution (Wang, 2022). By contrast, the age-based survivorship presumptions of the common-law tradition have been criticised as inequitable (Hammond & Batariwah, 2024).

The systems differ, at least in their wording, as regards the descendants of a commoriens. If a father (F) and his son (S) die in the same accident and S leaves a child (G), French law allows G to inherit from F by representing S (Art. 725-1(3) of the French Civil Code), and Romanian law reaches the same result, since a person lacking the capacity to inherit may be represented (Arts. 957(2) and 967(1) CC RO). The law of the Republic of Moldova has no equivalent express rule, but its provisions lead to the same solution. Only natural persons alive at the moment of the opening of succession may inherit (Art. 2167(3) CC RM), and S, presumed to have died at the same moment as F (Art. 2168), is not alive at that moment. Article 2178 CC RM draws the same distinction: a descendant "who is alive at the moment of the opening

of succession" excludes his or her own descendants (para. 2), whereas the place of a descendant "who is dead at the moment of the opening of succession" is taken by his or her descendants (para. 3). G therefore inherits from F by representation, as our previous research has suggested (Chironachi, 2025, p. 33; Mihalache & Chironachi, 2026, p. 73). The abandonment by Law No. 251/2025 of the substitution of the unworthy heir by his or her descendants (Cazac, 2025) does not alter this conclusion, since the unworthy heir is alive at the opening of succession and the rule on his or her share (Art. 2174(2) CC RM) cannot be transposed to a commoriens. The absence of an express rule is thus not a gap; an express mention would merely confirm the solution.

4.2.3 Functions of the Date of Opening after Law No. 251/2025

The date of opening determines the circle of heirs (Art. 2167(3) and (4) CC RM) and the moment from which acceptance or renunciation takes effect (Art. 2389(2)). Law No. 251/2025 has added two further functions. The first is to serve as the starting point of an objective time limit: the twelve-month period for acceptance runs from the opening of succession, regardless of whether the potential heir knew of the death, with four exceptions (Art. 2391(3)) that almost literally reproduce Art. 1103(2) CC RO. The borrowing is incomplete, since Art. 2391(3)(b) omits the Romanian rule that, in the case of declared death, the period runs from the date on which the heir learned of the death where that date precedes the registration of the judgment; the omission has little practical effect, because the court itself transmits the final judgment declaring death for registration (Art. 300(4) CPC RM). The objective time limit has been criticised as disadvantaging heirs living abroad and vulnerable heirs (Cazac, 2025). This effect is attenuated by the rule that makes the period run from the date on which the heir learned or should have learned of the kinship on which the entitlement is based (Art. 2391(3)(d)), by the power of the notary or, failing agreement among the heirs, of the court to extend the period or set a new one for good reasons (Art. 2391(4) and (5)) and, in relations with Romania, by the obligation to notify the diplomatic mission or consular office (Art. 44(3) of the 1996 Treaty). The residual risk lies in the discretionary nature of the extension.

The second is to serve as an intertemporal criterion. Under

Art. 48(1) of Law No. 1125/2002, the amendments made by Law No. 251/2025 apply to the successions of persons who died on or after 1 January 2026, the date originally set for its entry into force; the provision was not adjusted when the entry into force was postponed to 1 April 2026. Where a person died on 15 February 2026, the heirs acquired the estate by operation of law, yet from 1 April 2026 Art. 48(1) requires acceptance within twelve months. Article 50(2) of the same law, however, subjects the manner and the time limit of the succession option to the law in force at the date of the opening of succession, that is, to the earlier law. The two provisions thus point to different laws for successions opened in the first quarter of 2026, and the principle of non-retroactivity (Art. 7(1) CC RM) supports the precedence of Art. 50(2). Even if Art. 48(1) prevailed, the practical risk would be limited, since at least nine months of the acceptance period remained on 1 April 2026.

For successions opened between 1 March 2019 and 31 December 2025 in which no option has been expressed, heirs whose identity or whereabouts cannot be established may be summoned and, if they do not accept within one year of the publication of the summons, are deemed to have forfeited their right to inherit (Art. 50(3)-(5) of Law No. 1125/2002). The rule requires the acceptance of estates already acquired by operation of law and has been described as an expropriation without compensation, contrary to Art. 46 of the Constitution (Cazac, 2025). Its scope is, however, narrower than this qualification suggests: it does not apply to heirs notified by the notary before 31 December 2025, and it does not affect heirs who establish their status in court (Art. 50(6) and (7)). Its constitutionality falls outside the scope of this study.

4.3 The Place of the Opening of Succession

4.3.1 Place of Opening, International Jurisdiction, Territorial Competence and Applicable Law

The four notions defined in the Introduction are governed by different rules, even where they share a connecting factor. Under the Regulation, the place of the opening of the succession is governed by the law applicable to the succession (Art. 23(2)(a)), whereas jurisdiction and the applicable law are determined by autonomous rules (Arts. 4, 10 and 21). The law of the Republic of Moldova follows this sepa-

ration only in part. The applicable law is determined directly by the deceased's habitual residence at the time of death, subject to a manifestly closer connection and to a choice of law (Arts. 2657 and 2658 CC RM), without reference to Art. 2166. Territorial competence has been detached from the place of opening for notaries (Art. 69(1) of Law No. 246/2018) and, for most succession claims, for courts (Art. 41^{1}(1) CPC RM). International jurisdiction, by contrast, remains tied to it: the courts of the Republic of Moldova have jurisdiction in succession matters "if the place of the opening of succession, under the Civil Code, is located in the territory of the Republic of Moldova" (Art. 462^{1} CPC RM), and subsidiary jurisdiction applies where the deceased's habitual residence was not in the Republic of Moldova (Art. 462^{6} CPC RM).

Two consequences follow. First, Art. 2166 CC RM has a dual function: it is a substantive rule, relevant as such only where the law of the Republic of Moldova governs the succession, and, through Art. 462^{1} CPC RM, a jurisdictional connecting factor applied whatever the applicable law; any amendment of it therefore alters the international jurisdiction of the courts. Second, the shared connecting factor does not make the place of opening a criterion of the applicable law: Arts. 2166 and 2657 CC RM diverge in two cases: where the habitual residence is unknown (only Art. 2166 refers to the location of the assets) and where the 1996 Treaty displaces Art. 2657 (section 4.3.4).

4.3.2 The Habitual Residence Criterion

Article 2166 CC RM borrows the notion of habitual residence from Arts. 4 and 21 of the Regulation (Fuchs, 2015). It is consistent with Art. 38 CC RM, which defines domicile as the place where a person "has his or her habitual residence" (para. 1) and requires habitual residence to be determined in the light of all relevant facts, in particular the duration and regularity of the person's presence and the conditions and reasons for it (para. 2). Among the national systems compared, only German law also uses habitual residence, and only to determine the local jurisdiction of the probate court (§ 343(1) FamFG), since the BGB has no concept of a place of opening. Romanian, French, Russian and Ukrainian law retain the deceased's last domicile or last place of residence (Art. 954(2) CC RO; Art. 720 of the French Civil Code; the first paragraph of Art. 1115 of the Civil Code of the Russian Federation; Art.

1221(1) of the Civil Code of Ukraine).

According to the CJEU, the deceased's habitual residence results from an overall assessment of the circumstances and can be located in only one State (Carrillo Pozo, 2021; CJEU, C-80/19, 2020); the criterion has been described as unstable (Atallah, 2015; Pfeiffer, 2016) and has been misapplied by some national authorities (Krūmiņš, 2019). Unlike Romanian law, in which the last domicile is proved by the death certificate or by the judgment declaring death (Art. 954(2) CC RO), the law of the Republic of Moldova has no specific evidentiary rule, but it does provide means of proof: the declarations made to the competent authorities prove the intention to establish a domicile (Art. 38(4) CC RM), and the place of the opening of succession may be established by a court as a fact of legal significance (Art. 281(2)(f) CPC RM). The real difficulty is the possible divergence between the registered domicile and the actual habitual residence, a question also debated in Romanian law (Boar & Boar, 2025). A person who has lived and worked in Italy for ten years while keeping a registered domicile in Cahul will in principle be habitually resident in Italy (Art. 38(2) CC RM). A notary who relies on the "last domicile" (Art. 70(3) and (9) of Law No. 246/2018) without verifying the actual habitual residence may wrongly locate the habitual residence in the Republic of Moldova and, as a result, both treat the succession as having opened there (Art. 2166 CC RM) and apply the law of the Republic of Moldova instead of Italian law (Art. 2657 CC RM). The risk thus lies in the application of the rules rather than in a gap.

4.3.3 Habitual Residence Located Abroad

Article 2166 CC RM refers to the location of the assets only if the habitual residence "is not known"; where it is known but located abroad, the place of opening is abroad, and the Civil Code provides no domestic place of opening. Take the person in the previous example, a national of the Republic of Moldova habitually resident in Italy who leaves an apartment in Cahul and a bank deposit in Chișinău. Article 462^{1} CPC RM does not apply, but the courts of the Republic of Moldova have subsidiary jurisdiction over the succession because the deceased was a national of the Republic of Moldova and left assets there (Art. 462^{6}(1)(a) CPC RM); for a foreign national whose habitual residence had moved abroad more than five years before the court was seised,

the jurisdiction of the courts would be limited to the assets located in the Republic of Moldova (Art. 462[6](1)(b) and (2)). This mechanism, modelled on Art. 10 of the Regulation, has been criticised for the risk of fragmenting the succession (Marongiu Buonaiuti, 2016). Succession claims are brought before the court of the place where most of the assets in the Republic of Moldova are situated (Art. 41[1](4) CPC RM), the proceedings may be opened before any notary (Art. 69(1) of Law No. 246/2018), and the succession is governed by Italian law (Art. 2657(1) CC RM), unless a choice of law has been made (Art. 2658 CC RM).

The absence of a domestic place of opening is therefore not a gap as regards the courts: the procedural rules supply the connecting factors that Art. 2166 does not provide, including for creditors' claims, to which Art. 41[1](4) CPC RM also applies. Two qualifications are necessary. First, Art. 69(1) of Law No. 246/2018 allocates cases only among domestic notaries, so that whether a notary of the Republic of Moldova may deal with the succession of a person habitually resident abroad is a question of international competence, to be answered by the rules governing notarial activity rather than by Art. 2166 CC RM. Second, Art. 80(2) of Law No. 246/2018, which refers to the court of the place of opening, designates no domestic court in this situation (section 4.3.4). Subject to these qualifications, the current solution is preferable to the alternative. Because Art. 462[1] CPC RM refers to the place of opening "under the Civil Code", a rule locating in the Republic of Moldova every succession that includes assets situated there would give the courts of the Republic of Moldova general jurisdiction over the whole succession of any such person, circumventing the conditions of nationality or recent habitual residence laid down in Art. 462[6] CPC RM.

Romanian, Russian and German law regulate this situation expressly, but in order to allocate domestic competence. Under Romanian law, if the last domicile is unknown or is not in Romania, succession opens in the district of the first notary seised, provided that an immovable or, failing that, a movable of the deceased is located there, and, where there are no assets in Romania, in the district of the first notary seised (Art. 954(3) CC RO); the rule is needed there because the place of opening determines the competent notary. Russian law locates the opening at the place of the assets in the country, giving priority to immovables or to their most valuable part (second para-

graph of Art. 1115 of the Civil Code of the Russian Federation), and German law refers to the last habitual residence in Germany or, failing that, to a central court where the deceased was a German national or left assets in Germany (§ 343(2) and (3) FamFG). Ukrainian law refers to the location of the assets, with priority for immovables, only where the place of residence is unknown (Art. 1221(2) of the Civil Code of Ukraine), a solution close to that of Art. 2166 CC RM, and the French Civil Code does not address the situation. Since the law of the Republic of Moldova no longer uses the place of opening to designate the competent notary, the rationale of Art. 954(3) CC RO does not apply to it. A distinct issue concerns the subsidiary criterion applicable where the habitual residence is unknown: Art. 2166 no longer gives priority to immovables, as former Art. 1443 did, but refers to the principal part of the assets by value, a formula closer to Art. 563 of the 1964 Code. If a house in Cahul is worth less than a deposit held abroad, the place of opening is located abroad, so that the general jurisdiction of the courts of the Republic of Moldova under Art. 462[1] CPC RM depends on a valuation of the whole estate.

4.3.4 Residual Functions of the Place of Opening and the 1996 Treaty

Apart from its definitional role in substantive succession law, the place of opening has retained, since 20 July 2024, three procedural functions: it determines the international jurisdiction of the courts of the Republic of Moldova (Art. 462[1] CPC RM), which is now its principal function; it designates a court before which creditors' claims may be brought, without excluding the courts available under the general rules (Art. 41[1](3) CPC RM); and it designates the court competent to appoint another custodian (Art. 80(2) of Law No. 246/2018). The last provision has not been aligned with Art. 41[1](1)(g) and (4) CPC RM. It designates no domestic court where the succession opened abroad, and it may designate a different court from the one competent for other claims concerning the custodian: where a notary in Chișinău conducts the proceedings concerning a person habitually resident in Cahul, a claim to terminate the custodian's duties falls within the competence of the court in Chișinău, whereas the appointment of a new custodian falls within that of the court in Cahul. The conflict can be resolved by inter-

pretation, but it creates an avoidable risk of disputes over competence. Romanian law has taken the opposite path, retaining the last domicile as the criterion for the territorial competence of both notaries and courts (Art. 15(a) of Law No. 36/1995; Art. 118(1) of the Romanian Civil Procedure Code), even in cross-border successions, since a notary who issues a national certificate at the joint request of the parties is not a "court" within the meaning of the Regulation (Boar & Boar, 2025; CJEU, C-20/17, 2018; CJEU, C-658/17, 2019; Olaru, 2025).

In relations with Romania, the 1996 Treaty takes precedence over the Regulation (Art. 75(1) thereof), over the conflict-of-laws rules of the Civil Code, which refer first to international treaties (Art. 2576(1) CC RM), and over the jurisdictional rules of the CPC RM, which yield to procedural rules laid down by treaty (Art. 2(3) CPC RM). The Treaty establishes a split system: succession to movables is governed by the law of the deceased's nationality, and succession to immovables by the law of the place where they are situated (Art. 40). "The opening of the succession", the succession proceedings and the succession disputes concerning movables fall within the competence of the State of nationality, and those concerning immovables within that of the State where they are situated, unless all the movables are located in the other State and all the heirs agree (Art. 43). In Art. 43, "the opening of the succession" refers to the opening of the proceedings, that is, to a question of competence, and not to the legal fact regulated by Arts. 2165 and 2166 CC RM. The Treaty therefore does not create two places of opening; it allows the same estate to be dealt with by the authorities of two States applying two laws, which departs from the unity of succession (Art. 2163 CC RM). Nor does the Treaty address dual nationality. For a national of both States habitually resident in Iași who leaves movables in both States, the authorities of the Republic of Moldova would treat the deceased as a national of the Republic of Moldova (Art. 2586(3) CC RM), whereas the Romanian authorities would treat the deceased as a Romanian national, Romania being the State of closest connection (Art. 2568(2) CC RO); both would thus claim competence over the movables, a positive conflict that Art. 43(3) avoids only if all the movables are located in one State and all the heirs agree. The bilateral treaties of post-Soviet States use different regulatory methods in this field (Karmaza et al., 2023).

4.4 Discussion

The results largely confirm the hypothesis, but they also show that several apparent gaps are filled by other provisions in force, some of them outside the Civil Code. The date of opening now fixes the period within which the right to accept or renounce the succession must be exercised and serves as an intertemporal criterion, while the place of opening has lost its role in allocating domestic competence and survives mainly as the criterion of international jurisdiction. The 2024 reform should be read in the context of the debate on restrictions on competition in the Latin-type notarial profession (Van den Bergh & Montangie, 2006) and departs from Romanian law, which still links notarial competence to the last domicile; the safeguard against parallel proceedings is the Electronic Register (Art. 70(1) of Law No. 246/2018). Tested against concrete situations, the representation of the descendants of a commoriens (Arts. 2167(3), 2168 and 2178(3) CC RM), the successions of persons habitually resident abroad (Arts. 462^{6} and $41^{1}(4)$ CPC RM; Art. 69(1) of Law No. 246/2018) and the proof of habitual residence (Art. 38 CC RM; Art. 281(2)(f) CPC RM) do not reveal genuine gaps, and the incomplete borrowing of Art. 1103(2)(b) CC RO has little practical effect (Art. 300(4) CPC RM). The following proposals are therefore limited to the deficiencies that withstand this test:

- supplementing Art. 168(3) CC RM so that, where the disappearance occurred in circumstances posing a threat of death, the court is required to set the day of presumed death, and reinstating the solution of former Art. 1442 for persons who disappeared in the same circumstances, regardless of when the respective judgments become final;
- introducing, on the model of Art. 52(3) CC RO, a specific procedure, subject to a time limit, for rectifying the date of death established by a judgment declaring death where evidence shows that the person died on a different date;
- aligning Art. 80(2) of Law No. 246/2018 with Art. 41^{1} CPC RM by referring to the court of the place where the succession proceedings are conducted (para. 1(g)) or, for successions opened abroad, to the court designated under para. 4;
- clarifying the relationship between Art. 48(1) and Art. 50(2) of Law No. 1125/2002 for successions opened between 1 January and 31

March 2026, in accordance with the principle of non-retroactivity (Art. 7(1) CC RM);

- including a rule on dual nationality in any future revision of the 1996 Treaty.

These proposals are consistent with the principles on which the study relies. The first two give effect to the principle that succession opens at the moment of death (Art. 2165 CC RM) and to the coherence of devolution expressed by Art. 2168: instead of a date dictated by the pace of the proceedings or by a fiction, they bring the legal date of death as close as possible to the actual one, and, where the order of deaths remains unknown, they lead to the solution that neither person inherits from the other. Since rectification may unsettle a devolution already carried out, the principle of legal certainty requires it to be limited in time and its effects on third parties to be governed by rules modelled on Art. 169 CC RM. The alignment of Art. 80(2) of Law No. 246/2018 follows the logic of the 2024 reform, which concentrates succession disputes before the court of the place where the proceedings are conducted, and serves legal certainty without reintroducing a domestic place of opening. The clarification of the transitional rules gives effect to the principle of non-retroactivity (Art. 7(1) CC RM) and to the protection of property (Art. 46 of the Constitution). Finally, a rule on dual nationality in the 1996 Treaty should rely on the closest connection, in particular habitual residence, which the Civil Code itself uses for persons with multiple nationality (Art. 2586(2) CC RM) and for the applicable law (Art. 2657 CC RM); in relations with Romania, such a rule would prevail over the preference for the nationality of the Republic of Moldova in Art. 2586(3) CC RM (Art. 2576(1) CC RM). It would reduce parallel proceedings and thus bring the Treaty closer to the unity of succession (Art. 2163 CC RM), although a full return to unity would require abandoning the split system, which exceeds the scope of this study.

Conversely, the same principles explain why we do not make two other proposals. Supplementing Art. 2166 CC RM with a domestic place of opening on the Romanian model would, given the reference in Art. 462^{1} CPC RM, extend the general jurisdiction of the courts of the Republic of Moldova beyond the limits set by Art. 462^{6} CPC RM, at the expense of the proximity that the habitual residence criterion expresses. The fiction of the last hour of the day would create an artifi-

cial order of deaths in situations that Art. 2168 CC RM already resolves coherently. The study does not include an empirical examination of notarial practice after 20 July 2024, in particular as regards the verification of habitual residence, and case law on the new Art. 2391 CC RM and on the transitional provisions of Law No. 1125/2002 is still scarce; these limitations point to directions for further research.

5. Conclusions

The research confirms the divergent evolution of the two coordinates of the opening of succession, while showing that the resulting inconsistencies are fewer and narrower than a reading of each provision in isolation would suggest.

The place of opening, international jurisdiction, territorial competence and the applicable law must be kept apart. In the law of the Republic of Moldova, the applicable law follows directly from habitual residence (Art. 2657 CC RM), territorial competence has been largely detached from the place of opening, and the place of opening survives mainly as the criterion of the international jurisdiction of the courts (Art. 462[1] CPC RM). Any amendment of Art. 2166 CC RM must therefore be assessed in the light of its jurisdictional effects.

The temporal criterion has evolved from the "day" of death (Art. 562 of the 1964 Code) to its "moment" (2002, 2019), but, for a person declared dead, Art. 168(3) CC RM still provides only a day, a rule inherited from Art. 21(3) of the 1964 Code. Where the order of deaths cannot be established, Art. 2168 CC RM offers a coherent solution. A risk of an artificial order of deaths remains, however, where persons who disappeared in the same circumstances are declared dead by judgments that do not set the day of presumed death. Moreover, the law provides no specific procedure for rectifying the date of death, revision being subject to strict time limits.

Although Art. 2168 CC RM does not expressly allow the descendants of a commoriens to inherit by representation, this solution, accepted in French and Romanian law, follows from Arts. 2167(3) and 2178(3) CC RM.

Law No. 251/2025 has made the date of opening the starting point of an objective twelve-month time limit, whose effects are attenuated, but not eliminated, by Art. 2391(3)(d), (4) and (5) CC RM. For

successions opened in the first quarter of 2026, Arts. 48(1) and 50(2) of Law No. 1125/2002 point to different laws, and the principle of non-retroactivity favours the law in force at the date of the opening of succession; the forfeiture rule for earlier successions is narrower than it may appear (Art. 50(6) and (7)).

The habitual residence criterion is consistent with Art. 38 CC RM and with Regulation (EU) No 650/2012. The absence of a domestic place of opening where the habitual residence is known but located abroad is not a gap, since the procedural rules supply the necessary connecting factors; the main practical risk lies in equating the registered domicile with habitual residence. In relations with Romania, the habitual residence criterion is displaced by the split system of the 1996 Treaty, which does not resolve the issue of dual nationality.

The three reforms were insufficiently coordinated, but the remaining misalignments concern specific provisions (Art. 168(3) CC RM, Art. 80(2) of Law No. 246/2018 and Arts. 48(1) and 50(2) of Law No. 1125/2002) rather than the structure of the regulation. The proposals put forward are correspondingly limited and are consistent with the principles invoked in the study, namely the opening of succession at the moment of death, the coherence of devolution, legal certainty, non-retroactivity and the unity of succession; until the legislature intervenes, the interpretative solutions identified may guide courts and notaries.

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THE EXEPMPTION OF MINORS FROM CRIMINAL LIABILITY AND RELEASE FROM PUNISHMENT UNDER THE CRIMINAL LEGISLATION OF THE REPUBLIC OF MOLDOVA: A COMPARATIVE ANALYSISWITH ROMANIAN CRIMINAL LAW

LIBERAREA DE RĂSPUNDERE PENALĂ ȘI LIBERAREA DE PEDEAPSĂ A MINORILOR ÎN LEGISLAȚIA PENALĂ A REPUBLICII MOLDOVA. ANALIZĂ COMPARATĂ CU DREPTUL PENAL AL ROMÂNIEI

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Abstract: *This article examines exemption from criminal liability under Article 54 of the Criminal Code of the Republic of Moldova and release from punishment of juveniles under Article 93 of the Criminal Code of the Republic of Moldova, in conjunction with the application of educational coercive measures prescribed by Article 104 of the same Code. Drawing upon the legislation in force, international standards, and a comparison*

with the Romanian Criminal Code, the study identifies several dysfunctions, including divergent assessment criteria, inconsistencies concerning the relevant age threshold, the limitation of educational measures until the age of majority, the absence of a statutory definition of systematic evasion, and insufficient official interpretation. Particular attention is devoted to persons who committed an offence as juveniles but attained the age of majority before the release decision was examined; for this category, the article proposes a methodology for application de lege lata. Drawing on the Romanian model, which provides for fixed durations of the measures, a graduated system of sanctions for non-compliance in bad faith, as stipulated in Article 123 of the Romanian Criminal Code, and the continued application of the juvenile regime after the attainment of the age of majority, as provided for in Article 134 of the same Code, proposals for de lege ferenda are formulated.

Keywords: *juveniles; exemption from criminal liability; release from punishment; educational measures; comparative criminal law*

Rezumat: *Articolul analizează liberarea de răspundere penală reglementată la art. 54 CP RM și liberarea de pedeapsă a minorilor prevăzută la art. 93 CP RM, cu aplicarea măsurilor de constrângere cu caracter educativ stipulate la art. 104 CP RM. Pe baza legislației în vigoare, a standardelor internaționale și a comparației cu Codul penal al României, studiul identifică disfuncții privind criteriile de apreciere divergente, vârsta de referință, limitarea măsurilor educative până la majorat, lipsa definiției legale a eschivării sistematice și interpretarea oficială insuficientă. O atenție specială este acordată persoanei care a săvârșit infracțiunea ca minor, dar a devenit majoră până la examinarea liberării, pentru care este propusă o metodologie de aplicare de lege lata. Pornind de la modelul român (durate fixe ale măsurilor, sancționarea graduală a nerespectării cu rea credință, prevăzută la art. 123 CP RO, și menținerea regimului minorității după majorat, prevăzută la art. 134 CP RO), sunt formulate propuneri de lege ferenda.*

Cuvinte-cheie: *minor, liberare de răspundere penală, liberare de pedeapsă, măsuri educative, drept penal comparat*

1. Introduction

Relevance of the topic. The State's response to an offence committed by a minor cannot simply be a milder version of its response to an adult offender. The UN Convention on the Rights of the Child requires States to promote, whenever appropriate and desirable, measures for dealing with children who have infringed the criminal law without resorting to judicial proceedings (United Nations, 1989, Article 40(3)(b)), while the Beijing Rules enshrine the principle of diverting juvenile cases away from formal criminal proceedings (United Nations, 1985, Rule 11). The genesis of these standards reflects a compromise between States with different legal traditions, including post-Soviet ones (Omarova & Vlasenko, 2022). The rationale for this differentiat-

ed treatment lies in the particular vulnerability of the child, who, by reason of physical and mental immaturity, needs special safeguards and care (Jitariuc & Apărece, 2024, p. 161). The UN Committee on the Rights of the Child has stressed that measures not involving judicial proceedings should be the preferred response in the majority of cases and should not result in a criminal record (UN Committee on the Rights of the Child, 2019).

In the criminal law of the Republic of Moldova, these requirements are reflected mainly in the exemption of minors from criminal liability (Article 54 CC RM) and the release of minors from punishment (Article 93 CC RM). Both result in the application of the compulsory educational measures exhaustively listed in Article 104 CC RM and are complemented by special procedural rules (Articles 483, 485 and 486 CCP RM).

State of research. In the Moldovan literature, the two institutions have been analysed mainly in general criminal law textbooks and commentaries (Botnaru et al., 2005; Barbăneagră, 2009), which set out the classic conditions for exemption and release, and in studies devoted to the criminal liability of minors (Ostap, 2021). Their procedural and criminal policy dimensions have been addressed in practical guides on juvenile justice (Puica, 2014) and in system assessment reports, which point to the lack of disaggregated statistical data and the limited range of alternatives to detention (Rusanovschi, 2014; Peci, 2021).

In Romanian scholarship, the re-education of juvenile offenders was treated as a distinct institution of criminal law as early as the 1969 Criminal Code (Brezeanu, 1998), and the regime applicable to minors was re-examined in the context of the transition to the exclusively educational system of the new Criminal Code (Lefterache, 2011; Terec-Vlad, 2024). However, a systematic comparison between this model and the institutions of Articles 54 and 93 CC RM is lacking. The relationship between Articles 54 and 93 CC RM, the effects of limiting educational measures to the period before the age of majority, and the position of a person who reaches majority before exemption or release is ordered also remain insufficiently examined.

Research problem and objectives. The objectives of the study are: to analyse the conditions for applying Articles 54 and 93 CC RM; to identify shortcomings in the legislation and in its official interpretation; to identify the solution applicable de lege lata to persons who commit-

ted the offence as minors but reached the age of majority before exemption or release was ordered; to compare these solutions with those of Romanian criminal law; and to formulate proposals de lege ferenda.

The research hypothesis is that the current regime, although ostensibly geared towards the priority of educational measures, contains terminological inconsistencies and regulatory gaps that reduce the foreseeability of the criminal law and encourage inconsistent practice.

2. Materials and Methods

The research is predominantly doctrinal. We analysed the provisions of the CC RM and the CCP RM currently in force using literal, systematic and teleological interpretation.

Documentary analysis was applied to Supreme Court of Justice Plenary Ruling No. 39/2004 (Supreme Court of Justice, 2004) and its amendments (Supreme Court of Justice, 2015), while the comparative method was used to contrast national law with international standards and with Romanian law, namely Title V "Minority" of the Romanian Criminal Code (Law No. 286/2009) and Article 318 of the Romanian Code of Criminal Procedure (Law No. 135/2010). Romanian law was chosen because of the shared legal tradition and its adoption of an exclusively educational model; the value of the comparison lies in identifying gaps in national legislation and anticipating the effects of the proposed amendments (Apărece, 2021, p. 182). Logical reasoning was used to substantiate the solution proposed for persons who have reached the age of majority. The study does not include a statistical analysis of case law, as publicly available data are not disaggregated by the grounds of exemption or release applied to minors (Rusanovschi, 2014).

3. Results

3.1 Foundations of the special criminal law regime for minors

The criminal law of the Republic of Moldova does not devote a separate title to minors, but scatters the special rules throughout the General Part. The general age of criminal responsibility is 16; between the ages of 14 and 16, liability arises only for the offences exhaustively listed in Article 21(2) CC RM. The maximum term of imprisonment is halved (Article 70(3) CC RM), minority is a mitigating circumstance

(Article 76(1)(b) CC RM), and limitation periods are halved (Article 60(7) CC RM).

The key provision of principle for the present topic is Article 75(3) CC RM, under which "for a minor or less serious offence, a minor shall be sentenced to a penalty only if it is considered that an educational measure is not sufficient to reform the minor". This provision enshrines the principle that punishment of minors is subsidiary: for minor and less serious offences (Article 16(2) and (3) CC RM), the educational measure is the rule, while the imposition of a penalty is the exception and must be reasoned. Articles 54 and 93 CC RM are the instruments that give effect to this rule – Article 54 before conviction and Article 93 at sentencing.

This choice also has an empirical basis: longitudinal research shows that the deeper a young person penetrates the criminal justice system, the lower the chances that they will desist from offending (McAra & McVie, 2007).

The European Court of Human Rights has taken the same view, holding that proceedings against a minor must be conducted in a manner that takes full account of their age, level of maturity and intellectual and emotional capacities (V. v. the United Kingdom, 1999, § 86; Blokhin v. Russia, 2016, § 195) – a requirement that is equally relevant to the way in which educational measures are imposed and revoked.

3.2 Exemption of minors from criminal liability – Article 54 CC RM

Legal framework and legal nature. Under Article 54(1) CC RM, "a person under the age of 18 who has committed a minor or less serious offence for the first time may be exempted from criminal liability in accordance with the rules of criminal procedure if it is established that the person can be reformed without being held criminally liable", while paragraph (2) of the same Article provides that persons exempted on this ground are subject to the compulsory educational measures listed in Article 104 CC RM. Procedurally, exemption takes the form of the discontinuance of the criminal investigation (Articles 285(2) and 483(1) CCP RM) or of a judgment discontinuing the criminal proceedings (Articles 391(1)(7) and 483(5) CCP RM). This is a non-exonerating ground, since the act committed meets all the constituent elements

of an offence, but the State chooses to impose educational measures instead of holding the person criminally liable.

The non-exonerating nature of this ground explains why Article 483(4) CCP RM prohibits discontinuance of the proceedings "if the minor or their legal representative objects". Framed in negative terms, the consent requirement serves to protect the presumption of innocence: a minor who considers themselves innocent is entitled to a decision on the merits rather than an exemption that tacitly implies acknowledgement that the act was committed. The judicial authority is therefore obliged to inform the minor, in a manner appropriate to their age, of the consequences of exemption, and the minor's position must be expressed in the presence of defence counsel and expressly recorded.

Conditions for exemption. The Plenary of the Supreme Court of Justice has held that the institution may be applied only where three conditions are met cumulatively: the offence must have been committed for the first time; it must be a minor or less serious offence; and the competent authority must establish that the minor can be reformed without being held criminally liable, taking into account the recommendations in the social inquiry report (Supreme Court of Justice, 2004, para. 23). To these must be added, procedurally, the consent of both the minor and their legal representative.

Status as a minor. The provision refers to a person "under the age of 18" who has committed the offence, which indicates that age is assessed at the time the offence was committed. This interpretation is confirmed by Article 474(2) CCP RM, under which the provisions on exemption from criminal liability also apply after the person has reached the age of 18. It conflicts, however, with Article 104(5) CC RM, an issue to which we devote a separate analysis below.

Offence committed for the first time. The concept is not defined by law, and legal scholarship interprets it as meaning that the person has no unspent convictions; an offence is also regarded as committed for the first time where the limitation period for the previous act has expired or the previous conviction has been expunged or the person has been rehabilitated (Botnaru et al., 2005; Barbăneagră, 2009). The position of a minor previously exempted from criminal liability under Article 54 or Article 55 CC RM remains open to debate. In our view,

such an exemption, although it does not give rise to a criminal record, precludes the "first time" requirement, since the rationale of the institution is to offer a single chance of reform outside criminal liability; otherwise, the benefit could be granted repeatedly and without limit, contrary to the preventive purpose of the provision.

Category of offence. Exemption is available only for minor and less serious offences, that is, offences punishable by a maximum term of imprisonment of up to and including five years (Article 16(2) and (3) CC RM). The category is determined by reference to the statutory maximum laid down by law, not by reference to the maximum as halved under Article 70(3) CC RM.

Possibility of reform without criminal liability. This is the substantive condition, which requires the judicial authority to assess, on the basis of the minor's personality, whether the minor can be reformed. Article 475(1) CCP RM requires the judicial authorities to establish the minor's living and upbringing conditions, their level of intellectual, volitional and psychological development, their character and temperament, the influence of adults or other minors, and the causes and conditions that contributed to the commission of the offence, while paragraph (3) of the same Article provides for a pre-sentence psychosocial assessment report. This report is not binding on the judicial authority, but any decision departing from its conclusions must be properly reasoned.

The assessment focuses first and foremost on the minor's personality: what matters is less their past conduct than their potential for re-education, given that their personality is not yet fully formed and remains receptive to the influences of the social environment (Brezeanu, 1998, pp. 112–113).

The discretionary nature of the provision does not, however, remove the obligation to decide on the basis of objective criteria: read in conjunction with Article 75(3) CC RM, it requires the judicial authority to examine of its own motion the possibility of exemption whenever the statutory conditions are met, and to give reasons for any refusal.

Case law confirms that the possibility of reform is a separate condition that must be established and reasoned, rather than inferred automatically from the minor's age and the fact that it is a first offence. In case No. 1ra-1388/2021, the lower courts applied Article 54 CC RM

to a minor who was 15 at the time of the offence, even though he had not admitted guilt and had received negative character references. On the first appeal in cassation lodged in the case, the Supreme Court of Justice quashed that decision, holding that the court must establish that the minor can be reformed without being held criminally liable and that no such conditions had been established in the case (Supreme Court of Justice, 2022a, case No. 1ra-1388/2021). The criteria identified by the Supreme Court – sincere remorse, voluntary surrender, active assistance in solving the offence and voluntary compensation for the damage – are, however, taken from the general sentencing regime and do not capture the specific characteristics of minors that Article 475(1) CCP RM requires to be established, such as their living and upbringing conditions or the influence of adults, even though in that case the minor had been drawn into committing the offence by an adult, who was convicted under Article 208 CC RM. This approach confirms the need for interpretative guidelines specific to minors.

Child victims. Article 54(3) CC RM provides that a child who is a victim of the offences under Articles 208^1, 208^4 and 208^5 CC RM is exempted from criminal liability for offences committed in connection with that status. This provision transposes the principle of non-prosecution of child victims (European Parliament and Council of the European Union, 2011, Article 14). The exemption is mandatory and is not accompanied by educational measures, since Article 54(2) CC RM refers only to persons exempted under paragraph (1) of that Article.

3.3 Release of minors from punishment – Article 93 CC RM

Under Article 93 CC RM, "minors convicted of a minor, less serious or serious offence shall be released from punishment by the court if it is established that the purposes of punishment can be achieved by applying the compulsory educational measures provided for in Article 104". This institution is one of the forms of release from criminal punishment listed in Article 89(2)(d) CC RM. Article 485(1) CCP RM requires the court, when delivering judgment in proceedings against a minor, to examine whether the minor may be released from punishment or whether the execution of the sentence may be conditionally suspended. If the court finds that the conditions of Article 93 CC RM are met, it delivers a judgment of conviction, orders release from

punishment and imposes educational measures (Article 486 CCP RM). Under Article 389(4)(3) CCP RM, such a judgment is delivered "without imposing a penalty", a classification also reaffirmed by the Supreme Court of Justice (2022b, case No. 4-1ril-2/2021).

Unlike exemption from criminal liability, release from punishment therefore presupposes a conviction, that is, a final finding of guilt. Its consequences are, however, mitigated: under Article 111(1)(a) CC RM, persons released from punishment are deemed to have no criminal record, a point also emphasised by the Plenary of the Supreme Court of Justice (2004, para. 24).

This distinction is not always respected in practice. In case No. 1ra-1388/2021, the court of first instance delivered a judgment of conviction and ordered "release from punishment" under Article 54 CC RM, while the court of appeal classified the same outcome as exemption from criminal liability (Supreme Court of Justice, 2022a, case No. 1ra-1388/2021). If the court considered a conviction necessary, the correct legal basis was Article 93 CC RM, whereas applying Article 54 CC RM required the criminal proceedings to be discontinued.

Conditions and particular features of release. A comparison with Article 54 CC RM reveals three significant differences. The first concerns the scope of application: release from punishment is available not only for minor and less serious offences but also for serious offences, punishable by law with imprisonment of up to and including 12 years (Article 16(4) CC RM).

The second difference is the absence of the "first time" requirement. Release from punishment is also available to a minor who has previously been exempted from criminal liability or who has a criminal record.

The third difference, which is often overlooked, concerns the mandatory nature of release. Article 54 CC RM provides that a minor "may be exempted", whereas Article 93 CC RM provides that minors "shall be released" if the substantive condition is found to be met. Once the court finds that the purposes of punishment can be achieved through educational measures, it no longer has the option of imposing a penalty.

The recent case law of the Supreme Court confirms that, where minors are concerned, permissive statutory wording may acquire

mandatory force. Although Article 79(1) CC RM provides that the court "may" impose a penalty below the statutory minimum, the Supreme Court of Justice held, with reference to Plenary Ruling No. 8/2013, that where the defendant was a minor the court is obliged to apply this provision, and that failure to do so amounts to imposing a penalty outside the limits prescribed by law (Supreme Court of Justice, 2026, case No. 1ra-57/2024). The same reasoning applies with even greater force to Article 93 CC RM, whose mandatory wording ("shall be released") requires the court to order release whenever it finds that the substantive condition is met.

Article 485(1) CCP RM presents release from punishment and the conditional suspension of the execution of the sentence (Article 90 CC RM) as alternatives. Unlike suspension, release from punishment involves neither the imposition of a penalty nor a probation period. Release from punishment is therefore the more favourable outcome and must be examined first, as the very order of Article 485(1) CCP RM suggests.

3.4 Compulsory educational measures – Article 104 CC RM

Article 104(1) CC RM exhaustively lists the following measures: a warning; placing the minor under the supervision of their parents, the persons acting in their place or the specialised state authorities; an obligation to make good the damage caused; an obligation to attend a psychological rehabilitation course, to complete compulsory schooling, to follow a probation programme or to attend a vocational training course. Several measures may be imposed at the same time (Article 104(3) CC RM). The importance of placing minors under supervision is borne out by a study of young people in the Republic of Moldova who had come into contact with the justice system, which found that parental supervision was the only statistically significant protective factor, associated with lower rates of property offending (Lazăr et al., 2026). Under Article 98(2)(b) CC RM, educational measures are security measures, a position shared by the Plenary of the Supreme Court of Justice (2004, para. 25).

This classification is open to objection: security measures are aimed at "removing a danger and preventing the commission of acts provided for by the criminal law" (Article 98(1) CC RM), whereas educa-

tional measures are imposed on a person who is criminally responsible and culpable, and their main function is reintegration. In our view, they are criminal law sanctions sui generis, which must fully comply with the requirements of legality and foreseeability, including as regards their duration. Historical arguments support this conclusion: in Romanian law, the 1969 Criminal Code removed educational measures from the category of security measures, where the previous legislation had placed them, and recognised them as criminal law sanctions in their own right, alongside penalties and security measures (Brezeanu, 1998, pp. 36–37).

The limit "until the age of majority". Article 104(5) CC RM does not set a specific duration for compulsory educational measures, but limits them to the period remaining until the minor reaches the age of majority. Read together with the age thresholds in Article 21 CC RM, this rule means that the maximum possible duration of an educational measure is determined solely by the minor's age, rather than by the seriousness of the offence or the minor's need for reform.

Under the general rule in Article 21(1) CC RM, criminal liability arises from the age of 16. For this category, the maximum period during which an educational measure can be enforced is two years, namely the period between the minor's 16th birthday and the age of majority. By way of exception, Article 21(2) CC RM provides for criminal liability from the age of 14 for the offences exhaustively listed therein; in such cases, the maximum period extends to four years. Accordingly, de lege lata, the theoretical maximum duration of an educational measure is four years, and it can be reached only by a minor who, at the age of 14, committed one of the offences listed in Article 21(2) CC RM.

This mechanism has three questionable consequences. First, for the same offence, a 14-year-old may be subject to a measure for four years, whereas a minor aged 17 years and 10 months may be subject to it for only two months, even though the act is equally harmful. Second, the actual duration of the measure is not determined by the judicial authority but follows automatically from the minor's date of birth, which contradicts the very criterion laid down in Article 104(5) CC RM ("the nature and degree of harmfulness of the offence committed"). Third, the person cannot tell from the decision imposing the measure exactly how long they will be subject to the obligations, which under-

mines the foreseeability of the sanction.

The literature also warns that loosely defined diversion measures risk becoming excessive individualised interventions in the lives of minors (Richards, 2014).

Romanian criminal law deals with this issue more coherently, setting separate time limits for each educational measure – a solution to which we return in the comparative analysis below.

Systematic evasion. Article 104(4) CC RM provides that, in the event of systematic evasion, the prosecutor, on a proposal from the specialised state authority, revokes the measures imposed and refers the case to court; where the measures were imposed by the court, the court revokes them and refers the case back to the prosecutor or, as the case may be, imposes a penalty. The law does not define systematic evasion, and the Plenary interprets it as a breach of the measure imposed "three or more times" (Supreme Court of Justice, 2004, para. 26). A purely quantitative criterion is insufficient: revocation significantly worsens the minor's position and should be made conditional *on the culpable nature of the failure to comply, a prior warning, and a hearing of the minor, their legal representative and defence counsel.*

3.5 Comparative aspects: the regime for minors in Romanian criminal law

The sanctioning model. Comparative law broadly distinguishes between a traditional criminal model, which combines educational measures with penalties, a non-criminal model, which gives priority to educational measures, and mixed formulas (Terec-Vlad, 2024, pp. 92–93). The Republic of Moldova follows the mixed model, very close to that of the 1969 Romanian Criminal Code, which already gave priority to educational measures and allowed a penalty to be imposed only where they were insufficient to reform the minor (Brezeanu, 1998, pp. 52–53) – a solution virtually identical to that in Article 75(3) CC RM. The current Romanian Criminal Code (Law No. 286/2009) devotes a separate title to minors (Title V, Articles 113 to 134) and adopts an exclusively educational system: a minor who was between 14 and 18 years of age at the time of the offence "shall be subject to a non-custodial educational measure" (Article 114(1) CC RO), and a custodial measure may be imposed only if the minor has previously committed an offence for which an educational measure was imposed, or if the penalty pre-

scribed by law is imprisonment of seven years or more or life imprisonment (Article 114(2) CC RO). Penalties are not imposed on minors. Consequently, Romanian law has no institution equivalent to the release of minors from punishment under Article 93 CC RM: what in the Republic of Moldova is an exception, conditional on a judicial finding that the minor can be reformed, is in Romania the statutory rule.

The non-custodial measures are the civic training course, supervision, weekend confinement and daily supervision, while the custodial measures are committal to an educational centre and committal to a detention centre (Article 115(1) CC RO). The measure is chosen in accordance with the general sentencing criteria (Article 115(2) CC RO), on the basis of an assessment report that must be prepared by the probation service (Article 116 CC RO). There is also a difference of principle regarding the threshold of liability: between the ages of 14 and 16, Romanian law makes liability conditional on proof of discernment (Article 113(2) CC RO), minority being treated as a ground of non-imputability (Article 27 CC RO), with an irrebuttable presumption of lack of discernment below the age of 14, a rebuttable presumption of lack of discernment between 14 and 16, and a rebuttable presumption of discernment from the age of 16 (Terec-Vlad, 2024, pp. 75–79). For the same age group, Moldovan law uses a closed list of offences (Article 21(2) CC RM), without any case-by-case assessment of discernment. The minimum age of 14, common to both States, has a rational basis in developmental psychology.

Romanian law does not provide for an exemption from criminal liability specific to minors. The diversion function is performed by the general institution of waiver of prosecution (Article 318 CCP RO), which applies to offences punishable by a fine or by imprisonment of up to seven years where the prosecutor finds that there is no public interest in prosecution, subject to review by the preliminary chamber judge. Article 54 CC RM is narrower in scope but is designed specifically for minors.

Duration of and non-compliance with measures. The difference most relevant to the shortcomings identified in Moldovan law concerns the duration of the measures. In Romanian law, each measure has precise statutory limits: the civic training course lasts no more than four months (Article 117 CC RO), supervision between two and

six months (Article 118 CC RO), weekend confinement between four and twelve weeks (Article 119 CC RO), daily supervision between three and six months (Article 120 CC RO), and committal to an educational centre between one and three years (Article 124(2) CC RO). The duration depends on the offence and the minor's personality, not on the minor's age. In addition, Article 123 CC RO provides for a graduated response to non-compliance with non-custodial measures, expressly conditional on the minor's bad faith: extension of the measure up to the statutory maximum, replacement with a more severe measure and, only as a last resort, committal to an educational centre. By contrast, Article 104(4) CC RM sanctions systematic evasion directly, by revoking the measures and reopening the proceedings or imposing a penalty, with no intermediate step and no culpability requirement.

Article 134(1) CC RO provides that the provisions of the title on minors "shall also apply to adults who, at the time of the offence, were between 14 and 18 years of age", while paragraph (2) of the same Article allows the court, where a custodial measure is imposed after the person has turned 18, to order that it be served in prison, having regard to the prospects of reform and the person's age. The Romanian legislature has thus resolved, by an express provision, precisely the problem that Moldovan law leaves unregulated: the relevant age is that at the time of the offence, and educational measures remain applicable and enforceable after the age of majority.

The comparison does not lead to the conclusion that the Romanian model should be adopted wholesale. An exclusively educational system requires an institutional infrastructure (educational centres, specialised probation services) that the Republic of Moldova would first need to develop, and the existence of an exemption from criminal liability specific to minors is an advantage of Moldovan law. At the same time, the historical experience of Romanian law shows that giving educational measures priority in the legislation is not enough in itself: although the 1969 Criminal Code enshrined this priority, in 1972 approximately 63% of the sanctions imposed on minors were custodial, which required the supreme court to intervene through guidance decisions (Brezeanu, 1998, pp. 38–39). The excessive use of custodial sanctions is all the more problematic given that deprivation of liberty creates difficulties in adapting to the prison regime and increases

the person's vulnerability (Jitariuc & Apărece, 2023, p. 138). The current Romanian model nevertheless offers three specific solutions that could easily be transposed: fixed time limits for educational measures; making sanctions for non-compliance conditional on bad faith, with a graduated response; and an express rule applying the regime for minors to persons who have reached the age of majority.

3.6 Persons who committed the offence as minors but had reached the age of majority when the institution was applied

In practice, this situation arises mainly where the offence is discovered late or where criminal proceedings are protracted. In the absence of uniform regulation, the solution we propose *de lege lata* is based on a systematic interpretation of the provisions in force.

Premise: age is assessed at the time of the offence. Article 8 CC RM links the criminal nature of the act and the penalty to the law in force "at the time the act was committed"; Articles 70(3) and 60(7) CC RM refer expressly to the person's age at the time of the offence; and Article 54(1) CC RM refers to a person under the age of 18 "who has committed" the offence. Procedurally, Article 474(2) CCP RM provides that the provisions of the chapter on minors apply to persons who have not reached the age of 18 at the time of the procedural act, but introduces an express exception: the provisions on exemption from criminal liability "also apply after the person has reached the age of 18" (Supreme Court of Justice, 2004, para. 2). The exception is continuing and continued offences that began during minority and continued after the age of majority, for which the Plenary requires the adult regime to apply (Supreme Court of Justice, 2004, para. 14), so that Articles 54 and 93 CC RM do not apply.

Admissibility of exemption from criminal liability. Under Article 474(2) CCP RM, the prosecutor and the court may apply Article 54 CC RM to a person who has reached the age of majority, provided that the person was a minor at the time of the offence and the other conditions are met. The possibility of reform is assessed at the time the case is decided, and the person's conduct after the offence, including after reaching majority, is particularly relevant to that assessment. Since the legal representative ceases to take part after the person turns 18 (Supreme Court of Justice, 2004, para. 10), only the person's own po-

sition is relevant (Article 483(4) CCP RM).

The problem of educational measures. Article 54(2) CC RM requires the measures in Article 104 CC RM to be imposed, but Article 104(5) CC RM limits them to minors. In such a case, we consider that three solutions are possible. The first – refusing exemption – must be rejected: it would in effect nullify the exception in Article 474(2) CCP RM and make the statutory benefit dependent on the length of the proceedings. The second – imposing measures "compatible" with adulthood – is contrary to the wording of Article 104(5) CC RM and would amount to an extensive interpretation to the detriment of the person and to the application of the criminal law by analogy, both prohibited by Article 3(2) CC RM. The third, which we consider correct de lege lata, is exemption from criminal liability without educational measures: the exception in Article 474(2) CCP RM must be given practical effect; the measures are a consequence of exemption, not a condition for it; and the legal impossibility of the consequence cannot become a reason for refusing the benefit. Alternatively, if the person has admitted guilt and made good the damage, Article 55 CC RM may be considered.

Release from punishment. The situation here is more complicated, since Article 93 CC RM refers to "minors convicted", and Article 474(2) CCP RM does not mention release from punishment. A literal interpretation would rule out the application of Article 93 CC RM. We consider, however, that the term "minors" denotes the person's status at the time of the offence, as in Article 70(3) CC RM, and that the omission in Article 474(2) CCP RM is explained by the fact that the provision lists procedural institutions, not substantive law institutions, whose application is determined, under Article 8 CC RM, by reference to the time of the offence. Even in this situation, educational measures cannot be imposed, so the court would deliver a conviction without imposing a penalty or any measures, stating expressly why the measures cannot be applied.

Case law shows that this is not merely a theoretical problem. In case No. 1ra-1388/2021, the proceedings lasted almost five years, and by the time of the appeal retrial the defendant, a minor at the time of the offence, had turned 19. The court imposed a sentence of imprisonment, determined under Articles 70(3) and 79 CC RM and condi-

tionally suspended, without examining whether the defendant could be released from punishment under Article 93 CC RM. The limitation period, halved under Article 60(7) CC RM, had already expired in August 2019, before the first appellate decision. This was not established until the Supreme Court of Justice, hearing the defence's appeal in cassation, ordered release from punishment on that ground (Supreme Court of Justice, 2022a, case No. 1ra-1388/2021).

A similar situation, with more severe consequences, arose in case No. 1ra-57/2024. The defendant committed robbery at the age of 17, and the criminal investigation lasted two and a half years, so that he reached the age of majority before the case was sent for trial. Although the offence, being serious, fell within the scope of Article 93 CC RM, none of the courts examined whether this institution applied; the debate focused solely on the length of the sentence and whether to suspend it. The Supreme Court of Justice held that the court of appeal should have noted of its own motion that the defendant had been a minor at the time and applied Article 79 CC RM, since Articles 70(3) and 79 CC RM serve distinct legal functions; it ultimately imposed a custodial sentence of three years' imprisonment, almost seven years after the offence (Supreme Court of Justice, 2026, case No. 1ra-57/2024). Both cases show that, once the person has reached the age of majority, their minority at the time of the offence affects only the length of the sentence, not the nature of the sanction, and the educational component of the criminal justice response disappears entirely.

Reaching the age of majority during enforcement. If the person turns 18 before the measures have been completed, the measures lapse by operation of law (Article 104(5) CC RM), and they can no longer be revoked, unless revocation proceedings were initiated before the person reached the age of majority.

4. Discussion

The results confirm the research hypothesis. The inconsistencies identified are not merely terminological; they have practical effects: different assessment criteria for institutions with the same purpose, an unclear reference age for Article 93 CC RM, a duration of educational measures that does not depend on the offence, and a direct conflict between Article 474(2) CCP RM and Article 104(5) CC RM.

These shortcomings are compounded by inadequate official in-

terpretation. Plenary Ruling No. 39/2004, although amended in 2015 (Supreme Court of Justice, 2015), still refers in paragraph 24 to placing minors in special educational and re-education institutions, even though this option no longer appears in Articles 93 and 104 CC RM, and states in paragraph 25 that educational measures are imposed "only" by the court, whereas Article 483(1) CCP RM and Article 104(4) CC RM expressly recognise the prosecutor's competence to do so.

Recent case law confirms these findings. In case No. 1ra-1388/2021, the courts confused the two institutions and applied Article 54 CC RM without giving reasons as to the possibility of reform, and after almost five years of proceedings the person, by then an adult, was released from punishment solely on the ground of limitation (Supreme Court of Justice, 2022a, case No. 1ra-1388/2021).

In case No. 1ra-57/2024, Article 93 CC RM was not examined at any stage, and the defendant's minority at the time of the offence affected only the length of the sentence (Supreme Court of Justice, 2026, case No. 1ra-57/2024).

In both cases, the length of the proceedings – incompatible with the requirement that cases involving children be decided without delay, enshrined in Article 40 of the Convention on the Rights of the Child (United Nations, 1989) – meant that the educational institutions were no longer even considered.

On the basis of these findings, we put forward the following proposals de lege ferenda.

The first proposal concerns clarifying the reference age and harmonising the assessment criterion. Article 93 CC RM could be worded as follows: "A person who had not reached the age of 18 at the time of the offence and who is convicted of a minor, less serious or serious offence shall be released from punishment by the court if it is established that the person's reform and social reintegration can be achieved by applying the compulsory educational measures provided for in Article 104 CC RM." Correspondingly, Article 474(2) CCP RM should also refer to release from punishment. This wording replaces the reference to "the purposes of punishment" with a reference to the reform and social reintegration of the minor, in line with Articles 54(1) and 75(3) CC RM.

The second proposal concerns the duration of educational mea-

sures. Article 104(5) CC RM could be replaced by the following text: "The measures provided for in paragraph (1)(b), (d), (e), (f) and (g) shall be imposed for a period of between three months and four years, set in the decision imposing them according to the nature and degree of harmfulness of the offence, the minor's personality and the recommendations of the pre-sentence report. The measures shall continue to be enforced after the person reaches the age of 18 if they were imposed for an offence committed during minority, but not beyond the person's 21st birthday." This amendment, inspired by the fixed limits in Articles 117 to 120 CC RO and by the rule in Article 134 CC RO, would also ensure consistency with Article 474(2) CCP RM, making it possible to apply an effective educational intervention to persons who have reached the age of majority.

The third proposal concerns defining systematic evasion in Article 104(4) CC RM, for example as "culpable failure, on at least three occasions, to comply with the obligations imposed, after the minor has been warned in writing by the probation authority of the consequences of non-compliance", and establishing a revocation procedure that includes a hearing of the minor and defence counsel. Following the model of Article 123 CC RO, sanctions should be graduated: extension of the measure up to the statutory maximum, replacement with a more severe measure and, only as a last resort, revocation of the exemption or release.

The fourth proposal is to add to Article 54(1) CC RM a clarification that the institution does not apply to a person who has previously been exempted from criminal liability under Article 54 CC RM.

The fifth proposal concerns Article 70(3) CC RM, which halves only the maximum term of imprisonment. For serious offences with a high statutory minimum, particularly where Article 80^1 CC RM is applied at the same time, the minimum may end up coinciding with the maximum applicable to a minor, as happened in practice in case No. 1ra-57/2024 (Supreme Court of Justice, 2026, case No. 1ra-57/2024). For these reasons, both the minimum and the maximum term of imprisonment should be halved for persons who committed the offence while they were minors.

5. Conclusions

Exemption of minors from criminal liability and release of minors from punishment are the instruments through which Moldovan criminal law gives effect to the principle that punishment is subsidiary, as enshrined in Article 75(3) CC RM.

Exemption of minors from criminal liability (Article 54 CC RM) operates before conviction, so that the minor avoids a finding of guilt by a court altogether. It may be ordered both by the prosecutor during the criminal investigation (Article 483 CCP RM) and by the court. However, its scope is limited to minor and less serious offences committed for the first time, and its application remains discretionary, since the law uses the wording "may be exempted". Release of minors from punishment (Article 93 CC RM), by contrast, presupposes a judgment of conviction and falls exclusively within the jurisdiction of the court. It also extends to serious offences and is not conditional on the offence being a first offence. Once it is established that the purposes of punishment can be achieved through educational measures, release becomes mandatory, since the law provides that minors "shall be released". Article 93 CC RM thus operates as a second tier of protection, applicable where the conditions of Article 54 CC RM are not met or where diversion has not been ordered.

The effectiveness of these institutions is undermined by divergent assessment criteria, uncertainty as to the reference age, the limitation of educational measures to the period before the age of majority, and the lack of rules on systematic evasion. For a person who committed the offence as a minor but reached the age of majority before the institution was applied, the solution de lege lata is exemption or release without educational measures, with express reasons; the solution de lege ferenda is to provide expressly that age is assessed at the time of the offence and to allow educational measures to be enforced after the age of majority, up to the age of 21. The comparison with Romanian law shows that these problems have tried and tested legislative solutions: fixed time limits for each educational measure, graduated sanctions for non-compliance only in cases of bad faith, and an express provision, along the lines of Article 134 CC RO, maintaining the regime for minors in respect of persons who have reached the age of majority. Selectively adopting these solutions, while retaining the

exemption from criminal liability specific to minors, would allow the educational measure to become genuinely the rule and punishment the reasoned exception. The case law analysed confirms that, in the absence of such solutions, it is in practice the length of the proceedings that determines whether a person benefits from the educational regime for minors.

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THE ROLE OF THE PROSECUTOR IN ORDINARY APPEALS IN CRIMINAL PROCEEDINGS

PROCURORUL ÎN CĂILE ORDINARE DE ATAC ÎN PROCESUL PENAL

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Abstract: *Research on the prosecutor's participation in the trial stage of criminal proceedings, and on the prosecutor's procedural powers and duties, remains of continuing relevance. This article examines the rules of criminal procedure and the legal doctrine governing the prosecutor's participation, as the prosecuting party, in the trial stage, specifically in ordinary appeal proceedings. The research problem lies in providing a sound theoretical basis for how the prosecutor should participate in ordinary appeals and for the procedural steps the prosecutor is required to take at this stage. To this end, the article also proposes an algorithm of actions, framed as methodological guidance for prosecutors.*

Keywords: *criminal proceedings, ordinary appeals, prosecutor, state prosecution*

Rezumat: *Cercetările științifice privind participarea procurorului la faza judecății în procesul penal, competențele și atribuții procesuale rămân întotdeauna de actualitate. În articol a fost efectuată o cercetare a normelor procesual-penale și doctrinei cu privire la participarea procurorului, ca parte a acuzării în procesul penal, la faza judecății în etapele căilor ordinare de atac. Problema științifică constă în fundamentarea științifică a modului de participare și necesitatea îndeplinirii și desfășurării anumitor pași procesuali de către procuror în căile ordinare de atac, inclusiv constituirea unui algoritm al acțiunilor sub formă de recomandare metodologică pentru procurori.*

Cuvinte-cheie: *proces penal, căi ordinare de atac, procuror, reprezentarea învinuirii de stat*

1. Introduction

Free access to justice in criminal matters is a fundamental guarantee of a fair trial. It means that every individual is entitled to have any criminal charge against them determined by a judge vested by law with the specific powers to do so. The right of access to justice is a core aspect of the right to a court, sometimes referred to as the right to a judge (Poalelungi & Sîrcu, 2013, p. 23).

Where procedural defects or errors of fact or law have occurred, the exercise of a means of appeal makes it possible to set aside the decisions containing them. In such cases, the appeal operates as a remedy that annuls a decision contrary to the law and to the truth, depriving it of legal effect (Păvăleanu, 2002, p. 260).

Tanoviceanu defines means of appeal as follows:

> "Means of appeal are procedural institutions designed to secure a more perfect administration of justice in general. They rest on the idea that, since human justice is not infallible, the law must not close the way to a new trial where certain conditions give reason to believe that such a new trial would serve the proper administration of justice" (Tanoviceanu, 1927, p. 400).

Means of appeal in criminal proceedings are essential safeguards of justice, intended to ensure the review of judicial decisions and the protection of fundamental rights. Their effectiveness depends not only on the coherence of the legislation but also on its uniform application in practice (Osoianu & Ostavciuc, 2025, p. 10), and the relevant provisions are to be interpreted in the interests of the law and of the reform of criminal procedure legislation (Vizdoga et al., 2024, pp. 447–465).

The Constitutional Court of the Republic of Moldova defines means of appeal as the procedural mechanisms that allow a fresh examination of proceedings in which a judicial decision (or, at times, two) has been delivered, with a view to setting it aside in whole or in part where it is wrong in fact or in law. "Thus, the manner in which judicial review by the appellate and cassation courts is regulated creates the conditions for correcting errors committed by the court of

first instance, so that only lawful and well-founded decisions acquire the force of res judicata" (Constitutional Court Judgment No. 10, 2015, § 48). "Means of appeal are procedural mechanisms through which interested parties may seek and obtain the quashing of unfounded or unlawful judicial decisions" (Constitutional Court Judgment No. 16, 2013, § 47).

As regards the functions of the prosecution service exercised by the prosecutor, the following should be noted. In criminal proceedings, the prosecutor performs not one but several functions, which sets the prosecutor apart from the other participants in the proceedings. "The entire activity of the criminal investigation bodies is supervised by the prosecutor, who has the final say on matters on which the proper resolution of criminal cases depends. As a participant in the proceedings, the prosecutor is present at every stage of the criminal process" (Oncioiu, 2013, pp. 13–16).

Likewise, prosecutors must respect the independence of the courts and of the judiciary as a whole. They may challenge judicial decisions only through the means of appeal provided for by law, and must take all measures within their competence to protect the independence of the courts (CCPE, 2018, § 38).

"Prosecutors and judges must ensure, at every stage of the proceedings, that individual rights and freedoms are guaranteed and that public order is protected. This entails full respect for the rights of the accused and of victims" (Bordeaux Declaration, 2009, § 38).

2. State of Research and Aim of the Study

Means of appeal in criminal proceedings – the mechanisms by which judicial review is set in motion at the request of the prosecutor or of other persons authorised by law – have been the subject of continuous research. This has driven the development of the relevant procedural institutions and changes in procedure, and both these institutions and the prosecutor's position at the trial stage are constantly being interpreted and applied. Less attention, however, has been paid to the steps the prosecutor must take in order to perform the prosecuting function at the appeal stage. The aim of this study is to determine the sequence of steps to be taken by the prosecutor participating in the hearing of a case through the ordinary means of

appeal, and to devise an algorithm for the prosecutor's actions. To this end, the following objectives were set: to identify and compare the ordinary means of appeal in Romania and the Republic of Moldova; to examine the structure of the courts and prosecution offices that ensure the administration of justice at the ordinary appeal stage; and to analyse the prosecutor's powers at that stage.

3. Materials and Methods

The methodological basis of the research rests on the general principles of logic, the general theory of state and law, and the theory of criminal procedure law. Both general and specific scientific methods were used, including the formal-logical, systemic and analytical methods and the comparative method, alongside other methods of inquiry and interpretation.

The theoretical basis of the study draws on a range of scholarly works on criminal procedure law by both Romanian and Moldovan authors concerning means of appeal and, in particular, the appeal in cassation. The legislation of Romania and the Republic of Moldova relating to ordinary means of appeal and to the prosecutor was also analysed and compared.

In preparing this article, the authors reviewed the relevant legal doctrine, selected and analysed the case law of the European Court of Human Rights, and examined the criminal procedure legislation currently in force.

4. Results and Discussion

Judicial review through means of appeal is established out of the need to prevent and remedy possible judicial errors, in order to ensure the highest possible quality of justice, to correct any errors that may find their way into court decisions, and to ensure that all courts apply the law uniformly.

Means of appeal are "procedural remedies against errors that may arise, through the fault of the parties or of the judges, in the administration of justice". Review by a court ranking above the one that delivered the contested decision is a means of preventing breaches of the law and judicial errors by trial judges, so as to avoid abuses resulting from disregard of procedural and substantive provisions (Văleanu,

2007, pp. 1–2; Theodoru, 2007, p. 11; Neagu & Damaschin, 2021, pp. 308–309; Theodoru & Chiș, 2020, pp. 837–838).

Ordinary means of appeal have developed along different lines, and the appeal, the appeal in cassation and the challenge have not always existed as stable institutions of criminal procedure.

Strogovich observes that, in Western criminal procedure, the appeal is a form of challenging and re-examining decisions that have not yet become final. On appeal, the appellate (higher) court, at the request of one of the parties, re-examines the case exactly as it was examined at first instance: it conducts a new judicial inquiry, hears the witnesses again and so on, and then delivers a new judgment. Cassation, by contrast, involves challenging and re-examining decisions on formal grounds only, that is, as regards compliance with procedural rules and the application of substantive law, without the court of cassation entering into the merits or reviewing whether the case was correctly decided on the merits. Socialist legislation, having abandoned the appeal, did not adopt Western cassation with its formal character either; instead, it established cassation as an institution of socialist criminal procedure law (Strogovich, 1958, p. 474).

The appeal in cassation fulfils the objectives of means of appeal: where breaches of the law or errors of fact are found, the reviewing court, by quashing the contested decision, can deliver a lawful and well-founded decision. The appeal in cassation thus has both an annulling and a remedial effect, making it an important safeguard both for the State and for those with an interest in the lawful and sound resolution of criminal cases (Văleanu, 2007, p. 2).

In Romania today, unlike the appeal, the challenge (contestație) is an institution newly introduced into Romanian criminal procedure by Law No. 135/2010. In the Romanian Code of Criminal Procedure, the legislature abolished the appeal in cassation as an ordinary means of appeal, which made it necessary to introduce a new means of appeal to take over its function (Crișu, 2025, p. 312).

Accordingly, the challenge was introduced as the means of appeal against decisions of the judge for rights and liberties, the preliminary chamber judge or the trial court when ruling on matters ancillary to the merits. Under Article 425¹(1) CCP RO, the challenge is a means of appeal that may be lodged against non-final criminal decisions delivered by

the judge for rights and liberties, the preliminary chamber judge or the trial court, but only where the law expressly so provides. This ordinary means of appeal is reformatory in nature: it may set aside the contested decision where errors of fact or law are found and replace it with a new one. In the circumstances provided for by law, it operates as a remedy of annulment (Neagu & Damaschin, 2021, pp. 368–369).

Romanian criminal procedure law thus currently provides for two ordinary means of appeal, so as to ensure differentiated judicial review that meets the varied demands of practice.

Article 6 CCP RM defines ordinary means of appeal as the remedies provided by law for challenging judicial decisions that are not yet final (the appeal) or, as the case may be, not yet irrevocable (the appeal in cassation).

Under Chapters III and IV of Title III of the Special Part of the Romanian Code of Criminal Procedure, the ordinary means of appeal are the appeal and the application for annulment (contestație în anulare), in accordance with Articles 408 and 426.

Under Article 420(3) CCP RO, the prosecutor's participation in the hearing of an appeal is mandatory.

Under Romanian law, the admissibility of an application for annulment is examined without summoning the parties. If the application is admitted in principle, the court orders the parties to be summoned, in accordance with Article 431 CCP RO.

Moldovan law contains the same provisions: under Article 412(7) CCP RM, an appeal is heard with the mandatory participation of the prosecutor.

An appeal in cassation is heard without the parties being present, as provided for in Articles 433(3) and 447(1) CCP RM.

As regards the functions of the prosecution service exercised by the prosecutor, the following should be noted. In criminal proceedings, the prosecutor performs not one but several functions, which sets the prosecutor apart from the other participants in the proceedings. "The entire activity of the criminal investigation bodies is supervised by the prosecutor, who has the final say on matters on which the proper resolution of criminal cases depends. As a participant in the proceedings, the prosecutor is present at every stage of the criminal process" (Oncioiu, 2013, pp. 13–16).

Likewise, prosecutors must respect the independence of the courts and of the judiciary as a whole. They may challenge judicial decisions only through the means of appeal provided for by law, and must take all measures within their competence to protect the independence of the courts (CCPE, 2018, § 38).

The appeal, the appeal in cassation and the challenge differ considerably, which leads us to conclude that they are separate stages of criminal proceedings. First, each stage has its own subject matter, tasks and legal relationships.

The appeal is a review of the lawfulness and soundness of a non-final judgment delivered by the trial court. The Moldovan appeal in cassation is a review of the lawfulness and soundness of decisions delivered by district courts in cases concerning offences not punishable by imprisonment, of decisions delivered by the Supreme Court of Justice at first instance, and of decisions of the appellate courts. The subject matter of the Romanian challenge consists of interlocutory rulings delivered in the course of criminal proceedings, prosecutors' orders and judgments of the enforcement court.

Second, the procedures for hearing cases on appeal themselves differ. The appeal is a fresh hearing of the case, with a new judicial examination of the evidence, closing arguments, the defendant's last word and the delivery of a decision. Proceedings before the court of cassation and on an application for annulment are not divided into these stages but follow a structure of their own.

Third, the scope of review on appeal, in cassation and on an application for annulment is similar and is tied to the arguments set out in the applications lodged; this does not, however, mean that these proceedings form a single procedural stage.

Fourth, there are substantial differences in the scope of the court's powers, including in the assessment of evidence and in the decisions it may reach. Unlike the court of cassation, the appellate court may reassess the evidence and deliver a new decision on that basis; in other words, it may examine the merits of the case. The court of cassation does not examine the merits. When hearing a challenge, the court must retry the matter, since the challenge is a reformatory remedy. Only where it is found that the contested decision was delivered in breach of the rules on summoning does the challenge take on

the character of a remedy of annulment, in which case the matter is retried by the court that delivered the contested decision.

The prosecutor's role also differs from one appellate court to another.

Before the appellate court, the prosecutor acts first and foremost as public prosecutor and upholds the charge. Before the court of cassation, the prosecutor does not act as public prosecutor and does not uphold the charge, but supports the cassation appeal or submits a written response to the cassation appeal lodged. The appeal is therefore a separate stage of criminal proceedings. At every stage of the trial, the prosecution service performs the function of public prosecution, much as it does during the criminal investigation, while certain elements of its oversight or supervisory function are retained before the second-tier court as well. Moreover, one of the prosecutor's priorities is to protect the rights and freedoms of the individual.

The prosecutor's procedural status is not the same at every stage of criminal proceedings; it depends on the functions and powers conferred and on the procedural means employed. The prosecutor's role and status before the court of cassation differ from those before the trial court or the appellate court. In exercising the duty to oversee legality before the court of cassation, the prosecutor not only defends the conviction or supports the prosecution's own ordinary cassation appeal – for example, on the ground that the sentence is unduly lenient – but may also ask the court to discontinue the criminal proceedings, to mitigate the sentence or to reclassify the defendant's conduct under a more lenient provision of the Criminal Code. None of these steps necessarily implies that the prosecutor is acting as public prosecutor.

Before both the appellate court and the court of cassation, the prosecutor participates as a party to the proceedings, exercising the prosecuting function, while also performing the duties conferred by ordinary law and by the Code of Criminal Procedure. As a party on the side of the prosecution, the prosecutor has the same rights as the defence but bears more obligations. Before the appellate court, where the criminal case may be retried in fact and in law, the prosecutor acts as public prosecutor and upholds the charge by all means available under the law. Before the court of cassation, and in review proceed-

ings on an application for annulment, where the merits of the case are not examined, the prosecutor does not uphold the charge. At both of these stages, the prosecutor acts as a guarantor of the rights and obligations of the defendant, as well as of the other participants in the proceedings and of the citizens involved in them, thereby performing the function of protecting individual rights (Jitariuc & Calendari, 2024, pp. 96–97).

We now turn to the organisation of the courts and of the prosecution service at the ordinary appeal stage.

In Romania, justice is administered by the following courts: (a) the High Court of Cassation and Justice; (b) the courts of appeal; (c) the county courts (tribunale); (d) the specialised county courts; (e) the military courts; and (f) the local courts (judecătorii).

The High Court of Cassation and Justice is the supreme court, which ensures the uniform interpretation and application of the law by the other courts. It is organised into four divisions: the Civil and Intellectual Property Division, the Criminal Division, the Commercial Division, and the Administrative and Tax Litigation Division. The Criminal Division of the High Court of Cassation and Justice hears: (a) at first instance, cases and applications assigned by law to the first-instance jurisdiction of the High Court of Cassation and Justice; and (b) appeals in cassation, under the conditions laid down by law.

The courts of appeal are courts within whose territorial jurisdiction several county courts and specialised county courts operate. They comprise divisions or, where appropriate, specialised panels for civil, criminal, commercial, juvenile and family, administrative and tax, and labour and social security cases, as well as, depending on the nature and number of cases, maritime and river divisions or divisions for other matters.

County courts are organised in each county and in the Municipality of Bucharest; the territorial jurisdiction of each covers all the local courts in the county or, as the case may be, in the Municipality of Bucharest. County courts comprise divisions or, where appropriate, specialised panels.

Local courts have no legal personality and are organised in the counties and in the sectors of the Municipality of Bucharest.

Under Articles 2, 35–38 and 56–61 of Romanian Law No.

304/2004, the military courts are: (a) the military tribunals; (b) the Territorial Military Tribunals of Bucharest, Cluj-Napoca, Iași and Timișoara; and (c) the Military Court of Appeal of Bucharest, the only court of its kind.

Under Article 38 of the Romanian Code of Criminal Procedure, the courts of appeal, in addition to trying certain categories of offences at first instance as provided for by criminal procedure law, hear appeals against criminal decisions delivered at first instance by the local courts and county courts.

In Romania, the prosecution service is organised within the Public Ministry, which forms part of the judicial authority. The Public Ministry comprises the Prosecutor's Office attached to the High Court of Cassation and Justice, the prosecutor's offices attached to the courts of appeal, to the county courts, to the specialised juvenile and family courts and to the local courts, and the military prosecutor's offices. The military prosecutor's offices are organised as follows: the Military Prosecutors' Section within the Prosecutor's Office attached to the High Court of Cassation and Justice, the Military Prosecutor's Office attached to the Military Court of Appeal of Bucharest, and the military prosecutor's offices attached to the military tribunals (Law No. 304/2004, Articles 62–102).

The prosecutor's offices attached to the courts of appeal comprise the following prosecutorial posts: (a) chief prosecutor; (b) deputy chief prosecutor; (c) head of section; and (d) prosecutor. Their structure is as follows: A. the Criminal Investigation Section; B. the Judicial Section; C. the Economic, Financial and Administrative Department. The Prosecutor's Office attached to the Bucharest Court of Appeal comprises: A. the Criminal Investigation Section; B. the Special Proceedings Section; C. the Criminal Judicial Section; D. the Civil Judicial Section; E. the Economic, Financial and Administrative Department. These offices are headed by a chief prosecutor, assisted by one or two deputy chief prosecutors.

Prosecutors in the Judicial Section have the following duties: (a) to take part in the hearing of criminal and civil cases, in accordance with the law; (b) to lodge appeals against judicial decisions delivered by the court of appeal, in accordance with the law; (c) to examine instances of inconsistent application of the law and make reasoned

proposals for an appeal in the interests of the law; (d) to review cases in which the courts have delivered final decisions ordering acquittal, the return of the case to the prosecutor or its referral to the prosecutor; and (e) to perform any other duties provided for by law and regulations or assigned by the superior prosecutor (Regulation No. 2632/C/2014).

In the Republic of Moldova, justice is administered by the following courts: (a) the Supreme Court of Justice; (b) the courts of appeal (North, Centre and South); and (c) the district courts (judecătorii).

The Supreme Court of Justice, acting as a court of cassation, hears appeals in cassation against decisions delivered by the courts of appeal and against judgments delivered by the Supreme Court of Justice at first instance.

Under Articles 38–39 CCP RM, the Court of Appeal, acting as an appellate court, hears appeals against decisions delivered at first instance by the district courts and, acting as a court of cassation, hears appeals in cassation against decisions of the district courts that, by law, are not subject to appeal. Appeals and appeals in cassation against decisions delivered at first instance by the Specialised Anti-Corruption Panel of the Chișinău District Court are heard by the specialised anti-corruption panel of the Centre Court of Appeal.

The current structure of the prosecution service allows the prosecution case to be presented before the trial courts (the district courts) by the territorial prosecutor's offices, and before the Supreme Court of Justice by a specialised section of the Prosecutor General's Office – the Section for Representing the Prosecution before the Supreme Court of Justice.

The North, Centre and South Circuit Prosecutor's Offices, which have the status of territorial prosecutor's offices and form part of the prosecution service, operate within the territorial jurisdiction of the corresponding courts: the North Court of Appeal, the Centre Court of Appeal and the South Court of Appeal (Regulation 24/28/2016).

Under Article 320(1) CCP RM, the prosecution case at first instance is presented by the prosecutors who directed the criminal investigation or, as the case may be, conducted it themselves and sent the case for trial, whether from territorial or specialised prosecutor's offices (the Anti-Corruption Prosecutor's Office or the Prosecutor's

Office for Combating Organised Crime and Special Cases).

As regards the steps the prosecutor must take when a criminal case is heard through the ordinary means of appeal, we highlight the following.

The prosecutor's involvement before the court hearing an ordinary appeal begins upon receipt of the summons issued by the court, which must meet certain statutory requirements.

Having received the summons, the prosecutor begins preparing to take part in the hearing, starting with a study of the case file.

Verifying that the appellate court has been properly seised means that the court must ascertain whether the contested judgment is subject to appeal by law, whether the application was lodged by a person legally entitled to bring the appeal, and whether it was lodged within the statutory time limit. If the application is inadmissible or out of time, no hearing takes place, since the court has not been seised in accordance with the law.

The court may dismiss an appeal, an appeal in cassation or a challenge as inadmissible in certain circumstances.

Inadmissibility in this context is regarded as a procedural sanction directed against a step that the law does not provide for or expressly excludes.

In such cases, the prosecutor, as part of the preparatory measures for the hearing, must file an application asking the court to examine whether the appeal was lodged out of time.

Whether the court hearing the ordinary appeal has been properly seised can be verified by studying the case file before the first hearing.

The prosecutor must check whether the appeal, appeal in cassation or challenge was lodged by a person legally entitled to bring it. The right to appeal against a judgment belongs to the persons specified in criminal procedure law.

An important part of the prosecutor's preparation for the hearing is checking that the appeal was lodged within the statutory time limit.

According to Neagu,

> "the absence of a time limit for appeal could lead either to the immediate enforcement of a criminal judgment or to the possibility of appealing against such judgments at any time. The

existence of a time limit for appeal meets both the need to ensure judicial review of decisions before they are enforced and the need to ensure expedition in criminal proceedings" (Neagu, 1997, p. 546).

Other authors propose, de lege ferenda, that lodging an appeal after the statutory time limit has expired should not result in forfeiture of the right, but at most in the loss of the appeal's suspensive effect (Paraschiv, 2002, p. 66).

Where a person has lodged an appeal out of time, an application should be filed asking the court to examine this issue and to dismiss the appeal as lodged out of time, without examining it on the merits or reviewing the whole case on appeal, since the court has not been seised in accordance with the law.

An appeal lodged out of time may be heard only if the appellant has applied for reinstatement of the time limit and the court has ruled on that application. Reinstatement of the time limit is the procedural mechanism whereby a person entitled to appeal, who was unable to do so for reasons beyond their control, is restored to the right that lapsed when the time limit expired.

A fair and thorough hearing of the case depends on the correct resolution of the application for reinstatement of the time limit. The court must examine the reasons for the delay and, if it finds that the delay was due to good cause, reinstate the time limit and proceed to hear the appeal on the merits.

Each person entitled to appeal may challenge a given judicial decision only once.

A repeated appeal against the same decision does not seise the court with a fresh examination of that decision. In such circumstances, the new appeal is inadmissible (Pamfil et al., 2008, pp. 102–103) and no hearing takes place, since the court has not been seised in accordance with the law.

As regards the summoning of the parties, the following should be noted.

The prosecutor must check whether the parties and other interested persons have been duly and lawfully summoned. Checking the arrangements for the hearing involves verifying that the parties have been summoned, that a defendant held in custody will be present, and

that state-guaranteed legal aid has been provided. If a party has not been lawfully summoned and fails to appear, if a defendant in custody has not been brought to court, or if defence counsel whose presence is mandatory fails to appear, the hearing of the appeal is adjourned to another date and the statutory requirements must be complied with anew.

As guarantor of compliance with the law, the prosecutor must verify that the court hearing the appeal, the appeal in cassation or the application for review complies with the statutory provisions, including those on summoning the parties and on allowing sufficient time for preparation.

At the preparatory stage, the prosecutor's role is to verify that the bench has been lawfully constituted.

A court that lacks jurisdiction to hear a case under domestic law is not a tribunal "established by law" within the meaning of Article 6 § 1 ECHR. Any change in the composition of the bench must comply with the law and be reflected in the case file.

It is not permissible to seek the recusal of a judge, or of all the judges of a court, in advance, before the bench that is to hear the criminal case has been constituted.

An application for recusal prevents the court from ruling on the merits; it must first be decided by a different bench that does not include the judge whose recusal is sought. Otherwise, a decision delivered by the judge who is the subject of the recusal application is vitiated by absolute nullity (Pamfil et al., 2008, p. 146).

A ruling dismissing an application for recusal may be challenged only together with the decision on the merits, as no separate remedy is available. Accordingly, an appeal lodged against such a ruling before, and separately from, the court's decision on the merits is inadmissible.

A further problem may arise where the judgment has not been translated into the state language or contains clerical errors.

Equally important is the prosecutor's task of checking the defendant's identity details, the correct spelling of the defendant's name in the court decisions, the presence of information on previous convictions, and so on.

Public prosecutors must pay particular attention to the quality and reasoning of applications for appeal, which must be consistent

with the law and with the case file, and be specific, clear and reasoned.

An application for appeal must be reasoned and specific, setting out the grounds on which the contested decision breaches the principles of lawfulness, soundness and adequate reasoning. In other words, it must put forward arguments showing that the decision is unlawful, unfounded and inadequately reasoned, by identifying: (1) the specific breaches committed at trial, with the relevant facts and evidence; (2) what confirms those breaches, by presenting specific arguments and evidence; and (3) the legal basis for quashing or varying the decision of the trial court.

On appeal, the factual circumstances of the case are not re-examined as a whole, but only in the light of the evidence and arguments put forward by the parties. Thus, the application for appeal alleging that the contested decision is unlawful, together with the supporting arguments and grounds, and the opposing party's written response, constitute the subject matter of the appellate court's review.

The means of review is the judicial examination itself, in the course of which the court must assess each claim by weighing the arguments presented by the parties, and in which the evidence in the case may be examined directly.

Only once the examination of the appeal is complete and the subject matter of the hearing has been fully addressed can the court rule on whether the arguments in the applications are well founded. The subject matter of review is therefore the central element of the appeal hearing.

With regard to the appeal, Volonciu states that:

> "the grounds of appeal are, ultimately, the criticisms that those entitled to appeal level against the contested decision. In formulating them, the appellant is not confined to certain cases predetermined by law, but may raise any objection concerning matters of fact or law and the flawed manner in which the court of first instance resolved them. It has been accepted in practice that the prosecutor may, in writing or orally, at once or in stages, rely on grounds other than those previously stated, up until the close of argument" (Volonciu, 1996, p. 249).

"The application for appeal need not set out the grounds of appeal, since, by virtue of the devolutive effect of the appeal, the ap-

pellate court is obliged – irrespective of any grounds relied on or requests made by the appellant – to examine the case, even in the appellant's absence, in all its aspects of fact and law. The author further explains that "in criminal matters, since the courts are obliged of their own motion to ensure the complete and regular performance of the procedural acts that make up the criminal process (...), the absence of reasons does not relieve the court seised of the appeal of the duty to review of its own motion the conduct of the criminal proceedings up to that point; the law may, of course, depart from this principle in certain cases, but in the absence of an express derogation it remains applicable and mandatory". The value of stating reasons lies in the fact that, on the one hand, it makes known the cause of dissatisfaction with the contested decision and, on the other, it clarifies and delimits the scope of the discussion and of the review hearing (Paraschiv, 2002, p. 98).

The prosecutor must also verify that the charges were properly brought, and that the order bringing charges and the indictment comply with the law.

In the case of an appeal, the law allows a supplementary appeal to be lodged, in which additional grounds of appeal may be raised. No such option exists for an appeal in cassation or a challenge.

In a supplementary application, the prosecutor taking part before the appellate court may raise additional grounds of appeal concerning any aspect of the criminal case, and may also withdraw or amend some of the grounds raised in the original application.

As regards the withdrawal of an application already lodged: since recourse to a means of appeal is optional for those entitled to it, they may choose whether or not to exercise it (Papadopol & Turianu, 1994, p. 112).

Withdrawal of the application is, in practice, tantamount to acquiescence in the decision delivered, as an expression of the right of disposal enjoyed by those entitled to appeal (Paraschiv, 2002, p. 105).

Withdrawal need not be total; it may also be partial, in that it may concern only certain provisions of the contested decision – for example, only the ruling on the criminal aspect or only the ruling on the civil aspect of the case (Volonciu, 1996, p. 253).

The wording of the law sets certain conditions for the withdrawal of an appeal. First, an appeal may be withdrawn until the judi-

cial examination stage before the appellate court. For example, under Article 415(1) CCP RO, an appeal may be withdrawn until the close of argument before the appellate court. In addition, Article 415(3) and (4) CCP RO provides that an appeal lodged by the prosecutor may be withdrawn by the superior prosecutor, and that an appeal lodged and then withdrawn by the prosecutor may be adopted by the party in whose favour it was lodged.

In our view, the provisions of Moldovan procedural law are clearer and offer greater legal certainty. Indeed, it is the arguments and requests in the application for appeal that determine whether a judicial examination is held, its scope and the effects of the appeal. In practice, at this stage the parties must be well prepared and their requests must be specific.

Verifying allegations of torture or of cruel, inhuman or degrading treatment. Where the defendant alleged ill-treatment before the court of first instance, that court should have discussed the matter at the hearing and instructed the prosecutor, as the authority empowered to verify such allegations, to initiate an inquiry and report its findings to the court.

The use in criminal proceedings of statements obtained in breach of Article 3 of the Convention automatically renders the proceedings as a whole unfair and violates Article 6 of the Convention (El Haski v. Belgium, No. 649/08, 25 September 2012, § 85; Gäfgen v. Germany [GC], No. 22978/05, 1 June 2010, § 166), as does the use of evidence obtained through acts of torture (Jalloh v. Germany [GC], No. 54810/00, 11 July 2006, § 105; Gäfgen v. Germany [GC], § 167). The use of evidence obtained through treatment contrary to Article 3 ECHR that falls short of torture does not, however, breach Article 6 unless it is shown that the breach of Article 3 influenced the outcome of the proceedings, that is, had an impact on the conviction or the sentence (El Haski v. Belgium, § 85; Gäfgen v. Germany [GC], § 178).

The prosecutor's participation in the judicial examination requires a thorough knowledge of the case file.

When studying the case file, the public prosecutor must establish whether all available evidence has been examined and, if not, what steps can be taken, what can be supplemented and by which procedural means, and which circumstances can no longer be established.

In studying the case, the public prosecutor must form their own position on the evidence, in particular as regards its admissibility, bearing in mind that the defence may again apply to have evidence excluded as inadmissible. This analytical work enables the prosecutor to form an inner conviction that the challenge to the judgment is correct and well founded.

Judicial examination on appeal is an optional procedural stage (Paraschiv, 2019, p. 181).

On the admissibility, relevance and usefulness of the evidence, the court hears the views of the person against whom the appeal was lodged and of the other participants, who may in turn propose new evidence to counter that proposed by the appellant. The appellate court issues a ruling on the application to admit new evidence or to re-examine evidence already taken at first instance, giving reasons for admitting or dismissing it according to whether the evidence is relevant and useful to the case. If the court agrees to admit new evidence or to re-examine evidence taken at first instance, a new stage of the appeal hearing begins – the judicial examination – which is conducted in accordance with the general rules applicable at first instance.

A judicial examination in cassation proceedings or on an application for annulment may take place only where the court has ordered the case to be heard in open court. Romanian law does not expressly provide for the reviewing court to conduct a judicial examination; the hearing is limited to hearing the parties and the prosecutor's submissions.

On appeal, the appellate court is entitled to admit new evidence if it considers it relevant and useful, and to dispense with evidence initially admitted if it subsequently proves unnecessary. However, if evidence was dispensed with because of a failure to comply with procedural provisions that were not essential to the purpose of taking that evidence, the appellate court's decision will be quashed in cassation as unlawful (Pamfil et al., 2008, pp. 82–83).

The purpose of the appellate court's review of the case file is to analyse the factual circumstances established by the lower court against the applicable legal provisions, to identify errors, to deliver a new decision and to correct the errors committed.

The parties move on to the evidentiary stage when they dispute

the factual circumstances of the criminal case. This involves the taking, examination and assessment of evidence, including in order to identify and correct errors committed by the court of first instance.

The submission of new evidence by the parties before the appellate court is simply a continuation of the defence of their own interests. When new evidence, such as witnesses, is put forward on appeal, those witnesses should preferably be heard. A party requesting that such witnesses be summoned must specify the circumstances to be established by hearing them and, most importantly, explain why they were not summoned and heard as witnesses at first instance. The need to summon and hear (Jitariuc & Bria, 2026, pp. 73–84) these persons on appeal therefore depends on how persuasively the application is reasoned.

The judicial examination on appeal may involve the direct examination of evidence or be confined to examining the evidence on the case file: further questioning of a witness, ordering an expert report, or reading out the record of the questioning of a witness or of the defendant during the criminal investigation, with due respect for procedural rights (Ostavciuc & Osoianu, 2023, pp. 72–96), the record of a confrontation or the record of the hearing at first instance. Given the prosecutor's procedural position, the burden of presenting the prosecution evidence at first instance and on appeal lies with the prosecutor. In Capeau v. Belgium (13 January 2005), the European Court held that, in criminal matters, the question of the taking of evidence must be examined in the light of Article 6 § 2 ECHR, which requires, inter alia, that the burden of proof lie with the prosecution (Capeau v. Belgium, No. 42914/98, 13 January 2005, § 25). Any shift of the burden of proof from the prosecution to the defence violates the presumption of innocence (Telfner v. Austria, No. 33501/96, 20 March 2001, § 15).

The prosecutor's participation in the closing arguments involves preparing submissions on the grounds of the appeal lodged and on the reasoning and soundness of the contested decision.

Closing arguments on appeal are confined to the appellant's presentation of the grounds of appeal and the respondent's rebuttal, together with adversarial argument on any errors of fact or law raised by the court of its own motion (Volonciu, 1996, p. 266).

The closing arguments amount to a confrontation before the ap-

pellate court between the opposing positions of the appellant and the other party – based, as regards matters of fact, exclusively on the evidence taken at first instance and, possibly, on certain new documents – with the aim of establishing the truth (as to whether the offence was committed and its seriousness, the defendant's guilt, and so on) and of applying the law correctly to the facts (Papadopol & Turianu, 1994, pp. 198–199).

Submissions before the appellate court concern criticisms of the way in which the trial was conducted at first instance and of the rulings made by that court on the criminal and/or civil aspects of the case, or on other matters subject to appeal. Argument covers all aspects of fact and law, within the limits of the position of the person who lodged the appeal or to whom it relates, and having regard to the procedural standing of the appellant. Submissions must focus on the grounds relied on in the application, with each party supporting its position by rebutting the opposing party's arguments and referring to the judicial and doctrinal interpretation of the legal provisions that justify the outcome it seeks. At the appeal hearing, the parties argue adversarially both the grounds of appeal and the response to them, as well as the errors of fact and law committed by the court of first instance. When an appeal in cassation or an application for annulment is heard in the absence of the parties, the appellant's written arguments are examined in chambers.

When the closing arguments are over, the defendant has the last word.

According to Udroiu,

> "the presiding judge gives the last word to the defendant in person at all ordinary levels of jurisdiction, as well as in extraordinary appeal proceedings. Failure to give the defendant the last word in person is, in principle, sanctioned by relative nullity, except where the breach of the statutory provisions could affect the establishment of the truth and the fair resolution of the case" (Udroiu, 2018, p. 399).

In the last word, before the decision is taken, the defendant is given a final opportunity to state their position on the charge, the judgment delivered and the appeal lodged, and to comment both on their own conduct and on the outcome of the judicial examination

(Lupinskaya, 2009, p. 720).

According to Romanian case law, before the appeal hearing closes the court must give the defendant the last word, so that the defendant can state their position on the submissions made by the prosecutor and the parties and on the criminal case in which they are involved. Failure by the court to do so results in the decision being quashed and the case being remitted for retrial (Pamfil et al., 2008, p. 83).

The prosecutor's actions after the decision is delivered.

The prosecutor's work before the appellate court does not end with the delivery of the decision. After hearing the appeal, the court must comply strictly with the statutory requirements for drafting the decision. Failure to comply with these requirements amounts to a breach of the right of defence of those involved in the proceedings.

Once the decision has been delivered, the prosecutor takes the following steps: (1) studies the decision of the appellate court; (2) in the case of an appeal, checks that the record of the hearing has been properly drawn up; and (3) decides whether or not to lodge any available means of appeal, including an extraordinary one.

On appeal, checking the record of the hearing before the appellate court is also of particular importance for the prosecutor's work.

One of the prosecutor's key powers when a criminal case is heard in court is to appeal against the decision as regards both the criminal and the civil aspects of the case (Article 53(2)(8) CCP RM). Decisions of the appellate court may be challenged by an appeal in cassation in the Republic of Moldova, or by an application for annulment in Romania, in order to examine the issues raised and to correct errors of law committed by the trial and appellate courts, on the grounds provided for by law.

At the same time, under Article 420(4) CCP RM, the prosecutor must bear in mind that judgments cannot be challenged by an appeal in cassation where the persons listed in Article 401 CCP RM did not appeal or withdrew their appeal, if the law provides for an appeal. An ordinary appeal in cassation must be lodged within two months of the date on which the full text of the appellate decision was served, not the date on which it was delivered.

Romanian criminal procedure law provides for a time limit of ten days both for lodging an appeal (Article 410(1) CCP RO) and for lodging an application for annulment (Article 428(1) CCP RO), running from

the service of the decision and the date on which the person became aware of it.

5. Conclusions

The above analysis leads to the following conclusions.

Depending on national traditions, the ordinary means of appeal may take different forms – the appeal, the appeal in cassation or the challenge – but it is clear that decisions of both the court of first instance and the second-tier appellate court can be challenged. The appeal in cassation may be an ordinary and/or an extraordinary means of appeal.

The prosecutor taking part in the hearing of a criminal case on appeal must play an active role and take every lawful step, by filing the appropriate applications, to resolve issues relating to the proper constitution of the bench in the higher court, the attendance of the necessary participants and the taking of evidence at the appeal stage.

The prosecutor must take an active part in the taking and examination of evidence not only at first instance but also on appeal. Cooperation is required with the prosecutors who directed the criminal investigation and with the officers of the criminal investigation body who investigated the specific cases, in order to clarify all circumstances arising on appeal – particularly where new evidence is presented – and the information obtained must be used in strict compliance with criminal procedure law.

As a party on the side of the prosecution, the prosecutor has the same rights as the defence but bears more obligations. Before the court hearing an ordinary appeal, where the criminal case may be retried in fact and/or in law, the prosecutor acts as public prosecutor and presents the prosecution case by all means available under the law.

As at first instance, the prosecutor on appeal acts as a guarantor of the rights and obligations of the defendant, as well as of the other participants in the proceedings and of the citizens involved in them, thereby performing the function of protecting individual rights.

Means of appeal are separate stages of criminal proceedings; accordingly, the prosecutor taking part at the appeal stage has a status independent of that of the prosecutor who took part at first instance.

Errors and breaches committed by the court of first instance may determine the steps to be taken before the higher courts, either

requiring the taking and examination of evidence or making an evidentiary stage unnecessary.

Drawing together the sequence of actions to be performed by the prosecutor, the following specific steps should be taken when criminal cases are heard through the means of appeal:

A. At the preparatory stage:

1. Verifying that the appellate court has been properly seised, i.e. ascertaining whether the contested judgment is subject to appeal by law.

2. Checking that the appeal was lodged by a person legally entitled to appeal.

3. Checking that the appeal was lodged within the statutory time limit.

4. Checking that the parties have been summoned in accordance with the law.

5. Checking that the bench has been lawfully constituted.

6. Checking that the judgment has been translated into the state language and is free of clerical errors.

7. Checking the defendant's identity details, the correct spelling of the defendant's name in the court decisions, the presence of information on previous convictions, etc.

8. Paying particular attention to the quality and reasoning of the applications for appeal, the proper bringing of charges, the possibility of lodging a supplementary appeal, and the withdrawal of the appeal.

9. Verifying allegations of torture or of cruel, inhuman or degrading treatment.

10. Submitting a written response to an appeal lodged by another party to the proceedings.

B. During the judicial examination:

1. Presenting the evidence examined by the lower courts.

2. Reading out the physical and documentary evidence.

3. Presenting evidence for further examination: additional documents; further questioning of the injured party, a witness or an expert.

4. Presenting new evidence, including new physical evidence.

C. During the closing arguments:

1. Taking part in the closing arguments.

2. Making replies.

D. After the decision is delivered:

1. Studying the court's decision.
2. Studying the record of the hearing.
3. Using the means of appeal provided for by law.

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THE INTEGRATION OF ARTIFICIAL INTELLIGENCE INTO THE WORK OF COURTS IN THE REPUBLIC OF MOLDOVA: OPPORTUNITIES AND RISKS

INTEGRAREA INTELIGENȚEI ARTIFICIALE ÎN ACTIVITATEA INSTANȚELOR JUDECĂTOREȘTI DIN REPUBLICA MOLDOVA: OPORTUNITĂȚI ȘI RISCURI

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Abstract: *The increasing use of artificial intelligence (AI) in judicial work and its express recognition in the Regulation on the Organisation and Functioning of the Supreme Court of Justice of the Republic of Moldova raise questions concerning the limits of technological assistance and the protection of procedural rights. This article examines the opportunities, risks and conditions for integrating AI into the work of Moldovan courts. The research combines documentary analysis, literal, systematic and teleological legal interpretation, and functional comparison of foreign judicial practices. The findings indicate that the permissibility of AI use depends on the function performed and its actual influence on proceedings. Authorisation and formal human oversight are insufficient without effective verification, appropriate disclosure and safeguards preserving judicial independence, adversarial proceedings and reasoned decisions. The article's original contribution lies in translating general European safeguards into proposed operational requirements for implementing Article 30 of the Regulation. These include authorisation for specified functions and data categories, verification against original sources, disclosure proportionate to procedural relevance, and incident reporting and remediation. The study supports gradual implementation through controlled testing and evalu-*

ation while retaining judicial responsibility for adjudication.
Keywords: *Artificial intelligence, administration of justice, judicial independence, right to a fair trial, human oversight*

Abstract*: Utilizarea tot mai frecventă a inteligenței artificiale (IA) în activitatea judiciară și reglementarea expresă a acesteia în Regulamentul privind organizarea și funcționarea Curții Supreme de Justiție a Republicii Moldova ridică întrebări cu privire la limitele asistenței tehnice și la protecția garanțiilor procesuale. Prezentul articol examinează oportunitățile, riscurile și condițiile de integrare a IA în activitatea instanțelor judecătorești din Republica Moldova. Cercetarea combină analiza documentară, interpretarea juridică literală, sistematică și teleologică, precum și comparația funcțională a practicilor din alte state. Concluziile indică faptul că admisibilitatea utilizării IA depinde de funcția îndeplinită și de influența sa efectivă asupra procesului. Autorizarea și supravegherea formală din partea omului sunt insuficiente fără o verificare eficientă, o divulgare adecvată și garanții care să asigure independența judiciară, caracterul contradictoriu al procedurilor și motivarea hotărârilor judecătorești. Contribuția prezentei cercetări constă în examinarea garanțiilor generale europene la cerințele operaționale propuse pentru punerea în aplicare a articolului 30 din Regulamentul CSJ. Acestea includ autorizarea pentru funcții și categorii de date specifice, verificarea în raport cu sursele originale, divulgarea proporțională cu relevanța procedurală, precum și raportarea incidentelor și remedierea acestora. Studiul susține implementarea treptată a IA prin testare și evaluare controlate, păstrând în același timp responsabilitatea judiciară pentru pronunțarea hotărârilor.*
Keywords: *Inteligența artificială, administrarea justiției, independența justiției, dreptul la un proces echitabil, supravegherea umană*

1. Introduction

The rapid development of information technologies and the gradual integration of artificial intelligence (hereinafter "AI") into various areas of social life are changing how information is processed, professional activities are organised and services are provided. In the legal field, these transformations are reflected in the use of tools capable of assisting with legal research, document analysis and the drafting of texts. Research into the use of language models in the work of courts confirms that the integration of AI has moved beyond the realm of technological projections (Sourdin, 2018). In this context, it becomes necessary to examine the conditions under which such tools may be used in the administration of justice.

Interest in the use of AI in the justice system stems from its potential to reduce technical workloads, process substantial volumes of information and support the work of court staff (Sourdin, 2018). At the same time, the nature of judicial activity requires a distinction to

be drawn between technical assistance and the exercise of the powers to hear and determine cases. In this regard, Morison and Harkens highlight the social dimension of judicial activity and the difficulties involved in reducing it to algorithmic operations (Morison & Harkens, 2019). We consider that AI must be examined by reference to the specific function assigned to it, the procedural stage at which it is used and the potential influence of its output on the examination of the case. Research on perceptions of the fairness of automated procedures also highlights the relevance of how and at what stage algorithms are used (Barysė & Sarel, 2024).

The examination of opportunities must, of course, be accompanied by an analysis of the risks. Studies of language models have found that they may generate inaccurate legal information and have difficulty recognising their own errors (Dahl & Magesh & Suzgun & Ho 2024). These risks are compounded by issues concerning transparency and the ability to challenge the outputs of certain algorithmic systems, which have been examined extensively in the scholarly literature on the relationship between AI and human rights (Završnik, 2020). Accordingly, characterising AI as a support tool warrants an examination of safeguards for verifying its outputs and maintaining effective human control over their use.

In the Republic of Moldova, the timeliness of this research is underscored by the approval of the Regulation on the Organisation and Functioning of the Supreme Court of Justice by the Plenum of the Supreme Court of Justice in its Decision No. 2 of 4 September 2026 (Regulation on the Organisation and Functioning of the Supreme Court of Justice, 2026). Article 30 of the Regulation expressly provides for the use of AI to support the work of the Court, listing, inter alia, the translation of materials, the editing and correction of administrative texts, the summarisation of documents and the generation of technical, analytical or statistical summaries. The same article lays down requirements concerning confidentiality, personal data protection, information security, professional secrecy and transparency in the use of AI, as well as the exclusive use of authorised systems. This provision serves as the starting point for examining how AI use may be regulated in light of the specific nature of the work of courts.

The central issue addressed by this research is to determine the

conditions and limits within which AI may support the work of courts without impairing judicial independence and the procedural safeguards of a fair trial. Of particular interest are the distinction between ancillary tasks and uses capable of influencing the judicial decision-making process, the content of the obligation of transparency and the mechanisms for verifying the outputs generated. These aspects will be examined by reference to the right to a fair trial, as guaranteed by Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (Convention for the Protection of Human Rights and Fundamental Freedoms, 1950), including the requirements concerning the independence and impartiality of the court.

In this context, the aim of this article is to identify the opportunities and risks associated with the integration of AI into the work of courts in the Republic of Moldova and to formulate recommendations on the framework and conditions for its use. The research combines legal analysis of the national regulatory framework with an examination of European standards and the experiences of other states.

To achieve this aim, the article first examines the provisions of the Regulation of the Supreme Court of Justice concerning the use of AI in relation to the relevant European Union legislation and, separately, the standards of the Council of Europe and the case-law of the European Court of Human Rights. A separate section is devoted to comparative law, with a focus on specific uses, good practices and incidents documented in other states.

2. State of the Art and Research Aim

Research on the integration of artificial intelligence into the administration of justice examines both the potential for supporting the work of courts and the implications of automation for the exercise of the judicial function. Sourdin (2018), as well as Morison and Harkens (2019), analyse the distinction between technological assistance and adjudication and the difficulties of reducing legal reasoning to algorithmic operations. Empirical research complements this perspective by examining the reliability of outputs: Dahl and co-authors (2024) highlight the risk of generating fabricated legal information, while Deroy, Ghosh and Ghosh (2025) analyse the limitations of automated summarisation of legal documents. These contributions justify evalu-

ating uses of AI by reference to the task performed and the verifiability of the output.

A distinct line of inquiry concerns the effectiveness of human control. Green (2022) criticises the treatment of human oversight as a sufficient safeguard merely because it has been put in place, while Liu and Li (2024) examine the interaction between judges and language models. Barysė and Sarel (2024) show that perceptions of fairness vary depending on the stage at which automation is used. At the regulatory and institutional levels, Regulation (EU) 2024/1689 and CEPEJ instruments provide benchmarks for risk assessment, transparency and the preservation of human control. The experiences analysed in the specialist literature and professional practice reveal the need to relate these benchmarks to the specific features of judicial proceedings.

The present research builds on these contributions by relating them to the provisions of the Regulation on the Organisation and Functioning of the Supreme Court of Justice (SCJ). The paper's contribution lies in examining the conditions under which general safeguards can be translated into rules governing ancillary uses, the authorisation of systems, the verification of outputs and the provision of information to participants in the proceedings. The aim of the research is to identify the opportunities, risks and limits of integrating AI into the work of courts in the Republic of Moldova and to formulate recommendations consistent with judicial independence and the right to a fair trial guaranteed by Article 6 § 1 of the European Convention on Human Rights (ECHR).

3. Materials and Methods

The research is structured around three areas: examination of the provisions of the SCJ Regulation, assessment of uses of AI against European standards, and analysis of experiences in other countries. This structure makes it possible to relate domestic regulation to fair trial safeguards and to the difficulties identified in judicial practice.

The research materials comprise legal instruments, institutional documents, judicial decisions and scholarly publications. The analysis covers the SCJ Regulation, Regulation (EU) 2024/1689, CEPEJ instruments and the case law relevant to the interpretation of Article 6 § 1 ECHR. The doctrinal foundation includes the contributions of

Morison and Harkens on the specific features of the judicial function, Green's analysis of the limits of human oversight, and the research by Dahl and co-authors and by Deroy, Ghosh and Ghosh on the reliability of generated legal information and summaries, respectively. These works enable an examination of the relationship between the technical utility of AI and the need to verify its outputs.

The main methods employed are documentary analysis, legal interpretation and functional comparison. Literal, systematic and teleological interpretation serves to delineate permitted uses and identify the conditions governing the application of the domestic provision. The comparison focuses on the function assigned to the system, its influence on the examination of the case and the safeguards for human control. The research tools include EUR-Lex, HUDOC and the official sources of judicial institutions. Empirical findings are drawn from the studies cited and assessed within the scope of the models, tasks and contexts analysed, without generalising them to all AI applications.

4. Results and Discussion

4.1. The use of AI in the work of the Supreme Court of Justice of the Republic of Moldova

The adoption of the Regulation forms part of a broader process of examining the conditions for integrating AI into the national justice system. Thus, in its communication of 19 August 2026, the Superior Council of Magistracy presented activities concerning the preparation of a study and tools for assessing the readiness of courts for the responsible use of AI. The initiative concerned, inter alia, the institutional framework, training, data and risk management (Superior Council of Magistracy, 2026). These measures indicate a concrete institutional concern; they do not, in themselves, demonstrate that particular systems are already being used to determine cases. In this context, the provision in Article 30 of the SCJ Regulation does not amount to evidence of the actual implementation of AI. Accordingly, the provision may serve as a reference point for developing rules common to the judiciary, but does not, in itself, constitute a general authorisation to use AI in all courts.

Article 30(1) of the SCJ Regulation thus provides that the Court

"may use" AI tools "for the purpose of supporting its activities". This wording establishes a possibility without requiring the adoption of technology as an end in itself. We consider that the appropriateness of such use must be assessed against an identifiable need, verifiable benefits and the cost of checking the outputs. A tool that generates a text rapidly but requires checks that take longer than drafting it by conventional methods cannot be regarded as efficient solely on the basis of the speed of generation.

Under Article 30(1) of the SCJ Regulation, the permitted uses of AI include, in particular:

a) the translation of materials;

b) the editing and correction of administrative texts;

c) the summarisation of documents;

d) the generation of technical, analytical or statistical summaries; and

e) other ancillary tasks that do not affect judicial independence and do not influence the judicial decision-making process.

The translation of materials may facilitate the consultation of foreign legal scholarship, legislation and case-law. However, the broad scope of the term "materials" does not mean that all translations can be accorded the same value. A translation of a scholarly article for guidance purposes raises different issues from the translation of a document relevant to the determination of a case. An error involving negation, a legal term or the relationship between clauses may thus alter the meaning of the information used. We consider it necessary to conduct legal and linguistic verification proportionate to the importance of the document, while retaining access to the original.

The editing and correction provided for in point (b) expressly concern "administrative texts". Correcting an administrative request and editing the statement of reasons for dismissing an appeal on points of law have different legal subject matter. Correcting only the spelling of a draft judicial decision requires a separate justification and verification that its meaning has been preserved in full. This precaution is also justified by the fact that changes presented as stylistic may alter the content and original meaning of the document.

The summarisation of documents, permitted under point (c), presents a more pronounced difficulty. By its nature, a summary in-

volves selecting information and reducing its volume. The omission of an argument may be significant even if all the statements included are individually correct. For example, in a hypothetical scenario, a summary of an appeal on points of law may reproduce the general complaints while omitting precisely the ground on which the appellant alleges a contradiction with the uniform case-law of the SCJ. If the examination is based predominantly on this summary, the benefit of saving time may be obtained at the expense of a full understanding of the party's arguments.

The study by Aniket Deroy, Kripabandhu Ghosh and Saptarshi Ghosh on the summarisation of legal documents finds that favourable performance according to certain evaluation metrics may coexist with inconsistencies and fabricated information in the generated summaries (Deroy & Ghosh & Ghosh, 2025). The output must be checked for consistency with the original, without this demonstrating that all systems produce the same errors. In this regard, we propose that each summary should enable the documents and passages used to be identified, distinguish the parties' submissions from the courts' findings and indicate the limitations of the material processed. The summary must facilitate consultation of the case file, and its ancillary nature requires that relevant information continue to be verified against the original sources.

The generation of technical, analytical or statistical summaries, provided for in point (d), may support institutional activities, including the preparation of the annual report governed by Article 29 of the SCJ Regulation. However, describing an output as "analytical" does not make it legally neutral. A summary describing the distribution of cases differs from one that ranks the arguments in a case file or recommends an outcome in the case. In the statistical field, we propose the use of verifiable data and calculation methods, with an indication of the period and categories analysed.

The category of "other ancillary tasks" may be examined in relation to operations such as organising documents or identifying public sources. Searching for case-law is not, however, equivalent to verifying the existence, currency and legal relevance of the judgments suggested. Matthew Dahl and his co-authors highlight the risk of false legal information being produced by the language models examined

(Dahl & Magesh & Suzgun & Ho, 2024). Consequently, a reference identified with the assistance of AI must be verified against the authentic source before it is used. Making a recommendation on the admissibility of a legal remedy, assessing credibility or choosing the outcome cannot be classified as ancillary merely by describing the operation as "assistance".

Article 30(1)(e) of the SCJ Regulation refers to tasks that "do not affect judicial independence and do not influence the judicial decision-making process". These two requirements protect closely related but distinct safeguards. Independence concerns preserving the judge's freedom in the exercise of judicial functions, including freedom from institutional pressures or imposed technological choices. The decision-making process may also be influenced in the absence of any identifiable pressure, through the selection of information, the order of its presentation or the apparently authoritative wording of a response.

John Morison and Adam Harkens show that retaining a judge within a partially automated process does not eliminate the problems introduced into adjudication by the algorithmic reference point (Morison & Harkens, 2019). Research by Raja Parasuraman and Dietrich H. Manzey on interaction with automation explains the risk of omissions and the acceptance of erroneous recommendations, including among experienced users (Parasuraman & Manzey, 2010). These findings justify a concrete examination of the conditions for human control, rather than a presumption that professional training makes it effective a priori.

Along the same lines, Ben Green criticises policies that treat mere human oversight as sufficient protection and proposes an institutional assessment of the appropriateness of, and conditions for, using AI algorithms (Green, 2022). The study by John Zhuang Liu and Xueyao Li on the interaction between judges and language models identifies the possibility of reinforcing initial beliefs, although the experimental evidence presented is mixed (Liu & Li, 2024). For the SCJ, we infer the need for control involving access to original sources, adequate time, verification skills and a genuine ability to disregard the output. Training judges in the use of AI is necessary, but must be accompanied by working arrangements that make verification possible.

Article 30(3) of the SCJ Regulation also imposes an obligation

to disclose which AI system was used and for what purpose. This is a concrete obligation, even though the manner of its fulfilment requires further specification. The text does not expressly identify the recipient of the disclosure, its timing or its form.

We propose differentiating disclosure according to the circumstances. At the institutional level, a public register could identify authorised systems, permitted functions and the main restrictions. Internally, records of use would make it possible to identify the operation performed, the relevant version and the person who verified the output, subject to access restrictions. In an individual case, disclosure to participants must be considered in relation to the actual role of the output in the proceedings. Processing administrative correspondence and using a summary capable of affecting the examination of an argument do not warrant identical disclosure arrangements. The issue of transparency goes beyond stating the trade name. If a participant is merely informed that "AI was used", they cannot understand what operation took place or what error they might draw attention to.

From the perspective of Article 6(1) of the European Convention on Human Rights (ECHR), transparency must be linked to an effective opportunity to make observations and to the giving of reasons for the judgment. In Nideröst-Huber v. Switzerland, the European Court of Human Rights (ECtHR) emphasised the importance of the parties' opportunity to acquaint themselves with, and comment on, observations submitted to the court, in the circumstances of that case (Nideröst-Huber v. Switzerland, 1997). The judgment does not concern AI and does not require access to every item of material held by the judge. By analogy, we consider that an algorithmic output used as factual support or as a basis for argument in the proceedings must be examined in the light of the principle of adversarial proceedings, without allowing relevant material to be introduced outside the applicable safeguards.

In Ruiz Torija v. Spain, the Court stated that the duty to give reasons does not require a detailed answer to every argument, its scope being assessed in the context of the case (Ruiz Torija v. Spain, 1994). For the purposes of the present analysis, we infer that generating a formally coherent text does not replace the court's duty to examine the relevant issues effectively. The risks to procedural rights analysed

by Aleš Završnik in the field of criminal justice likewise support the need to assess whether there is a genuine possibility of challenging algorithmic outputs (Završnik, 2020). The compatibility of a particular use with Article 6 ECHR is assessed by reference to its function and effects in the proceedings; the use of AI does not, in itself, demonstrate either compliance with or a violation of the Convention.

The final sentence of Article 30(3) of the SCJ Regulation requires the exclusive use of authorised AI systems for the purpose of protecting the data referred to in Article 30(2). The exclusive nature of this requirement precludes any inference that individuals are free to select any available service. However, the provisions of the SCJ Regulation do not specify who authorises AI systems, under what procedure or for how long.

We consider that the authorisation of AI systems must be linked to specified functions and conditions of use. Approval of a tool for correcting publicly available administrative texts does not automatically justify processing an entire case file containing confidential information. An adequate provision should specify the permitted categories of data, the users, the verification obligations and the conditions for suspending or withdrawing authorisation of the AI system.

The need for an assessment based on the task delegated is also supported by the research of Dovilė Barysė and Roee Sarel: perceptions of fairness differ depending on the stage at which automation is introduced (Barysė & Sarel, 2024). The study concerns participants' perceptions and does not establish the legality or objective quality of the decisions. For the analysis of the national provision, it confirms the relevance of the question "how is the system used", alongside the question "which system is used".

The SCJ Regulation does not, moreover, establish a separate regime governing the nullity of judicial decisions or liability for every error associated with AI. The legal consequences must be determined by reference to the rule infringed, the effects of the infringement and the remedies provided for by the applicable legislation. Failure to comply with an authorisation obligation cannot automatically be equated with a particular ground for quashing a judicial decision, just as the use of an authorised tool does not exclude the possibility of a procedural violation. We propose establishing a procedure for re-

porting and remedying incidents that distinguishes between errors of content, disclosure of information and impairment of participants' rights.

As a point of reference in comparative law, Regulation (EU) 2024/1689 (Regulation (EU) 2024/1689) distinguishes between certain uses of AI in the administration of justice, listed in point 8(a) of Annex III, and purely ancillary administrative activities. The CEPEJ Guidelines on the use of generative AI by courts, adopted in December 2025, provide guidance on human control, transparency, training, evaluation and the gradual introduction of systems (Guidelines on the use of generative artificial intelligence for courts, 2025). These Guidelines are a guidance instrument and should not be confused with an ECtHR judgment or a national authorisation. For the Republic of Moldova, we consider phased implementation useful: identifying the need, verifying legal permissibility, conducting controlled testing and evaluating the results before expanding the use of AI systems. The indicators should measure fidelity and omissions, total time including verification and incidents, rather than merely the volume of texts generated.

4.2. European standards on the use of AI in the administration of justice and fair trial safeguards

The compatibility of the use of artificial intelligence in the work of courts with the right to a fair trial must be examined by reference to the specific function entrusted to the system and the influence of its output on the examination of the case. We consider that the use of an AI tool does not, in itself, constitute a violation of Article 6 § 1 ECHR. However, compatibility cannot be presumed solely because the judgment is signed by a judge. It requires the effective preservation of the adjudicative function and the procedural safeguards afforded to participants in the proceedings.

At Union level, the European e-Justice Strategy 2024–2028 includes uses of AI such as anonymisation and pseudonymisation, transcription, translation and case-law analysis. (European e-Justice Strategy 2024–2028, 2025) However, the programmatic nature of the strategy requires clarification: the inclusion of an application in a public policy document does not demonstrate its widespread implementation or its effectiveness in every category of case.

Specific practices are described in the CEPEJ report of 22 May 2025 on the first use of the self-assessment tool for AI systems in the judicial field. The document presents the Estonian Salme system for transcribing hearings, the French tool for pseudonymising judgments and the Italian GIADA 2 system for allocating criminal cases. In the French case, difficulties were identified in pseudonymising the names of certain foreign localities and were rectified through intervention by specialists (Report on the First Use of the Self-assessment Tool for AI Systems in the Judicial Field, 2025).

At European Union level, Regulation (EU) 2024/1689 on artificial intelligence classifies, pursuant to Article 6(2) and point 8(a) of Annex III, applications intended to assist judicial authorities in researching and interpreting facts and the law, and in applying the law to specific circumstances, as high-risk systems. The derogation under Article 6(3) is conditional on the absence of a significant risk and compliance with the requirements laid down in that provision. Recital 61 distinguishes purely ancillary administrative activities and leaves responsibility for the final decision with humans. The framework of safeguards includes human oversight, the competence of designated persons and a fundamental rights impact assessment by the entities concerned, in accordance with Articles 14, 26 and 27.

Within the Council of Europe, the CEPEJ European Ethical Charter of 2018 (European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and their Environment, 2018) sets out the principles of respect for fundamental rights, non-discrimination, quality and security, transparency and fairness, and user control. The CEPEJ guidelines on generative AI, adopted in December 2025 (Guidelines on the Use of Generative Artificial Intelligence for Courts, 2025), state that core judicial tasks, including the assessment of evidence and legal reasoning, must not be delegated, and that judges must verify outputs and retain their freedom of assessment.

In the view of the European Court of Human Rights (Protecting human rights in a world of Artificial Intelligence, algorithms and big data, 2025), the right to a fair trial can only be considered effective if the parties' requests and submissions are genuinely 'heard', that is, properly examined by the court. In any event, it is clear that electronic evidence has become ubiquitous in criminal proceedings, given the

increasing digitisation of all aspects of life. In this regard, the European Ethical Charter on the Use of Artificial Intelligence (AI) in Judicial Systems and their Environment, together with the CEPEJ's work on mapping AI systems and other key cyberjustice tools used in the digital transformation of the judicial system, will constitute relevant sources of information for the Court when it is called upon to determine whether the provisions of the ECHR have been violated in a specific case involving the use of AI.

Therefore, we consider that the use of AI tools should be accompanied by rules identifying authorised uses, the manner of verification and the circumstances in which participants are informed of AI involvement. We propose documenting uses capable of influencing the examination of the case in a form that enables scrutiny within the proceedings, without disclosing the deliberations, and establishing a procedure for challenging errors and suspending the application. The court must be able to explain its decision on the basis of its own legal reasoning and the evidence examined, irrespective of the tools used in preparing it. This is the condition under which the organisational benefits of AI can be realised while preserving fair trial safeguards.

4.3. Comparative law aspects of the use of AI in courts

Before presenting the findings of the comparative analysis of AI use in courts, we must note the need to distinguish between the use of AI for information management and its use in reaching judicial decisions. This distinction corresponds to the two areas identified by Van Ruymbeke, Baeck, Mulier and Demeester in a systematic review of 138 scholarly articles: the internal organisation of the judicial system and legal decision-making (Van Ruymbeke & Baeck & Mulier & Demeester, 2026). Furthermore, as follows from the analysis by Morison and Harkens, the technological reorganisation of the administration of justice must also be examined in terms of its effects on the authority and legitimacy of judicial decisions (Morison & Harkens, 2019). The criterion for comparison is therefore the specific function assigned to the system, together with the safeguards for verifying its output.

The French experience highlights the usefulness of AI in facilitating access to case law. The Court of Cassation has developed an in-house tool for anonymising judgments in connection with its mandate

to publish decisions as open data. According to the institutional presentation of the report of 28 April 2025, this experience was accompanied by the recruitment of scientific staff and the examination of proposed uses against legal, ethical and technical criteria. The report also recommends internal structures for the operational and ethical monitoring of implementation (Cour de cassation et intelligence artificielle, 2025).

In Germany, an example of actual use is OLGA, an assistant designed to process repetitive cases, used at the Higher Regional Court of Stuttgart. The official communication issued by the Higher Regional Court of Karlsruhe in 2024 confirms the use of OLGA in Baden-Württemberg to classify diesel vehicle disputes into categories of cases. A presentation based on statements by the project leader explains that these categories are defined by judges and that the system flags situations in which classification remains unclear because of missing or contradictory information (Zander, 2024).

German practice makes it possible to distinguish between the technical grouping of documents and the definitive legal characterisation of the matter in dispute. Identifying cases as similar may facilitate their examination; it does not justify automatically reaching the same decision. For example, two disputes concerning the same type of vehicle may differ as regards the time of purchase, the information provided to the purchaser or the pleas raised. If the system does not highlight these differences, organisational efficiency may be achieved at the expense of the individual assessment of each case.

The Brazilian experience illustrates the integration of AI into the management of a large caseload. Since 2023, the Supreme Federal Court has used the VitorIA tool to compare texts and group cases displaying similarities. An official communication of 28 September 2026 clarifies that the tool organises information, while the assessment of the legal significance of those similarities remains the responsibility of the competent staff and judges (Inteligência artificial ajuda STF a identificar processos que discutem questões semelhantes, 2026).

In England and Wales, the integration of AI is accompanied by guidance addressed to judges and the staff who assist them. The guidance of 14 April 2025 records the availability of an institutional tool, Copilot Chat, through the eJudiciary environment. The same document

emphasises the verification of information and the user's responsibility for the material produced (Artificial Intelligence (AI) – Judicial Guidance, 2025). The update published on 31 October 2025, which replaced the April guidance, elaborates on the warnings concerning errors in generated outputs, biases in training data, confidentiality and the reporting of accidental disclosures. These sources demonstrate the existence of a framework for use and institutional access, without establishing how frequently each judge uses the tool.

An incident illustrating the consequences of failing to verify AI outputs is Mata v Avianca, in which the federal court for the Southern District of New York ruled on sanctions on 22 June 2023. The lawyers submitted citations to and texts of non-existent judgments obtained through ChatGPT and continued to maintain their authenticity after doubts had arisen. The court imposed a monetary sanction of USD 5,000, for which the two lawyers and their firm were jointly and severally liable (Mata v Avianca, Inc., 2023). The incident therefore concerns the use of AI in preparing materials submitted by legal representatives, rather than the use of AI by a judge to draft the judgment.

Thus, a court may be exposed to the consequences of AI even when its own staff do not use such tools. Inaccurate content may enter the proceedings through applications, explanations and references submitted by participants. The comparative analysis must therefore encompass both the rules governing internal use and the mechanisms for verifying information introduced into the proceedings.

This concern is supported by the research conducted by Dahl, Magesh, Suzgun and Ho, which examines the erroneous legal responses produced by certain language models and their difficulty in recognising false premises (Dahl & Magesh & Suzgun & Ho, 2024). The experimental findings relate to the models and tasks tested; they do not justify attributing the same error rate to all available products. The study by Deroy, Ghosh and Ghosh on judgment summarisation complements the analysis by examining the quality of generated summaries and their limitations (Deroy & Ghosh & Ghosh, 2025). From the perspective of judicial procedure, the common problem is the possibility that a coherent text may contain information that does not correspond to the source.

We consider that verification must address the existence of the

source, its content and its relevance to the case under examination. An actual judgment may be cited with an incorrectly attributed ruling, and an existing provision may be cited in a version that was not applicable to the legal relationship in dispute. Good practice would therefore consist in consulting the original text and ensuring that the verification process can be retraced. We do not propose sanctioning the use of AI as such, but assessing procedural conduct in accordance with existing obligations and liability mechanisms. The fact that the information is generated automatically does not relieve the person relying on it of the obligation to verify it.

A different issue arises when a judge uses AI to obtain information relevant to establishing the facts of the case. In the judgment of Rechtbank Gelderland of 7 June 2024, ECLI:NL:RBGEL:2024:3636, the court expressly referred, in paragraph 5.7, to the use of ChatGPT to estimate the average operating life of certain solar panels and the price of electricity. These values were used to calculate the loss of yield caused by a neighbouring structure (Rechtbank Gelderland, 2024).

This example makes it possible to identify the point at which technical assistance acquires evidential relevance. If the application performs an arithmetic operation using values already established, verification concerns the accuracy of the calculation. If it supplies the operating life or the price to be used, its contribution concerns the factual premise underlying the calculation. The legal nature of the use therefore changes depending on that contribution, even if both operations are presented to the user as a numerical answer.

In our view, the procedural risk lies in introducing a premise that the parties have not had an effective opportunity to examine. Mentioning the tool in the judgment contributes to transparency but does not, in itself, establish that there was a prior adversarial debate.

In Colombia, Judgment T-323/24 of 2 August 2024 of the Constitutional Court provides an express analysis of the use of AI by a judge. The case concerned the protection of the rights of a child with autism spectrum disorder, and the judge who had heard the appeal had incorporated responses provided by ChatGPT into the reasoning. The Constitutional Court held that there had been no violations of procedural safeguards: the judicial function had not been supplanted, because the judge had established the grounds for, and reached,

the decision before consulting the AI system. Nevertheless, the court found that the requirements of transparency and accountability had not been fully complied with (Corte Constitucional de Colombia, 2024).

The judgment sets out criteria relating to human control, verification, data protection and ensuring that the judge's reasoning is not replaced. It also orders the development of institutional guidelines on generative AI and the continuation of training for judicial personnel (Corte Constitucional de Colombia, 2024). The ruling must be understood in the specific circumstances of the case; it does not constitute a general authorisation to adopt automatically generated reasoning.

We consider that the comparative value of the judgment lies in its examination of the actual contribution made by the AI tool. To verify that the judicial function has been preserved, it is necessary to establish what the judge has done and what the application has done. However, we consider that the mere fact that a human decision was reached beforehand does not constitute a sufficient safeguard for all subsequent uses. If AI introduces a new argument, removes a qualification or recasts the relationship between the evidence and the conclusion, the content of the reasoning may change substantially, even where the operative part of the judgment remains unchanged.

5. Conclusions

The integration of AI into the work of courts in the Republic of Moldova offers opportunities to facilitate information processing and reduce administrative workloads. Its permissible scope must, however, be determined by the function performed and the potential influence of its output on adjudication. Article 30 of the SCJ Regulation provides an initial framework for ancillary uses within that Court, but requires further specification of authorisation procedures, verification duties and disclosure arrangements.

The European standards and comparative experiences examined support an approach based on the actual contribution of AI to judicial proceedings. Describing a task as technical does not exclude its capacity to affect the assessment of facts or legal reasoning. Fabricated references, omissions in summaries and reliance on unverified factual premises illustrate why formal human oversight alone is insufficient. Effective control requires access to original sources, adequate verifi-

cation skills and time, and the ability to disregard generated outputs.

The use of AI does not, in itself, constitute a violation of Article 6 § 1 ECHR. Its compatibility depends on preserving judicial independence and impartiality, adversarial proceedings and the court's duty to give reasons. Where AI-generated material influences the determination of a case, the parties must have an effective opportunity to examine and challenge relevant material, subject to the confidentiality of judicial deliberations.

For the Republic of Moldova, we recommend developing rules common to the judiciary that define permitted uses, establish authorisation for specified functions and categories of data, and ensure verification against original sources. Disclosure requirements should reflect the actual role of AI in the proceedings. Implementation should proceed through controlled testing, practical training and procedures for reporting and remedying incidents. Evaluation should consider accuracy, omissions and the total time required, including verification. Responsibility for adjudication must remain with the court, while the legal consequences of errors must be assessed under the applicable procedural rules.

Conflicts of Interest: The authors declare no conflict of interest.

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HISTORICAL EVOLUTION OF FORENSIC DOCUMENT EXAMINATION: FROM HANDWRITING COMPARISON TO THE SCIENTIFIC EXAMINATIONS OF DOCUMENTS

EVOLUȚIA ISTORICĂ A DOCUMENTOLOGIEI CRIMINALISTICE: DE LA COMPARAREA SCRISULUI DE MÂNĂ LA CERCETAREA ȘTIINȚIFICĂ A DOCUMENTELOR

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Abstract. *Criminalistics emerged and developed primarily in response to the needs of criminal investigation practice and forensic expert work. Within it, forensic document science is an important field of criminalistic knowledge, whose emergence and development were driven by the need to examine documents, identify their characteristics and establish circumstances relevant to criminal proceedings. Studying the historical evolution of forensic document science reveals the gradual transformation of document examination, from early forms of handwriting comparison to complex scientific examination drawing on the achievements of scientific and technological progress. Research into the problems of forensic document science is of particular importance for improving the detection and investigation of crime, and its findings are relevant to the organisational, tactical and methodological challenges of criminal investigation and forensic expertise. In this respect, documents are both objects through which circumstances relevant to a criminal case are discovered and established, and information carriers that make it possible to determine the means and grounds by which those circumstances can be established and proved.*

Keywords: *document, handwriting, graphology, graphic expression, forensic authorship analysis.*

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Rezumat. *Criminalistica s-a constituit și s-a dezvoltat, în principal, ca răspuns la necesitățile practicii de urmărire penală și ale activității de expertiză judiciară. În acest context, documentologia criminalistică reprezintă un domeniu important al cunoașterii criminalistice, a cărui formare și evoluție au fost determinate de necesitatea examinării documentelor, identificării particularităților acestora și stabilirii împrejurărilor relevante pentru procesul penal. Studierea evoluției istorice a documentologiei permite evidențierea transformării treptate a examinării documentelor, de la formele inițiale de comparare a scrisului de mână până la cercetarea științifică complexă a documentelor prin valorificarea rezultatelor progresului tehnico-științific. Cercetarea problemelor documentologiei prezintă o importanță deosebită pentru optimizarea activității de descoperire și investigare a infracțiunilor, rezultatele sale fiind relevante pentru soluționarea problemelor organizatorice, tactice și metodice ale urmăririi penale și expertizei judiciare. În acest sens, documentele constituie atât obiecte ale cunoașterii și stabilirii unor împrejurări relevante pentru cauza penală, cât și suporturi informaționale care permit determinarea modalităților și fundamentelor prin care aceste împrejurări pot fi stabilite și demonstrate.*

Cuvinte-cheie: *document, scris de mână, grafologie, expresie grafică, autorologie judiciară.*

1. Introduction

Written instruments are of particular importance in every sphere of activity, since they serve to record the creation, modification or termination of legal relationships of various kinds. They also attest to facts and events of considerable significance for the work of public authorities and for the protection of citizens' rights and legitimate interests, as Sandu observes (Sandu, 1994, p. 5). In this context, Gheorghiță rightly emphasises that documents are "a very important element of the information system in any society" (Gheorghiță, 2017, p. 253; Rusu & Jitariuc, 2023, p. 594).

The particular importance of written instruments and their role in recording and attesting to various facts and circumstances naturally make it necessary to ensure the authenticity and accuracy of the information they contain. Indeed, document forgery has been, and continues to be, a major problem for experts and judicial authorities. As Lazăr and Alămoreanu note, forgery of documents has been and remains a pressing challenge for experts and judicial authorities, and the phenomenon has assumed considerable proportions in modern society, partly through the use of sophisticated techniques (Lazăr & Alămoreanu, 2008, p. 7). The same authors define a document as any printed, handwritten or drawn writing, or any writing produced by various technical processes, including photocopying, laser printing

and similar means, that attests to a particular status, identity, profession or value (Lazăr & Alămoreanu, 2008, p. 7).

The need to examine documents and to detect any alterations or forgeries was therefore one of the factors behind the development of a specialised field of criminalistics. Andreev notes in this regard that forensic document science, as a field of scientific knowledge, neither appeared spontaneously nor took shape all at once as an isolated phenomenon. Its formation should be seen as a gradual process driven by the practical and scientific need to examine documents.

The field has a long prehistory: it is grounded in objective laws and in a rich body of empirical and theoretical premises, and it was shaped by the pressing needs of law enforcement practice in criminal proceedings. The development of ideas about forensic document science is inextricably linked to history, to the stages and trends of scientific and technological progress, and to the evolution of criminalistics itself. Its origins go back to the distant times when writing first appeared and when the first unlawful acts were committed using this means of communication and of recording intellectual and verbal activity. Forensic document science remains closely bound up with this object today and will undoubtedly remain so in the future, not least because of the practices of forging, counterfeiting and using false documents (Andreev, 2001, p. 11).

The literature on the history of criminalistics offers numerous examples of pre-scientific judicial examination of written documents where their authenticity was in doubt. The principal object of such examinations was handwriting. Even before the conditions existed for criminalistics to emerge as a science, judicial records referred to persons "skilled in comparing handwriting", whose task was to establish, by comparing graphic features, whether the documents under examination were genuine or forged (Andreev, 2001, p. 12).

2. Materials and Methods

The research draws on a combination of scientific methods selected in light of the article's aim and objectives and of the historical and doctrinal nature of the inquiry. To examine the evolution of forensic document science and identify the main stages in its formation and development, the historical method, analysis and synthesis, the

comparative method and the logical method were used. The historical method made it possible to study forensic document science in the dynamics of its formation and development, by identifying the main stages in the evolution of the forensic examination of documents, from the earliest interest in handwriting comparison to the establishment of a complex scientific field of document examination. Analysis and synthesis were used to examine and systematise scholarly views on documents and forensic document science. The comparative method made it possible to contrast different scholarly opinions and approaches to the formation and development of forensic document science, while the logical method was used to establish the links between historical stages, the factors driving the development of the field, and the changes in methods of document examination.

The study also draws on scholarly works on criminalistics and the forensic examination of documents, as well as other doctrinal sources relevant to the subject.

3. Results and Discussion

Written instruments – or, in the terminology of current legislation, documents (from the Latin documentum, "certificate") – have been known and used since ancient times as a means of maintaining relations of mutual interest, and over time they have spread to the most diverse areas of human activity (Doraș, 2011, p. 230).

According to some scholars, interest in written instruments and their examination dates back to antiquity (Lazăr & Alămoreanu, 2008, p. 9). In this context, document forgery may be regarded as a phenomenon that appeared almost as soon as people acquired the ability to write and to use written instruments to record and attest to various facts and circumstances. Document forgery was known even in ancient Rome, where litigation was frequently associated with the use of forged wills (Andreev, 2001, pp. 11–12).

The first printed work on the expert examination of documents in Europe was published in 1604 by the Parisian François Demelle. The work bears a remarkably long title: "Advice on recognising forged manuscripts and comparing handwriting and signatures in order to identify and detect any forgery; with a detailed and complete account of the art of writing; and on how to recognise and decipher hidden

and secret writings". This work not only represents the first attempt to lay the foundations of the forensic examination of handwriting, but also marks an important stage in the development of the technical dimension of document examination, which would later become an important branch of forensic technology.

As handwriting examination practices evolved over time, the calligraphic approach to manuscripts gradually gave way to graphology, conceived as a system of knowledge aimed at identifying the character and personality traits of a writer through the analysis of their handwriting. This approach rested on the premise that certain psychological and character traits of the writer correlate with the graphic features of their handwriting, such as the shape and size of the letters, their width, the slant of the writing and other elements of graphic expression. The first work on graphology is considered to be the treatise by the Italian Camillo Baldi, published in 1622 under the title "How to recognise the nature and qualities of a writer from a letter". In the eighteenth and nineteenth centuries, several works were published in Italy, France and Germany claiming that a writer's physical and individual characteristics – including height, voice and even hair and eye colour – could be determined from the features of their handwriting. These ideas contributed to the emergence and development of a distinct approach to the study of writing, characterised by the attempt to establish a direct link between the graphic expression of handwriting and the psychophysical characteristics of the person. One of the leading representatives of the graphological school of handwriting examination was I. F. Morgenstern, who defined psycho-graphology as the science of determining a person's inner world from the features of their handwriting (Andreev, 2001, pp. 12–13; Jitariuc & Bodean, 2024, p. 346).

In the early stage of its development, marked by considerable theoretical and methodological uncertainty, graphology failed to establish itself in judicial practice and subsequently lost its relevance in this field. Its decline – which, in light of later scientific developments, may be regarded as at most relative – was largely due to the underdevelopment of its scientific foundations. The conclusions reached by graphologists often proved inconsistent with reality, being insufficiently supported scientifically, relying to a considerable extent on intuition and frequently marked by a high degree of uncertain-

ty. Consequently, such approaches did not always help to establish the truth; on the contrary, they could create uncertainty and confusion in the fact-finding process. Nevertheless, a critical assessment of graphology should not lead to a wholesale denial of its value. This doctrine contains certain rational elements, well-founded ideas and forward-looking scientific insights that contributed, to some extent, to shaping subsequent research on handwriting. Not all the claims made by psycho-graphologists at the time can be dismissed as mere unfounded speculation. The existence of certain regular correlations between the features of handwriting and some psychological characteristics of the writer is a fact that was later examined and substantiated by modern scientific research.

From this perspective, psycho-graphology cannot be regarded as a defunct doctrine, but rather as one that has undergone a substantial transformation and continues to develop on qualitatively new foundations that are theoretically grounded, validated by research and confirmed in practice. The subsequent development of scientific knowledge has made it possible to make critical use of certain ideas from graphology and psycho-graphology, separating them from speculative hypotheses and integrating their viable elements into modern handwriting examination. Particularly relevant in this regard is Belkin's observation that

> "... handwriting specialists have concluded that it was wrong to reject out of hand the entire body of observations and knowledge accumulated by graphology and psycho-graphology, since these fields too contain elements that can be – and already are being – successfully used in the forensic examination of handwriting" (Belkin, 2000, p. 8).

A turning point in the development of forensic handwriting examination came only once handwriting (graphoscopic) examination was grounded in the principle of the so-called "dynamic stereotype". This phenomenon forms as writing skills are acquired and refined in practice, as a result of the development and consolidation of the motor skills used to reproduce graphic signs and their combinations. The stability and individuality of each person's handwriting became the foundation on which the forensic examination of handwriting was subsequently built and developed. The consolidation of this field was

facilitated by advances in the physiology of higher nervous activity associated with the research of I. P. Pavlov and I. M. Sechenov, which provided important theoretical premises for understanding how motor skills are formed and stabilised. Subsequently, the conditions emerged for the establishment and development of another important line of scientific research into writing – the forensic examination of written language – which, like the forensic examination of handwriting, has its origins in a relatively long period during which knowledge and practice in this field accumulated and matured.

As several authors, including Belkin and Rossinskaya, point out, the need for such research arose long ago. From the mid-nineteenth century onwards, philologists were increasingly called upon to carry out such examinations, in the form of so-called literary and textological expert examinations. These laid the historical and methodological foundations for today's forensic examinations to identify the author of a text, and contributed to the subsequent development of the forensic examination of authorship of written texts (forensic authorship analysis) (Belkin, 1997a, p. 129; Rossinskaya, 1999, p. 63).

The turn of the twentieth century was marked by scientific and technological discoveries and achievements of great value for social progress. These also affected the sphere of criminal law relations, particularly criminal procedure: law enforcement agencies began to introduce more effective methods and tools for tracing, identifying and exposing offenders (Golubenco, 2008, p. 21).

The second half of the nineteenth century and, above all, the twentieth century were characterised by rapid scientific and technological progress, the consequences of which also had a substantial impact on the evolution of forensic document science. One manifestation of this process was the continual emergence of new materials, means and methods for recording, storing and transmitting information, together with the constant diversification and improvement of different types of information carriers. Alongside these changes, the achievements of the scientific and technological revolution were – and continue to be – turned to criminal ends, as the products of scientific and technical creativity were drawn into criminal activity. In this context, sound recording, film, photographic and video equipment, computer technology and the ever-expanding range of media

for recording written and spoken language, as well as other means of communication, became, alongside their legitimate uses, objects or instruments liable to be used in criminal activity. This development led to a considerable expansion of the subject matter of the forensic examination of documents, gradually going beyond the traditional limits of manuscript examination and requiring the development of scientific methods and tools capable of examining new forms of recording and transmitting information.

All these changes inevitably influenced the development of the technical means and forensic methods for detecting, seizing, examining and using documents of various kinds as evidence in proceedings. The theoretical and methodological foundations of the forensic examination of documents were gradually consolidated, new directions and branches of criminalistic knowledge took shape, and previously unknown types of expert examination emerged as a result of the growing diversity of objects submitted for forensic examination. Alongside the development of handwriting examination, from the mid-nineteenth century onwards, research into the constituent elements of documents – such as seal and stamp impressions, inks and writing substances, the document substrate and its other components – also developed increasingly rapidly. At the same time, methods for detecting the forgery and counterfeiting of documents were developed and refined, as were the technical means used for this purpose – devices, materials and other specialised equipment. The criminalist N. V. Terziev called this line of research the "technical examination of documents", a concept reflecting the stage at which a distinct line of research was established and consolidated within the forensic examination of documents (Andreev, 2001, pp. 15–16).

Starting from the examination of isolated elements of documents, originally regarded as carriers of written language and its graphic expression, the technical-forensic examination of documents has expanded considerably in the course of contemporary developments and has come to play a particularly important role in providing information for criminal proceedings. Today, it enables practitioners to solve effectively a wide range of problems of varying nature and complexity in criminal investigations and forensic examinations involving handwritten and printed documents and other types of in-

formation carriers. Such examinations include, among other things, identifying the characteristics of, and individualising, the tools and means used to produce or alter documents and the writing instruments and materials; establishing the existence and identifying the features of forgery techniques; and deciphering and recovering texts, inscriptions and signs that are faint or invisible to the naked eye. The technical-forensic examination of documents also makes it possible to reconstruct and restore damaged or partially destroyed documents and to solve an ever-wider range of other problems specific to the forensic examination of documents. The last fifty years of the twentieth century were marked by the emergence and rapid development of research into the conceptual and semantic content of documents, viewed as carriers of written language. On the basis of the findings of this research, a new line of inquiry took shape within criminalistics, focused on examining the informational and linguistic content of documents. Analysing this line of inquiry, Krylov noted the difficulty of defining it consistently, stressing that it "has not yet acquired a generally accepted name". In the literature, some authors referred to such research as "forensic linguistics", while others used the term "forensic authorship analysis". In expert practice, Krylov maintains,

> "the examination of written language was, in most cases, carried out as a supplement to the examination of handwriting features, while, to a considerably lesser extent, it took the form of independent forensic examinations aimed at resolving either identification problems – in particular, establishing the author of a text – or non-identification problems, such as determining the age, physical condition or mental state of the person who wrote the text" (Krylov, 1980, pp. 194–195).

Within a relatively short time, this branch of criminalistics, which came to be known as forensic authorship analysis, established itself as a distinct scientific field, developing rapidly and becoming an established component of scientific research, university teaching and forensic practice. At the same time, forensic authorship examination became an autonomous and fully recognised component of the system of forensic examinations. It is also important that forensic authorship examination is not confined to handwritten material, but may cover a wide range of carriers of written language, including printed texts,

printed matter with verbal content and other forms of recorded written discourse. Moreover, the range of objects of forensic authorship analysis now extends well beyond the traditional limits of document examination. Today, authorship research covers various categories of objects resulting from human creative and constructive activity, including the products of scientific, technical, artistic and other forms of intellectual activity.

In particular, the solving of authorship problems, both identification and non-identification problems, is directly relevant to the examination of media containing a person's speech, when it is recorded on various sound recording and playback media. In this context, the intensification and refinement of contemporary forensic research centred on the document, together with the emergence of new lines of research, their deepening and the expanding possibilities for using their findings, are inseparable from the integration and differentiation of scientific knowledge. Interdisciplinary integration makes it possible to draw on knowledge from different fields in a convergent manner, while differentiation encourages specialisation and the emergence of autonomous lines of forensic document research (Andreev, 2001, pp. 18–19).

In recent decades, a new integrative field of scientific knowledge – forensic psycholinguistics – has emerged and is developing rapidly in criminalistics worldwide, at the intersection of psychology and linguistics. This line of research rests on the idea that a person's written and spoken language is a particularly rich source of information about the many characteristics of the speaker or writer. Such characteristics can be established by analysing the vocabulary used, syntactic features, accent and numerous other features of spoken and written language. The objects of such analysis are written messages and spoken messages by unknown authors recorded on audio recordings. These are examined using psycholinguistic analytical methods in order to establish information relevant to determining the origin, social and cultural background, psychological characteristics and other traits of the source of the verbal activity. The results make it possible to compile a search profile of the unknown author of a written text or an audio message, which may include information on the person's age, sex, level of education, geographical and ethnocultural background, occupation and other characteristics of the person to be identified.

At the same time, by comparing the features identified in similar objects, it can be established whether the products of verbal activity under analysis belong to the same person or to different persons. Another important line of this research is identifying the source of verbal information where the identity of the person under examination is known and samples similar to the objects under examination are obtained from that person. The development of this line of research has also been encouraged by psycholinguistic analysis as developed and applied in Western scholarship as a method of recognising and identifying the perpetrators of criminal activity, including through specialised forms such as statement validity analysis (Protasevich et al., 1999; Obraztsov & Bogomolova, 2002, p. 216).

From the perspective of the evolution of forensic document science, the emergence and development of forensic psycholinguistics represent an important stage in the interdisciplinary expansion of the examination of documents and of the products of verbal activity. Whereas traditional examination focused mainly on the graphic and material characteristics of the document, psycholinguistic approaches make it possible to use the verbal content as a source of information about the person who produced the message, thereby broadening the range of scientific tools used in forensic research.

For some time now, researchers such as Protasevich and Obraztsov have focused on another possible application of psychological analysis – this time not to the verbal component of writing, but to the graphic features of the handwriting of persons suspected of homicide. According to them, the essence of this approach

> "… is that a suspect who denies committing the offence is asked to write out in their own hand an account of their activities at the time of the offence under investigation, including their states and experiences in the period preceding the offence and immediately after it was committed. A comparative analysis of the graphic features of the written signs, relating to events at different points in time, enables the specialist to draw conclusions as to whether the person under examination may or may not have been involved in the offence under investigation" (Protasevich & Obraztsov, 1998, pp. 135–139).

Today, increasing importance attaches to research whose ob-

ject is not documents examined in isolation, but the bodies of documents of enterprises, organisations and institutions – genuine flows or masses of information reflecting economic, financial, banking and other professional activities in production, services and other areas of social practice.

This concerns, first, those forms and situations of activity in which, through breaches of mandatory rules laid down in laws, instructions and other regulations, various categories of so-called "white-collar" crime are committed by officials, their employees or other persons involved in the criminal activity. Second, it concerns documents examined not only by lawyers but also by specialists involved in documentary inspections, audits, forensic accounting, economic and commodity examinations, and other similar forms of specialised examination. The results of such examinations make a substantial contribution to building and strengthening the body of evidence, providing practitioners with significant support in detecting, documenting and solving highly organised offences that are concealed in sophisticated ways (Andreev, 2001, pp. 20–21).

From the perspective of the evolution of forensic document science, this development shows a significant expansion of its subject matter: from the individual document, analysed in terms of its authenticity, method of production or graphic features, to complex systems of documents and information flows that reflect how economic and institutional entities operate. Forensic document science is thus increasingly asserting itself as an interdisciplinary tool for obtaining and using documentary information relevant to the forensic investigation of offences.

One of the essential features of forensic document science, viewed as a branch of criminalistics, is its integrative character, resulting from the interplay and convergent use of knowledge from multiple scientific fields. The tendency towards both the integration and the differentiation of scientific knowledge is common to the most diverse sciences and to their components, sections and branches. As Belkin emphasises,

> "... such tendencies have manifested themselves throughout the entire history of the development of science. While, at the stage of accumulating empirical material,

> the differentiation of the sciences was more visible, helping to delimit the object of knowledge more clearly and corresponding to a level of scientific development dominated by the description and classification of phenomena, with the transition to the stage of developing scientific theories the tendency towards the integration of scientific knowledge became increasingly pronounced" (Belkin, 1997b, p. 245).

This dynamic is particularly relevant to forensic document science, since its historical evolution clearly reflects the shift from specialised and relatively autonomous research into isolated elements of the document towards an integrated and interdisciplinary approach. The establishment of handwriting, technical and authorship examinations, together with the use of knowledge from psychology, linguistics, computer science, chemistry, physics and other fields, shows that the development of forensic document science is inseparable from the general process of integrating scientific knowledge and the concurrent differentiation of specialised lines of research.

The differentiation of scientific knowledge inevitably gives rise to the opposite tendency – integration. This relationship should not, however, be understood as an artificial and rigid separation of the two processes. In reality, it is a matter of the relative intensity of two components of the same objective tendency, and of the extent and depth to which one prevails over the other at particular stages in the evolution of scientific knowledge. In periods of relatively stable scientific development, characterised by the gradual accumulation of facts and empirical material, the tendency towards differentiation prevails. By contrast, in periods of radical change in existing scientific views, marked by the reconsideration of established paradigms and the replacement of one scientific worldview by another, the tendency towards integration comes to the fore (Leyman, 1970, p. 63). Indeed, the more advanced the level of scientific development, the more evident it becomes that both tendencies operate in dialectical unity, conditioning and complementing each other in the evolution of scientific knowledge.

As noted above, forensic document science (the criminalistic science of documents) took shape by integrating the results of theoretical and practical work on the scientific and judicial examination of various types of documents and on particular aspects and character-

istics of this object of knowledge. These results, grounded in the organic links between different lines of research, were brought together into a more general, coherent and systematic scientific "formation". By incorporating traditionally established, relatively autonomous and seemingly unrelated forms of document examination, and by continually synthesising and integrating new subsystems, directions and branches of forensic document examination, forensic document science has gradually consolidated its scientific status. As the range of objects examined has expanded, new means and methods of examination have been introduced and an ever-greater body of theoretical and empirical knowledge has been accumulated, the field has asserted its autonomy and importance with increasing force, strengthened its position and broadened its scope of application in both criminalistic theory and crime-control practice. A particular role in identifying and substantiating this concept belongs to Obraztsov, who was among the first researchers to highlight the true extent and diversity of the forms of forensic document science and its integrative character, analysing this phenomenon from a systemic perspective. He originally referred to this branch as "criminalistic documentology", a term that helped to establish conceptually a systemic and integrated approach to the document as an object of criminalistic knowledge (Obraztsov, 1997, p. 308).

The term was subsequently adopted and used in the works of several authors (Doraș, 2011, pp. 230–232; Gheorghiță, 2017, pp. 253–256; Agafonov & Filippov, 2000, p. 17), helping to consolidate and disseminate the concept of forensic document science as an integrative field of criminalistic knowledge. Other scholars likewise concluded in the course of their research that it is appropriate to designate this section of criminalistics as "criminalistic documentology", arguing that the term covers a broader range of activities and knowledge, including: (a) scientific, theoretical documentology – a system of scientific knowledge about the document and the specific features of its forensic examination; (b) the corresponding practical activity in criminal proceedings (practical documentology), consisting of the discovery, seizure, examination and use of documents in the investigation of offences; and (c) teaching activity in legal education institutions (educational documentology), aimed at imparting and acquiring theoretical and practical knowledge in this field.

Formed through the logical operation of generalising concepts, forensic document science encompasses a number of less general concepts, such as forensic graphoscopy (the forensic examination of handwriting), forensic authorship analysis and the technical-forensic examination of documents (Andreev & Obraztsov, 2000, pp. 79–82).

The concept of forensic document science did not arise from the arbitrary choice of a particular researcher or from a desire to coin new terminology; it is the natural consequence of the evolution of science, of the laws governing the development of scientific knowledge, of the logic and needs of theoretical and practical research, and of the demands of crime prevention and control. The concepts of document and documentology form part of the conceptual framework of criminalistics and express a higher-level generalisation of concepts such as the written document, the photographic document, the audio document, the electronic document, forensic handwriting examination and others. Forensic document science belongs to the system of fields and branches of criminalistic knowledge, both those that are already well developed – such as forensic trasology (trace evidence examination) and the criminalistic doctrine of the modus operandi – and those that are still emerging and developing.

Built on the results of theoretical and empirical research into different categories and varieties of objects within the relevant classification group, these fields of criminalistics, including forensic document science, constitute standardised information models that concentrate knowledge about particular elements, aspects, characteristics and traces of the system that is the object of inquiry in criminal proceedings – namely, acts bearing the characteristics of an offence and other related events. Taken together, such models provide an integrated picture of the common object of criminalistic knowledge from the perspective of the various actors involved in the investigation of criminal cases (Andreev, 2001, pp. 28–29).

In this context, forensic document science may be defined as a system of knowledge about the techniques, means, methods and procedures for discovering, recording, seizing, preserving and conducting preliminary (pre-expert) examinations of documents, as well as for their forensic expert examination, with a view to obtaining and using the information they contain.

Forensic document science is also concerned with providing a scientific foundation for, and supporting through its research findings, criminal investigation, special investigative activity and forensic expert examination carried out by persons and authorities empowered to identify, examine and use documents of forensic relevance and the traces connected with them (Andreev, 2001, pp. 29–30). Indeed, forensic document science is not confined to examining the document as a material object; it treats it as a complex source of forensic information, integrating knowledge about its nature, structure, mechanism of formation, methods of alteration and forgery, and the possibilities for discovering, examining and using documentary information for the purpose of investigating offences.

Moreover, scientific research into, and the practical application of, issues relating to electronic documents and electronic document workflows will inevitably help to energise and modernise forensic document science, opening up new directions of development and driving the continuous improvement of its methodological apparatus. Bringing new forms of electronic documentation within the scope of forensic examination will require traditional methods and procedures to be adapted, and methodological tools and mechanisms suited to the specific features of digital information to be developed, capable of ensuring its identification, recording, preservation, examination and use in criminal proceedings.

4. Conclusions

The study has found that a complex, multi-branched and multidimensional field of scientific knowledge and practical activity has taken shape, and continues to develop, within criminalistics, devoted to the discovery, examination and use in criminal proceedings of various types of documents and the information they contain. The evolution of forensic document science shows that the formation of this field was driven by the needs of judicial practice and by the progressive development of scientific means and methods of document examination. Forensic document science has travelled a long historical path, from elementary, empirical and pre-scientific forms of handwriting comparison and assessment of the graphic features of written instruments to today's scientifically grounded examination based on

effective technologies and modern methods. This evolution reflects the transformation of document examination from a predominantly empirical activity into a specialised field of criminalistics whose results are supported by an increasingly solid scientific basis and by the use of contemporary research methods. At the same time, although the development of forensic document science does not yet allow us to speak of a definitively established scientific structure that is fully consolidated in all respects, the prospects for this field are favourable. The empirical, scientific and technical prerequisites for deepening and consolidating forensic document science are already in place, which makes it possible to anticipate the continued development of the theory and practice of the forensic examination of documents.

Structurally and functionally, forensic document science is characterised by a plurality of interdependent dimensions, including theoretical, technical-forensic, organisational, tactical and methodological aspects. These dimensions are reflected in all the lines of development and application of forensic document science, including criminal investigation, special investigative activity and forensic expert examination. The historical evolution of forensic document science thus confirms its transformation into a complex field of criminalistics that is continuously being consolidated and refined.

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POLITICAL SCIENCE AND PUBLIC ADMINISTRATION

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UNIVERSITY GOVERNANCE AND SUSTAINABLE DEVELOPMENT: INSTITUTIONAL CHALLENGES IN THE EUROPEAN INTEGRATION PROCESS OF THE REPUBLIC OF MOLDOVA

GUVERNANȚA UNIVERSITARĂ ȘI DEZVOLTAREA DURABILĂ: PROVOCĂRI INSTITUȚIONALE ÎN PROCESUL DE INTEGRARE EUROPEANĂ A REPUBLICII MOLDOVA

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Abstract: *The European integration of higher education in the Republic of Moldova involves not only harmonizing the regulatory and institutional framework, but also adapting university governance mechanisms to new European priorities, including those regarding sustainable development. The article analyzes the relationship between university governance and the integration of sustainability principles in the context of the transformations determined by the participation of the Republic of Moldova in the European Higher Education Area. The research is based on the analysis of European and national strategic documents, the regulatory framework and policies in the field of higher education, aiming to identify the main institutional challenges and mechanisms for implementing sustainable development objectives at the university level. At the same time, the role of international cooperation and European projects in supporting institutional changes is highlighted, with the Erasmus+ RE-GRAD project being mentioned as an example of promoting green and digital skills and educational practices oriented towards sustainability.*

Keywords: *university governance, sustainable development, European integration, higher education, educational policies, Republic of Moldova.*

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Rezumat: *Integrarea europeană a învățământului superior din Republica Moldova implică nu doar armonizarea cadrului normativ și instituțional, dar și adaptarea mecanismelor de guvernanță universitară la noile priorități europene, inclusiv cele privind dezvoltarea durabilă. Articolul analizează relația dintre guvernanța universitară și integrarea principiilor sustenabilității în contextul transformărilor determinate de participarea Republicii Moldova la Spațiul European al Învățământului Superior. Cercetarea se bazează pe analiza documentelor strategice europene și naționale, a cadrului de reglementare și a politicilor în domeniul învățământului superior, urmărind identificarea principalelor provocări instituționale și a mecanismelor de implementare a obiectivelor de dezvoltare durabilă la nivel universitar. Totodată, este evidențiat rolul cooperării internaționale și al proiectelor europene în susținerea schimbărilor instituționale, proiectul Erasmus+ RE-GRAD fiind menționat ca exemplu de promovare a competențelor verzi și digitale și a practicilor educaționale orientate spre sustenabilitate.*

Cuvinte-cheie: *guvernanța universitară, dezvoltare durabilă, integrarea europeană, studii superioare, politici educaționale, Republica Moldova.*

1. Introduction

The integration of sustainable development principles into higher education is one of the major directions of transformation of contemporary universities, reflecting the expansion of their responsibilities beyond the traditional functions of education and research. In the context of social, economic and environmental challenges, higher education institutions are called upon to contribute to the formation of the skills necessary for the green and digital transition, to the production and transfer of knowledge, as well as to the consolidation of institutional models oriented towards sustainability. This orientation is enshrined in the 2030 Agenda for Sustainable Development, which recognizes the role of education in achieving societal transformations and promotes equitable access to quality education and lifelong learning (United Nations, 2015). At the same time, the specialized literature highlights the need to overcome fragmented approaches to sustainability and integrate it into all dimensions of university activity, including institutional governance and management (Lozano et al., 2015).

In the European space, the transformation of higher education is closely linked to the evolution of the Bologna Process and the consolidation of the European Higher Education Area, which promotes the compatibility of educational systems, quality assurance, academic mobility and respect for the fundamental values of the university community. From a governance perspective, the Bologna Pro-

cess represents not only a mechanism for harmonizing educational structures, but also a framework for coordinating public policies, in which the interaction between national authorities, university institutions and international organizations influences the directions of educational reforms (Keeling, 2006). At the same time, the European integration of higher education involves complex processes of institutional adaptation, within which common objectives are transposed into national contexts characterized by different administrative traditions, resources and institutional capacities (Corbett, 2005).

For the Republic of Moldova, joining the Bologna Process in 2005 was an important moment in the reconfiguration of national higher education policies and their approximation to European principles. Subsequent reforms aimed at reorganizing the structure of university studies, developing quality assurance mechanisms, promoting academic mobility and strengthening institutional autonomy. The Education Code of the Republic of Moldova no. 152 of July 17, 2014, established the legal framework for the organization and functioning of the education system, including for university autonomy and public accountability of higher education institutions (Education Code of the Republic of Moldova, 2014). However, legislative harmonization does not automatically guarantee the transformation of institutional practices, as the implementation of reforms depends on administrative capacity, available resources and coordination mechanisms between public authorities and universities.

Sustainable development introduces an additional dimension to the analysis of these transformations, leading to a reconsideration of the relationship between university autonomy, social responsibility and the strategic objectives of higher education institutions. UNESCO (2020), through the document Education for Sustainable Development: A Roadmap, emphasizes the importance of integrating education for sustainable development into educational policies, institutional environments and teacher training. In this context, universities are called upon to adopt integrated institutional approaches, which ensure the correlation of development strategies with curricular modernization, scientific research and international cooperation. At the same time, the commitments undertaken within the European Higher Education Area highlight the importance of institutional autonomy, academic freedom and public accountability for the consolidation of inclusive and resilient

university systems (European Higher Education Area, 2024).

In these conditions, one of the fundamental challenges of higher education in the Republic of Moldova is to overcome the predominantly normative approach to European integration and to strengthen governance mechanisms capable of translating the principles of sustainable development into institutional practices. The issue becomes particularly relevant in the context in which universities must simultaneously respond to the requirements of modernization of the educational process, internationalization and adaptation to social, economic and technological transformations. From this perspective, the integration of sustainability represents not only a strategic priority, but also a challenge regarding the capacity of higher education institutions to ensure the coherence and continuity of reforms in the context of the European path of the Republic of Moldova.

2. Materials and Methods

The research is based on a qualitative approach, using documentary analysis, institutional method and comparative analysis to examine the relationship between university governance, sustainable development and European integration of the Republic of Moldova. The documentary analysis targets the national regulatory framework, European and national strategic documents, as well as relevant scientific literature in the field of university governance and institutional sustainability. The institutional method allows for the examination of the relationship between university autonomy, public accountability and the capacity of higher education institutions to integrate sustainable development objectives into governance mechanisms. The comparative analysis aims to identify convergences between European policy priorities and national strategic objectives, the Erasmus+ RE-GRAD project being used as an illustrative example of the role of international cooperation in promoting sustainability in higher education. The research is limited to documentary analysis, without including an empirical assessment of the implementation of policies or the long-term institutional impact of the examined initiatives.

3. Results and discussions

3.1 Transforming university governance in the context of the European integration of the Republic of Moldova

The integration of the Republic of Moldova into the European Higher Education Area (EHEA) has led to the gradual reconfiguration of the regulatory and institutional framework of higher education, by promoting common principles regarding university autonomy, quality assurance, academic mobility and public accountability. The accession to the Bologna Process, in 2005, created the premises for a new stage of reforming the national system, characterized by the approximation of educational policies to European objectives and by the adaptation of the mechanisms of organization and functioning of university institutions. From the perspective of the theory of Europeanization, such transformations can be interpreted as processes of adaptation of national structures, norms and practices to the cooperation frameworks developed at European level (Radaelli, 2003).

In the case of the Republic of Moldova, one of the main expressions of this process was the adoption of the Education Code no. 152 of 17 July 2014, which consolidated the legal framework of university autonomy and public accountability. According to Article 79, university autonomy includes the organizational, financial, academic and human resources management dimensions, giving higher education institutions the opportunity to establish their priorities and internal management mechanisms within the limits of the legislation. At the same time, Article 107 regulates the public accountability of institutions, establishing their obligation to comply with the legislation, national policies and quality criteria in the process of achieving the educational mission (Parliament of the Republic of Moldova, 2014, Art. 79, 107).

This normative configuration highlights the interdependent nature of university autonomy and public accountability. Autonomy does not imply a diminution of the role of the state, but rather a redistribution of decision-making powers between public authorities and higher education institutions, while maintaining mechanisms for evaluation and accountability. The specialized literature emphasizes that the transformations of European university governance are characterized by the modification of the relationships between the state, the market and academic institutions, as well as the development of coordination instruments based on performance, evaluation and institutional accountability (de Boer et al., 2007). The analysis of the regulatory framework shows that university autonomy and public accountability are regulated as complementary principles of institu-

tional governance. Article 79 provides universities with organizational and self-management powers, while Article 107 establishes obligations regarding quality assurance, decision-making transparency, academic integrity and efficient use of resources (Parliament of the Republic of Moldova, 2014, art. 79, 107). This complementarity creates the legal framework in which institutions can integrate sustainable development objectives into their own strategies, without the existence of legal powers constituting evidence of effective implementation.

From the perspective of institutional analysis, it is necessary to distinguish between legally enshrined autonomy and the effective capacity of universities to exercise their competences. The comparative study conducted by de Boer et al. (2007) on university systems in England, the Netherlands, Austria and Germany highlight the transformation of coordination mechanisms and the redistribution of responsibilities between the state and higher education institutions. This analytical framework is relevant for examining reforms in the Republic of Moldova, but the findings regarding the studied systems cannot be automatically extrapolated to the national context.

In relation to the objectives of this article, the analysis highlights an important distinction: the existence of a regulatory framework favorable to university autonomy is an institutional condition for the integration of sustainable development, but it does not guarantee its achievement. Assessing implementation requires examining universities' strategic documents, funding mechanisms, governance structures and practices through which sustainability priorities are translated into educational and research activities.

3.2 Integrating sustainable development into university policies and practices in the Republic of Moldova

The integration of sustainable development in higher education implies a transformation of the way in which university institutions define their mission, establish their strategic priorities and exercise their responsibilities towards society. From this perspective, sustainability is not limited to the introduction of educational disciplines or contents related to environmental protection, but involves reconsidering the relationship between education, research, institutional governance and socioeconomic development. The specialized literature highlights that the integration of sustainable development in higher

education requires a comprehensive institutional approach, which correlates educational and research activities with organizational management, the involvement of the academic community and the relations of universities with society (Lozano et al., 2015).

At the international level, the 2030 Agenda for Sustainable Development sets the general framework for promoting a development model based on the interdependence of economic, social and environmental dimensions. Sustainable Development Goal 4 (SDG 4) aims to ensure inclusive and equitable quality education and promote lifelong learning opportunities. Target 4.7 states that, by 2030, learners should acquire the knowledge and skills necessary to promote sustainable development, including through education for sustainable development, human rights, gender equality and global citizenship (United Nations, 2015, target 4.7). Therefore, the contribution of universities to the achievement of the 2030 Agenda should be examined both in terms of educational outcomes and their capacity to integrate sustainability principles into their governance mechanisms.

In addition to this framework, UNESCO, through the document Education for Sustainable Development: A Roadmap, identifies five priority areas for action: promoting public policies, transforming learning environments, strengthening the capacities of educators, mobilizing young people and accelerating actions at the local level (UNESCO, 2020). The relevance of these guidelines for higher education lies in promoting an integrated institutional approach, in which education for sustainable development is supported by policies, administrative structures and participatory mechanisms. Thus, universities are not considered exclusively as providers of skills, but also as institutional actors capable of contributing to the transformation of social and economic practices.

In the Republic of Moldova, the orientation of educational policies towards sustainable development is reflected in the National Development Strategy "European Moldova 2030" and in the Development Strategy "Education 2030", approved by Government Decision no. 114 of March 7, 2023. The latter establishes priorities for increasing the quality of education, digitizing educational processes, strengthening human resources and modernizing institutional infrastructure, correlating the development of the educational system with the objectives of European integration and the requirements of the labor

market (Development Strategy "Education 2030", 2023). From the perspective of university governance, these guidelines constitute a strategic framework for reconsidering institutional priorities and integrating sustainable development into the processes of planning, administration and evaluation of academic activity.

The analysis of strategic documents highlights a convergence between national educational priorities and European objectives regarding quality, inclusion, digitalization and skills development. However, this convergence must be distinguished from the effective implementation of policies at university level. The existence of common strategic objectives does not in itself demonstrate that sustainability is integrated into the governance structures, funding mechanisms or educational activities of all higher education institutions. Consequently, the analysis of university governance requires examining the relationship between institutional commitments and the concrete measures adopted to achieve them.

In the case of the Republic of Moldova, the analysis of the strategic framework allows the identification of three interdependent institutional challenges: correlating sustainability objectives with university development strategies, ensuring the administrative and professional capacities necessary for their implementation, and establishing mechanisms for monitoring and evaluating results. These dimensions must be analyzed in relation to the particularities of each institution, since university autonomy implies the existence of different priorities, resources and organizational models. At the same time, public accountability requires the correlation of institutional decisions with the general objectives of national higher education policies.

A distinct element of this issue is the development of green and digital skills, which involves adapting curricula, diversifying teaching methods and strengthening the professional skills of teachers. These transformations cannot be achieved exclusively through curricular changes, as coordination mechanisms between management structures, academic departments and external partners are necessary. In this regard, UNESCO guidelines on transforming educational environments and strengthening the capacities of educators provide benchmarks for integrating sustainability into institutional development processes (UNESCO, 2020).

Therefore, the analysis highlights that the integration of sus-

tainable development into university governance must be approached as a process of institutional transformation, not just as an extension of educational content. In the context of the European integration of the Republic of Moldova, the challenge lies in correlating national strategic priorities with institutional autonomy and public accountability mechanisms, so that sustainability commitments can be translated into coherent and sustainable university practices.

3.3 International cooperation as a mechanism for strengthening university governance and promoting sustainable development

International cooperation is an important component of the transformation of higher education institutions, contributing to the circulation of knowledge, the transfer of organizational practices and the development of academic and administrative capacities. In the context of European integration, internationalization is not limited to the mobility of students and teaching staff, but involves the participation of universities in transnational networks, research projects and joint initiatives for institutional modernization. Knight (2004, p. 11) defines the internationalization of higher education as "the process of integrating the international, intercultural or global dimension into the purpose, functions and delivery of post-secondary education". This approach allows examining international cooperation not only as a tool for developing external relations, but also as a mechanism for transforming university governance.

From a sustainable development perspective, international partnerships gain additional relevance through the possibility of facilitating the exchange of experience and the development of common solutions to educational, social and environmental challenges. The 2030 Agenda recognizes the importance of global partnerships in mobilizing resources, transferring knowledge and strengthening institutional capacities, with Sustainable Development Goal no. 17 dedicated to revitalizing the global partnership for sustainable development (United Nations, 2015). In the case of higher education institutions, this orientation involves the development of forms of cooperation that go beyond traditional academic exchanges and aim to integrate the results of international projects into university strategies and practices.

Within the framework of European policies, the Erasmus+ program is one of the main instruments supporting international coop-

eration in the field of education and vocational training. Regulation (EU) 2021/817, which established the Erasmus+ program for the period 2021–2027, establishes the promotion of inclusion, digital transformation and sustainable development among the programmer's guidelines. At the same time, capacity building in the field of higher education aims to modernize educational institutions and systems, improve the quality of education and develop cooperation between institutions in the Member States of the European Union and those in third countries not associated to the program (European Parliament & Council of the European Union, 2021).

In the case of the Republic of Moldova, participation in Erasmus+ capacity building projects in higher education offers universities the opportunity to develop institutional partnerships, modernize study programs and adapt educational practices to European priorities. The Capacity Building in Higher Education (CBHE) action supports the relevance, quality, modernization and responsiveness of higher education institutions in third countries not associated to the Program, while its priorities include the Green Deal, digital transformation, and sustainable growth and jobs (European Commission, 2026). From the perspective of university governance, the relevance of these initiatives lies in the possibility of connecting the strategic priorities of institutions with the resources, expertise and experience of international partners.

A relevant example is the Erasmus+ project, "Reforming Undergraduate Education for GReen Transition and Sustainable Development in Armenia and MolDova" (RE-GRAD), project no. 101128817 (RE-GRAD, 2024), aimed at supporting the reform of undergraduate higher education in Armenia and Moldova through the transition towards inclusive, digital and green-oriented curricula in support of sustainable development. The project objectives include analyzing existing educational policies and practices, strengthening the capacities of academic staff, modernizing study programs, and developing institutional cooperation in the field of education for sustainable development. Through these objectives, RE-GRAD illustrates how international cooperation can facilitate knowledge transfer and the adaptation of university practices to European priorities on sustainability.

From the perspective of institutional analysis, the contribution of such projects should be examined in relation to the capacity of uni-

versities to integrate the results obtained into their current activities. Curricular modernization, teacher training and the development of new educational tools can constitute premises for institutional transformation, but their continuity depends on the assumption of the results at the level of management structures, the availability of resources and the inclusion of new practices in university strategies. This interpretation corresponds to the process approach to internationalization, which highlights the importance of integrating the international dimension into the institutional functions and mechanisms of higher education (Knight, 2004).

Consequently, international cooperation can be analyzed as a mechanism to support university governance oriented towards sustainable development, provided that the results of the projects exceed the duration of the funded interventions and are capitalized on in the institutional planning and management processes. In the context of the European integration of the Republic of Moldova, this dimension highlights the need to correlate participation in international programs with the national priorities for the modernization of higher education and with the strategic objectives of universities.

3.4 Sustainability of institutional transformations: challenges and prospects for university governance in the Republic of Moldova

The sustainability of institutional transformations is an essential dimension of higher education modernization, as the adoption of policies and the implementation of reform initiatives do not automatically guarantee the continuity of their results. From the perspective of university governance, sustainability implies the capacity of institutions to integrate sustainable development objectives into decision-making processes, resource allocation mechanisms and organizational practices, thus ensuring the continuity of changes beyond the duration of individual programs or projects. The specialized literature highlights that the transformation of universities into institutions oriented towards sustainable development requires overcoming isolated initiatives and adopting an integrated approach, encompassing education, research, institutional management and relations with society (Lozano et al., 2015).

In the case of the Republic of Moldova, this issue must be examined in relation to the particularities of the European integration

process and the responsibilities of higher education institutions in implementing national policies. The legal framework of university autonomy provides institutions with powers to organize academic activities, manage resources and establish development priorities, within the limits provided by the legislation (Parliament of the Republic of Moldova, 2014, art. 79, 107). The exercise of these powers can create the premises for integrating sustainability objectives into university strategies, but the efficiency of the measures adopted depends on the organizational capacity and the existence of internal implementation and evaluation mechanisms.

From this perspective, the first institutional challenge is to ensure coherence between strategic planning and university administration practices. Integrating sustainable development involves formulating clear institutional objectives, defining the responsibilities of administrative and academic structures, and establishing indicators that allow progress to be assessed. Such an approach is compatible with UNESCO guidelines on integrating education for sustainable development into educational policies and transforming learning environments, which highlight the need for the entire institution to be involved in promoting sustainability (UNESCO, 2020).

A second challenge concerns the availability and use of resources necessary to implement sustainability objectives. Institutional transformation requires investments in educational infrastructure, staff skills development and modernization of administrative processes. The "Education 2030" development strategy includes among its priorities the improvement of infrastructure, the implementation of digital technologies and the provision of the education system with qualified teaching staff (Government of the Republic of Moldova, 2023). These priorities are relevant to the capacity of universities to sustain long-term reforms. However, the strategic document does not constitute evidence of the availability of the necessary resources in each institution. Such an assessment would require examining university budgets, investments made and financing mechanisms for sustainability initiatives.

A third dimension refers to the institutionalization of the results of international cooperation. Participation in European projects can contribute to the development of professional skills, curricular modernization and diversification of educational practices, but the con-

tinuity of these results depends on their integration into the permanent activity of universities. The research conducted by Lozano et al. (2015), based on responses from 70 higher education institutions from different regions of the world, highlights the link between the commitment of university leadership and the implementation of sustainable development. The authors also note that sustainability initiatives are frequently organized separately, without being integrated into all components of the institutional system. These findings provide a benchmark for the analysis of universities in the Republic of Moldova, without constituting direct evidence regarding their situation.

In this context, the sustainability of international project results can be examined through the changes they generate in institutional practices and mechanisms. The integration of new educational content into curricula, the continuous use of developed pedagogical tools and the inclusion of acquired skills by teachers in academic work are possible evaluation criteria. At the same time, the continuity of cooperation between partner institutions and the assumption of results at the managerial level can contribute to the strengthening of organizational capacity. These dimensions are compatible with the recommendations formulated by Lozano et al. (2015) regarding the development of short, medium and long-term institutional plans for the integration of sustainable development.

Another issue concerns the participation of the academic community in institutional transformation processes. Integrating sustainability into university governance requires the involvement of management, teaching staff, researchers, administrative staff and students. UNESCO (2020) promotes, in this regard, the whole-institution approach, according to which the principles of sustainable development must be reflected both in learning activities and in infrastructure management and decision-making processes. Applying this approach in universities in the Republic of Moldova involves examining existing mechanisms of participation and the possibilities of including sustainability in the work of academic and administrative structures.

From the perspective of the results of the documentary analysis, a distinction can be made between three levels of sustainable development integration: strategic assumption of objectives, their transposition into institutional mechanisms and evaluation of im-

plementation results. The first level can be identified by examining policy documents and university strategies; the second involves the analysis of administrative structures, educational programs and resource allocation; the third requires data on the results obtained and their continuity. This delimitation allows avoiding the equivalence of formal commitments with effective institutional transformations and provides a framework for subsequent evaluations.

Therefore, the sustainability of university transformations in the Republic of Moldova must be examined in relation to the capacity of institutions to correlate decision-making autonomy, public accountability and European development priorities. The analysis of the normative and strategic framework indicates the existence of premises for the integration of sustainable development, but the assessment of the effective degree of implementation requires additional research at the institutional level. In this sense, strengthening planning, monitoring and evaluation mechanisms represents a relevant direction for examining the continuity of reforms and the contribution of universities to the sustainable development goals.

4. Conclusions

The integration of sustainable development into university governance constitutes an important dimension of the institutional transformations associated with the European integration process of the Republic of Moldova. The analysis of the normative framework, strategic documents and European guidelines in the field of higher education highlights the existence of legal and institutional premises for the inclusion of sustainability objectives in university policies and practices. At the same time, the research reveals the need to delimit between the formal assumption of international commitments and the effective capacity of institutions to translate them into sustainable mechanisms of organization and administration.

The first result of the analysis concerns the relationship between university autonomy and public responsibility. The normative framework of the Republic of Moldova enshrines the autonomy of higher education institutions in the academic, organizational, financial and human resource management fields, simultaneously establishing obligations regarding the quality of education and responsibility towards society. These principles give universities the opportunity to

integrate sustainable development into their own strategies, but the effective exercise of autonomy depends on administrative capacity, the availability of resources and the functionality of internal governance mechanisms.

A second finding concerns the convergence between national strategic priorities and international guidelines on sustainable development. The educational policy documents of the Republic of Moldova reflect objectives related to the modernization of the educational process, digitalization, skills development and institutional capacity building. However, integrating sustainability into the work of universities requires overcoming sectoral approaches and correlating educational objectives with strategic planning, scientific research and institutional management. In this regard, the existence of common objectives at the European and national levels is a favorable condition but does not constitute a guarantee of their uniform implementation in higher education institutions.

A third result highlights the role of international cooperation in supporting institutional transformations. The participation of universities from the Republic of Moldova in European education and research programs creates opportunities for curricular modernization, the development of professional skills and the diversification of educational practices. In this context, initiatives such as the Erasmus+ RE-GRAD project illustrate the possibilities of capitalizing on international partnerships in promoting education for sustainable development and green and digital skills. However, the contribution of these initiatives to the transformation of university governance must be examined in relation to the degree of integration of the results into institutional activity and their continuity after the end of external funding.

The analysis also highlights a cross-cutting challenge, related to the institutionalization of sustainable development. The integration of sustainability cannot be reduced to the adoption of strategic documents or the implementation of individual projects but involves the systematic inclusion of related objectives in decision-making processes, in funding mechanisms, in academic activity and in the evaluation of institutional performance. From this perspective, the strengthening of university governance requires the development of coordination and monitoring mechanisms that ensure coherence between strategic priorities and organizational practices.

In terms of public policies, the results of the analysis indicate the relevance of strengthening the relationship between national authorities and higher education institutions, while respecting university autonomy and the principles of public accountability. The particular attention should be paid to the development of institutional capacities, the continuity of modernization initiatives and the development of tools for assessing the integration of sustainable development. At the same time, capitalizing on the experience gained through international cooperation can contribute to the correlation of national reforms with European priorities and the development of university practices adapted to the particularities of the higher education system in the Republic of Moldova.

In conclusion, the European integration of higher education in the Republic of Moldova must be examined not only from the perspective of legislative harmonization and the assumption of international commitments, but also from the perspective of the capacity of universities to transform these commitments into sustainable institutional practices. Sustainable development represents, in this context, both an objective of university modernization and a relevant dimension for the analysis of the effectiveness of governance mechanisms. The research highlights the need for continued investigations at the institutional level, by examining university strategies, implementation mechanisms, and concrete results of sustainability initiatives, to determine to what extent European guidelines are reflected in the effective transformations of universities in the Republic of Moldova.

Conflicts of Interest: The authors declare no conflict of interest.

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ALGORITHMIC CONTENT MODERATION AND FREEDOM OF EXPRESSION IN THE AGE OF ARTIFICIAL INTELLIGENCE

MODERAREA ALGORITMICĂ A CONȚINUTULUI ȘI LIBERTATEA DE EXPRIMARE ÎN ERA INTELIGENȚEI ARTIFICIALE

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Abstract: *This study examines the relationship between algorithmic content moderation and freedom of expression in the age of artificial intelligence, highlighting the balance between protecting users from harmful content and safeguarding legitimate speech. Its main objective is to analyse how algorithmic systems shape communication practices, individual autonomy, identity formation, intergroup relations and the distribution of visibility in the digital public sphere.*
The research is predominantly theoretical and interdisciplinary, drawing on conceptual and interpretive analysis from the perspectives of anthropology and the philosophy of technology.
The findings show that algorithms play an active role in structuring communication, selecting information and defining the norms of acceptable discourse. Content personalisation fosters filter bubbles, fragments the public sphere and reduces exposure to diverse perspectives. At the same time, automated classification may both allow harmful content to circulate and restrict legitimate expression. The study underlines the importance of a balanced moderation model that combines technological efficiency with human oversight.

Keywords: *algorithmic moderation, artificial intelligence, freedom of expression, individual autonomy, algorithmic identity, cultural pluralism*

Rezumat: *În această cercetare este examinată relația dintre moderarea algoritmică a conținutului și libertatea de exprimare în era inteligenței artificiale, prin care se evidențiază echilibrul dintre protejarea utilizatorilor împotriva conținutului vătămător și respectarea libertății discursului legitim. Obiectivul principal al lucrării constă în analiza modului în care sistemele algoritmice influențează practicile de comunicare, autonomia individuală, construirea identității, relațiile dintre grupuri și distribuirea*

vizibilității în spațiul public digital.
Metodologia cercetării are un caracter predominant teoretic și interdisciplinar, bazându-se pe analiza conceptuală și interpretativă din perspectivele antropologiei și filosofiei tehnologiei.
Rezultatele analizei demonstrează că algoritmii participă activ la organizarea comunicării, selectarea informației și definirea normelor discursului acceptabil. Personalizarea conținutului favorizează formarea bulelor informaționale, fragmentarea spațiului public și reducerea contactului cu perspective diverse. Totodată, clasificarea automată permite circulația conținutului vătămător și restricționează exprimările legitime. Cercetarea evidențiază importanța unui model echilibrat de moderare prin care se îmbină eficiența tehnologică cu supravegherea umană.

Cuvinte-cheie: *moderare algoritmică, inteligență artificială, libertate de exprimare, autonomie individuală, identitate algoritmică, pluralism cultural.*

1. Introducere

Extinderea inteligenței artificiale în spațiul comunicării digitale transformă profund modul în care oamenii produc, distribuie, interpretează și contestă informația. Platformele digitale au devenit infrastructuri tehnice pentru schimbul de mesaje, imagini, opinii, dar și spații sociale în care se construiesc identități, comunități, forme de solidaritate și conflicte simbolice. În acest context, moderarea conținutului reprezintă una dintre cele mai importante forme de intervenție asupra comunicării contemporane. Dacă, în primele etape ale internetului, moderarea era realizată în mare măsură de utilizatori sau de echipe umane specializate, dezvoltarea inteligenței artificiale a făcut posibilă evaluarea și filtrarea automată a unor cantități uriașe de conținut. Algoritmii identifică texte, imagini, videoclipuri și comportamente considerate problematice, restricționează accesul la anumite materiale, suspendă conturi sau reduc vizibilitatea unor mesaje. Această transformare promite o mai mare eficiență în combaterea abuzului, a discursului instigator la ură, a dezinformării și a altor forme de conținut vătămător. În același timp, ea ridică întrebări fundamentale despre libertatea de exprimare, autonomie, responsabilitate, putere și natura însăși a spațiului public digital.

Problema centrală a prezentei cercetări pornește de la o tensiune aparent paradoxală: în ce măsură moderarea algoritmică protejează utilizatorii fără ca protecția să se transforme într-o formă de control al exprimării? Întrebarea devine cu atât mai complexă cu cât algoritmii nu sunt observatori neutri ai comunicării umane. Ei funcționează

pe baza unor categorii, reguli, seturi de date și criterii de clasificare construite de oameni și instituții. Prin urmare, decizia algoritmică de a considera un conținut acceptabil, ofensator, periculos sau interzis implică concepții despre normalitate, moralitate, risc și limitele discursului legitim. (Thach, H., Mayworm, S., Delmonaco, D., & Haimson, O., 2024).

Libertatea de exprimare ocupă un loc central în această dezbatere deoarece constituie una dintre condițiile fundamentale ale vieții politice și sociale moderne. În tradiția filosofică, libertatea de formulare și comunicare a opiniilor este asociată cu autonomia persoanei și cu posibilitatea participării la viața publică. De la apărarea libertății intelectuale la concepția despre „piața ideilor", numeroase teorii filosofice au considerat exprimarea liberă drept un mecanism indispensabil pentru contestarea autorității, corectarea erorilor și dezvoltarea cunoașterii. Totuși, libertatea de exprimare nu a fost niciodată absolută. Societățile au stabilit limite în cazul amenințărilor, defăimării, incitării la violență sau al altor forme de comunicare considerate vătămătoare. Ceea ce se schimbă în mediul digital este scara, viteza și mecanismul prin care aceste limite sunt aplicate.

Moderarea algoritmică introduce o formă particulară de mediere între individ și spațiul public. Atunci când o platformă elimină automat o postare sau reduce vizibilitatea unui anumit tip de conținut, utilizatorul nu interacționează doar cu o regulă explicită, ci cu un sistem de clasificare care interpretează discursul său. Această situație este deosebit de problematică deoarece limbajul uman este profund dependent de context. Ironia, satira, metafora, citatul, referința culturală, umorul sau critica politică sunt dificil de diferențiat automat de conținutul ofensator ori periculos. Un algoritm identifică anumite cuvinte sau tipare statistice, însă semnificația unui enunț depinde adesea de cine îl produce, cui îi este adresat, în ce situație este formulat și ce intenție comunicativă are. Astfel, ceea ce apare algoritmului drept o unitate de text reprezintă, pentru un subiect uman, o experiență socială complexă. Riscul devine și mai semnificativ atunci când algoritmii funcționează opac. Utilizatorul uneori nu știe de ce un anumit conținut a fost eliminat, de ce contul său a fost sancționat sau de ce mesajul său nu mai ajunge la public. O astfel de opacitate creează un dezechilibru între platformă și utilizator: prima dispune de infrastruc-

tura tehnică și de capacitatea de interpretare a datelor, în timp ce a doua are acces limitat la explicații și posibilități de contestare.

Miza cercetării depășește problema tehnică a moderării conținutului. Punem în discuție însăși natura spațiului public într-o societate în care o parte tot mai importantă a comunicării este intermediată de sisteme algoritmice. Dacă în societățile moderne libertatea de exprimare a fost gândită în raport cu statul, presa și instituțiile publice, în era inteligenței artificiale ea trebuie regândită și în raport cu platformele digitale, modelele de învățare automată și infrastructurile private care organizează circulația informației. Algoritmii devin astfel actori indirecți ai vieții sociale și politice, iar întrebarea privind libertatea se transformă într-o întrebare despre cine are puterea de a decide ce poate fi spus, auzit, văzut și transmis mai departe (Gorwa et al., 2020).

Prin urmare, studierea moderării algoritmice reprezintă o oportunitate de reexaminare a celor mai vechi preocupări sociale și anume complexitatea limbajului uman, diversitatea culturală și dreptul la contestare.

2. Stadiul actual al cercetării și scopul acesteia

Cercetarea moderării algoritmice și a libertății de exprimare reprezintă un domeniu interdisciplinar, situat la intersecția dintre antropologie, filosofie, comunicarea digitală și etica inteligenței artificiale. Dezvoltarea platformelor digitale și utilizarea algoritmilor pentru identificarea, clasificarea și eliminarea conținutului problematic au transformat modul în care informația este produsă, distribuită și receptată. Deși aceste tehnologii contribuie la combaterea discursului instigator la ură, a hărțuirii și a dezinformării, utilizarea lor ridică întrebări importante privind libertatea de exprimare, autonomia individuală și diversitatea culturală.

În cadrul cercetărilor realizate anterior asupra acestei problematici, s-a analizat relația dintre om și tehnologie, rolul algoritmilor în organizarea comunicării digitale și implicațiile moderării automate asupra vieții sociale. S-a urmărit înțelegerea în ce măsură sistemele de inteligență artificială contribuie la protejarea utilizatorilor și în ce condiții intervenția lor devine o formă de control al discursului. Considerăm că această problemă trebuie să fie abordată din perspectivă antropologică, deoarece algoritmii influențează și modul în care indi-

vizii își exprimă identitatea, își construiesc opiniile și interacționează cu ceilalți.

Analiza pornește de la ideea că platformele digitale au devenit medii în care se organizează vizibilitatea informației și condițiile participării la spațiul public. Prin recomandări, clasificări și restricții, algoritmii influențează mesajele care ajung la public și perspectivele cu care utilizatorii intră în contact. În acest context, am acordat o atenție deosebită relației dintre moderarea algoritmică și autonomia umană, evidențiind faptul că libertatea publicării unui mesaj nu garantează automat posibilitatea ca acesta să fie văzut și înțeles de ceilalți.

Prin cercetarea realizată, ne propunem să susținem necesitatea unui model echilibrat de moderare, care să combine eficiența tehnologiei cu evaluarea umană, transparența și responsabilitatea. În viziunea noastră protecția utilizatorilor trebuie să fie compatibilă cu respectarea diversității discursului și cu dreptul individului de a-și exprima opiniile.

3. Metode și materiale

În cadrul articolului, a fost utilizată o abordare interdisciplinară, bazată pe metode de cercetare teoretică și conceptuală, pentru analiza implicațiilor antropologice și filosofice ale moderării algoritmice asupra libertății de exprimare. Alegerea acestor metode a fost determinată de caracterul complex al temei, care presupune examinarea atât a funcționării tehnologiilor digitale, cât și a efectelor acestora asupra individului și societății.

Metoda analizei teoretice a fost aplicată pentru examinarea conceptelor fundamentale ale cercetării, precum inteligența artificială, moderarea algoritmică, libertatea de exprimare, autonomia, identitatea și alteritatea. Prin această metodă, a fost evidențiată relațiile dintre conceptele analizate și s-a urmărit explicarea modului în care sistemele algoritmice influențează comunicarea și participarea indivizilor la spațiul public digital.

Metoda analizei conceptuale și filosofice a fost utilizată pentru examinarea implicațiilor moderării automate asupra libertății individuale și responsabilității umane. A fost analizată tensiunea dintre necesitatea protejării utilizatorilor împotriva conținutului vătămător și riscul restricționării exprimării legitime. Această metodă a permis

să formulăm întrebări privind legitimitatea deciziilor algoritmice, autonomia individului și posibilitatea contestării intervențiilor automate.

Abordarea antropologică a fost aplicată pentru interpretarea moderării algoritmice ca fenomen social și cultural. S-a urmărit evidențierea modului în care limbajul, identitatea și apartenența la comunități influențează semnificația mesajelor digitale.

Metoda analizei critice a fost utilizată pentru examinarea consecințelor sociale și etice ale utilizării inteligenței artificiale în moderarea conținutului. S-a evidențiat riscurile asociate erorilor algoritmice, opacității deciziilor și distribuirii inegale a vizibilității în mediul digital (Gorwa et al., 2020). Totodată, s-a analizat rolul platformelor în stabilirea normelor de comunicare și în delimitarea conținutului considerat acceptabil.

Metoda sintezei a permis integrarea perspectivelor filosofice și antropologice într-o interpretare unitară a fenomenului cercetat. Prin corelarea conceptelor analizate, s-a urmărit identificarea principiilor necesare unei moderări responsabile, precum transparența, responsabilitatea umană, posibilitatea contestării deciziilor și respectarea diversității culturale.

Articolul urmărește să demonstreze că moderarea algoritmică reprezintă atât o dimensiune tehnologică, cât și una socială, culturală și morală. Abordarea adoptată susține necesitatea unui echilibru între protecția utilizatorilor și respectarea libertății de exprimare, evidențiind importanța implicării judecății umane în situațiile în care interpretarea contextului este esențială.

4. Rezultate și Discuții

4.1 Omul și tehnologia: transformarea spațiului comunicării

Relația dintre om și tehnologie reprezintă una dintre constantele fundamentale ale dezvoltării societăților umane. De la primele instrumente utilizate pentru procurarea hranei și protejarea corpului până la infrastructurile digitale contemporane, omul a creat tehnologii care, la rândul lor, au modificat condițiile în care acesta trăiește, comunică și gândește. În acest sens, tehnologia reprezintă o componentă integrată în procesele prin care cultura este produsă și transmisă.

Comunicarea constituie unul dintre domeniile culturii în care această relație devine deosebit de vizibilă. Limbajul însuși este con-

siderat o tehnologie socială prin care experiențele individuale sunt transformate în semnificații accesibile celorlalți. Apariția scrisului a permis conservarea și transmiterea informației dincolo de limitele memoriei individuale și ale comunicării orale. Tiparul a extins radical posibilitatea distribuirii ideilor, contribuind la apariția unor noi forme de public și la accelerarea circulației cunoașterii. Telegraful, telefonul, radioul și televiziunea au modificat ulterior raporturile dintre distanță, timp și comunicare. Pe când, internetul a produs o transformare și mai profundă, deoarece a făcut posibilă comunicarea simultană, globală și interactivă a unui număr enorm de persoane. În prezent, inteligența artificială adaugă o nouă dimensiune acestei evoluții prin care comunicarea este interpretată, clasificată, filtrată și chiar generată de acestea.

Transformarea în cauză impune reconsiderarea modului în care definim spațiul comunicării. În modelul tradițional al comunicării, individul era conceput ca subiect care produce un mesaj și îl transmite unui alt subiect (emițător-receptor). Chiar dacă între cei doi existau instituții și tehnologii intermediare, relația păstra într-o anumită măsură caracterul unei interacțiuni între persoane. În mediul digital, această structură este mult mai complexă. Mesajul circulă prin platforme care colectează date, analizează comportamente, estimează preferințe și stabilesc, prin sisteme algoritmice, cui și în ce condiții îi va fi afișat conținutul. Comunicarea devine astfel o relație între oameni și infrastructuri tehnologice care participă la organizarea schimbului simbolic.

Din această perspectivă, platforma digitală stabilește condițiile în care comunicarea are loc. Interfața, algoritmii de recomandare, sistemele de moderare, regulile comunității sunt adesea rezultatul interacțiunii dintre preferințele utilizatorului și arhitectura tehnologică a platformei (de exemplu, alegerea unui videoclip, a unei postări sau a unui subiect de discuție). Astfel, libertatea de comunicare în spațiul digital este întotdeauna exercitată într-un mediu deja structurat de anumite reguli tehnice și economice (Gorwa et al., 2020; Wright, 2022).

Una dintre cele mai importante schimbări produse de tehnologie este, prin urmare, transformarea raportului dintre vizibilitate și putere. În spațiul social tradițional, accesul la un public larg era limitat de existența unor instituții precum presa, editurile, radioul sau televi-

ziunea. Internetul a redus anumite bariere de acces și a permis indivizilor să publice și să distribuie conținut fără intermediari tradiționali. Această democratizare aparentă a comunicării a fost însă însoțită de apariția unor noi forme de intermediere. Platformele digitale au devenit infrastructurile prin care conținutul este ordonat și distribuit.

Aici apare importanța algoritmilor. Algoritmul reprezintă, într-un sens tehnic, o procedură de procesare a informației, însă consecințele sale sociale depășesc cu mult dimensiunea matematică. Atunci când un algoritm decide ce conținut apare în partea superioară a unui flux, ce material este recomandat unui utilizator sau ce postare este eliminată, el participă la structurarea experienței sociale. Utilizatorul nu întâlnește pur și simplu „internetul", ci o versiune a acestuia organizată de sisteme automate. Realitatea digitală devine astfel una mediată algoritmic (Zeng & Kaye, 2022).

Relația dintre om și algoritm este una dialectică. Pe de o parte, omul creează algoritmul, stabilește obiectivele sale și îi furnizează datele necesare funcționării. Pe de altă parte, algoritmul transformă comportamentul uman prin recomandări, clasificări și recompense. Se formează astfel un circuit de feedback în care utilizatorii generează date, datele contribuie la perfecționarea sistemelor, iar sistemele modifică ulterior comportamentul utilizatorilor. Această relație este importantă pentru înțelegerea inteligenței artificiale deoarece arată că aceasta nu funcționează într-un vid social. Sistemele algoritmice sunt integrate într-o relație continuă cu practicile, valorile și conflictele societății.

În cazul moderării conținutului, această relație devine deosebit de sensibilă; sistemele identifică discursul problematic. Dar această clasificare implică o concepție despre normă. Ce este ofensator? Ce este amenințător? Ce este satiră? Ce reprezintă dezinformarea? Ce diferențiază critica politică de incitare? Aceste întrebări nu au întotdeauna răspunsuri universale și obiective. Ele sunt influențate de contextul cultural, de valorile societății și de relațiile de putere. Când aceste categorii sunt transformate în criterii computaționale, complexitatea lor socială este tradusă în reguli care trebuie aplicate la scară largă. O regulă culturală este transformată într-un parametru tehnic, iar un principiu moral devine o categorie de clasificare. Această materializare conferă normei o aparență de obiectivitate. Dacă o persoană decide că un mesaj este ofensator, direct se contestează judecata ace-

lei persoane. Dacă un sistem automat ia aceeași decizie, aceasta pare rezultatul unei proceduri impersonale și obiective. În realitate, însă, algoritmul reflectă alegerile celor care l-au proiectat, ale celor care au definit categoriile și ale datelor pe care a fost antrenat.

Aici se află una dintre cele mai importante probleme filosofice ale erei inteligenței artificiale: delegarea judecății umane către sisteme automate. Judecata presupune, în mod tradițional, interpretare, deliberare și asumarea responsabilității. Algoritmizarea acesteia produce impresia că decizia este mai rapidă și mai obiectivă, însă ridică întrebarea dacă eficiența înlocuiește deliberarea. În cazul moderării, problema este cu atât mai sensibilă cu cât obiectul judecății îl constituie expresia umană, adică una dintre principalele forme prin care individul participă la viața socială.

O societate care deleagă o parte semnificativă a controlului discursului către sisteme automate riscă, astfel, să transforme libertatea de exprimare într-o libertate condiționată de clasificarea algoritmică. Aceasta nu înseamnă că orice intervenție algoritmică este ilegitimă. Dimpotrivă, utilizarea inteligenței artificiale contribuie la protejarea utilizatorilor și la reducerea unor forme de abuz care ar fi imposibil de gestionat exclusiv prin intervenție umană. În acest punct, relația dintre om și tehnologie trebuie înțeleasă ca una de co-construcție. Oamenii proiectează tehnologiile, dar tehnologiile contribuie ulterior la modelarea practicilor umane. În cazul comunicării digitale, această co-construcție este deosebit de vizibilă: omul își adaptează discursul la platformă, iar platforma își adaptează algoritmii la comportamentul utilizatorilor. Se formează astfel un spațiu comunicativ hibrid, în care granița dintre social și tehnic devine din ce în ce mai dificil de trasat (Christin, A., 2020).

Din această perspectivă, întrebarea privind viitorul comunicării depinde de întrebarea privind viitorul relației dintre om și inteligența artificială. Dacă algoritmii vor participa din ce în ce mai mult la selectarea, filtrarea și generarea discursului, atunci va fi necesară o reflecție critică asupra principiilor care trebuie să guverneze această participare. Transparența, posibilitatea de contestare, pluralismul cultural, protecția împotriva discriminării și păstrarea autonomiei individuale devin condiții esențiale ale unei comunicări digitale compatibile cu valorile democratice.

Tehnologia oferă oamenilor posibilități extraordinare de exprimare, conectare și participare, dar introduce simultan noi forme de dependență, supraveghere și control. Inteligența artificială accentuează, astfel, această ambivalență deoarece funcționează atât ca instrument de protecție, cât și ca mecanism de filtrare a discursului. Din acest motiv, analiza relației dintre om și tehnologie, în viziunea noastră, depășește întrebarea „ce poate face tehnologia?" și se concentrează asupra întrebării „ce fel de societate construim prin modul în care alegem să folosim tehnologia?"

În raport cu tema generală a moderării algoritmice și a libertății de exprimare, această întrebare dobândește o importanță fundamentală. În acest mod, analizăm tipul de relație socială pe care aceste sisteme îl produc între individ, comunitate și autoritatea care stabilește limitele discursului. Legitimitatea tehnologiei depinde de valorile pe care le încorporează, de distribuția puterii pe care o produce și de posibilitatea oamenilor de a participa la stabilirea regulilor care le organizează spațiul comunicativ.

Astfel, transformarea tehnologică a comunicării reprezintă, în esență, și o transformare antropologică. Prin tehnologiile noi oamenii devin subiecți ai unor noi forme de comunicare, identitate și relaționare. În același timp, apar forme de autoritate, iar algoritmii devin intermediari între expresia individuală și publicul căruia aceasta îi este destinată. Tocmai de aceea, problema moderării algoritmice nu este redusă la o discuție despre software, securitate sau eficiență. Ea este o problemă despre om, libertate și putere (Seaver, N., 2017).

În era inteligenței artificiale, apărarea libertății de exprimare presupune, prin urmare protejarea condițiilor sociale și tehnologice care fac posibil ca vocea individului să fie auzită. În același timp, protecția utilizatorilor presupune dezvoltarea unor mecanisme capabile să limiteze prejudiciile fără să transforme diversitatea discursului uman într-o problemă de eliminat. Între aceste două imperative se construiește noul spațiu al comunicării digitale, un spațiu în care omul și tehnologia se influențează reciproc și în care problema libertății devine inseparabilă de problema modului în care tehnologiile sunt proiectate, utilizate și guvernate.

4.2 Libertatea de exprimare ca formă a autonomiei umane

Libertatea de exprimare constituie una dintre formele fundamentale prin care autonomia umană se manifestă în spațiul social. Capacitatea individului prin care formulează ideile, exprimă judecăți, pune sub semnul întrebării normele existente și de comunicare a propriilor experiențe reprezintă mai mult decât exercitarea unui drept juridic. Ea este legată de însăși capacitatea persoanei de a se constitui ca subiect prin participarea la viața comunității. Din această perspectivă, libertatea de exprimare nu trebuie analizată doar ca libertate de a produce și transmite mesaje, ci ca una dintre condițiile prin care individul își afirmă autonomia, identitatea și demnitatea.

Conceptul de autonomie ocupă un loc central în filosofia modernă. În sens larg, autonomia desemnează capacitatea persoanei de a-și conduce propria existență, de a formula judecăți și de a acționa în conformitate cu motive pe care le consideră ale sale. Autonomia presupune, astfel, o anumită independență față de constrângeri externe, dar nu trebuie confundată cu izolarea individului față de societate. Omul este o ființă socială, iar formarea opiniilor, valorilor și identității sale are loc în relație cu ceilalți. Prin urmare, autonomia înseamnă posibilitatea participării în mod reflexiv la procesele prin care aceste influențe sunt acceptate, contestate sau transformate.

În acest sens, exprimarea reprezintă una dintre condițiile fundamentale ale autonomiei. Pentru a-și exercita capacitatea de judecată, individul trebuie să poată formula și comunica ceea ce gândește. O persoană căreia îi este interzis sistematic să își exprime opiniile este lipsită nu doar de posibilitatea comunicării, ci și de o parte importantă a capacității sale de a participa la definirea propriei poziții sociale. Exprimarea permite individului să transforme experiența interioară într-o realitate socială. Prin cuvinte, gesturi, imagini, simboluri și alte forme de comunicare, persoana își face cunoscută perspectiva și intră într-o relație de recunoaștere cu ceilalți (Seaver, N., 2018).

Libertatea de exprimare trebuie, prin urmare, înțeleasă ca o relație între individ și comunitate. Omul vorbește către ceilalți, în raport cu ceilalți și adesea împotriva unor poziții deja existente. Exprimarea are astfel o dimensiune dialogică. Ea presupune trei criterii: de a răspunde, de a critica și de a fi criticat. Tocmai această dimensiune face ca libertatea de exprimare să fie esențială pentru existența

unui spațiu public pluralist. În absența posibilității de a întâlni opinii diferite, autonomia riscă să fie redusă la o simplă libertate privată, lipsită de capacitatea de a participa la transformarea lumii comune.

Spațiul digital a extins considerabil posibilitățile de exprimare, oferind indivizilor acces la audiențe care, în trecut, erau dificil de atins. O persoană își expune opinia, participă la o dezbatere, creează comunități sau atrage atenția asupra unei probleme sociale fără să depindă în mod necesar de instituțiile tradiționale ale comunicării. În acest sens, mediul digital contribuie la democratizarea exprimării și la diversificarea vocilor prezente în spațiul public. Totuși, această democratizare este însoțită de noi forme de mediere. Libertatea formală de a publica nu garantează și posibilitatea efectivă de a fi auzit. În mediul digital, vizibilitatea depinde în mare măsură de infrastructurile tehnologice care organizează circulația conținutului. Algoritmii determină ce apare în fluxul unui utilizator, ce este recomandat și ce este eliminat sau redus ca vizibilitate. Prin urmare, între libertatea producerii unui mesaj și libertatea participării efective la comunicarea publică apare un nou nivel de mediere algoritmică.

Această distincție este fundamentală. Dacă libertatea de exprimare este analizată doar ca drept de a produce conținut, atunci faptul că un mesaj este încărcat pe o platformă poate părea suficient. Dar dacă exprimarea este înțeleasă ca formă de participare socială, atunci trebuie analizate și condițiile în care mesajul ajunge la un public. Un conținut care rămâne formal disponibil, dar care este sistematic ascuns, deprioritizat sau eliminat din recomandări are o capacitate redusă de a participa la dezbaterea publică. În acest caz, problema libertății nu se mai limitează la întrebarea „poți să vorbești?", ci devine „poți fi auzit?".

Această transformare modifică și sensul conceptului de autonomie care presupune și accesul la condițiile cognitive și sociale necesare pentru formarea opiniei. Individul are nevoie de informații, de posibilitatea de a întâlni perspective diferite și de capacitatea de a reflecta critic asupra acestora. Dacă mediul comunicativ este puternic personalizat și dacă algoritmii selectează informația în funcție de comportamentul anterior al utilizatorului, există riscul ca acesta să fie expus în mod repetat unor perspective similare. În asemenea condiții, autonomia afectează prin configurarea mediului informațional în care opiniile sunt formate.

Această problemă este apropiată de ceea ce numim autonomie cognitivă. Un individ autonom este capabil să reflecteze asupra motivelor pentru care gândește într-un anumit fel. În societatea digitală, această capacitate este influențată de arhitectura informațională. Recomandările automate, notificările, selecția conținutului și mecanismele de personalizare orientează atenția și creează anumite priorități cognitive. Desigur că, mediul informațional este organizat de sisteme care anticipează și modelează comportamentul utilizatorului, justifică o analiză critică a condițiilor în care autonomia este exercitată.

Din perspectivă antropologică, autonomia trebuie înțeleasă și în relație cu identitatea. Exprimarea este unul dintre principalele mecanisme prin care indivizii își construiesc și negociază identitatea socială. O persoană se definește prin poveștile pe care le spune despre sine, prin grupurile cu care se identifică, prin valorile pe care le afirmă și prin pozițiile pe care le asumă. În mediul digital, aceste procese sunt amplificate deoarece identitatea se modifică și se negociază în raport cu un public larg. Profilul digital devine astfel un spațiu de reprezentare a sinelui (Thach, H., Mayworm, S., Delmonaco, D., & Haimson, O., 2024).

Atunci când anumite forme de exprimare sunt eliminate automat, problema depășește simpla pierdere a unui mesaj. Pentru anumite persoane și comunități, discursul reprezintă un instrument de recunoaștere și afirmare identitară. O expresie, un simbol sau o practică discursivă care pare problematică din perspectiva unui sistem general de clasificare are o semnificație particulară pentru o comunitate. De aici rezultă una dintre dificultățile fundamentale ale moderării algoritmice: cum protejăm libertatea de exprimare într-un spațiu caracterizat de o diversitate enormă de experiențe și coduri culturale? E o întrebare prin care identificăm că autonomia este o parte componentă a pluralismului. O societate pluralistă presupune tocmai existența unor forme multiple de vorbire, de interpretare a lumii și de exprimare a experienței. Totuși, pluralismul acceptă comportamente care respectă libertatea Celuilalt.

În cazul moderării algoritmice sistemul trebuie să transforme judecăți normative în categorii tehnice. În cazul unui om o afirmație este interpretată de către acesta în funcție de context, ton, intenție și relația dintre interlocutori. Chiar și atunci când tehnologia devine performantă, ea întâlnește situații ambigue în care aceeași expresie

are mai multe semnificații. În consecință, există riscul ca mecanismul de protecție să producă restricții excesive.

Aici aducem în atenție *eroarea algoritmică* care este de două forme. Prima constă în eșecul eliminării unui conținut realmente vătămător. A doua ține de eliminarea unui conținut legitim. Dacă primul tip de eroare permite perpetuarea abuzului, cel de-al doilea afectează libertatea de exprimare. Cele două riscuri sunt dificil de echilibrat, deoarece reducerea unuia duce uneori la creșterea celuilalt. În viziunea noastră, o soluție etică ar fi politica moderată a protejării utilizatorilor împotriva formelor de abuz coordonată de un specialist care utilizează un instrument digital.

4.3 Algoritmul ca mediator și producător al realității sociale

În societatea contemporană, algoritmul a devenit una dintre infrastructurile invizibile prin care realitatea socială este organizată, interpretată și experimentată. Deși termenul „algoritm" provine din vocabularul matematic și informatic, utilizarea sa actuală depășește cu mult domeniul calculului. Algoritmii selectează informații, clasifică persoane și comportamente, recomandă conținuturi, anticipează preferințe și contribuie la stabilirea condițiilor în care indivizii interacționează. În mediul digital, algoritmul devine un mediator între individ și lumea socială. Prin intermediul său, oamenii întâlnesc o realitate deja selectată, ordonată și ierarhizată.

Înțelegerea algoritmului ca mediator presupune depășirea concepției potrivit căreia tehnologia ar reprezenta un simplu canal pasiv între utilizator și informație. Într-un model tradițional al comunicării, un individ produce un mesaj, acesta este transmis printr-un canal, iar un alt individ îl recepționează. În mediul digital, între producător și receptor există sisteme care decid ce conținut este afișat, în ce ordine, cu ce frecvență și către ce categorie de utilizatori este orientat. Astfel, algoritmul intervine în procesul de comunicare fără să fie neapărat vizibil (Jereza, R., 2021).

Această mediere transformă raportul dintre informație și cunoaștere. Într-un mediu în care cantitatea de informație disponibilă depășește cu mult capacitatea de procesare a unui individ, selecția devine inevitabilă. Nimeni nu poate vedea toate mesajele produse într-un spațiu digital global. Algoritmii devin, prin urmare, mecanisme

de orientare în acest exces informațional. Ei stabilesc ce este relevant pentru fiecare utilizator pe baza unor criterii care includ comportamentul anterior, interesele presupuse, interacțiunile sociale și probabilitatea ca un anumit conținut să genereze atenție. În acest fel, algoritmul participă la construirea mediului informațional în care individul își formează opiniile.

Din perspectivă antropologică, această transformare este semnificativă, așa cum în orice societate, oamenii utilizează instituțiile și practicile pentru a determina ce informații sunt importante și ce forme de cunoaștere sunt legitime. În societățile tradiționale, aceste funcții erau îndeplinite de familie, comunitate, instituții religioase, lideri locali sau forme de autoritate culturală. În societățile moderne, presa, școala, universitatea și instituțiile politice au un rol important în structurarea spațiului informațional. În societatea digitală, algoritmii devin actori suplimentari în această distribuție a relevanței.

Puterea algoritmică este, însă, diferită de formele tradiționale de putere. Ea nu se manifestă întotdeauna printr-o comandă explicită sau printr-o interdicție directă, ci funcționează prin ordonare, recomandare, prioritizare și personalizare. Un anumit conținut este prezentat de mai multe ori, altul poate fi împins într-o zonă mai puțin vizibilă, iar un al treilea este eliminat complet. Aceste intervenții produc efecte diferite, dar toate contribuie la configurarea experienței utilizatorului.

În acest sens, privim algoritmul ca o formă de „putere infrastructurală". Algoritmul structurează mediul în care se întâlnesc ideile și se formează comportamentul online. Spre exemplu, când un utilizator este expus constant anumitor tipuri de conținut, atunci acestea devin familiare lui. Dacă alte perspective sunt întâlnite rar, ele par marginale chiar dacă au o relevanță reală. Astfel, utilizatorul vede o anumită versiune a lumii digitale, însă nu vede neapărat criteriile prin care aceasta a fost construită. Fluxul personalizat creează impresia că anumite opinii sunt dominante, că unele subiecte sunt mai importante sau că alte evenimente sunt mai frecvente decât par în realitate. În acest sens, algoritmul produce o „realitate percepută" care este diferită de totalitatea informației existente.

Din cele expuse anterior deducem că personalizarea digitală de către algoritm afectează gândirea critică și produce opinii distorsionate. Dacă fiecare individ primește o versiune diferită a spațiului

informațional, atunci experiența comună a realității este dificil de menținut. Societatea are nevoie de anumite puncte de referință comune pentru a delibera asupra problemelor colective. Când indivizii sunt separați în medii informaționale diferite, dialogul este afectat. În acest sens punem în discuție formarea *bulelor informaționale* și fragmentarea spațiului public (Meppelink et al., 2024). Un utilizator este expus predominant unor idei compatibile cu interesele și comportamentele sale anterioare. În timp, această selecție reduce întâlnirea cu alte interese și oportunități. Din perspectiva autonomiei, situația este problematică deoarece libertatea în formarea opiniei presupune compararea și evaluarea alternativelor.

În acest sens, sistemele digitale colectează informații despre comportamentul utilizatorilor și formulează predicții despre preferințele lor. Uneori, sistemul anticipează interesele unei persoane înainte ca aceasta să le formuleze conștient. Considerăm că apare o dilemă etică despre identitate și autonomie: dacă un algoritm prezice ceea ce caută utilizatorul, cumpăra sau urmărește, în ce măsură preferințele omului sunt stabilite și produse prin interacțiunea cu mediul?

Totuși, faptul că un sistem anticipează un comportament nu înseamnă că individul este lipsit de libertate. Algoritmul trece de la rolul de observator la cel de producere în momentul când utilizatorul acționează într-un anumit mod repetabil. Mecanismul în cauză este esențial pentru înțelegerea societății digitale. Utilizatorul generează date prin activitatea sa, iar aceste date sunt utilizate pentru a construi modele predictive. Modelele produc apoi recomandări care influențează activitatea ulterioară a utilizatorului. Se formează astfel un circuit de feedback între comportamentul uman și sistemul algoritmic. Realitatea socială digitală este produsă prin această interacțiune continuă.

În cazul moderării conținutului, circuitul de feedback funcționează într-un mod similar. Utilizatorii învață ce tipuri de conținut sunt acceptate și ce tipuri sunt sancționate. Ei își modifică discursul în funcție de experiențele anterioare, iar aceste modificări generează noi date pentru sistem. În timp, se produc adaptări reciproce între algoritm și utilizator. Normele platformei devin astfel parte din comportamentul utilizatorilor, iar comportamentul acestora contribuie la stabilizarea normelor algoritmice. Această dinamică demon-

strează că algoritmul trebuie perceput ca un „actor socio-tehnic", situat la intersecția dintre oameni, instituții, date, infrastructuri și valori. În spatele fiecărui sistem algoritmic există organizații care îl dezvoltă, finanțează și administrează. Există moderatori umani, ingineri, juriști, specialiști în politici publice și utilizatori care contribuie, în mod direct sau indirect, la funcționarea sa. A vorbi despre „decizia algoritmului" fără a analiza aceste relații riscăm să înlăturăm responsabilitatea umană.

Din această perspectivă, prin antropologie demitizăm algoritmul. În loc să îl tratăm ca pe o entitate neutră și autonomă, îl analizăm prin contextul relațiilor sociale în care este produs și utilizat. Cine decide ce trebuie să detecteze algoritmul? Cine stabilește ce constituie conținut problematic? Cine este protejat de regulile sale? Cine este mai vulnerabil la erori? Cine contestă deciziile? Prin aceste întrebări mutăm analiza de la tehnologie ca obiect către tehnologie ca relație socială.

Apariția inteligenței artificiale ridică o întrebare mult mai profundă: *ce se întâmplă cu omul atunci când procesele fundamentale ale cunoașterii, comunicării, reprezentării și deciziei sunt mediate de sisteme non-umane*? În această perspectivă, problema autonomiei, a identității și a alterității devine centrală, deoarece inteligența artificială intervine nu doar asupra modului în care omul utilizează tehnologia, ci și asupra modului în care acesta se percepe pe sine și îi percepe pe ceilalți.

Așa cum omul face parte dintr-un mediu cultural, identitatea sa se formează prin interacțiune cu familia, comunitatea, instituțiile, limbajul, tradițiile și formele de comunicare disponibile într-o anumită societate. Tehnologia digitală și inteligența artificială devin, în prezent, componente ale acestui mediu și contribuie la construirea imaginii despre sine a individului. Identitatea contemporană este, într-o măsură semnificativă, și o identitate digitală. Profilurile online, fotografiile, comentariile, preferințele, istoricul de navigare, interacțiunile și comportamentele de consum alcătuiesc reprezentări parțiale ale persoanei. Aceste reprezentări sunt prelucrate algoritmic și transformate în categorii operaționale:

<<utilizator interesat de anumite produse>>

<<persoană susceptibilă de a interacționa cu un anumit tip de conținut>>

<<membru al unei anumite categorii demografice sau comportamentale>>

Astfel, individul devine obiectul unei clasificări permanente care produce așa numita „identitate algoritmică". Identitatea algoritmică nu coincide complet cu identitatea trăită, dar o influențează pe cea reală. Dacă un sistem presupune că o persoană este interesată de un anumit tip de conținut, îi va oferi mai mult din acel conținut. În timp, individul fiind expus repetitiv acelorași perspective și ajunge să creadă că acestea corespund în mod natural propriilor sale interese. Se produce astfel o relație circulară între preferințele utilizatorului și predicțiile sistemului.

Din moment ce sistemul anticipează nevoile utilizatorului, spațiul deliberării devine mai redus. În loc omul să caute, să compare și să descopere, el ajunge să primească. În loc să formuleze o preferință, ajunge să confirme una sugerată anterior. Astfel, considerăm că autonomia este erodată prin diminuarea exercițiului deliberativ. În același timp, este afectată și alteritatea. Alteritatea în antropologie desemnează raportarea la Celălalt și la ceea ce este diferit de sine. Identitatea se construiește în relație cu Alteritatea, așa cum omul se descoperă pe sine prin întâlnirea cu celălalt, prin dialog, conflict, diferență și recunoaștere. Personalizarea algoritmică însă reduce contactul cu alteritatea. Dacă sistemele sunt proiectate pentru a furniza utilizatorului conținut compatibil cu interesele sale anterioare, experiența digitală devine din ce în ce mai omogenă. Utilizatorul vede ceea ce probabil îi place, citește opinii apropiate de cele pe care le-a exprimat anterior și interacționează cu persoane care împărtășesc valori sau preferințe similare. Într-un asemenea mediu, diferența este percepută ca o perturbare a dialogului cu Celălalt.

Riscul este apariția unor spații de comunicare în care alteritatea devine invizibilă. Individul are impresia că propria perspectivă este dominantă sau evidentă, deoarece sistemul îi oferă permanent confirmări ale acesteia. Fenomenul este relevant atât pentru viața politică, cât și pentru relațiile culturale și sociale. O societate democratică presupune existența pluralității, iar pluralitatea este posibilitatea reală ca opiniile diferite să se întâlnească în spațiul public.

Din acest punct de vedere, algoritmul devine un mediator al alterității. El decide, în funcție de criteriile sale, ce diferențe sunt prez-

entate utilizatorului și în ce ordine. Problema identificată este faptul că selecția algoritmică transformă accidental sau intenționat diversitatea într-o experiență personalizată a diversității. Atunci când fiecare persoană primește o versiune diferită și personalizată a lumii, experiența comună devine mai dificil de construit. Nu dispare societatea, însă se modifică infrastructura prin care oamenii ajung să împărtășească semnificații.

Inteligența artificială aduce această problemă la un nivel superior deoarece produce conținut personalizat la o scară fără precedent. Un sistem generativ adaptează formularea unui mesaj, tonul unei conversații, imaginile sau explicațiile la profilul presupus al utilizatorului. Personalizarea produce o formă de „oglindire algoritmică", în care omul primește în permanență o versiune a lumii adaptată propriilor sale caracteristici. În loc ca tehnologia să faciliteze întâlnirea cu ceea ce este diferit, ea o evită.

Problema identității se complică și mai mult atunci când inteligența artificială produce reprezentări ale persoanei. Avatarurile digitale, imaginile generate artificial, vocile sintetice și textele produse automat permit apariția unor forme de reprezentare care nu mai sunt realizate exclusiv de individ. Persoana poate avea o imagine publică generată sau modificată de sisteme automate, iar granița dintre exprimarea autentică și reprezentarea tehnologică devine mai dificil de stabilit.

Această transformare obligă filosofia contemporană să reexamineze conceptul de autenticitate. Din moment ce IA generează în numele unei persoane mesaje, imagini sau opinii, devine necesar să distingem între capacitatea tehnică de reprezentare și consimțământul real al persoanei reprezentate. Totodată, IA afectează și percepția despre Celălalt. Dacă utilizatorul interacționează frecvent cu agenți conversaționali capabili să răspundă instantaneu, să adopte tonuri empatice și să imite forme de dialog uman, apare posibilitatea unei confuzii între relația cu o persoană și relația cu un sistem. Aceasta nu înseamnă că interacțiunea cu inteligența artificială este lipsită de valoare, ci că natura alterității trebuie reconsiderată. Celălalt uman este o ființă autonomă, cu propriile intenții, limite și experiențe, în timp ce sistemul artificial răspunde în baza unei arhitecturi tehnice și a unor modele construite de oameni.

5. Concluzii

Cercetarea evidențiază faptul că moderarea algoritmică a conținutului reprezintă una dintre cele mai importante provocări etice, sociale și filosofice ale comunicării în era inteligenței artificiale. Dezvoltarea sistemelor automatizate de identificare, clasificare și filtrare a informației transformă profund modul în care indivizii se exprimă, interacționează și participă la viața publică digitală. Deși aceste tehnologii contribuie la protejarea utilizatorilor împotriva hărțuirii, discursului instigator la ură, dezinformării și altor forme de conținut vătămător, aplicarea lor implică riscul restricționării unor exprimări legitime. Prin urmare, problema fundamentală constă în identificarea unui echilibru între necesitatea protecției colective și respectarea libertății individuale.

Analiza realizată demonstrează că algoritmii reprezintă mecanisme socio-tehnice care participă la organizarea comunicării și la stabilirea limitelor discursului acceptabil. Prin clasificarea și distribuirea conținutului, aceștia influențează vizibilitatea opiniilor, accesul la informație și posibilitățile de participare la spațiul public. Totodată, personalizarea informației favorizează formarea bulelor informaționale, diminuarea contactului cu perspective alternative și fragmentarea experienței sociale comune. În acest context, libertatea de exprimare nu mai presupune exclusiv dreptul de a publica un mesaj, ci și existența unor condiții echitabile pentru ca acesta să ajungă la public.

Din perspectivă antropologică și filosofică, moderarea algoritmică ridică întrebări esențiale privind autonomia individuală, construirea identității și raportarea la alteritate. Clasificarea automată a discursului ignoră particularitățile culturale, intențiile comunicative și semnificațiile contextuale ale mesajelor. În consecință, erorile algoritmice conduc atât la menținerea conținutului nociv, cât și la eliminarea exprimărilor legitime. Aceste limite evidențiază necesitatea recunoașterii complexității limbajului uman și a diversității culturale.

În acest sens, cercetarea susține dezvoltarea unui model de moderare responsabilă, bazat pe transparență, responsabilitate instituțională, supraveghere umană și posibilitatea contestării deciziilor automatizate. Inteligența artificială trebuie utilizată ca instrument de sprijin, fără a înlocui integral judecata umană în situațiile ambigue. În

cele din urmă, legitimitatea moderării depinde de respectarea demnității, autonomiei și pluralismului. Protejarea utilizatorilor și apărarea libertății de exprimare nu trebuie considerate obiective incompatibile, ci principii care se susține reciproc. Numai printr-o guvernanță echilibrată și responsabilă a tehnologiilor digitale se construiește un spațiu public în care siguranța, diversitatea opiniilor și libertatea de exprimare să coexiste.

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CONTRIBUTIONS TO THE CULTURAL MEMORY OF BRĂILA (I). THE ALBANIAN COMMUNITY

CONTRIBUȚII CU PRIVIRE LA MEMORIA CULTURALĂ A BRĂILEI (I). COMUNITATEA ALBANEZĂ

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Abstract: *This initiative, part of a broader project launched by the Center for Cultural Diversity of the “Carol I” Museum of Brăila, aims to highlight the history of the Albanian community in this port city—a place that, during the late 19th and early 20th centuries, served as a significant hub for the meeting and coexistence of diverse ethnic communities. Thanks to its economic dynamism and, above all, its cosmopolitan character, Brăila—having recently emerged from Ottoman rule—provided fertile ground for the patriotic national liberation movements of Balkan peoples, thereby becoming a true center of refuge and support for Bulgarians, Greeks, Albanians and others.*
In this initial stage, the research examines how the Albanian presence has been preserved in Brăila’s cultural memory through documents, press reports, and various accounts. This ethnic community produced a number of local figures who left their mark on Brăila’s history, actively participating in its economic, political-administrative, and cultural life. The present undertaking is thus part of a series dedicated to recovering and highlighting the contributions of ethnic communities to Brăila’s multicultural and multi-ethnic identity.

Keywords: *Brăila, the Albanian community, cultural memory*

Abstrac: *Această inițiativă, parte a unui proiect mai amplu lansat de Centrul Diversității Culturale al Muzeului Brăilei „Carol I”, își propune să creioneze istoria comunității albaneze din acest oraș-port – un loc care, la sfârșitul secolului al XIX-lea și începutul secolului al XX-lea, a servit drept punct de întâlnire și spațiu de conviețuire pentru di-*

verse comunități etnice. Datorită dinamismului său economic și, mai ales, caracterului său cosmopolit, Brăila – recent eliberată de sub stăpânirea otomană – a oferit un teren propice mișcărilor patriotice de eliberare națională ale popoarelor balcanice, devenind astfel un veritabil centru de refugiu și sprijin pentru bulgari, greci, albanezi și alții. În această etapă inițială, cercetarea analizează modul în care prezența albanezilor s-a păstrat în memoria culturală a Brăilei prin intermediul documentelor, al relatărilor din presă și al diverselor mărturii. Această comunitate etnică a dat personalități locale care și-au pus amprenta asupra istoriei Brăilei, participând activ la viața economică, politico-administrativă și culturală a orașului. Demersul de față se înscrie, astfel, într-o serie dedicată recuperării și punerii în valoare a contribuțiilor comunităților etnice la identitatea multiculturală și multietnică a Brăilei.

Cuvinte-cheie: *Brăila, comunitatea albaneză, memoria culturală*

1. Introducere

Brăila a fost văzută și descrisă adesea – pe bună dreptate – ca fiind un adevărat creuzet etnic. Dar nu doar diversitatea de „rase" care au conviețuit aici a contribuit la această caracteristică, ci și o dinamică socio-culturală complementară. Dincolo de realitățile economice care i-au purtat spre unul dintre cele mai reprezentative porturi maritime de pe Dunăre, la Brăila, reprezentanții diverselor grupuri etnice au găsit teren fertil pentru exprimarea propriilor deziderate naționale (absolut aleatoriu, amintesc aici, doar pentru exemplificare, următoarele contribuții: Velichi, 1980, în special pp. 89-99; Ciachir, 1996, pp. 173-228; Jecev, 1996, pp. 265-2701). Este și cazul comunității albaneze, imortalizată în izvoarele arhivistice păstrate după revenirea Brăilei în cadrul administrației Țării Românești (1829). În ciuda unor mărturii palpabile cu privire la prezența aici a albanezilor, istoricul acestei minorități este mai puțin cunoscut, fiind creionat mai curând prin intermediul unor reprezentanți remarcabili, care, într-un fel sau altul, au lăsat urme documentare ce au ajuns până astăzi (vezi, de exemplu, Dobrescu, 1996, pp. 245-247).

2. Stadiul și problematica cercetării

Încercăm astfel, prin intermediul intervenției de față, să aducem un plus de informații cu privire la albanezii din Brăila, ca parte a unui proiect mai amplu. De la bun început trebuie însă exprimate limitele demersului, în special în ceea ce privește aprecierea corectă a dimensiunii comunității stabilite aici, din motive obiective. Puține

dintre documentele păstrate asumă „în clar" sau consecvent, de la o catagrafie la alta, etnia albaneză, iar antroponimele, cu toată puterea lor de sugestie, nu sunt întotdeauna repere certe, putând cel puțin trăda anumite influențe, dacă nu cumva o origine general... balcanică. Altminteri, diverse interese îi vor îndemna pe mulți dintre albanezi să se declare greci – în special orientarea către lumea creștină coagulată într-un stat bine definit –, sau să tindă spre asumarea unei cetățenii străine – în special britanică –, aspect asupra căruia vom reveni pe parcursul lucrării, cu exemple concrete.

Alt subiect insuficient documentat se referă la dinamica demografică din zona Brăilei, în esență la momentul pătrunderii aici a unor comunități etnice minoritare, realități datate *grosso modo*, mai puțin pe surse palpabile și mai mult pe temeiuri de logică istorică, după eliberarea orașului de sub administrația turcească (1829). Dar, un „mozaic" etnic existase, fără îndoială, și în timpul funcționării cetății. Pentru a rămâne în spiritul intervenției de față, amintim faptul că, în cel mai vechi Registru Otoman de Recensământ (1570) cunoscut pentru *kaza*-ua Brăilei din *liva*-ua Silistra, în rândul populației târgului din „*hass*-urile Padișahului cel Măreț", îl regăsim într-o „gospodărie musulmană" și pe Yusuf albanezul (Maxim & Gheorghe, 2018, p. 39); de altfel, și unele dintre numele înregistrate în rândul numeroasei populații creștine pot trăda și o potențială origine albaneză.

Evident că nu știm nimic despre etnicul donatorilor („epiroți" și români) care înființaseră o școală în anul 1756 la Girokastër, întreținută încă în secolul al XIX-lea prin danii de la București, Brăila, Iași și din veniturile metocurilor din Moldova ale mănăstirii Drinos (Poulitza, 1928, p. 90, 105-106; Mpara, 1966, p. 131, 217-218, 288-298; Camariano-Cioran, 1984, p. 109, 16).

Raportându-ne din nou la limbajul „sec" administrativ, o *Catagrafie* întocmită în chiar anul „eliberării" (1828), de către serdarul Grigore Tăut – ispravnicul Ținutului Brăila, reține alături de românii majoritari doar două etnii: armeni și evrei (Popescu, 1933, p. 7; broșura aceasta, ce va fi citată în continuare, însumează și completează cele două articole: Popescu, 1932, pp. 59-82, respectiv Popescu, 1932a, pp. 9-64). Cum alte informații care să ne ofere o alternativă din perspectiva diversității naționale nu deținem pentru acest moment (vezi totuși, un oarecare Sandu poreclit „Arnăutu" din satul brăilean Viziru,

la Popescu, 1933, p. 70), data primului recensământ românesc (1828) poate fi interpretată drept un posibil *terminus post quem* pentru stabilirea la Brăila și a unor albanezi. O „Foaie de fugarii plășilor Vădenii și Balta" din anul 1830 îl amintește și pe Vasile Albanu din satul Mina, plasa Bălții (Popescu, 1938, p. 34).

3. Rezultate și discuții

Cert este că reorganizările administrative din anii imediat următori, menite să integreze ținutul și orașul în corpul Țării Românești, au regăsit aici o comunitate albaneză, ai cărei reprezentanți dețineau deja suficientă putere economică și notorietate încât să poată fi aleși și asuma funcții dintre cele mai importante în noile organisme de conducere. Este cazul lui Kir Constantin Vechilargi, primul președinte al instituției denumite „Maghistratul Orașului Brăila", altfel spus, în termen contemporan, primarul orașului (Direcția Județeană Brăila a Arhivelor Naționale, *fond Ocârmuirea*, dosar 93/1831, f. 1). În legătură cu această demnitate, s-a considerat că „cel care era ales, ori trăise mai devreme în Brăila și era cunoscut de către cetățeni, ori lucrase în administrația română și la sugestia acesteia ocupase funcția, ori servise pe lângă autoritățile ruse care ocupaseră orașul, sau făcuse unele servicii cetățenilor" (Ciachir, 1996, p. 180). Oricare va fi fost realitatea, cert este că, la 6 februarie 1831, prin porunca Divanului Săvârșitor al Principatului Valahiei, se confirma alegerea membrilor magistratului și poliției: „*după alegerea obștii orășanilor, urmată pă temeiul oroșenescului, așezându-să de cuviință rânduirea ce au făcut întru aceasta dumnealui dvornicul știrea deplin împuternicitului prezident, prin predlojănie către obștea divanului de la 17 ale lui ghenarie, supt nr. 243, întărește de poliței la orașul Ibrăilii pă (...) Stavrache de Golova, s-au ales deputații orașului (...) Marin, de cileni ai maghistratului, pă Grigorie Ahtari, pă Carida șă Hristea Ceacari, cum să de (...) Constantin Vechil <hargi>*" (Direcția Județeană Brăila a Arhivelor Naționale, *fond Primăria Brăila*, dosar 1/1831, f. 1, 19. Vezi și Mocioiu et al., 1975, pp. 15-16, doc. nr. 1).

Probabil că, în timpul scurtului său mandat, a întocmit un *Catastih* pentru orașul Brăila (după cum și ocârmuitorul Ion Slătineanu se îngrijise de realizarea unui *Catastih statisticesc al hasului Brăilei*, vezi Perianu, 1945, p. 316). Din motive pe care nu le cunoaștem, de-

misionează la 20 august 1831. Deja la 11 septembrie era emis Ordinul Vorniciei Mari către Cârmuirea județului Brăila, cu privire la alegerea altui prezident: „*dumnealui chir Vechilhargi, prezidentul magistratului acelui oraș, prin răspunsul din 20 ale trecutului august, au făcut rugăciune ca să fie slobod dintr-această însărcinare, a cărui rugăciune fiind primită la Dvornicie, iată într-adins scriu dumitale ca împreună cu magistratul acelui oraș, adunând pă neguțătorii orășani după rânduială să facă alegere de alt prezident*" (Direcția Județeană Brăila a Arhivelor Naționale, *fond Prefectura Brăila*, dosar 93/1831, f. 1. Vezi și Mocioiu et al., 1975, p. 19, doc. nr. 4).

Constantin Vechilargi continuă să fie prezent în Brăila – în ciuda sugestiei că demisia sa ar fi fost legată de faptul că interesele l-ar fi purtat în alte zone –, așa cum o arată, în aprilie 1833, „*Tabelul cu numele alegătorilor de deputați din oraș*", unde figurează ortografiat „Constantin Vechil Hargiu", în vârstă de 38 ani, posesor a două case și patru prăvălii (Direcția Județeană Brăila a Arhivelor Naționale, *fond Prefectura Brăila*, dosar 2/1832, f. 36-38. Vezi și Mocioiu et al., 1975, p. 29, doc. nr. 13). I-a urmat în demnitatea de președinte al Magistratului, tot pentru o scurtă perioadă, Ion (Iancu Slătineanu) și Pavel Rubini (Cel din urmă considerat eronat primul primar al Brăilei era, de fapt, al treilea: Trohani, 2009, pp. 533-535. În treacăt fie spus, azi-numita „strada Rubinelor" din Brăila reține amintirea celor mai semnificative imobile din zona de altădată, anume „Casele Rubini", azi locul școlii (nr. 5) „Nikos Kazantzakis" (fosta școală elenă), vezi Munteanu, 2005, p. 169).

Pentru aceiași secvență timpurie a organizării administrative a Brăilei (1831), în chiar actul de confirmare a alegerilor membrilor magistratului, este menționat și polițistul „la orașul Ibrăilii", un oarecare Stavrache de Golova (Direcția Județeană Brăila a Arhivelor Naționale, *fond Primăria Brăila*, dosar 1/1831, f. 1, 19. Vezi și Mocioiu et al., 1975, pp. 15-16, doc. nr. 1), poate un albanez dar, oricum, după toate aparențele, altul decât acel Stavrache Divani (Ciachir, 1996, p. 181, 185 îl creditează pe Stavrache Divani cu funcția de polițai și etnia albaneză), pe care îl regăsim în deja menționatul „*Tabel cu numele alegătorilor de deputați din oraș*" (1833), unde este înregistrat la vârsta de 36 ani, ca posesor a două case și trei prăvălii (Direcția Județeană Brăila a Arhivelor Naționale, *fond Prefectura Brăila*, dosar 2/1832, f. 36-38. Vezi și Mocioiu et al., 1975, p. 29, doc. nr. 13). Cel puțin una dintre ele se

afla în (mahalaua) „Văpsea Albastră", plasată „împotriva" prăvăliei lui Mavro Matolu (Direcția Județeană Brăila a Arhivelor Naționale, *fond Prefectura Brăila*, dosar 2/1832, f. 36-38. Vezi și Mocioiu et al, 1975, p. 34, doc. nr. 13). În fine, la 20 septembrie 1934, Stavrache Divani este, alături de Anastase Xandos, „candidat de prezident" la „președenția Magistratului"; va obține funcția de „prezident în lipsă" (sic!) (Direcția Județeană Brăila a Arhivelor Naționale, *fond Prefectura Brăila*, dosar 239/1834, f. 5. Vezi și Mocioiu et al., 1975, pp. 39-40, doc. nr. 20).

Și Gheorghe Vechilargi deținea, fără îndoială, o demnitate oficială, întrucât înaintează un memoriu în anul 1831 Departamentului Pricinilor din Lăuntru, prin intermediul căruia relatează despre activitatea sa și a postelnicului N. Șuțu, în vederea limitării epidemiei de holeră prin instalarea de cordoane sanitare în jurul Brăilei (Mocioiu et al., 1979, p. 311).

În cea de-a doua *Catagrafie* (1837) datorată administrației românești – ne interesează aici în mod special a treia statistică, dedicată „supușilor curților străine locuitori în orașul Brăile și satele acestui județ" – se conturează deja pentru Brăila aspectul de „mozaic etnic", aici fiind atestați italieni (6), ungureni (2), armeni (2), nemți (7), evrei (18), ruși (13), bulgari (5), basarabeni (?), brașoveni (6), sârbi (1), polonezi (2), greci (360); aparent fără niciun reprezentant atestat al albanezilor. Nu punem însă să nu remarcăm pe un lenache Dumitru Arnăuceanu (între „băjenarii cu răspundere pe jumătate"), un Peiu Arnăutu politii (înscris la „sudiți"), pe H. Dobre Arnăuchianul (între „birnicii de capitație"), pe Stamate Bogasierul, sin Nicolaie Arnăuceanu (între „băjenarii cu răspundere pe jumătate"), pe Dimofte Arnăutu Faşă (între „băjenarii cu răspundere pe jumătate") sau pe Nicolai Arnăutu (între cei care „nu s-au arătat la comisie, fiind duși după ale lor enteresuri") (Vîrtosu, 1939, p. 23, 24, 28, 31, 32, 54). În fine, nu poate fi trecut cu vederea nici „Naum Pechil Hargi" – grec, avocat, britanic (sic!), cea din urmă cetățenie fiind asumată „cu patenta gheneralicescului consolat din București, nr. 222/1837"; era născut în Itac (Vîrtosu, 1939, p. 46, nr. 137).

Cea de-a treia *Catagrafie*, realizată anul următor (1838), mai complexă și riguros întocmită, începe să surprindă realități etnice din perspectiva care ne preocupă (pentru Brăila s-a publicat distinct pentru oraș și județ: Cristocea, 2012, respectiv Bounegru et al., 2015

(două volume). Fără a minimaliza defel calitatea și importanța celui din urmă demers, nu putem să nu facem trimitere la *Glosar*-ul volumului final (pp. 769-770), unde, pentru editori, singurul tâlc al termenului „arnăut" este grâul de primăvară..., desigur, mai curând impropriu contextului / tematicii tratate). În oraș sunt înregistrați opt arnăuchemi (doi în mahalaua Albastră și șase în mahalaua Roșie) respectiv 26 de arnăuți, grupați în mahalaua Galbenă (Cristocea, 2012, p. 9). Dintre cei din urmă, l-am remarcat pe Dimciu Grăcșu, burlac de 38 de ani, de meserie „caldărâmgiu", care din punct de vedere al birului este „raia turcească", o posibilă sugestie cu privire la prezența lui la Brăila încă din timpul stăpânirii otomane; la fel se consemnează despre „arnăuții" Anastasie Dimciu, Naum Serbin, Nicolae Petre (Cristocea, 2012, p. 31). De data aceasta „Noum Vechilarci", în vârstă de 42 de ani, de meserie avocat, se declară „arnăut", dar și sudit englez. În casa din (mahalaua) Vopseaua Galbenă a Brăilei trăia alături de soția Sofița și slugile Anastasie Alexe (rumân) și slujnica Anastasia (Cristocea, 2012, p. 56, nr. 346). În (mahalaua) Vopseaua Roșie îi găsim și pe Teohari Vechilarci (de la acesta s-ar fi păstrat o declarația în care se arată că ar fi venit în Brăila în anul 1830 (*non vidi*), vezi Ciachir, 1996, p. 186) de 37 de ani, văduv, declarat grec, dar și „sudit englez", având ocupația de „moșier". Locuia alături de muma sa Mariia, băieții Pashale, Pamiconda, Periclis și fetele Anastasiia și Athina (Cristocea, 2012, p. 101, nr. 761), dar și pe căpitanul Andricu Vecilharci de 30 de ani, grec și supus elin (sic!), de asemenea „moșier", alături de soția Joița, în etate de 40 de ani (Cristocea, 2012, p. 77, nr. 548). În județ „rumâni" sunt Șerban Arnăutu din satul Viziru de Jos (Bounegru et al., 2015, vol. I, p. 365, nr. 131), Costandin Arnăutu și Nițu Arnăutu din satul Batogu (Bounegru et al., 2015, vol. II, p. 545, nr. 23 respectiv p. 546, nr. 25), grec declarându-se Necula Arnăut din satul Strâmbul (Bounegru et al., 2015, vol. II, p. 743, nr. 1).

Dintre cei amintiți Naum Panajot Veqilharxhi (pe numele de botez Naum Panajot Bredhi) este, probabil, „cel mai" celebru albanez brăilean. Se născuse la 6 decembrie 1797 în sudul Albaniei, la Vithkuq – „comuna românească Bitcuchi", după Theodor Capidan (Capidan, 1928, p. 5). Nu deținem informații cu privire la momentul trecerii familiei Vechilargi în spațiul ortodox românesc – probabil pe la începutul secolului al XIX-lea –, unde se refugiase din calea raidurilor „musulmanilor". Peregrinările prin diverse orașe din Țara Românească

și Basarabia nu sunt suficient documentate, existând variante uneori contradictorii. Prima îl plasează pe Naum împreună cu familia (tatăl, ofițer în armata rusă, mama și fratele Constantin), o vreme, la Chișinău. Cealaltă vorbește despre faptul că Panajot Vechilargi ar fi slujit în administrația turcească, după încheierea Tratatului de la București (1812) stabilindu-se la Galați unde s-a dedicat comerțului. Ulterior decesului capului familiei (1821), văduva împreună cu cei doi băieți ar fi plecat la Chișinău, de unde a revenit la Brăila după pacea de la Adrianopol (Dobrescu, 1996, p. 245).

S-a stabilit la Brăila unde profesează meseria de avocat (= „vechil") ajungând printre oamenii de vază ai orașului" (vezi „Drita", nr. 2 din 25 mai 1887, p. 1. Documente de arhivă îl reținem drept participant în calitate oficială la numeroase mezaturi, vezi Ciachir, 1974, p. 39); ultimul document juridic depistat în arhivele orașului, care poartă semnătura lui, datează de la 28 iunie 1839, și se referă la o speță în care era implicat un mai vechi client al său, Andricu Vechilhargi, reprezentat împotriva lui Apostol Caridi și Toderașcu Gioca (poate tot albanezi) (Ciachir, 1996, p. 188). Deținea o prăvălie în (mahalaua) Vopseaua Galbenă, căreia urma să i se taie un perete, potrivit „*Raportului* inginerului Andrei Covaci către Magistratul orașului Brăila, privind sistematizarea orașului: îndreptarea caselor și străzilor" din 11 iunie 1833 (aceleiași regularizări care avea în vedere „lărgitul uliței" i-a fost victimă și „fundul de curte al lui Nicoli Arnăutu" (Direcția Județeană Brăila a Arhivelor Naționale, *fond Primăria Brăila*, dosar 10/1833, f. 23, 31. Vezi și Mocioiu et al., 1975, pp. 33-34, doc. nr. 14). Era căsătorit cu Sofia, care avea să îi supraviețuiască, prezentă încă în Brăila în anul 1887 – în (mahalaua) „culoarea Albastră", unde trăia cu numele de Teoharide (recăsătorită) (vezi „Drita", nr. 2 din 25 mai 1887, p. 1).

Militantismul național l-a apropiat de cauza lui Al. Ipsilanti (vezi „Libertatea". Ziar de informație și luptă socialistă, anul II, nr. 183, 1945, p. 2, unde se anunță faptul că joi, 22 martie, la ora 16.30, la facultatea de Drept din București, va avea loc ședința bilunară de comunicări a Institutului de Studii și Cercetări Balcanice, în cadrul căreia dl. Victor Papacostea va susține comunicarea „*Vechilhargi, colaborator al lui Alexandru Ipsilante*". Aceiași informație și în „Universul", anul 62, nr. 66, joi 22 martie 1945, p. 4) și evident de mișcarea lui Tudor Vladimirescu (Ciachir, 1983, p. 69) – în cadrul căreia ar fi deținut chiar funcția de

intendent-șef (Dumitrescu et al., 2008, p. 193), realități care i-au creat convingerea că nu se putea realiza eliberarea națională, fără o eliberare culturală (Vătășescu, 1984, p. 164). A adresat un manifest compatrioților săi din țară, îndemnându-i la luptă – acesta este considerat primul document programatic al mișcării naționale albaneze (Ciachir & Maksutovici, 1967, p. 104. Idee preluată și de Rădulescu-Zoner, 1977, p. 41). Tot el este și autorul primului abecedar albanez (Papacostea, 1938, pp. 248-252), a cărui primă publicare la București a fost interpretată drept data de început a renașterii albaneze (Petoshati, 1999, p. 54; Vătășescu, 1984, p. 164). Declararea cetățeniei grecești, de altfel încurajată de statul elen în prima parte a secolului al XIX-lea, era deopotrivă echivalentă cu asumarea apartenenței confesionale ortodoxe, și cu anumite interese care derivau din beneficiile acestui statut etnic. Dacă în „recensământul" anului 1837 Naum Veqilharxhi se declara grec, un an mai târziu, în următoarea catagrafie, este înregistrat drept „arnăut", semn că începeau să se întrevadă perspective mai optimiste pentru națiunea albaneză sau, de ce nu, o declarație răspicată în ceea ce privește începutul angajării sale în lupta pentru îndeplinirea idealului național. În orice caz, vigurosul militantism patriotic din decada următoare, nu putea fi asumat din postura de etnic grec. Pentru data dispariției marelui patriot albanez, petrecută în condiții dramatice la Constantinopol, sursele nu concordă. Majoritatea reține anul 1846, dar s-a vehiculat și anul 1854. Un document păstrat în arhivele Brăilei – din păcate aflat într-o stare de conservare nu foarte bună –, pare să ofere indicii în acest sens. Un oarecare Sterie Bociari reclama, la 5 octombrie 1854, Magistratului orașului Brăila, stricăciunile produse în curtea sa, datorită apei ploaie care curgea de pe streașina magaziei construite de către Naum Vechilhargi. Semnificativ este faptul că în acest document reclamantul menționează faptul că mai depusese o petiție în acest sens și în anul 1849, atunci când vecinul său „acum răposatul Naum Vechilhargi" o edificase. Prin urmare, potrivit acestui act, în anul 1849 Naum era în viață și se îngrijea de proprietățile de la Brăila, dar deja în anul 1854 se știa aici despre dispariția sa, imobilul trecând în posesia moștenitorilor, dintre care este nominalizat Constantin Vechilhargi (Ciachir, 1996, p. 192).

Un Ion Vechilargi, în calitate de arendaș al moșiei Câmpineanca, solicita în anul 1838 sprijinul Ocârmuirii, spre a întoarce familiile

de țărani clăcași fugite la Brăila (Direcția Județeană Brăila a Arhivelor Naționale, *fond Prefectura jud. Brăila*, dosar 121/1837, f. 13; dosar 283/1836. Vezi și Mocioiu et al., 1975, p. 17).

Domnitorului Barbu Știrbei, trecător prin Brăila, îi adresează negustorul albanez Dimitri Faca Georgi, în anul 1851, o jalbă prin intermediul căreia denunță specula la care dragomanii îi supun pe țăranii nepricepuți în activitățile comerciale (= „neecsperiența și prostia"). Pentru a se pune capăt abuzurilor, solicită „a fi orânduit dânsul în postul de căpitan ca să slujească cu credință asupra acestui prepozit" (Mocioiu et al., 1975, p. 102, doc. nr. 81).

După nume, albanezi par a fi Triandafil și Gr. Geani, doi dintre cei opt notabili care semnează un proces verbal al Consiliului Comunal din anul 1887 (Direcția Județeană Brăila a Arhivelor Naționale, *fond Primăria Brăila*, dosar 17/1887, f. 88. Vezi Ciachir, 1996, p. 216).

De altfel, către finele secolului al XIX-lea cosmopolitismul Brăilei se regăsea și în denumirea stabilimentelor; cafenele se numeau „Elada", „Pizzeria Napolitană" dar și „La Albanezu" (Munteanu, 2013, p. 14).

Secolul următor (1906), Societatea de culturală macedo-română a organizat la București o expoziție de pictură a albanezului Theohari Ghini, care conținea 45 de tablouri reprezentând eroi ai poporului albanez (Skanderbeg, Ali Pașa Tepelena etc.). Deopotrivă la reușita evenimentului și la achiziționarea unor picturi s-a implicat și comunitatea etnică din Brăila (Arhivele Naționale ale României, București, *fond Poliția și Siguranța statului*, nr. arh., 2 (1903), dosar 6/944, f. 59. Vezi Ciachir, 1996, p. 224). Aceiași comunitate participă la strângerea de fonduri pentru construirea unei biserici ortodoxe albaneze în București, cât și pentru a finanța deplasarea din America a episcopului Fan Noli – om politic albanez care va deține funcția de prim-ministru și regent al Albaniei (1924) –; ajuns la București (1911) acesta a vizitat Brăila și Constanța, considerate principalele focare albaneze din România (Arhivele Naționale ale României, București, *fond Direcțiunea Poliției și Siguranței Statului*, dosar 54/1910, f. 26. Vezi Ciachir, 1996, p. 226).

Altfel, presa locală titra sub titlul „*Excrocheriile albaneze din Brăila*" (1915), pățania comerciantului S. Stătescu, care vrând să își construiască un imobil pe Bulevardul „Al. I. Cuza", la nr. 233, ar fi fost escrocat de doi antreprenori macedo-albanezi, aflați sub protecția

rudei lor, arhitectul albanez Niculescu („Adevărul Brăilenilor", anul II, nr. 18 din 20 iulie 1915. Vezi Munteanu, 2015, p. 292). Dincolo de caracterul informației, reținem indiciile prezenței unor reprezentanți ai comunității de care ne ocupăm la Brăila, după declanșarea Primului Război Mondial.

O altă sugestie cu privire la existența unor comunități consistente albaneze în România este oferită de faptul că, încă din anul 1887, societatea „Drita" (= „Lumina") deschide sucursale în provincie, la Brăila, Focșani, Călărași și Mărășești, ulterior și la Constanța (1897). Societatea își declara oficial rolul inițiatic de a răspândi lumina spirituală și culturală printre albanezi.

Mai mult decât atât, nu este întâmplător deloc faptul că, anterior cu un an apariției foii săptămânale „Shqiptari" (= „Albanezul") din București, apărea la Brăila ziarul „Drita. Diar literar sciințific [18 mai] – 12 octombrie 1887; 13 iunie 1888. Apare în fiecare duminică seara" care, după primele două numere, de la 1 iunie 1887, își modifică numele în traducerea românească „Lumina". Comitetul de redacție era următorul: I. A. Ferechide – președinte al Societății „Drita" filiala Brăila și redactor principal; Mihalache Naum – vicepreședinte, D. Papadopol – secretar, Tache Petrescu, D. Constantin, Chiriac Demetriu, D. Peicioman – membrii și Iacob Nicolescu – girant responsabil (Volcu, 2009, p. 59, nr. 397. Vezi și Maksutovici, 1972, p. 33-64). Sediul redacției era pe bulevardul „Carol I", la nr. 117, culoarea Galbenă și se realiza în tipografia lui Pericles Pestemalgioglu de pe strada Goleși, nr. 27 (Direcția Județeană Brăila a Arhivelor Naționale, *fond Primăria Brăila*, dosar 25/1909, f. 23. Vezi Ciachir, 1996, p. 192). Suntem așadar în fața primului ziar albanez din România, iar apariția lui se întemeia nu doar pe prezența unei comunități consistente, dar și pe un fond preexistent

> „deoarece Brăila fusese leagănul creării unei societăți culturale albaneze și leagănul literaturii albaneze, pentru că aici lucrase și crease Naum Vechilhargi" (Bela, 1964, p. 32).

Schimbarea denumirii și titrarea în limba română trebuie să fi avut cu totul alte tâlcuri decât lipsa sau diminuarea numărului de albanezi între membrii societății (Capidan, 1928, p. 7. Vezi și Ciachir & Maksutovici, 1967, p. 106, nota 17 care menționează scrisorile unor compatrioți din Brăila: Sterio A. Cosma, Tache Petrescu și Ispas Pe-

tre), redactate și expediate în intervalul 30 iunie – 14 septembrie 1887) și mai curând, pe de o parte, anumite scindări de opinie în interiorul comunității (Vezi „Drita", anul I, nr. 2, luni 25 mai 1887, în care se arată faptul că „de azi" *Drita* brăileană nu mai aparține societății de cultură albaneze omonime, ci este un organ personal al comitetului albanez din Brăila, care îl redactează și îl editează), pe de alta, de a crea, și astfel, punți spre „frații români" care având creat un stat național puteau să îi susțină și pe albanezi în ceea ce privește îndeplinirea idealului lor patriotic (Majuru, 2002, p. 239). În orice caz, acest periodic își asuma continuarea tradiției naționale create de Naum Vechilargi, deoarece Brăila fusese „leagănul creării unei societăți culturale albaneze". De altfel, în iunie 1887, membrii societății „Drita" care adoptau pasivismul se vor separa, creând propria societate culturală, denumită „Dituria" (= „Înțelepciunea"). Aceasta va avea o filială și la Brăila condusă de președintele Sterie Kosma, și despre care se spunea că a fost fondată de „albanezi originari din Belcamen și Megovani", fiind înființată înainte de 15 mai 1888, când începe să își publice propriul ziar (Iancovici, 1971, pp. 30-35).

Și în prima decadă a secolului următor, albanezii sunt numeroși și activi în Brăila. Societatea „Spresa" creată în juriul Cercului studențesc albanez, a organizat și în portul dunărean o adunare publică (1903). Au conferențiat Kristaq Dako despre trecutul și prezentul patriei albaneze, respectiv Filip Papaiani despre prietenia dintre poporul român și „națiunea lui Skander-bey", în prezența unui numeros auditoriu („Românul de la Pind", nr. 42 din 22 decembrie 1903, p. 4).

Societatea albaneză „Dialeria Schipetare", prin intermediul președintelui comitetului de conducere, Gheorghe Bociari, informa la 9 septembrie 1906 Primăria cu privire la faptul că va organiza „*o reprezentație în ziua de 10 septembrie curent în sala <Capriș>, din acest oraș, din beneficiul căreia 10% se vor da pentru mărirea fondului societății și pentru ajutorarea fraților români macedoneni*"; se solicita „*cu distins respect a scuti reprezentațiunea de taxa ce se impune de onor primăria locală*".

Documentul original păstrează și rezoluția „*se recomandă agentului respectiv a face conformare*" (Direcția Județeană Brăila a Arhivelor Naționale, *fond Primăria Brăila*, dosar 54/1906, f. 227. Vezi și Mocioiu, et al., 1975, pp. 481-482, doc. nr. 449).

„Drita", renaște la 1 octombrie 1923, primind confirmarea juridică un an mai târziu. Avea sediul pe strada Racova, la nr. 52 și era condusă de un președinte, în persoana lui G. N. Dumitru. Scopul general al acestei „reorganizări" era acela de „a menține între membrii raporturi strânse, dezvoltând pe cât posibil spiritul de colegialitate". În statul se menționa și faptul că „drapelul societății va fi brodat pe ambele părți cu fir, iar portretul Sfântului Gheorghe va fi din mătase de culoare național frumoasă" (Direcția Județeană Brăila a Arhivelor Naționale, *fond tribunalul Brăila*, dosar 643/1924, f. 2-4. Vezi și Ciachir, 1996, pp. 183-184). Alături de numele românești ale unor membrii, apar și numele alogenilor, care predomină, precum: Costa Egimici, Athanase Gioca, Athanas Geges, Teodorachi Lumi, Hristu Botzi, Ianuli Colici.

4. Concluzii

Acestea sunt principalele repere cu privire la existența în Brăila, alături de alte comunități care au lăsat urme mai consistente – inclusiv monumente care se păstrează și astăzi, îndeosebi în ceea ce privește patrimoniul eclesiastic construit –, a etnicilor albanezi. Demersul de față și-a propus doar argumentarea prezenței lor în cadrul a ceea ce a fost general definit drept „mozaic etnic", parte a unui proiect mai larg, referitor la memoria culturală a Brăilei. Odată demonstrată prezența acestei comunități, cercetările viitoare vor putea spune mai multe detalii. Urmărirea aprofundată, mai ales pe baza documentelor de arhivă, și reconstituirea „în mic" a istoricului unor membri proeminenți din perspectiva „urmelor" pe care le-au lăsat, vor contura mai eficient profilul comunității stabilite în orașul dunărean.

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ECHOES OF WAR IN THE ARTISTIC WORLD OF ION DRUȚĂ

ECOURI ALE RĂZBOIULUI ÎN UNIVERSUL ARTISTIC AL LUI ION DRUȚĂ

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Abstract: *Ion Druță's artistic universe is pervaded by echoes of war, which resonate through individual and collective destinies and leave deep marks on both the material and the spiritual plane. Rather than dwelling on military confrontation as such or depicting the front line in close detail, the writer focuses on the devastating consequences of war.*
This article draws on several of Druță's works: Horodiște [The Hillfort], Murgul din Crimeea [The Bay Horse from Crimea], Urme [Traces], Rubanca, Frunze de dor [Leaves of Longing], Șapte mioare [Seven Little Ewes], Șoapte de nuc [Whispers of the Walnut Tree] and Biserica Albă [The White Church]. None of these works takes war as its central theme; instead, the author approaches it obliquely, alluding merely to "those times". Woven into the narrative fabric of these works are terse statements about the war, the lives of people who faced it directly and continue to bear its consequences, and the ways in which they return to life while keeping faith and hope for tomorrow alive in their hearts. Thus, beyond its scenes of suffering, Druță's work retains a profoundly humanist outlook, in which faith, solidarity, attachment to the land, endurance in the face of life's hardships and hope become the cornerstones of inner resilience.

Keywords: *representation, war, prose, indirect representation, resilience.*

Abstract: *Universul artistic al lui Ion Druță este pătruns de ecouri ale războiului, care se răsfrâng asupra destinelor individuale și colective, lăsând urme adânci atât în plan*

material, cât și spiritual. Scriitorul nu insistă atât asupra confruntărilor militare propriu-zise, nu descrie cu detalii aprofundate frontul de luptă, cât insistă asupra consecințelor devastatoare ale războiului.
Articolul de față a fost realizat în baza câtorva opere druțiene: „Horodiște", „Murgul din Crimeea", „Urme", „Rubanca", „Frunze de dor", „Șapte mioare", „Șoapte de nuc" și „Biserica Albă". Niciuna din aceste opere nu are ca temă principală războiul, autorul tratează tema războiului indirect, făcând doar trimitere la „acele vremuri". În firul narativ al acestor opere sunt intercalate fraze declarative despre război, destine umane care s-au confruntat direct cu războiul și suferă consecințele acestuia, precum și modul în care oamenii își revin la viață, păstrând în suflet credința și speranța în ziua de mâine.
Astfel, dincolo de secvențele suferinței, creația druțiană păstrează o perspectivă profund umanistă, în care credința, solidaritatea, legătura cu pământul, rezistența la intemperiile vieții și speranța devin repere ale rezistenței interioare.

Cuvinte-cheie: *reprezentări, război, proză, reprezentare indirectă, rezistență.*

1. Introducere

Tema războiului și a efectelor lui pe termen lung reprezintă o temă des inclusă în subiectul diferitor opere literare (proză, poezie, dramaturgie) din literatura universală, dar și în cea română. În diferite perioade de timp, tema a fost tratată diferit, unii axându-se pe evenimentele care au generat războiul, alții pe istorii reale care s-au întâmplat în timpul războiului și după, pe când o altă categorie de scriitori s-au concentrat pe consecințele fizice și moral-spirituale ale războiului, pe schimbările radicale generate de război, pe urmele adânci săpate în sufletele oamenilor, pe procesul de adaptare în noile condiții, pe atitudinea față de viață, în general.

2. Materiale și Metode

Pentru realizarea obiectivelor de cercetare propuse am utilizat documentarea științifică, generalizarea și sistematizarea literaturii de specialitate, analiza și interpretarea literară. Baza epistemologică a cercetării o constituie analizele critice și sugestiile cercetătorilor în domeniu și însăși opera autorului – Ion Druță.

3. Rezultate și Discuții

Ion Druță, unul dintre cei mai apreciați prozatori postbelici, prin scrierile sale, a reușit să construiască situații și să reconstruiască evenimente care au marcat, în special, viața rurală. De altfel, Ion C. Ciobanu, în *Cuvânt despre Ion Druță*, inclus în volumul I, Scrieri,

menționează următoarele: „În vreme de pace, în ani de război, în nuvele și povestiri, romane și piese de teatru, în orice împrejurări, în orice genuri literare, el se hărțuise cu teme și subiecte luate din viața rurală" (Ciobanu, 1989). Ion Druță a reușit să redea farmecul vieții rurale cu multă măiestrie și meșteșug artistic, construind caractere umane impresionante, înrădăcinate în obiceiuri și tradiții, păstrate cu sfințenie chiar și în vremuri de restriște, cum au fost vremurile de război.

După cum remarcă critica literară, cu referire la romanul *Clopotnița*, arta de prozator a lui Ion Druță „se vede nu numai în stilul narațiunii și în cele câteva tablouri realizate cu o mână de maestru, ci și în perspectiva romanescă incitantă" (Cristea-Enache, 2023), particularități valabile și pentru celelalte creații ale scriitorului.

Arta de prozator a lui Ion Druță se întrevede chiar și atunci când tratează o temă sensibilă și incomodă, așa cum e tema războiului, „fie interzisă, fie impusă într-un mod distorsionat" (Cristea-Enache, 2023) evocând momente și consecințe din cel de-Al Doilea Război Mondial, o temă dureros de dramatică, tulburătoare și, în același timp, revoltătoare și profund umanistă. De cele mai multe ori, autorul tratează tema războiului indirect, făcând doar trimitere la „acele vremuri", bunăoară cum apare în lucrarea autobiografică *Horodiște* când, autorul, mai mult în trecere, depănând amintiri, spune despre Pavel (fratele mamei) că „a căzut în război", iar bunicul văzându-l pe ginere cum „gospodărește teafăr și nevătămat", a murit și el în același an cu Pavel.

În aceeași lucrare, vorbind despre bădica Gheorghe, scurt marchează în biografia sa că nu mult după însurătoarea sa, la numai 18 ani, „a fost luat la armată, iar după doi ani de armată au început concentrările din ajunul celui de-Al Doilea Război Mondial, după care a venit și războiul" (Druță, 1989). Autorul nu insistă asupra acelor evenimente, nu deapănă amintiri sau istorisiri legate de luarea fratelui în război, de slujba făcută, de intemperiile războiului și explică motivul pentru care n-ar scrie: „...o să trecem peste destinul unui om în aceste mari zguduiri de vremuri, pentru că cine poate zice că a spus totul, mai ales într-o cărticică destinată copilăriei sale" (Druță, 1989). Dincolo de faptul că a făcut și fratele Gheorghe războiul, că a ajuns cu Armata Roșie până în Cehoslovacia, până în Austria, autorul pune accept pe altceva, așa cum o face de fiecare dată când e vorba de personajele sale, autorul subliniază faptul că „...personalitatea lui fusese însă formată încă

înainte de război", iar războiul a fost cel care i-a demonstrat puterea de voință și i-a stimulat dorința de viață.

O adevărată istorie plină de umanitate este scurtul text *Murgul din Crimeea*, poate printre singurele care rememorează pașii de întoarcere ai soldaților din război, drumul revenii acasă, cel care „cearcă să adune drumurile războiului într-un singur drum" (Druță, 1989). Autorul insistă asupra momentului păsirii pe plaiul natal, unde și vântul răzbate ca o doină bătrânească: „Soldații îl trag adânc în piept – îi vântul nostru de acasă... A venit sărmanul peste ape, atâta amar de lume a trecut, dar a venit... L-o fi trimis nevasta ori poate copiii..." (Druță, 1989).

Toaca celor patru care de război, pe drumul întoarcerii, e „pâinea lor, îs părinții și copiii lor. Și soldații o ascultă, o beau, o împart tovărășește ei înde ei" (Druță, 1989). Aceste descrieri sensibilizează orice suflet, autorul pune accent pe detalii și acestea condensează istoria, o fac mai impresionantă și emotivă. Ion Druță evidențiază, pe de o parte, suferința oamenilor determinată de război, iar pe de altă parte, puterea legăturilor sufletești dintre oameni și locuri, speranța de a reveni la o viață pașnică.

Metafora „pâinea lor" sugerează că sunetul toacei reprezintă o hrană spirituală pentru soldați, o adevărată sursă de alinare care întreține sufletul. Experiențele grele ale vieții, momentele de grea încercare, îi fac pe soldați să se gândească la părinți, la copii și la familiile rămase acasă, care constituie adevăratul sens al revenirii lor. Verbele „o ascultă, o beau, o împart" transmit intensitatea trăirilor interioare, astfel sunetul „toacei" nu doar este auzit, ci absorbit de întreaga lor ființă. Expresia „o împart tovărășește ei între ei" evidențiază solidaritatea umană și faptul că ceva îi unește. Deși provin din familii diferite, cu trecut diferit, cu experiențe de viață diferite, soldații împărtășesc aceeași suferință, același dor și aceeași speranță. Prin reîntoarcere ei descoperă că legătura dintre oameni, solidaritatea și memoria celor dragi sunt mai puternice decât chiar frica de moarte.

Dincolo de tematica întoarcerii, de așteptata revenire acasă, de aerul de acasă, de cântecul drumului spre casă, se prefigurează un subiect al umanismului adus la extrem pentru o vietate care și ea se întoarce acasă. Așa cum aflăm din titlu, în rândurile celor care se întorc acasă e și un murg, pe care caporalul Harabagiu îl tot îndeamnă: „Hai,

murgule, hai...", iar căpitanul văzând de câte ori căzuse, de câte ori răsufla des și greu, îi tot ordona caporalului Harabagiu: „Ce nu-l împușți?", „Fugi și-l împușcă", „Fugi și execută!", dar Harabagiu „nici gând să fugă", ceva îl reține, ceva îi dă speranța unui sfârșit fericit și acest ceva e umanitatea din el. Autorul, într-un conținut de șapte pagini, cel mai mult spațiu dedică descrierii murgului cum cade tot mai des, cum „zace în mijlocul drumului", cum îi tremură pielea pe el, îi tremură mușchii, dar la îndemnul lui Harabagiu încearcă să se ridice, „își dă seama că și de data asta a fost iertat" (Druță, 1989), cum scrie autorul.

Câtă ușurare când mai trece o zi, deși e o zi „fără nume, fără dată", poate e o zi de miercuri sau poate sâmbătă, poate e a opta de când au pornit drumul întoarcerii, sau poate a unsprezecea, dar nimic nu contează când a vorba de drumul întoarcerii, pentru că „drumul spre casă îi singurul drum pe care îl face oastea fără hartă" (Druță, 1989). Imaginea vizuală „fără hartă" sugerează că dorul de casă este atât de puternic, încât nu are nevoie de repere geografice sau de indicații precise. Niciun radar nu poate indica direcția și distanță dintre inimă și dorul de casă. Stările sufletești și amintirile devin adevăratele călăuze ale soldaților. Spre deosebire de drumul războiului, care presupune un drum al necunoscutului, al neprevăzutului, marcat de ordine, strategii și direcții de orientare nesigure, drumul întoarcerii este condus de dorința firească de a regăsi oamenii dragi și de a recupera pacea pierdută.

Coloana înaintează spre casă, întâlnește în drum și alți soldați în retragere spre casă, îi cuprinde bucuria revederii, îi cuprinde dorul de cei de acasă, dar într-un târziu atmosfera de înviorare în toată coloana este spartă de cuvintele „... a căzut un cal". Harabagiu știe că e vorba de murgul lui, se repede să-l ajute, cară țărână în poala mantalei, dar este întrerupt de țeava căpitanului care se îndreaptă spre animal. Harabagiu, într-un gest de apărare, cu scuza de a nu-l ucide în mijlocul drumului, că „cine dracu îl trage din drum?", îl deshamă și luând un mănunchi de paie în mână își îndeamnă calul să-l urmeze în câmp. Calul presimte, „își dă seama despre ce este vorba. Se lasă moale în genunchi, apoi se culcă, întinzând gâtul pe pământ", iar Harabagiu, în semn de profund umanism, îi ridică capul și îi așterne paiele dedesubt, moale rostind cuvintele: „Așa-i, murgule, la război...". Evenimentul e surprins în noapte și nu în zadar, aceasta fiind un simbol al întuneric-

ului, al morții. În drumul întoarcerii roibului e prefigurată viața multor oameni care au pornit pe drumul întoarcerii spre casă, dar n-au mai ajuns, au avut atâtea pericole de înfruntat, atâtea gloanțe de evitat și uite-i pe drumul întoarcerii..., dar fără șansa de a se mai bucura de biruință. Unor soldați le-a fost dat să calce pe pământul străbun, dar să nu aibă parte de el pentru prea mult timp.

Culcat la pământ, un „vântișor obosit" i-a adus miros de văi cu iarbă verde și brazde calde, dar „le-a adus târziu...", accentuează autorul, încheind gândul cu următorul monolog: „Așa-i când îi război – și murgul nu se plânge... A fost soldat și el, a fost și el blagoslovit de mama-regină". Imaginea „vântișorului obosit" este o personificare sugestivă, prin care natura pare să aline suferința murgului, să contrasteze cu atmosfera sumbră a războiului, să aducă o paloare de viață, dar și el e „obosit" și vine întârziat, parcă în resemnare în fața realității crude. Personificarea îi atribuie animalului trăiri omenești, sugerând că și el a cunoscut greutățile, frica și lipsurile războiului. El, de asemenea, și-a dorit întoarcerea, iar acum în amurgul vieții, tăcerea murgului amplifică drama unei lumi în care suferința nu mai are nevoie de cuvinte pentru a fi înțeleasă.

Autorul accentuează în final ideea că nimeni nu l-a întrebat pe murg ce crede ori nu crede despre război, că vrea să se ducă ori nu vrea, „i-au pus o șa în spinare, în șa i-au pus un soldat, au pocnit bicele și murgul s-a dus" (Druță, 1989). Aceasta a fost soarta majorității bărbaților, mai tineri sau mai bătrâni, să plece fără să fie întrebați de vor sau nu, iar pentru mulți fără șansa de a se mai întoarce – „o doină ce n-a fost cântată încă, dar a fost suferită din plin".

Consecințele războiului se fac resimțite și peste ani, așa cum ne-o demonstrează textul *Urme*, care-l scoate în evidență pe badea Chirică, cel care a purtat în umărul său aproape zece ani „o creastă ascuțită de metal", consecință directă a războiului. Atunci când vremea se schimba, îi dădea de știre. Abia după zece ani, fără a ninge sau a ploua, a început a-l durea, într-atât încât îi slăbea inima. Într-o zi, când fiul și nevasta au plecat de acasă, și-a dezbrăcat cămașa să vadă vechea rană. N-a vrut s-o facă de față cu ei: „N-au ei ce să se uite, își zicea omul... Pașa (soția) a uitat de-amu de război, da ușernicul cela nici nu l-o apucat..." (Druță, 1989). A strâns toată durerea, scrâșnind din dinți și și-a smuls așchia de metal până s-au întors acasă cei apro-

piați, „era curios s-o cerceteze, că zece ani a purtat-o în trupul lui, pe de altă parte, atâta l-a durut, încât nici n-avea ochi s-o vadă" (Druță, 1989), dar a aruncat-o în prag, a doua zi a nins și n-a mai dat de ea, deși „voia s-o vadă cu ochii lui, s-o vadă la lumina zilei". Odată cu aruncarea acelei așchii de metal și-a dat seama cât de frumoasă e viața, că „avea ceva Paraschița ceea, avea ea un farmec al ei...".

Rubanca (din textul cu același titlu) e un alt personaj care amintește de consecințele grele ale războiului, viața ei grea de dinaintea războiului, dar și după: „Și câte n-a tras ea... N-a dovedit să îmbrăzdeze cele trei hectare primite în 1940 – și iată războiul. Iar nu-i pământ. Iar foamete, chin" (Druță, 1989). În același text identificăm un alt personaj, Toader, care s-a întors de pe front „sergent..., cu pieptul plin de medalii", în schimb cu sufletul răvășit.

Războiul a devenit o realitate, dar și un vis continuu al multora, care își aminteau de unele situații pe care le-a creat acesta, când nu numai oamenii își pierdeau viața, dar și animalele, răpuse de gloanțe străine, așa cum s-a întâmplat în *Șapte mioare*. Moș Ciobanu, bătrân deja, trecut prin ale vremii, noaptea, singur fiind, închidea ochii și „peste noapte visa stâna, câinele cel roșcat, care a pierit pe vremea războiului", menționează autorul, „l-a împușcat un neamț. Păcat, era câine bun..." (Druță, 1989).

Marcată de o suită de momente ale războiului este nuvela *Frunze de dor*, de la vestea războiului, petrecerea bărbaților la război, până la scrisorile și telegramele de pe front și întoarcerea unora înapoi. Autorul pune accent pe sensibilitatea sufletească a personajelor sale când e vorba de cei dragi, pe durerea mamelor și taților care așteaptă vești de pe front, măcar o frântură de rând scris, măcar un semn de viață. În lipsa acestora, nimeni nu-și află locul. În fiecare zi așteaptă nerăbdători poștașul să vină cu scrisorile, rămân dezamăgiți când nu primesc nicio veste, rămân triști și retrași de lume, ca în cazul lui moș Andrei care „de vreo jumătate de an, de cum i-a căzut singurul fecior la război, nici nu dă bineț, nici nu răspunde altora" (Druță, 1989).

„Pătrățelul cenușiu" este durerea cea mai mare a tuturora, e „unul din acelea după care niciodată nu mai scrie soldatul acasă" (Druță, 1989). Așa se află despre pierderea în război a feciorului lui badea Zînel, Zînel Cojocaru. Câtă durere colectivă și câtă durere individuală prefigurează autorul în descrierea acestui moment: „Pes-

te o jumătate de ceas vestea colindase de acum tot satul, și-l jeleau moșnegii, fiindcă era băiat cuminte, și-l jeleau gospodinile, căci a fost harnic, și-l jeleau fetele, căci era băiat frumos. Și tot așteptau cu toții, așteptau cu înfrigurare în suflet când se vor deschide larg ușile casei de pe malul iazului și un bocet de mamă va porni a frământa că o mare micuțul sătuc pierdut în largul câmpurilor" (Druță, 1989).

Odată cu sosirea telegramei, le-au revenit în minte, ca într-o oglindă, ultimele evenimente ce-i legau de fiul lor, și-au dat seama că era aproape un an de când au dus straiele lui Toader și le-au așezat în casa cea mare, aproape un an de când s-au dus în trei la gară, dar s-au întors doi, de faptul că la plecare Toader „s-a aplecat să-i sărute mâna, și bietul badea Zînel, buimăcit cum era, abia a dovedit să-l sărute pe frunte" (Druță, 1989).

Orice scrisoare primită era pentru părinți un adevărat eveniment, „îi tremurau mâinile și întreba pe toată lumea dacă într-adevăr e scrisul lui Toader", era pregătit pentru orice, bunăoară își ungea seara ciubotele cu dohot ca să aibă cu ce ajunge până la podul de la marginea satului, căci „cine știe cât mai avea să ție războiul" și acum „iată că a venit o telegramă...".

Războiul este redat prin prisma celor maturi, pentru care nici somnul nu mai este somn, nici casa, casă și nici masa, masă, dar și prin prisma lui Trofimaș, un copil care încă nu înțelege ce înseamnă război, deși aude despre el, bănuiește că soldații se luptă cu arundii și când tata îi zice că l-au dus pe Toader la război, se întreabă „din ce să împuște el acolo, dacă nu și-a luat tunul?". Istoria lui Trofimaș cu pierderea rublelor pentru pălărie și apoi, după primirea telegramei, gestul tatălui de a-i pune pe cap pălăria fratelui Toader, a reprezentat un adevărat eveniment. Acea pălărie verde, cu pană de păun „au visat-o multe fete în satul acela", dar „era război...", conchide autorul la sfârșitul capitolului 23.

Războiul lăsa urme vizibile în toate satele, iar autorul menționează unele din acestea: „Bântuia pe undeva războiul și în multe ogrăzi din Valea Răzeșilor vedeai stoguri gătuite, clădite de mână de femeie, și mulți copii învățaseră să înjure, mergând în urma plugului, și moș Dănuță, suindu-și scripcă în pod, îmblătea stîngaci, ca femeile, secara" (Druță, 1989). De-ar fi fost doar aceste urme, dar erau unele și mai grave, așa cum ni se relatează într-un alt fragment: „A doua zi a tre-

cut un avion deasupra statului, s-a lăsat pe o aripă și a pornit a scuipa plumb fierbinte de-a lungul căii ferate" (Druță, 1989), bombardau avioanele la Bălți, se vedeau focuri înalte cât cerul, care „pâlpâiau de cu sară până în zori", iar țăranii, ieșind pe la porți, își făceau semnul crucii. Pe lângă aceste scene, femeile boceau, gătindu-și bărbații și feciorii de drum, „undeva departe vuia războiul, în drum... o coloană de ostași", unii luându-și rămas bun în speranța revederii, alții, rostind cuvintele: „Să nu mă aștepți, că n-am să mă întorc", așa cum i se arătase Rusandei în vis băietanul nalt și smolit. Autorul încheie trist capitolul opt: „...era ceva nemaipomenit la mijloc – vuiau, zările de explozii, gemea pământul, la trei verste de Valea Răzeșilor treceau zi și noapte trenurile cu răniți..." (Druță, 1989).

O figură importantă pentru vremea războiului a reprezentat-o poștașul, drumurile lungi făcute de la sat la sat, de la o gară la alta, în plus veștile diferite aduse, pentru unii pozitive, pentru alții negative, dureroase, a reprezentat „o pâine amară", dar „se tot ducea trist în lungul drumului, căci mai avea în geantă vești din vreme de război, închinăciuni de sănătate de prin tranșee" (Druță, 1989).

Cu timpul, lucrurile se uită, chiar cele mai dureroase, iar vremurile de pace nasc oameni care nu mai consimt cu cei care au suferit, consideră povești, minciuni, istoriile cu adevărat trăite de oameni în război. În mod personificat, dar și chiar direct, autorul înfățișează această realitate în următorul fragment din *Șoapte de nuc*: „Rar mai întâlnești câte un cal bătrân care a trecut prin războaie și ține minte de le povestește câte ceva celor tineri, dar mânzocii râd și zic că sunt minciuni snoavele celea..." (Druță, 1989).

Timpul alungă în urmă cele mai adânci răni, lumea se schimbă, își reia cursul, se adună pentru petreceri, „vorba e că serile se adună la club lume de pe lume" (Druță, 1989), din partea locului, de pe la raion, marinari veniți în concediu, partizani și, printre cei enumerați sunt și, invalizii de război. Cu toate acestea, „aveau ceva ciudat, ceva misterios cluburile în anii ceia de la sfârșitul războiului", parcă un drept asumat pe nedrept, pentru că undeva „se luptă și se moare pentru o cauză dreaptă", pe când aici, pretutindeni, e „un fel de grabă amestecată cu înfrigurare. Și fiecare băietan se vedea de acum ostaș, și fiece fetiță se vedea de-acum vădană" (Druță, 1989).

Stranii erau și piesele cântate de moș Dănuță, nu mai erau atât

de vesele, în plus, de la o vreme i se cerea să cânte „Katiușa, renumita Katiușa", iar bătrânul răspundea că n-o știe până la capăt și pornea a-și strânge vioara.

Cineva a avut „norocul", așa cum credeau unii, să se întoarcă, ba chiar să devină mândria satului, bunăoară Ichimaș: „Luat la război, s-a dovedit a fi un șantaj cu mare faimă, a fost de câteva ori decorat, a nimerit la spital după un bombardament, a fost demobilizat, s-a întors înapoi în Valea Răzeșilor și toate astea în numai șase luni de zile" (Druță, 1989). Pentru ceilalți era un „noroc", nu și pentru Ichimaș, care „deși o ducea din petrecere în petrecere, era trist, sărmanul, când s-a întors de la război cu niște tulburări groaznice care la un moment dat îl făceau să leșine" (Druță, 1989), cădea la pământ, se zbătea în neștire, scrâșnea cu spumă la gură, iar când își revenea, umbla trist, buimac și doar vioara bătrânului Dănuță „era singurul leac în stare să-l refacă și să-i readucă buna dispoziție".

Reprezentări ale războiului sunt prezente și în romanul *Biserica Albă*. Chiar din primul capitol, se amintește de războiul cu turcii, despre biruințele de la Cahul, Larga și Dunăre duse de generalul Rumeanțev, zis „unul din fiii nelegitimi ai lui Petru cel Mare" (Druță, 1990), despre Moldova și Muntenia, care rămâneau vasale Imperiului Otoman, despre răspunsul Rusiei la „violarea tratatului" de la Kuciuk-Kainargi, care „nu putea fi decât unul singur – război", despre faptul că conjuncturile duceau către o singură direcție: „marea bătălie cu turcii, odată și odată, firește, avea să reizbucnească" (Druță, 1990).

În cel de-al doilea capitol al romanului, într-o discuție dintre un păstor, cu menirea sa de a îngriji de turmă, și Părintele Paisie, care „stătea de strajă sufletelor acestui neam", apare întrebarea răscolitoare: „Cum se îmbolnăvesc și cum încep să piară turmele tu ai fi aflat de la ciobenii mai bătrâni, dar cum și pentru ce se stinge făclia unui neam, știi tu oare?" (Druță, 1990). Răspunsul necomentat, nedesfășurat al duhovnicului e scurt: „Foametea, bolile, războaiele...". „Făclia unui neam" este o metaforă sugestivă pentru existența, continuitatea și identitatea unui popor – cultura, limba, valorile și viața colectivă. Întrebarea formulată are un ton grav și meditativ, invitând la conștientizarea fragilității unei comunități umane, mai ales în contextul în care apar factori decisivi ca foamea, bolile și războaiele. Nu este doar o întrebare retorică, ci și un apel la responsabilitate și memorie istorică.

Răspunsul enumerativ („foametea, bolile, războaiele...") sintetizează, într-o formă concisă, marile cauze care au dus de-a lungul istoriei la decăderea sau chiar dispariția unor popoare. Acestea nu sunt doar fenomene biologice sau sociale, ci devin forțe distructive care afectează atât trupul, cât și spiritul unei națiuni. Înțelegem că existența unui popor nu este garantată, ci trebuie apărată și cultivată. Este o invitație la reflecție asupra responsabilității fiecărei generații de a păstra vie „făclia" identității naționale, chiar dacă s-ar abate astfel de nenorociri.

Dintre toate acestea trei nenorociri, războiul este cel mai vitreg, el apare ca o forță violentă care nu doar slăbește această lumină, „făclie", ci o poate stinge brutal. Spre deosebire de foamete sau boli, care acționează lent și uneori inevitabil, războiul este rezultatul deciziilor umane, al conflictelor de putere, al urii și ambiției. Tocmai de aceea, el devine cu atât mai tragic: distrugerea nu vine din natură, ci din voința oamenilor. Războiul este una dintre cele mai puternice și periculoase cauze ale declinului unui popor, tocmai pentru că izvorăște din om și se întoarce împotriva lui.

Războiul și împrejurările în care se desfășoară ridică o serie de aspecte și probleme determinate de acest fenomen social. Romanul „Biserica Albă" descrie pe două planuri paralele, pe de o parte, ce se întâmplă în Rusia, unde domnește împărăteasa Ecaterina (cea Mare), conjunctura celor două războaie ruso-turcice și, pe de altă parte, ce se întâmplă în Ocolina (Moldova), unde Ecaterina (cea Mică) îngrijește de cei șase copii orfani și de puținul rămas din și în biserica din sat. Dacă războiul pe unii i-a scos „în lume", aspect pus în lumină de următorul pasaj din roman, rostit de împărăteasa Ecaterina: „...așa cum a zis cândva Petru cel Mare, războaiele ne-au scos în lume, și dacă până a pune mâna pe armă, nimeni nici nu vroia să ne știe, acum socot o mare cinste de-a se fi așezat la o masă cu noi" (Druță, 1990), pe alții războiul i-a scos „în afara lumii", au ajuns „uitați de lume". Dacă unii au proiectat războaie, așa cum declară în fală Potiomkin: „Proiectele mele au fost înfăptuite de oștirile Rusiei pe câmpurile de luptă din ultimii douăzeci de ani" (Druță, 1990), alții au căutat pacea și împăcarea, închinându-se în zi de sărbătoare și aprinzând câte o lumânare în biserică.

Despre efectele războiului și mult așteptata fărâmă de speranță ne sugerează și următorul fragment: „S-a întâmplat între timp

un mare război pe lume, a ars satul, a ars și casa cu tot ce mai avea, dar a rămas o singură semincioară de răsărită, care ...a răsărit, ... a dat în floare, ...a pornit să caute soarele" (Druță, 1990). Autorul insistă asupra acestui miracol al existenței și, într-un fel sau altul, umanizează această plantă punându-i tăria rezistenței umane: „Harnică, semeață, îndărătnică... se tot întorce cu încăpățânare zi de zi cu fața spre răsărit, nădăjduind că poate-poate va reuși și ea până una-alta să-și coacă semincioarele în așa fel ca să nu i se stingă neamul, să aibă și ea măcar un cât de mic rostuleț pe această lume" (Druță, 1990). În speranța acestei răsărite, este exprimată speranța oamenilor de a nu se pierde de neam, de a nu-și pierde rostul în marea existență umană. În continuarea fragmentului, autorul desfășoară acest gând descriind gospodarii și gospodinele care se întorc la ruinele rămase în urma războiului, își „potolesc nesfârșitul zbucium al sufletului" și se apucă de treabă cu „nădejdea în ziua de mâine și credința în judecata Celui de sus" (Druță, 1990).

Deși Ion Druță nu insistă asupra cruzimii directe a războiului, nu descrie detaliat ce se întâmplă, evită descrierile ample ale ororilor războiului, identificăm în roman scurte fragmente care evocă grozăvia de pe câmpul de luptă: „Urlă cel ce lovește, urlă cel ce primește lovitura. Zboară capete, curge sânge pârâu, și caii, înnebuniți de urlete, de zângănitul săbiilor, își părăsesc stăpânii și caută cu orice preț să scape din iadul cela" (Druță, 1990).

Repetiția verbului „urlă" creează o intensitate auditivă copleșitoare, sugerând că suferința nu aparține doar în rândul celor răniți, ci și a celor care lovesc, ceea ce anulează distincția dintre învingător și învins. Astfel, războiul apare ca o experiență colectivă a durerii.

Imaginile vizuale – „zboară capete", „curge sânge pârâu" – sunt șocante și condensate, având rolul de a sugera brutalitatea extremă la care ajunge omul, semn al degradării umane. Prin această perspectivă, autorul accentuează caracterul inuman al războiului și efectele lui: „Cruzimea, dusă dincolo de ceea ce poate închipui o minte de om, se transformă într-un fel de sălbătăcie, de nebunie generală" (Druță, 1990). Cu toată inumanitatea, autorul găsește o justificare pentru faptele lor: „...tăiau care cât putea. Tăiau pentru a-și apăra neamul, tăiau pentru a-și apăra credința, tăiau pentru a nu fi ei înșiși tăiați..." (Druță, 1990).

Metafora „iadului" devine un simbol central al spațiului războiului, sugerând nu doar distrugerea fizică, ci și degradarea morală și spirituală. Până și animalele percep că e vorba de „iad", de locul de groază din care cauți cu orice preț să scapi, cu atât mai mult omul.

Degradarea sufletească e greu de exprimat din partea celor care au trăit pe viu războiul, e greu de înțeles pentru cei care trăiesc în alte vremuri și împrejurări și n-au cunoscut nici direct, nici indirect ce înseamnă să treci pe acolo. Ajunși peste ani, cei care au luptat în război, încă nu-și pot reveni din acele orori trăite, pentru că ființa lor ține minte că a fost grozav, îndurând de toate – și durere, și nesomn, și lipsă de hrană, și... lista poate continua, dar „așa e la război" se gândesc și rămân muți pentru multă vreme, întrucât acum îi frământă alte stări: „Te întorci zdrobit, dezonorat, ajuns în pragul sinuciderii, te duci la biserică să te rogi pentru ultima oară, după care ajungi într-o crâșmă cu un ulcior de vin, un colac și o friptură în față" (Druță, 1990), dar parcă nu au curajul să servească din ele.

Războiul poate veni neașteptat și din plină pace și armonie, totul se poate schimba într-un dezastru, așa cum s-a întâmplat în cazul satului Sălcuța, care „o ducea în vâlcica ceea ca în sânul lui Dumnezeu", iar cele două dealuri „erau ca o cetate, o moștenire a tuturora, un dar al cerului pe care oamenii îl păstrau cu sfințenie și-l treceau din tată în fiu" (Druță, 1990). Totul până la o vreme..., până când, odată cu venirea iernii, armatele inamice au încheiat un armistițiu și „pe dealul dinspre răsărit au urcat patrulele cazacilor, pe cel dinspre apus – turcii". Din cauza înăspririi gerului, noaptea, în special, începeau a coborî pe la casele oamenilor soldați ba dintr-o armată, ba din cealaltă și „erau primiți cu toții, făcându-li-se parte dreaptă din cele ce avea casa". Autorul insistă și asupra următorului detaliu: „Se întâmpla că într-o mahala petrec turcii, iar în cealaltă – rușii. Apoi hai că într-o casă intră turcii, iar la vecini șed rușii. Ba se nimerea chiar că într-o singură casă să petreacă azi rușii, mâine turcii...", dar la final conchide autorul: „Între timp însă norocul a părăsit valea dintre cele două dealuri și soarta satului pecetluită a fost..." (Druță, 1990). Aceste fragmente sugerează drama unei comunități rurale prinsă între confruntările militare ale unor puteri străine, aflate în conflict armat, sugerând instabilitatea, nesiguranța și teama oamenilor în fața unor situații intuite, previzibile, dar imposibil de influențat. Prin alternanța dintre turci și ruși, Ion

Druță surprinde absurditatea războiului, care pătrunde în spațiul intim al existenței, transformând casa — simbol al siguranței, al liniștii și al apartenenței — într-un loc al fricii și al incertitudinii. Sătenii sunt nevoiți, chiar obligați să se adapteze unor împrejurări pe care nu le pot controla. Expresia „soarta satului pecetluită a fost...", urmată de trei puncte de suspensie, transmite ideea unui destin tragic, aparent ireversibil, iar la un moment autorul conchide: „...a fost o luptă grea, înverșunată, sângeroasă".

Un rol important în vreme de război îl au bisericile și călugării de pe lângă mănăstiri. Ion Druță intercalează printre evenimentele romanului fragmente care evidențiază sprijinul spiritual și material oferit de preoți și alți slujitori evlavioși. Ilustrativ este următorul pasaj: „Iată, câțiva ani la rând, de cum a început războiul, în piața din fața mănăstirii, de dimineață până seara târziu, călugării fac mămăligi și fierb ciorbă de fasole pentru bejenarii de pretutindeni, pentru cei care nu au nici casă, nici masă" (Druță, 1990). Călugării sunt printre cei care încearcă să aline durerea semenilor, să le ofere ceea ce lipsește, iar în acest fel, mănăstirea devine un spațiu al ocrotirii, al speranței și mângâierii. Hrana pe care le-o oferă nu este dintre cele mai alese bucate, dar tocmai simplitatea ei demonstrează gestul larg al omeniei, expresia concretă a iubirii față de aproapele și ajutorul oferit, din puținul lor, celor aflați în nevoie, totodată un simbol al egalității în fața suferinței și a nenorocirilor provocate de război. În aceste momente de grea cumpănă umană, diferențele sociale și materiale își pierd importanța, iar nevoia de hrană, adăpost, ocrotire îi apropie pe oameni. Astfel, gestul călugărilor capătă o profundă valoare morală și spirituală, demonstrând că adevărata bogăție nu constă în ceea ce posedăm, ci în capacitatea de a dărui și de a alina suferința semenilor, mai ales că se spune în roman și despre faptul că părintele Onofrei, tămăduitorul mănăstirii Neamț, avea și un mic spital în stăpânirea sa, tot pentru binele semenilor și grija celor bolnavi.

Într-un alt fragment, Druță îi caracterizează astfel: „Tăcuți, cuminți, răbdători, mai cu vorba, mai cu blândețea, mai cu gluma, călugării de la Neamț făceau ei ce făceau, dar se descurcau până la urmă" (Druță, 1990). Întregul capitol al XI-lea, „Urcarea întru vrednicie", este dedicat vrednicilor slujbe ale preoților și călugărilor de la mănăstirea Neamțului, care adună lume de lume, îmbulzeală „că se stingeau lumânările",

iar oamenii vin „simțindu-se iară un neam ce și-a avut ziua de ieri, ce o are pe cea de azi și, da-va Domnul, o va avea și pe cea de mâine" (Druță, 1990).

Ecaterina din satul Ocolina devine și ea un simbol al dăruirii în numele păstrării valorilor spirituale, deși nu este nici călugăriță, nici preoteasă, ci o femeie simplă, devotată și întruchiparea jertfii de sine în numele binelui colectiv. Ea luptă ca să rămână nepângărită biserica din sat, chiar dacă popa părăsise satul. La întrebarea, „Apoi, dacă n-avem popă, la ce bun ne-ar trebui biserică?", ea răspunde cuvios: „Să avem unde ne spovedi", iar pe acest fundal rămâne o întrebare fără răspuns: „Ce spovedanie poate fi pe vreme de război?" (Druță, 1990) și totuși autorul insistă asupra acestui ritual, întrucât „spovedania e o deschidere a sufletului către Domnul..." (Druță, 1990).

Speranța Ecaterinei este exprimată astfel: „Da-va Domnul, va sfârși odată războiul, oamenii se vor întoarce pe la vetrele lor... Unul moare, altul se naște, după duminică vine zi de sărbătoare, și iar e duminică, și iar o zi de sărbătoare – se poate să rămână satul fără biserică?" (Druță, 1990). Încredințată în Bunul Dumnezeu, Ecaterina nu obosește să care lut pentru a acoperi biserica, deși autorul specifică că „era o muncă grea, bărbătească...", să cânte canoane în biserică, să păstreze cu sfințenie singura icoană a Preacuratei Fecioare, care mai rămăsese după ce sfânta evanghelie a fost schimbată de preoteasă pe un sac de făină de păpușoi, „lăsând Ocolina fără lumina Sfintei Scripturi" (Druță, 1990). Asta nu înseamnă, că fără cuvântul sfânt, slujitorii Celui Prea Înalt rămân, pierduți, pentru că „rugăciunea a fost și rămâne unica grijă a călugărului" (Druță, 1990).

Deși nu se oprește îndelung asupra descrierilor detaliate despre război, în nenumărate rânduri, Ion Druță face trimitere la efectele războiului, așa cum este redată situație din următorul fragment: „Lumea, dintr-un capăt în altul – numai zbucium, numai războaie... Cine să mai are, să mai semene, să mai culeagă roada?" (Druță, 1990). Chiar și țăranii care de ani de zile știu rostul pământului, pe timp de război nu se pot preocupa de acesta, lucru rămas pe seama femeilor și a copiilor. Fragmentul surprinde consecințele devastatoare ale războiului asupra vieții oamenilor, efectele acestuia asupra existenței cotidiene, evidențiind întreruperea ciclului natural al muncii agricole, iar în consecință, amenințarea foametei, sărăciei și a nesiguranței zilei

de mâine. Războiul apare, în această perspectivă, ca o forță distructivă ce curmă nu doar vieți omenești, ci compromite și rosturile elementare ale existenței umane.

O altă consecință a războiului e surprinsă în imaginea soldaților care aveau „mințile întunecate de atâta vărsat de sânge", imagine care reflectă consecințele confruntării repetate cu violența și moartea, imagine care anulează rațiunea, o face inertă și insensibilă. Epitetul „mințile întunecate" sugerează pierderea clarității gândirii, diminuarea capacității de a discerne binele de rău și estomparea sensibilității umane, iar ca rezultat compasiunea și empatia sunt înlocuite de indiferență și insensibilitate. Autorul ne lasă să medităm asupra faptului că drama războiului nu distruge doar vieți și destine, ci și echilibrul sufletesc al omului, amenințându-i umanitatea și valorile morale.

Într-o altă succesiune de evenimente narate în *Biserica Albă*, Ion Druță pune în confruntare poziția celor care sunt pentru pace și poziția celor care, crezându-se stăpâni supremi, sunt gata să nimicească totul în cale, jurând că va șterge de pe fața pământului dușmanul și nu va părăsi această lume până nu-și va îndeplini datoria și pentru care ambiția militară detronează respectul pentru viață. La replica boierului Movilă: „Mai presus de orice biruință este pacea, Luminăția voastră", Potiomkin răspunde dur: „De pace nici vorbă nu poate fi! După ce s-a scurs atâta sânge, iară să ne mulțimim cu o jalnică foaie de hârtie? Război până la capăt, până la ultimul ostaș, până la cea mai deplină, cea mai categorică biruință!" (Druță, 1990).

Boierul Movilă, ca o voce a rațiunii, stabilește o ierarhie a valorilor în care salvarea vieților omenești, prin obținerea păcii, este o prioritate, e un ideal superior gloriei militare și a intereselor politice, dar acesta vine în opoziție cu răspunsul categoric al lui Potiomkin, care nu acceptă compromisul, ci e gata să jertfească ultimul soldat, dezvăluind indiferența față de sacrificiul uman. Din această perspectivă, soldații devin instrumente ale ambiției militare, iar viața lor este subordonată obținerii unei victorii absolute.

Evenimentele se precipită și mai mult când frontul de luptă se îndreaptă spre Ismail, iar orașul devastat e – "numai sânge, fum și foc – părea ajuns la fundul iadului" (Druță, 1990), după care, în incipitul capitolului al X-lea, autorul scrie: „Odată cu căderea Ismailului soarta celui de-al doilea război ruso-turc părea pecetluită" (Druță, 1990).

Până și împărăteasa Ecaterina „părea înclinată să deschidă porțile pentru a primi pacea". Toți, de la tânăr la bătrân, visează pacea: „Pacea devenise o necesitate vitală, acută. La orice vatră, la orice masă – peste tot, dintr-un capăt al țării în altul, nu se vorbea decât despre mult visata, mult așteptata pace" (Druță, 1990). Acest pasaj evidențiază dorința profundă și unanimă a oamenilor de a pune capăt suferințelor provocate de război, pacea devenind aspirația fundamentală a întregii comunități. Adjectivele „vitală" și „acută" accentuează caracterul stringent al acestei nevoi, iar sintagma „mult visata, mult așteptata pace" exprimă intensitatea și durata îndelungată a așteptării, evidențiind contrastul dureros dintre speranța oamenilor și realitatea războiului.

Deși toți râvnesc pacea, „zilele însă trec, iar pacea nu mai vine". De ce nu vine? – pentru că „comandantul suprem", așa cum se exprimă Druță, Potiomkin, rămâne la singura poziție: „Pace nu va fi până nu vor accepta turcii toate, *absolut* toate condițiile mele!!" și tot autorul continuă „care însă erau condițiile comandantului suprem, nu știe nimeni" (Druță, 1990).

Abia spre sfârșitul romanului, când timpul acoperă multe răni ale războiului, iar lumea își revine la viață, Ion Druță ne îndreaptă privirea spre lumina speranței: „Ce e rău și ce e bine, al cui va fi grăuntele și cui va rămânea pleava, care este apa ce se trece și unde sunt pietrele ce vor rămâne? Ne punem întrebări și căutăm răspunsuri, ca să știm c-am trăit și noi pe lume. Și tot așa, zi de zi, an de an, se trec veacurile, se trec popoarele pe fața pământului, iar soarele, precum a răsărit în fiece dimineață, tot așa rămâne să răsară..." (Druță, 1990).

Pe măsură ce rănile conflictului se vindecă, lăsând cicatrici adânci, iar lumea își reia cursul firesc, Ion Druță îndreaptă atenția cititorului spre puterea regeneratoare a timpului și spre speranța într-un viitor mai bun, iar acest viitor este determinat de credință, de închinarea în biserică, de candela aprinsă în fața Preacuratei, de sunetul clopotelor care îndeamnă lumea la închinare și de îndemnul: „Deschideți dar sufletele, primiți în inimile voastre această biserică. Purtați-o cu dragoste și smerenie, păziți sfințenia și bunul ei nume, căci dacă o casă de copii crește mai mult în fața unei vetre, un neam se poate ridica numai și numai în fața unui altar" (Druță, 1990).

În pofida războaielor, indiferent în ce parte a lumii, a suferințelor și a dispariției generațiilor, natura își urmează ritmul, iar

viața își păstrează capacitatea de a reîncepe din nimic. Astfel, Ion Druță încheie romanul într-o notă filosofică, meditativă și optimistă, sugerând că, deși timpul și istoria transformă destinele oamenilor, locurilor, existența continuă, iar speranța rămâne o forță esențială a devenirii umane.

Evenimentul redeschiderii Bisericii Albe din Ocolina coincide cu semnarea tratatului de pace și zilele când armata rusă „se întorcea în matca hotarelor sale". Asocierea acestor evenimente sugerează o legătură profundă între restabilirea păcii și recuperarea valorilor spirituale, biserica devenind un simbol al continuității credinței și al rezistenței sufletești în fața vicisitudinilor istoriei.

„Auzind bătaia clopotului, soldații își scoteau șepcile, își făceau semnul crucii, căutând îndelung în zare, până ce deslușeau, pe un vârf de deal, o albă bisericuță. Se minunau ei înde ei... de moldovenii iștia... D-apoi că așa-i zodia sufletului... Cu cât mai adânc îl îngropi, cu atât mai sus se înalță!" (Druță, 1990). Imaginea soldaților care „își scoteau șepcile, își făceau semnul crucii" sugerează ideea că în fiecare suflet, chiar biciut de soartă crudă, rămâne o sămânță a respectului față de sacralitate, care apare spontan, demonstrând imposibilitatea de a suprima definitiv credința.

Mesajul final al romanului *Biserica Albă* e că valorile spirituale autentice pot fi reprimate, dar nu nimicite, deoarece sufletul omenesc își păstrează capacitatea de a se înălța deasupra suferinței și a constrângerilor istoriei.

4. Concluzii

Parcurgând mai multe opere din creația lui Ion Druță, precum *Horodiște*, *Murgul din Crimeea*, *Urme*, *Rubanca*, *Frunze de dor*, *Șapte mioare*, *Șoapte de nuc* și *Biserica Albă*, ajungem la concluzia că tema războiului este abordată indirect, întrucât scriitorul nu creează o operă concretă cu această temă, nu descrie în detaliu confruntările militare, frontul de luptă, deși menționează unde se desfășoară, cine sunt armatele care se confruntă, ci pune accentul pe suferințele fizice și sufletești, pe consecințele ce se răsfrâng profund asupra destinelor umane și a comunităților, pe pierderile umane și urmările pe termen lung ale acestui fenomen, evocă unele întâmplări și destine marcate de acele vremuri.

Personajele se confruntă cu durerea, lipsurile și dificultățile revenirii la o viață normală, însă continuă să lupte pentru un viitor mai bun, cu speranța că va răsări din nou soarele libertății. Astfel, credința, solidaritatea, dragostea față de pământ și speranța devin valori esențiale care îi ajută pe oameni să depășească încercările vieții. Într-un final, ecourile războiului din operele druțiene transmit un puternic mesaj umanist despre rezistența sufletească și puterea de a renaște după tragedie.

Conflicts of Interest: The authors declare no conflict of interest.

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BOOK REVIEWS

RECENZII

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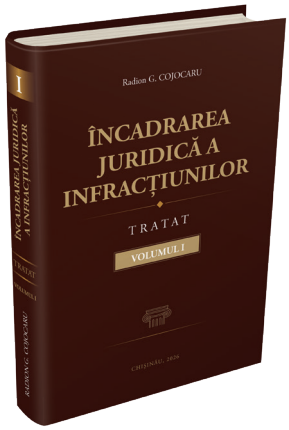
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„ÎNCADRAREA JURIDICĂ A INFRACȚIUNILOR”, vol. I, Chișinău, 2026

(autor: Radion Grigore COJOCARU)

Tudorel TOADER,
doctor în drept, profesor universitar



Tratatul semnat de Radion Grigore COJOCARU abordează o problemă de importanță fundamentală pentru teoria și practica dreptului penal: încadrarea juridică a infracțiunilor. Primul volum, consacrat bazelor teoretice ale acestei instituții, se remarcă prin conturarea unei perspective integratoare asupra unei operațiuni procedurale de care depinde, în ultimă instanță, legalitatea întregului demers de tragere la răspundere penală.

Opțiunea autorului pentru această temă este pe deplin justificată de contextul în care se află astăzi dreptul penal al Republicii Moldova. Alinierea sistemului juridic la standardele internaționale și europene, precum și accentul tot mai pronunțat asupra garantării drepturilor fundamentale ale persoanei, au generat un amplu proces de reformare a legislației penale, menit să înlăture soluțiile normative de sorginte sovietică, incompatibile cu valorile unei societăți democratice și susceptibile să favorizeze arbitrariul judiciar. Autorul observă, pe bună dreptate, că reconfigurările normative ale legii penale nu își pot produce pe deplin efectele în lipsa unei regândiri a modului în care aceasta este aplicată, iar în centrul acestui mecanism se situează încadrarea juridică a faptei.

Meritul principal al lucrării rezidă în perspectiva pe care autorul o

propune asupra încadrării juridice. Departe de a o reduce la o operațiune de rutină, acesta o tratează ca pe o activitate de cunoaștere juridică, supusă unor reguli metodologice stricte și dominată de exigențele principiului legalității. Încadrarea este înțeleasă ca operațiunea prin care fapta concretă săvârșită este raportată la componența de infracțiune (noțiune care corespunde, în doctrina română, conținutului constitutiv al infracțiunii), astfel cum aceasta este descrisă în norma de incriminare. Tocmai din această perspectivă norma penală, formulată în termeni generali și abstracți, își găsește aplicarea concretă, iar organul judiciar stabilește dacă împrejurările constatate întrunesc condițiile cerute de lege, determinând astfel temeiul juridic al răspunderii penale.

Autorul pune în evidență multiplele consecințe pe care încadrarea juridică le produce asupra desfășurării procesului penal. De aceasta depinde distincția dintre răspunderea penală și celelalte forme de răspundere juridică, conturarea cadrului acuzării, individualizarea răspunderii și a pedepsei, precum și respectarea garanțiilor procesuale de care beneficiază participanții la proces. Având valoare de consecință, o încadrare eronată afectează nu doar soluția pronunțată într-o cauză concretă, ci și realizarea funcțiilor dreptului penal, securitatea juridică și caracterul echitabil al justiției penale.

Structura lucrării denotă o concepție științifică coerentă și riguros organizată. Expunerea pornește de la aspectele generale (noțiunea, principiile, importanța și modalitățile încadrării juridice) pentru a trece apoi la algoritmul acestei operațiuni și la specificul ei în fiecare fază a procesului penal. Cercetarea se extinde asupra temeiurilor normative ale încadrării, între care autorul include legea penală, izvoarele cu caracter complementar, structura normei penale și regulile de interpretare a acesteia. Ulterior, sunt supuse analizei elementele componenței de infracțiune, precum și metodologia stabilirii fiecăruia dintre ele în cadrul încadrării juridice. O asemenea organizare succesivă facilitează înțelegerea progresivă a cititorului de la clarificarea fundamentelor teoretice până la prezentarea instrumentelor metodologice aplicative.

Lucrarea se fundamentează pe un ansamblu documentar amplu și variat, care cuprinde doctrina penală din Republica Moldova și pe cea străină, practica instanțelor judecătorești moldovenești, precum și jurisprudența Curții Constituționale a Republicii Moldova și a Curții Europene a Drepturilor Omului. Raportarea la jurisprudența Curții de

la Strasbourg este cu atât mai valoroasă, cu cât previzibilitatea legii penale și aplicarea ei uniformă constituie cerințe esențiale ale statului de drept, comune tuturor sistemelor juridice europene.

Abordarea autorului este una critică și sistematică. Materialul doctrinar și jurisprudențial nu este doar prezentat, ci supus unei analize orientate spre identificarea soluțiilor apte să asigure aplicarea consecventă și unitară a normelor penale. Prin aceasta, lucrarea îmbină în mod reușit dimensiunea teoretică cu cea aplicativă, putând servi deopotrivă cercetării doctrinare și activității organelor judiciare.

Semnificația volumului trebuie apreciată și prin prisma proiectului științific din care face parte. Fiind conceput ca bază teoretică a unui tratat în mai multe volume, acesta pregătește terenul pentru examinarea încadrării juridice în raport cu instituții precum participația penală, unitatea infracțională, concursul de infracțiuni și concurența normelor penale, precum și cu diferitele categorii de infracțiuni prevăzute de legea penală. Proiectul, în ansamblul său, are potențialul de a deveni o lucrare de referință în literatura juridică din Republica Moldova.

Pentru cititorul din România, lucrarea prezintă un interes suplimentar. Problematica încadrării juridice a faptei se pune în termeni similari și în doctrina și practica judiciară românească, iar preocuparea comună pentru alinierea la standardele europene face ca soluțiile propuse de autor să poată alimenta un dialog științific fructuos între cele două școli de drept penal.

Lucrarea se adresează atât mediului academic, cât și practicienilor. Ea poate constitui o sursă relevantă pentru activitatea de interpretare și aplicare a legii de către judecători, procurori, avocați și organe de urmărire penală, dar și pentru cadrele didactice, doctoranzii, masteranzii și studenții facultăților de drept.

În concluzie, volumul elaborat de Radion Grigore COJOCARU reprezintă o cercetare temeinică și novatoare, ce abordează o temă de stringentă actualitate, atât din perspectivă teoretică, cât și metodologică. Prin profunzimea analizei, coerența structurii și diversitatea surselor valorificate, lucrarea contribuie la consolidarea doctrinei dreptului penal și la sporirea calității actului de justiție.

Raportându-ne la considerentele sus-expuse, lucrarea merită o apreciere înaltă și poate fi recomandată comunității științifice și practicienilor dreptului din Republica Moldova și din România deopotrivă, ca un reper important în studiul încadrării juridice a infracțiunilor.

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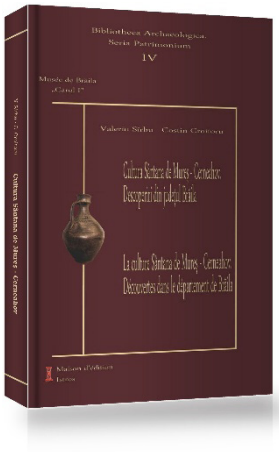
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CULTURA SÂNTANA DE MUREȘ-CERNEAHOV. DESCOPERIRI DIN JUDEȚUL BRĂILA / LA CULTURE SÂNTANA DE MUREȘ-CERNEAHOV. DÉCOUVERTES DANS LE DÉPARTMENT DE BRĂILA, EDITURA ISTROS, 2026.

(autori: Valeriu Sîrbu, Costin Croitoru)

Cristian SCHUSTER
Institutul de Arheologie „Vasile Pârvan” (România)



Muzeul Brăilei „Carol I” din România se remarcă prin deținerea unuia dintre cele mai consistente și diversificate fonduri arheologice la nivel național. Constituirea și dezvoltarea acestei colecții se datorează, pe de o parte, „vechilor fonduri”, reunite de-a lungul timpului prin intermediul unor colecții particulare și donații, iar pe de altă parte, în mod deosebit, activității sistematice de cercetare susținute de specialiștilor implicați în numeroasele situri arheologice din județ, prin intermediul cărora patrimoniul muzeal a sporit din an în an. Importanța colecției nu rezidă doar în numărul impresionant al artefactelor ce au contribuit constant la îmbogățirea progresivă a patrimoniului instituției, ci și în valoarea lor istorică și calitatea lor artistică, unele din ele înscriindu-se în categoria pieselor de referință și putând fi comparate cu cele mai reprezentative obiecte descoperite în spațiul central și sud-est european.

Ideea unei prezentări de ansamblu a acestui patrimoniu i-a aparținut arheologului Nicolae Harțuche [n.], fiind reluată abia recent, prin

inaugurarea colecției Bibliotheca Archaeologica Istros, seria Patrimonium. Volumul de față este al patrulea al seriei, după cele dedicate lămpilor antice [n.], ceramicii grecești [n.] și uneltelor preistorice din piatră, corn și os [n.]. Noua colecție se distinge printr-un nivel științific superior de valorificare a diferitelor categorii de artefacte, inclusiv prin recursul la studii interdisciplinare, printr-o ilustrație de o calitate remarcabilă, ce îmbină fotografia color cu desenul tehnic, precum și prin caracterul bilingv al volumelor, traduse integral într-una dintre limbile de circulație internațională, franceza sau engleza.

Proiectul de valorificare sistematică a patrimoniului arheologic al muzeului brăilean ajunge, astfel, la volumul IV, consacrat unui fenomen cultural de excepție: cultura Sântana de Mureș-Cerneahov (în continuare SMC). Din punct de vedere structural, lucrarea cuprinde o *Introducere* (pp. 9-14) și *Considerații finale* (pp. 97-108), între care se află partea cea mai consistentă, *Catalogul descoperirilor* (pp. 15-96). Volumul este completat de *Abrevieri bibliografice* (pp. 109-110), *Abrevieri catalog* (pp. 111-114), *Lista localităților cu descoperiri* asociate fenomenului SMC (pp. 115-122) și de secțiunea de *Ilustrație* (pp. 123-150).

Lucrarea este concepută ca un repertoriu arheologic. Localitățile de pe teritoriul municipiului și al județului Brăila, în care au fost identificate descoperiri atribuite culturii SMC, sunt ordonate alfabetic, urmate de enumerarea punctelor și siturilor arheologice aferente. Pentru fiecare sit sunt descrise complexele și materialele arheologice identificate, fiecărui artefact fiindu-i consacrată o fișă de obiect, însoțită de ilustrația corespunzătoare, de regulă, în binomul fotografie-desen. În cazul cercetărilor mai vechi, autorii indică bibliografia de referință, inclusiv preluările ulterioare din istoriografie. Volumul se remarcă, în mod deosebit, printr-un important corpus de informații inedite, iar introducerea în circuitul științific a unor descoperiri până acum necunoscute constituie unul dintre aporturile sale incontestabile.

Deși pe teritoriul județului Brăila nu au fost întreprinse săpături arheologice sistematice pentru orizontul cronologic SMC, nivelul actual al cunoașterii se datorează în bună măsură cercetărilor de teren desfășurate în ultimii ani de colectivul de arheologi al Muzeului Brăilei „Carol I". Acestea s-au realizat cu precădere în cadrul a două granturi de cercetare exploratorie, la care au participat și autorii volumului: Perioade-cheie ale istoriei vechi pe valea Buzăului (2009-2010) și Peisaje

ascunse: explorarea prin teledetecție și LiDAR a drumurilor, granițelor și câmpurilor de luptă din Carpații de sud-est (HiLands) (2018-2022). Ca urmare, sunt cunoscute în prezent 50 de descoperiri, în mare parte fortuite, repartizate pe teritoriul a 28 de unități administrative. Se cuvine subliniat că, alături de descoperirile atribuite culturii Dridu, acesta este intervalul cronologic cel mai bine reprezentat în zonă.

Chiar dacă materialul prezentat nu include complexe care să permită rafinări cronologice, față de care majoritatea arheologilor manifestă o apetență firească, autorii integrează descoperirile în cronologia generală a culturii SMC. Ei optează pentru o datare „clasică" pe parcursul secolului al IV-lea p. Chr., delimitată de două evenimente esențiale petrecute la Dunărea de Jos: „retragerea administrației romane și invazia hunică" (p. 99).

Importanța cercetării realizate este cu atât mai mare cu cât Câmpia Brăilei a avut, în Antichitatea clasică și târzie, un statut aparte, determinat de prezența romană. Studierea fenomenului cultural SMC la periferia sud-vestică a vastului său areal, într-un spațiu aflat sub controlul administrației imperiale, deschide, prin urmare, perspective de cercetare deosebit de interesante.

Prin ansamblul calităților științifice și editoriale sus-menționate, volumul semnat de Valeriu Sîrbu și Costin Croitoru reprezintă, sub aspectul conținutului științific și înalta calitate grafică, o publicație de referință a Editurii Istros a Muzeului Brăilei „Carol I". Lucrarea se va impune, fără îndoială, ca un model de valorificare a patrimoniului arheologic, iar prin numărul mare de artefacte publicate va funcționa ca o veritabilă bază de date pentru analogii în cercetările viitoare.