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HUMAN SECURITY IN SOCIAL MEDIA - JUST A CLICK AWAY –

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Abstract

Social media or communication systems from online environment are trendy, whether we are talking about the phenomenon “Facebook”, “Twitter”, “Instagram” or communication via e-mail, “chat”, “video chat” or any other existing online communication platform. It's a trend, and if you want to have an active social life you must be connected at these platforms. When used incorrectly, Social Media becomes the best market for recruitment of victims of human trafficking, one that has no borders, is not limited by geographical location, nationality or culture. Whether we like it or not, Social media is part of a great ocean of information where more controversial information can be found in the virtual realm and used in a symbiotic, demonic like feature, called the Deep Web, which we'll detail in what follows.

Key words: *online security, social media, human trafficking, recruitment techniques, Internet*

Introduction

We live in a world where everything is just a click away. You can have instant communication via a simple click, you can have access to all the information you need through a simple click and you can stay connected with your friends through a simple click. It is that easy!

It is also equally easy for criminals, operating in online environments, to purposely commit offences, all through a simple click. This can be viewed a "the other side of the coin" in terms of the use of new technologies. Criminals can have instant communication with victims through a simple click, they can access vital information through a simple click and they can connect to security systems through a simple click. We could say that they are just one click away from the lives of future victims.

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All these systems with full access to information provide new opportunity to traffickers who are willing to exploit those willing to give their information. Traffickers are becoming more and more effective each day, using advances in technology to become more efficient and therefore becoming a greater predator.

The definition of human trafficking

According to the Convention of the Council of Europe on The Fight Against Trafficking in human beings, article 4 (a) The “*Expression human trafficking*” shall mean the recruitment, transportation, transfer, lodging or receipt of persons, by threat or use of force or other forms of coercion, of abduction, of fraud, deceit, abuse of authority or of a position of vulnerability, or by offering or accepting payment or benefits to obtain the consent of a person having authority over another person for purposes of exploitation.

Exploitation shall include, at least, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to it, the taking of organs;

(c) The recruitment, transportation, transfer, lodging or receipt of a child for the purpose of exploitation shall be considered “trafficking in human beings” even if it doesn't involve any of the means set forth in paragraph (a) of this article;¹

When we talk about trafficking in human beings we use terms such as human trafficking or slavery.

We find these definitions in the Romanian Penal Code in CHAPTER VII, *Traffic and exploitation of vulnerable people*.

Kevin Bales, in his book “*Ending Slavery: How We Free Today's Slaves*”, “describes the traffic of human beings as having three main features “*control through violence, economic exploitation and loss of the will.*”² in other words, human trafficking is making a person do something against their will in order to make profit and to win something out of it.

I. Types of trafficking in human beings

As a typology, trafficking in human beings is structured according to the method of exploitation used.

According to The New Criminal Code updated in 2015 - Law 286/2009 in Romania “*exploiting a person means:*

- a) submission to the execution of a work or performance of services, forcibly;*
- b) keeping in a state of slavery or other similar deprivation of liberty or servitude;*
- c) forcing into prostitution, pornographic manifestations in the production and dissemination of pornographic materials or other forms of sexual exploitation;*
- d) compelling to practice begging;*
- e) sampling of organs, tissues or cells of human origin, unlawfully.”³*

Forced prostitution

In this case the main victims are women or children who are forced into prostitution. They are constrained to prostitution through various techniques, including kidnapping, being the ideal partner (*where partner is faking love only to be able to manipulate the victim*), family betrayal or offering fake jobs.

Once the victim's will is broken, they are introduced into both national and international prostitution networks. Victims can be forced to maintain relationships with 5-50 clients a day. Many victims end up having a very short life due to the violence they are forced to endure, sexually transmitted diseases or other crimes.

1 Council of Europe Convention on Action against Trafficking in Human Beings, 2005, Art 4, a,c;

2 Bales, K., *Ending Slavery: How We Free Today's Slaves*, „University of California” Press, London England, 2007;

3 The New Penal Code updated in 2015 – Law 286/2009, CHAPER III, Common provizion Art. 182;

Forced marriage

- a) a particular person is promised or given in marriage without consent or and without having the right to refuse, in exchange for a payment in money or payment to the parents, guardian, family or any other person, or another group of people;
- b) the partner, family or the clan have right to succumb to another person, whether for payment or for a title or any other way;
- c) the woman, upon the death of her husband, may be transmitted to other person;
- d) any institution or practice by which a child or a teenager, who is less than 18 years of age, is given away by one or both parents or their guardian to another person, in exchange for money or not, with the purpose of exploitation of the child or the adolescent or the work done by him.⁴

Forced labour

The International Labour Organisation Convention (ILO) No. 29 defines forced labor as “any work or service which is claimed to be from any person, under threat of punishment and for which the person has not been volunteered”.⁵

Here we are talking about any kind of work or service that a person must perform under threat, without being paid adequately, or even at all.

Most often traffickers will use debt bondage and violence in order to keep people enslaved. Debts are formed when a trafficker tells a person how much food, clothing and shelter costs for the victim. Victims are then forced to work to pay this amount back. Of course the debt

Domestic labour is also a form of enslavement. The victim is promised the opportunity to work or study broad but ultimately ends up without anything. Rather she is forced to work long hours and most often hidden from the eyes of the world, thus rendering it more difficult for them to escape.

Begging

This is very well organized and the victims are required to obtain a certain amount of money that they must have by the end of the day in exchange of food, clothes and maybe the right to life.

Children are mostly illiterate. The money that a beggar makes, end up in the pockets of their boss heads or trafficker.

Organ harvesting

In this case, the person undergoes an organ removal operation against his/her own will, or sometimes without even realizing it. One or more organs are taken then sold on the black market to the one that offers the best price. Following this operation, the victim either can survive or not. The victim does not receive money.

Other

As mentioned in the beginning, organised crime cannot be readily classified and traffickers are always inventive and continually creating other ways for work to bring profit. Here enter all “others”.

And so we have trafficking pregnant women and surrogate mothers, child trafficking for the purpose of illegal adoptions, the use of children as soldiers.

For example, it has been heard about a children's farm, where girls are forced to remain pregnant, and when the child is born, the child is taken away and given for adoption. Adoptive parents don't have the slightest idea of where the baby actually came.

4 Mihaela Vidaicu, Igor Dolea, *Fighting human trafficking (Cours: Material and procedural right)*, „Nova Imprim, Chișinău” Publishing House, 2009, p.29;

5 Proiect BRISEIS, <http://naoatrafico.pt/ro/>, accessed today 16.11.2015;

I. Recruitment techniques

Knowing the major types of trafficking in human beings we now can enter into a study on recruitment techniques used by traffickers.

1. "Loverboy"

The Loverboy-is one of the most widely used techniques. A charming young man shows interest in a certain young girl, usually a minor, in order to seduce and to bring her into prostitution networks. He will do so by putting pressure on the girl, her family and friends (through the girl), and controlling her so that she will listen only to what he dictates to her. Loverboys are trying to monopolize mainly young teenage girls as it is the period in which they are trying to discover themselves and want to make their own decisions. Loverboys are predators and have good connections with the underworld, but also some key relationships in local authority structures. They present themselves to future victims as the ideal partner, through techniques of manipulation and control. The victims will actually fall in love with this character without realizing they are controlling them. Eventually he will invoke a financial problem that can be resolved only if she maintains sexual relations with another man for a small sum of money. For the girl that means to save the love of her life by surrendering herself and make that sacred sacrifice. Note that the victim is usually not at an age that has reached maturity, does not have clearly defined discernment in regards to human relationships, especially involving sexual relations and emotions. In this case, the victim processes all experience through the spectrum of the adolescent emotions that would lead to supreme sacrificial acts to save partners from problems, but for him is just a business.

The "loverboy" technique

The Loverboy is operating through certain techniques. Imagine the impact of the following upon a girl.

They target young girls – Usually, they choose girls who seems more solitary and do not really have confidence in themselves. Every girl dreams of a Prince charming, but when the false Prince reaches them, he fulfils that dream in a surreal manner, unusually having a hidden agenda.

They are attractive - Loverboys have a pleasing appearance and have a nice wardrobe. They seemingly pose as persons to whom these girls can only dream, and when they show up and hit on her, the victim thinks that all her dreams have come true, nothing else matters.

They buy expensive gifts – The "Lovers" have access to an abundance of impressive sums of money as a result of their affairs and use it to make expensive gifts to the girls. It also creates an emotional connection, providing greater credibility to the imagined relationships. Being enchanted by the charm, excitement and the opulence of boyfriends, victims find it hard to relinquish such a man. Without judging the defective system of values of these victims we can conclude that this 'package' offers everything that is perfect and ever wanted.

Expensive life – Loverboys have expensive watches, expensive cars, expensive clothes.

Controlling behaviour – Loverboys intentionally create a co-dependent relationship, one in which only the victim will do anything for them. They make use of the emotions of the girl to control her. She is not mature enough to understand that what is actually happening. What she sees as love is him controlling her.. The victim is very much attached, she needs him, is actually dependent on him but in a wrong way. Because of her young age and emotions, she cannot understand what is going on. So she stays with him, and after a long time in prostitution, feels too ashamed to return to her family, or talk to her friends. He totally controls her. And she is stuck for a long time.

1. Fake jobs

Everybody has a dream, a dream for a better life. Traffickers prey on this by finding vulnerable people and promising them the world. You see this everyday in countries that are still developing or where work is hard to find. People in poorer countries see (*via the internet*)

all that comes with living in the west and dream to have that for themselves and their families some day. So they study hard, work hard and do their best. But that is usually not enough.

The traffickers know there are many young people with hopes and dreams, looking for a better a life. So they promise them the world. They promise them a job in a western country and claim to take care of all the details, like getting passports and plane tickets together. “Don't worry about the cost,” they say. “We know how to get things done. You can pay us back when you're working.”

It is a typical method to promote human trafficking through offers for a job. They also have announcements in local newspapers. Sometimes it's difficult to figure out the real company from the invented one. They make ads for hairstylists, fashion models, housekeepers or others of this kind. These are punishable offences by the Romanian Criminal Law with imprisonment for 1-3 years according to CHAPTER VII - *Traffic and exploitation of vulnerable persons*, Art. 212- *submission to compulsory or forced labour*, and that where there is competition offences.

1. Grooming

One of the new crimes facilitated by the digital environment and social media is grooming - a special form of harassment minors online.⁶ By this it is meant that the pimp will take care of the minor with the purpose of prostitution. He earns the victims's trust, he shows care, and psychologically manipulates the victim ready for a life of prostitution. The target are girls, usually 11-12 years old, used to be sold for sex. Pimps do not care about these girls, for the trafficker they are just a source of income, they are just a means by which they can obtain status and money. Grooming is part of the actions of the "loverboy" mentioned above.

Victims of the sex industry are mostly young people who run away from home; they are approached within 48 hours on the street since leaving home. These victims are girls and boys who grew up under the influence of domestic abuse. But it is important to know that children from healthy families are also a target. “Basically no child is safe”, says the Council of Europe Convention *on the Protection of Children against Sexual Exploitation and Sexual Abuse*, with direct reference to Article 23 - *Solicitation of Children for Sexual Purposes*. This article bothers some existing organizations which lobby for enactment of incest, pornography, necrophilia, etc.

1. Family

It's a horrible thought, but it is a sad reality and also present. Many children are trafficked by members of the family or family friends. It's incredible to believe that a person would even sell a family member into the sex industry. Maybe it is a daughter, a wife, a niece or a nephew.

2. Social Media

Social media is a new technique used by traffickers. Traffickers are working through networks and the profit generated by this business is enormous, this being a \$32 billion-a-year industry⁷. So traffickers are always looking for new techniques and methods of handling recruitment to attract as many victims and to increase its profits. As the evolution of technology evolves so is how they work and how they improve their methods.

So the Internet is becoming the biggest market for the buying and selling of sexual services. In our own day to buy sex online is as easy as you buy a TV.

Trafficking business is conducted online and on mobile phones.

According to a report from the USC Annenberg Center on Communication Leadership & Policy (CCLP) in the USA, it has been shown that social networks and mobile devices are the primary method of recruitment among minors.

6 Ioana, Vasiiu, Lucian Vasiiu, *Criminalitatea ă n cyberspațiu*, „Universul Juridic” Publishing House, București, 2011, p.248.

7 <http://arkofhopeforchildren.org/child-trafficking/child-trafficking-statistics>, accessed today 18.11.2015.

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According to Ambassador Luis CdeBaca, the U.S. State Department – “*Globalisation and technology offer traffickers the possibility to operate in a way that they could not operate so far. Whether it's for a specific site or other social networks, the pimps can sell online women and children all over the world.*”⁸

I. Deep web & dark web

I start this section with a recommendation not to access an unknown area of your virtual space. If you access portals such as those found in this article then it's at your own risk. All these types of trafficking of human beings are made typically in traditional arrangements listed above, but many aspects of such offences can be found now in the virtual zone, on-line. How? Searching through other means of navigation on the Internet such as Google, Bing, etc. can pull to the surface outlets (small or large quantities) and monopolized market of organized crime groups. We start this section with the recommendation of not accessing unfamiliar areas/sites in virtual space. In case of accessing the portals found in this article, you do it on your own risk.

1. ONION

If you think about the word „onion” (*from the English language*) not many things come to mind that are related to human trafficking or navigating through the deepest corners of the Internet but at the moment the expression of cybercrime is very common.

To strengthen those described above, I will expose a pattern of many portals **.onion**, which under the name of a search engine directs you to criminal networks of drug trafficking, child pornography, money laundering, one of which <http://auutwvpt25zfyncd.onion/?cat=3>. Of course to have access to sell, buy or investigate the phenomenon, it requires use of secure connections (VPN) and the application Tor/Tails,I2P, freenet, different configurations of connectivity and repeatedly various permits access, of course for your personal protection and the place from which you access these sites, done very carefully as it is a real crime hob where you can become a victim very quickly. These sites are not indexed by search engines such as those already popular as Google, Bing or Yahoo, so they do not occur in a simple search.

Using the Agora network, the so-called “darknet market” through Tor network, dedicated to the sale of different products, both legal and illegal, an incredible underground market is developed that uses as currency and allow Bitcoins and allows payments online almost instantly and of course under a total anonymity when performed correctly. The primary objective of the market is the pharmaceutical and chemicals, but also other categories of existing products as well as human organs or various offers of trafficked human beings in various forms (sexual exploitation, slavery, forced labour, begging, etc.). One of these sites is <https://www.reddit.com/r/agmarketplace>. I offered these examples because they are monitored continuously being found close to the surface of the deepweb, near the tip of the “iceberg”.

1. Tor

The term Deep Web was launched in 2000 by Mike Bergman and refers to World Wide Web content that is not indexed by standard search engines, such as Google, Yahoo or Bing Search. A lot of information on the internet is hidden in dynamically generated sites, which makes it impossible to accessing them with standard search engines (*some experts are of the opinion that they can access only 1% of all the information that is actually online*). Search engines use „*crawlers*” to find the link on a web page. Thus, if the administrator of a page doesn't want to be found, will not provide a direct link to it. Without the link, the page will not be indexed and will not appear in any search result.⁹ Well, here comes Tor¹⁰ named

8 8. Neal Conan, *Amb. CdeBaca Combats Sex Trafficking in U.S.*, „*Talk of the Nation*”, NPR, 2011, <http://www.npr.org/2011/04/28/135808703/amb-cdebaca-combats-sex-trafficking-in-the-u-s>, accessed today 18.11.2015.

9 Bogdan Cozmescu, www.monitorulcj.ro, “The unseen side of internet. “*Deep web*” – *canalizarea rețelei*”, <http://www.monitorulcj.ro/actualitate/49649-partea-nevazuta-a-internetului-%E2%80%9EEdEEP->

by the National Security Agency (NSA) from United States "the King strong anonymity and security with low latency". The securing is so strong because of the process used by the program called "OnionRouting". Surrounded by mystery, is a fancy sketch solution for those wishing to obtain information, material goods or to access the networks of traffickers or whatever else. Say "fancy sketch" because of its dual utility, this tool is rather controversial but used worldwide in excess without a limit or boundary. You can smuggle lots of people on the big black market but at the same time, some of these movements are carefully monitored, with some substantial costs; this is a fact acknowledged even by Memex¹¹.

1. Memex

DARPA¹² created Memex with a primary goal to stay at the forefront line in terms trafficked persons. Trafficking of human beings is a factor in most investigations either military, criminal investigations, information gathering with a significant presence in virtual environments to attract customers, comes somewhat like a package; sex sells well with almost anything. Obviously going from the assumption that 100% security does not exist and we can understand that a 100% effective solution for the detection of perpetrators, victims or offenses of the DARK WEB / DEEP WEB does not exist. I tend to think that no matter how much effort it would be made in public by the private sectors to create a secure virtual environment or to ensure a particular virtual environment, the doers, the true cyber hijackers are one step forward, and they have been since the dawn of the Internet.

Of course, this offers an advantage but does not confer the title of winner of the war, improperly said the cyberwar. The struggle accompanied by significant collateral damage and the progress maintained by these two warring sides will continue.

I. Statistics

- At any time, 2.4 millions of people suffer repercussions of this degrading and humiliating crimes;¹³
- 76% of sex transactions with minor girls take place on the internet;¹⁴
- According to ILO (*The International Labor Organization*) 1.2 millions of children are trafficked every year;
 - 20% of the trafficked victims are children;
 - 70% of children victims are sold for sex online;¹⁵
 - 63% have been sold via Internet at one point during the trafficking;
 - 62% had mobile phone access during the trafficking;
 - 42% had Internet Access during the trafficking.¹⁶

Facebook

Recruiting through social networks like Facebook, Twitter or other social platforms is a harsh reality today and is a tool so easy to use in the hands of traffickers. All you need is a

[web%E2%80%9D-%E2%80%93canalizarea-re%C5%A3elei#sthash.hXuZ8kO6.dpbs](#), accessed today 18.11.2015.

10 TOR, <https://www.torproject.org/>, accessed today 18.11.2015.

11 MEMEX, <https://www.fbo.gov/utills/view?id=32c351ba7850360e140a29f363819052>, accessed today 18.11.2015.

12 Defense Advanced Research Projects Agency, <http://www.darpa.mil/about-us/about-darpa>, accessed today 18.11.2015.

13 Yuri Fedotov, head of the UN Office on Drugs and Crime -

<http://www.telegraph.co.uk/news/worldnews/9185811/2.4-million-victims-of-human-trafficking-worldwide-says-UN.html>, accessed today 18.11.2015.

14. <http://www.f-4-c.org/slavery/facts.asp>, accesat astăzi 18.11.2015. <http://www.f-4-c.org/slavery/facts.asp>, accessed today 18.11.2015.

15 http://www.huffingtonpost.com/2014/07/25/sex-trafficking-in-the-us_n_5621481.html, accessed today 18.11.2015.

16 <https://www.wearethorn.org/child-trafficking-statistics/>, accessed today 18.11.2015.

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computer and an Internet connection. We look at a new effective method, allowing criminals to remain anonymous and operate globally through the online market.

Facebook plays an important role in the grooming of victims. These networks allow criminals to directly contact victims to pretend to be their age to gain their trust and then reaching them to the moment of being sold and exploited.

There are countless cases where a fraudster pretends to be a cute, funny teenager heart conquering girls online. He understands what the girls go through during this difficult time of adolescence, claims that he cares, that wants to help. Most often this girl will become a victim in the hands of traffickers.

Romanian cases

Bianca (pseudonym) is 15 years old. Like any teenager of her age, she spends more time online. At a given moment Alex (trafficker, 45 years) using a fake profile pretends to be a teenager and sends a friend request; she does not know him, but he looks cute, so Bianca accepts the friend request. They start talking, become friends and their virtual relationship becomes closer. At one point Alex tells her that he is sick with a serious illness. Shortly after Bianca receives a message from Alex's dad saying that Alex died and would very much enjoy if she could come to the funeral. Bianca went to run her last respects for her virtual boyfriend straight into the trap of traffickers. What's sad is that Bianca's father was the one who took her to the funeral without knowing what will happen.

This is just one example of the thousands of cases that occur daily in the virtual world. A clear example of what ignorance does with people's lives.

Online job announcements

The ads for jobs online are another source used by traffickers for recruitment. Given the economic factors and the current financial situation, people are desperate to find a job. So an advertisement appeared on the Facebook profile appears to be a solution to financial problems.

How is the recruiting process developed specifically? The director of the Foundation "Open door" Monica Boseff - honored by the US State Department for fight against human trafficking, an award that only 10 people worldwide receive annually - explains in an interview on RFI that "initial talks start with a friendly tone, non-invasive. Later, the discussions pertain to detail. The reasons for not being happy are being exposed: "I look for work, can not find it! I am upset that I have no money, etc." The trafficker provides immediate solution "But as a girl so clever, cute, does not find work? Look, I know a lot of girls here who came from Romania, and now are rich...". From here, things go at a speed difficult to follow. The victim realizes that she will never work in a hotel as a housekeeper only when reaching the destination. At the time, trafficking starts.¹⁷ Such offenses fall under the law by Chapter VII of the New Criminal Code - *Trafficking and exploitation of vulnerable persons*, Art. 210. *Trafficking*.

Sextortion

Sextortion – is a form of sexual exploitation through blackmail in which an individual threatens that he would publish pictures of a person with sexual content if the person concerned does not fulfil a list of requirements. Trafficker may obtains those images by various means. He can access an unauthorized storage device of such data or to save an image without the consent of the blackmailed person.

In some cases the image can be sent by victims even unknowingly. Regardless of how the image was obtained, if it was distributed without the consent of the person in the picture, we're talking about an act of abuse with intimate images that traffickers uses to exploit the victim.¹⁸

¹⁷ Mircea Oprea, Rețelele de socializare - platforme de racolare a victimelor traficului de persoane, <http://www.rfi.ro/social-74875-re-elele-de-socializare-platforme-de-racolare-victimelor-trafficului-de-persoane>, accessed today 17.11.2015.

¹⁸ <https://www.wearethorn.org/child-sexual-exploitation-and-technology/>, accessed today 18.11.2015.

An example of this form of exploitation are the online games. The teenager starts playing a game online, networking with thousands of users worldwide. At one point he needs money online to pass to the next level. One of the users is offered to help him with the money in return for provocative pictures with him. After the teenager sends the image, the user is proving to be a trafficker and blackmails him with the sent picture. The send trafficker threatens that he will send the picture to the parents and will publish it online if he does not do what he says.

Statistics say that 42 % of victims of sexual blackmail via the internet traffickers have met online.¹⁹

These are just some of the methods and techniques used by traffickers to recruit victims. And after recruiting them, they end up being sold online as an object, again and again and again. *“People are posted and sold online several times a day, says Asia , a survivor of sex trafficking. As the announcement posted with me ... it's like looking for a car online ... I had a picture, a description and a price.”*²⁰

In terms of the Criminal Code of Romania²¹, in accordance with Chapter I - *Offences against public order and peace* in art. 374, offenses and penalties are specified with general aspects as well as penalties regarding *child pornography*.

Safety on social media

1. Privacy settings

Make social media account as secure as possible. Select the safest options. You can control who sees you posts. Make sure that you only see postings of friends.

Also review your choices often enough as they can change from day to day.

2. Do not post personal information

If it is personal, then let it be personal. Think twice before you post your birthday, phone number, address, details about yourself or your family, education or work.

3. Disable the option with your location when you post online

So you can avoid being located by traffickers

4. Accept friend requests only from people you know personally

Think twice before you accept friend requests from people you do not know. Traffickers can hide behind some pretty pictures and profiles.

5. Do not meet with an „Internet friend” in real life

The key word is „at all”. But if you choose to, meet in a public place, do not go alone, take a friend with you, tell someone where you are going and why. There is always the possibility to go straight into a trap of a trafficker..

6. Everything you post on social media is permanent

Think twice before posting online. Do not make pictures in front of the house, in front of the car, at school, on vacation or anywhere else that might show your location.

7. Do not post online or send provocative pictures of you (sexting)

Sextingul - refers to the sending of SMS, pictures, erotic videos or via internet or the mobile phone.

They can be used as blackmail (sextorsion) or put online on sites with sexual content without your permission.

8. Ask for help

Report suspicious things. If you feel that something is not right ask for help, contact the authorities. Where you see any activities related to human trafficking, sexual exploitation or content that exploits minors – use the HOT LINE number or the green number available in any country, for example in Romania the competent authority is the National Agency Against Trafficking of Persons (A.N.I.T.P.) and can be contacted at 0800800678.

¹⁹ <https://www.warethorn.org/child-pornography-and-abuse-statistics/>, accessed today 18.11.2015.

²⁰ http://www.huffingtonpost.com/2014/07/25/sex-trafficking-in-the-us_n_5621481.html, accessed today 19.11.2015.

²¹ New Criminal Code of Romania

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But there is good news. The same methods are used to combat trafficking. “We change tactics regarding traffickers. As they use technology and the Internet to exploit victims, so shall we use technology to stop them”²².

Conclusions

Information is the solution against this phenomenon, because information is power! Trafficking is based on lack of informing the general public, on the ignorance displayed in public, without being aware of the dangers. We must fight this lack of information! In this context we find technology proper in the use of spreading information that could save lives.

Proposals:

1. Organizing preventive and awareness-raising campaigns about human trafficking through the online Abolishion course. Abolishion made available a free online platform <http://www.abolishion.org/how> by which a subscriber may receive an email daily for 30 days through which he receives training regarding the human trafficking and what he can do to protect himself and to help combat these phenomena.
2. Awareness about the dangers of online danger using the Abolishion film “How to be safe on social media” both in the online environment and through schools and other environments <https://vimeo.com/160350929>.
3. Create an online platform with the hashtag # 505 – a secret code used by the victim for the signaling traffic situation.
4. Setting up an online network of “abolishion-ers” to cooperate, to work together, to supervise, to share resources and to report any suspicion in the online environment. Only by working together we can make a difference!

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ASPECTS OF INTERNATIONAL JUDICIAL COOPERATION REGARDING HUMAN TRAFFICKING

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Abstract

Judicial issues in human trafficking suppose with priority a unified approached of the phenomenon both point of view theoretical and practical. So must be cumulatively-fulfilled conditions related to the identity or similarity of criminalitations and the correspondent of procedures. National/Romanian – intern normative acts are governed by Law no. 302/2004 on international judicial cooperation in criminal matters republished in 2011²³ and the management of issues at the international level requires agreement documents, covenants, treaties and international conventions – at the international universal level mention the United Nations Organisation Convention on transnational organized crime, opened for signature in Palermo - Italy on December 12, 2000 and the two additional Protocols (Protocol to prevent, suppress and punish trafficking in persons, women and children and Protocol against migrants trafficking by land, sea and air) and also at the international regional level the Council of Europe Convention on action against trafficking in human beings – Warsaw, May 16, 2005.

Keywords: *human trafficking, cooperation judicial, European Arest Warrant*

Introduction

Trafficking in human beings is a criminal activity that can be developed as organized form, held on the territory on more than one state. The present paper aims to address European Council perspective in human rights as the impunity concept governing "Guidelines on eradicating impunity for serious human rights violations"²⁴. Those guidelines conceived to combat impunity in cases of serious human rights violations - domain included the human trafficking.

Whereas the human rights domain is very large expressed in human trafficking and among the means of persons' exploitation included it, the "Guidelines on eradicating impunity for serious human rights violations"²⁵ counteracts any serious human rights violation which exploits a human being for trafficking. Thus were established rules on assuring the efficiency of investigations, par exemple: to be adequate, to be impartial, to proceed promptly, to be

²³ Rrepublished in Official Gazette of Romania, no. 377/31.05.2011.

²⁴ Aadopted by the Committee of Ministers of the Council of Europe, on 30 March 2011 at the 1110th meeting of the Ministers' Deputies, available at http://www.mpublic.ro/cooperare/2012/linii_directoare_CE.pdf

²⁵ *Idem*, p. 1.

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transparent to ensure investigators' accountability and to to encourage the public belief in state institutions.

Romanian legislation and norms.

Criminalization, by the Romanian legislation, of the human rights violations provides at art. 2 lett. e) in the special Romanian Law no. 678/2001 on preventing and combating trafficking in persons²⁶ that by exploiting a person means also activities that violate fundamental human rights and freedoms. Impunity involves the exemption from punishment of a person who committed an offense, determined by special circumstances exemption provided by law or other normative acts.

On the other side in Romania is in force Law no. 302/2004 about international judicial cooperation in penal matters, republished in 2011²⁷ refers to the following application areas: extradition, surrender under European arrest warrant, the proceedings transfer in penal matters, recognition and enforcement of judgments, the transfer of sentenced persons, legal assistance in penal matters and other forms of international judicial cooperation in penal matters.

Through art. 3 of Law no. 302/2004 about international judicial cooperation in penal matters, actualized, are determined the limits imposed by sovereignty, security, public order and other interests of Romania, defined by Constitution. Also, regarding the preeminence of international law, the provisions of Romanian special Law no. 302/2004 are intended to complement that not covered situations in international legal instruments as conventions, treaties, agreements - to which Romania is a party.

As a safety clause, as too a principle obligation and expression of the principle of ensuring minimum level on human rights, par. 2 of art. 20 of the Constitution of Romania²⁸ provides that if there are discrepancies between the covenants and treaties on fundamental human rights, to which Romania is part, and internal laws has priority international regulations, excepting situations that the Constitution and national laws contain stipulations more favorable.

European criminalization of the human trafficking.

Also, should be pointed out that European unitary criminalization of the infraction of trafficking in persons was agreed with the adoption of U.N.O. Convention on Transnational Organized Crime²⁹, opened for signature in Palermo - Italy on December 12, 2000 and the two Additional Protocols (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Women and Children and Protocol Against Trafficking of Migrants by Land, Sea and Air).

International judicial cooperation.

International judicial cooperation it's a very complex activity relating many aspects of international and internal penal procedure which can be approached both in terms of the issues raised by victims and the situation criminals. As it was affirmed in specialty literature "Criminal investigative organs can take cognizance about committing an infraction from locked sources (for

²⁶ Published in Official Gazette of Romania, no. 783/11.12.2001, modified by Law no. 230/2010 published in Official Gazette of Romania, no. 812/06.05.2010 modified by G.E.O. (O.U.G.) no. 41/2011 published in Official Gazette of Romania, no. 304/03.05.2011.

²⁷ Published in Official Gazette of Romania, no. 377/31.05.2011.

²⁸ Published in Official Gazette of Romania, no. 767/31.10.2003. Romanian Constitution is republished form of 1991 Romanian Constitution, updated names and renumbering articles, reviewed through Law no. 429/2003, approved by national referendum of 28-19.10.2003, confirmed through by Romanian Constitutional Court Decision no. 3/22.10.2003.

²⁹ Adopted to New York on 15.11.2000, ratified by Romania with two additional Protocols, by Law no.nr. 565/2002 published in Official Gazette of Romania, no. 813/8.11.2002.

example classified notifications transmitted by information services) or other open sources (for example mass-media); if there is such a notification, criminal investigative organs draw up report referral ex officio.”³⁰.

On the other side, all the administrative and judicial system participate efficiently to ensure the non-infringement of laws and human rights. “Penal legislation and practice focus on constitutional and procedural guarantees for delinquent as well as those necessary to do justice to the victim.”³¹.

A central institution in judicial cooperation is the extradition, which according to principle of reciprocity, specialty double incrimination and in the last 15 years the Council of Europe has taught to the EU leading role the development of the law on extradition and also from the perspective of Schengen Space and also the Convention implementing the Schengen Agreement are addressed specific issues of extradition law, in art. 59–66, a practical importance reporting of in the Schengen Information System³².

As a general rule provided by art. 18 of Romanian Law no. 302/2004 about international judicial cooperation in penal matters, actualized, may be extradited from Romania at the request of a foreign state, persons who are under criminal investigation or sent to a court for a crime or are wanted for execution a punishment or a protection or safety measure. Exempted from extradition as a general protection rule with respecting some conditions; at first Romanian citizens can be extradited only if Romania is signatory to a convention on extradition based on reciprocity and if one of these conditions are accomplished: extraditable person residing in the requesting state at the time of the request for extradition also, extraditable person has citizenship of the requesting state and if the state is EU member, the extraditable person committed the act on the territory or against a citizen of EU member state. Definitory is that in case of a Romanian citizen will be punished with imprisonment, the requesting State must give sufficient assurance that convicted person (also Romanian citizen) will be transferred to execute the sentence in Romania.

Withal, cannot be extradited persons to whom has been granted the right of asylum in Romania, foreigners that enjoys for immunity from jurisdiction in Romania, given the limits established by conventions or other international agreements, quotes foreign persons abroad to be heard as parties, witnesses, experts by a Romanian judicial authority respecting the immunities conferred by international conventions.

Measures against human trafficking through judicial cooperation is provided at art. 45 of Romanian Law no. 678/2001 on preventing and combating trafficking in persons³³ actualized, by establishing of liaison officers in the Romanian Ministry of Internal Affairs, as well as liaison magistrates at level of prosecution offices to provide reciprocal consultations with liaison officers or, if necessary with liaison magistrates functioning in other states to coordinate their actions during criminal prosecution.

According to Romanian Law no. 302/2004 about international judicial cooperation in penal matters, actualized, in the extradition procedure Romania can performe passive extradition or active extradition compliance with European Convention on Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 or any other relevant international instrument in

³⁰ Udroui M., *Procedură penală. Partea specială*, Second Ed, “C.H. Beck” Publishing House, Bucharest, 2015, p 30.

³¹ Iancu Elena-Ana, (2012), *Metodologia investigării infracțiunilor*, “Pro Universitaria” Publishing House, Bucharest, p. 49.

³² Cf. http://old.just.ro/Portals/0/CooperareJudiciara/Doc%20Manual_Criminal.pdf, p. 10, consulted on 28.02.2016.

³³ Published in Official Gazette of Romania, no. 783/11.12.2001, modified by Law no. 230/2010 published in Official Gazette of Romania, no. 812/2010 modified by G.E.O. (O.U.G.) no. 41/2011 published in Official Gazette of Romania, no. 304/2011.

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domain ratified by Romania. It's important to mention that the principle of double incrimination determine that extradition could be admitted only if the infraction is provided as offense both in the requesting State and the Romanian legislation. The aspect of dual criminality - Romania's position regarding is presently positive through signing the U.N.O. Convention on Transnational Organized Crime Convention at Palermo in 2000. Also Romanian citizens can be extradited under the provisions of bilateral treaties on reciprocal basis and respecting some conditions.

As an exception to the rules of extradition provided to art. 30 of the Romanian Law 302/2004 regarding judicial cooperation in penal matters, actualized³⁴, it will be accepted even doesn't exist prior complaint and contrary the opposition of the victim because another special Romanian Law no. 678/2001 on preventing and combating trafficking in persons³⁵, actualized provides to art. 16 that consent (for trafficking) of the victim of trafficking not eliminate the criminal liability of the perpetrator.

Another principle which operates in the field of international judicial cooperation is the recognition of foreign criminal decision of condemnation.

According to art. 98 alin.3 of Romanian Law no. 302/2004 regarding judicial cooperation in penal matters, actualized³⁶, recognition of foreign criminal decision of condemnation is made incidentally by judgment court on the European arrest warrant execution procedure is being to judge (it is pending). This principle is closely connected to European arrest warrant institution initiated by the Tampere European Council in 1999, when it was decided for the first time the replacement of formal extradition procedures with an effective and quick surrender system of pursued people, and two years later constituting politically necessity of implementing of European arrest warrant at European level - was initiated framework-decision method.³⁷

The European arrest warrant institution, according to art. 110 of Romanian Law 302/2004 regarding judicial cooperation in penal matters, actualized, shall be solved and executed in emergency and extradition is not automatic, but as is provided by the Romanian special Law 302/2004 in compliance with U.E. framework-decision³⁸: "framework-decision in European arrest warrant provides, excepting required reserves (art. 3 framework-decision), also a series of reasons for rejecting mandatory and optional (art. 4 and 5); moreover, it provided the opportunity to make the surrender certain cases, but the Decision allows member states enough freedom of action for its transposition."³⁹ Also, to art. 2 par. 2 of Framework-Decision about European arrest warrant (previously mentioned) is specified that offences as human trafficking are punished in the issuing member state with a penal or a custodial detention to a maximum period of at least three years (as well in Romania are based on Law no. 678/2001, actualized to art. 12 par. 1 - the basic form of the infraction is punishable with imprisonment from 3 to 12 years) surrender will operate under the European Arrest Warrant without verification of the double incrimination of the act.

³⁴ Published in Official Gazette of Romania, no. 377/31.05.2011.

³⁵ Published in Official Gazette of Romania, no. 783/11.12.2001, modified by Law no. 230/2010 published in Official Gazette of Romania, no. 812/2010 modified by G.E.O. (O.U.G.) no. 41/2011 published in Official Gazette of Romania, no. 304/2011.

³⁶ Published in Official Gazette of Romania, no. 377/31.05.2011.

³⁷ Cf. http://old.just.ro/Portals/0/CooperareJudiciara/Doc%20Manual_Criminal.pdf, p. 10, consulted on 29.02.2016

³⁸ Cf. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0584:en:HTML> Council Framework-Decision on the European Arrest Warrant and the surrender procedures between Member States of the European Union, from 13 June 2002, 2002/584/JAI

³⁹ Cf. http://old.just.ro/Portals/0/CooperareJudiciara/Doc%20Manual_Criminal.pdf, p. 12, consulted on 29.02.2016.

As conclusion, European Arrest Warrant is a certitude on the judicial process in cooperation materialized in actions of “[...] E.U. states govern and institutions and E.U. agencies who conceived and undertook numerous plans, actions and initiatives concerning to secure the population, infrastructure and resources. Many border regions were involved in security zones policy, it accumulates a true <arsenal> of integrated strategies, high performance equipment and professional competences.”⁴⁰

Conclusions

International judicial cooperation against human trafficking is very complex activity determined by numerous acts both at international, universal or regional but also nationally, already existing concerted actions regarding the efficiency of procedures for extradition, arrest and transfer of persons under the European arrest warrant with respect for human rights and guaranteeing execution of the punishment in their own country. It's important to affirm that Romania benefits while ensuring a remarkable promptness, efficiency by putting into practice the procedures agreed upon at EU level and U.N.O.

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⁴⁰ Iancu, N., (2013) *Migrația internațională a forței de muncă. Considerații teoretice și repere economice ale fenomenului migraționist*," Pro Universitaria" Publishing House, Bucharest, pp. 182-183.

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THE SOCIAL VALUES OF THE ELITES

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Abstract

Generally, elite means: "the high layer or an elevated position" (Sartori. 1961, p.94), and it defines both the governmental elites and also the nongovernmental ones, in other words "not only those that possess and exert the power, but also those that significantly control and influence the decision-making" (idem).

In a strict sense, the term of elite refers to the political elite seen as the unique holder of power within a society, as a relatively homogenous and well organized group.

Appreciatively, elite refers to individuals that transcend by value or capacities. This is, in fact, the paretian meaning of the term. All these meanings of the term "elite" lead to its understanding as being compound of groups or categories of persons found on the peak of different "structures of authority or of dividing the resources" (Scott. 2001. p. 9). Thus, elites are the leaders, the rich, the influent persons or the privileged ones.

The sociological literature related to this theme reveals the existence of four criteria for defining the elites: the value or meritocratic criterion, the positional or functional criterion, the capital criterion and the expert appraisal criterion.

Key words: *sociology, politology, research strategies, the social-political circumstances, theories, elite, sociological literature*

1. Introduction

In all researches the human spirit directs attention to everything that is related to it. Generally, the human consciousness strives for two aims, namely:

1. to explain the world, the universe of which we are a part
2. to understand the sense of our existence and its value

Asking ourselves about the sense of life, we get to formulate absolute values that we wish to determine, to acknowledge them as much as possible. So, besides the issue of the knowledge of value we add that one of accomplishing the value. We see that the value is above our spirit both within the theoretical research and also within our everyday life.

The philosophy explains the world through logical values, but still tends to transform it, according to some ethical human ideals. Philosophy shows how it is born, how reality evolves and then the value related to all its changes. Philosophy is "the investigation of the highest values, both theoretical and practical", A. Fouille said in <Esquisse d'une interpretation du monde>.

The philosophy of value represents the Ph.D thesis of the philosopher Petre Andrei (written in 1913-1916) and it is the first paper of systematical axiology in the Romanian culture field as philosophical discipline, its founder being H. Lotze.

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Theories of value, ideas and theses brought up by: Xenopol, Vasile Parvan, E. Lovinescu, C. Dobrogeanu Gherea are to be found as fragments in papers, surveys and articles before P. Andrei.

First of all, the philosophy of value should study the values independently of the reality that materializes them. Thus, it will explore: the logical grounds of value, its forms and the way these values gain a real content.

In the vision of Petre Andrei, the fundamental idea for building the logic of the value is: “to consider the value as a logical element of our consciousness”.

Another philosopher, Rudolf Eisler speaks about the logic of values. He affirms that the theory of value may be:

- a psychology of value;
- a critique of value;
- a theory of moral value.

R. Goldscheid additionally emphasizes the relation of value to the field of knowledge and to that of activity and asserted that: the theory of will, the theory of knowledge and that of value compile a whole.

According to H. Rickert, the philosophy of value does not have any other ground than the logical and transcendental one and only the theoretical values, thus it represents the logicist-idealist flow.

Ed. Von Hartmann began by talking about the addiction to an aim, asserting that quality of the value depends on the quality of the aim. Hartmann admits values that we, the people do not become aware of, either because they do not affect our will or because they affect it too little, or because our will is in contradiction to the objective will that sets aims.

Von Hartmann claimed the unconditioned existence of objective values set by an objective will. Another philosopher, W. Ostwald reaches to a metaphysical theory of value. The idea of value is “tightly related to life and dependent on the particularities of life”.

However, the aim is not only in the organic world but also in the unorganic one. This is the theme that Ostwald tries to prove, bringing on mechanical considerations. Every being is a complex of energy; and everything that happens around the world represents a dissipation of the free existing energy.

The ranking achieved by axiological principles has the following structure (Vianu, 1998, p. 119):

1. “Personal values are superior to real values
2. Spiritual values are superior to material ones
3. Adherent values are superior to free ones
4. Aim-values are superior to means-values
5. Amplifying values are superior to preservative ones
6. Integrable values are superior to non-integrable ones
7. Integrative values are superior to integrable ones
8. A value is superior to another for as many steps as the grounds of superiority it possesses in its structure and as the ground of its superiority belongs to a higher quality according to the established order that was above mentioned (personality, spirituality, adherence, aim, amplification, integrability, integration).”

By connecting the characteristic of values, T. Vianu (1998, p. 119) points out the grounds of superiority: the vital value is above the economical one because of its personal nature, both being *material, free, means, preservative, integrable*. The juridical value, part of the same range, has in addition to the two above mentioned the property of being spiritual. Simultaneously, the political value is *personal and spiritual*, possessing two elements of superiority, the theoretical

one has three grounds of superiority being *spiritual, aim and amplifying*, the esthetic value has four, respectively five properties of superiority, the moral value has five properties of superiority, while the spiritual value has six characteristics that legalize superiority.

By comparing the grounds of superiority T. Vianu (1998, p. 120) creates an increasing hierarchy from the superiority of values point of view and the next survey may be similar to Maslow's pyramid of needs: "1. the economical value, 2. the vital value, 3. the juridical value, 4. the political value, 5. the theoretical value, 6. the esthetic value, 7. the moral value, 8. the religious value."

The bonding upon different levels of this system allows the explanation of the personal options of the members of a society, depending on the volume that one or another of these holds within the social space. In all cases we appreciate that the hierarchy of values supposes an adequate volume of each of them in order to balance the system.

1. Criteria of classification of values

The criteria that groups the values are the following: a) the validity of values; b) their quality; c) their subject; d) the reasons that determined the values; e) their object; f) the psychical faculty out of which the values arise; g) their implementation area.

Depending on their validity, criterion adopted by F. Somlo, Kruger, Meyer, Meinong, the values are: -relative values; -absolute values; -subjective values; -objective values.

Depending on their quality, criterion adopted by Kreibig, Cohn, Ehrenfels, the values are: -positive values; -negative values; -proper values; -effect values.

According to their subject, the values are: autopathic, heteropathic, ergopathic.

Depending on the reasons that have determined the values, there are: accidental -transitory values and values of a person. The representative of this criterion was H. Schwartz.

According to their object the values are: -economical; -ethical; -juridical; -political.

Depending on the psychical faculty out of which the values arise, they are: sensitive, sentimental and cognitive.

Depending on their implementation area, the values are: individual, social, cosmic, elementary and ideal.

We can define value as being an axiological specific relation between a natural object or a created one and the human subject, whereby it expresses the appreciation granted to its qualities that satisfy certain needs.

The value stands for the relation between subject and object, where by polarity or polarization, by hierarchies, we express the distinct appreciation for some things or characteristics, for some persons or human acts, for some works created hereunder their capacity to satisfy certain needs, aspirations or concerns.

There can be absolute values, supreme values: "The divinity is the supreme existence and value for the human being".

Another classification of values is the following:

1. economical values;
2. juridical values;
3. political values;
4. ethical values;
5. historical values;
6. esthetic values;
7. religious values.

The first four values are values determined by the constitutive and regulative functions of the social life. The other three values are determined by the framework where the social reality lives and evolves.

1. Theories of values

1.1. *Economical values*

By economical values we generally understand the awareness of the utility of a good as compared to other goods. The issue of economical values has concerned the economists since the 18th century.

Aristotle considered as value the fact that satisfies the need. The needs are physical and psychical, that is why he determines two kinds of values: moral (spiritual) values and material values. The economical values are material. A thing bears as much value as it satisfies an imperious need. The Greek philosopher distinguishes two types of economical values: the exchange value and the usage value.

In the 17th century, William Petty asserted that the internal value of a thing depends on the work used for its creation. "Work is the father of the active principle of wealth and the land is its mother". W. Harris asserted that: the work is an element that determines value.

Another representative of this theory, Karl Marx, intended to establish a materialist sociology of value, starting from economical bases. A thing bears value because the human work is materialized within that certain thing. Marx distinguishes four types of economical values: - simple or accidental, -total or developed by value, -generated by value, monetary of value.

By affirming the plus-value, Marx exceeded all his forerunners, establishing the real socialist theory of value. (M-M-M merchandise-; money-; merchandise-;). The plus-value grants profit for the capitalism.

The socialist theory of value is much more than a theory of cost, as it takes into consideration a determinant moment of the value: the cost, but not its utility.

The economical value is practical; it belongs to the goods taken one by one. Here, the value depends on the cost, on the work necessary for the manufacture of a good and on the limit utility.

The economical values are constitutive for the social reality; they are only a part of the social values that contain types of value with different functions within social life. In the case of economical values, the process of knowledge consists in finding the component elements of value.

1.2. *Juridical values*

These values may represent the object of the science of law, of juridical sociology and of philosophy of law. Law as science, studies the juridical values not only according to form and making. The philosophy of law studies the birth, the evolution and the reasoning of juridical values; while sociology studies their implementation within social life. Law is a sum of rules, norms that are created by the organized will of a social personality of the state.

During ancient times, the juridical norms were considered orders given by the head of the tribe who was respected as god on Earth. The norms were nothing but divine orders, imposed to people.

During modern times, the juridical norms are not either divine orders or results of a mysterious soul of the people, but are imperative and express the will of the social community and of the state. Aristotle understood by natural law what it is implanted by nature within the human soul.

Ulpian affirmed the validity of the natural law, postulated by the nature of divine providence, as the descendants of Thomas d'Aquino believed during Middle Ages.

Today, natural law is represented and claimed by the philosophical school of Catholicism.

Kant proved that reasoning does not contain in itself ready made ethical, esthetic, or juridical norms but it offers the opportunity to elaborate norms.

Hegel asserted that both natural and historical laws interpenetrate; rational law exists within the historical law.

The Neo-Kantian jurists imposed the theory of juridical dualism that distinguishes the value from the juridical reality. A well-known representative is R. Stammler, who distinguishes for every juridical value: a substance and a form- the substance is made of the lawful facts, while the form is well-proportioned, similar to well thought aims and incumbent to lawful facts. He considered the juridical reality as an object of positive law and the juridical value acquired the form of reasonable law.

Real law is nothing but the law that contributes to the achievement of a free will society, thus contributing to the achievement of the social ideal. Law establishes norms and as positive law formulates imperatives. Both the norm and the imperative serve for the achievement of the absolute value of law.

This absolute value of law is established by the juridical philosophy and the achievement of the absolute value is the object of positive law.

The process of knowledge and capitalization of juridical values consists in finding culture as a measure of juridical value in order to establish the value of positive law for the laws that actually accomplish and materialize the lawful values.

Juridical values do not confer sense to existence out of society because their foundation is represented by community. The idea of just, unjust, the necessity of a juridical norm was born once with the society; that is why the juridical values are social values. The juridical values are the result of legislator's will.

1.3. Political values

They refer to state, to the fortress as a social unit, in other words they refer to the forms of organizing a common life, a social life. Descending from the community forms like tribes, from the genetic congregations based on lineage and blood bond, from the groups grounded on customs and not law, to the proper society founded on law, the state stands as a superior political value.

Aristotle considered home (family) as the first political value; and state as the aim and the final point of the political evolution. In the Greek antiquity, the state was the fortress. The fortress was the supreme value and the individual was totally subdued to the authority of the state. The notion of state prevailed and widened more and more, becoming what it is nowadays. Bruno Will, Max Stirner considered state as an exterior force that binds the individuals, preventing the freedom of consciousness, of autonomy and the self culture. Spencer saw the gap between the interests of the state and of the individuals and this is the reason for which he proclaimed the contradiction between state and individual.

Although Kant perceived the state as something beyond individuals, he was still a personalist, because he regarded state only as a means for the morality of individuals. He subordinated man to humanity, being a representative of the abstract universalism. He is reckoned as the founder of socialism.

Richte considered the individual simply as a moment within the total value of the state. The state is something distinct from the amount of individuals that compose it.

Hegel stated that the individual reality is developed by state which represents a form appropriate to the absolute spirit.

Spinoza affirmed that state is the result of the fight condition and of force. State should prescribe the rules of common life, to dictate laws and people should comply with law.

The juridical state possesses different values according to its organization: monarchic, oligarchic and democratic-parliamentary. All these forms of organization and transformation of state are political values that condition the development of all the other values. The supreme

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cultural value is humanity, meaning the achievement of the concept of the perfect morality and consciousness of humanity.

The political values bear validity only because they contribute to the achievement of culture.

1.4. Ethical values

The aims of our desires can be numerous, that is why we are always asked: which is the best aim? For some is happiness for others wealth, virtue, etc.

Ethical values can be: a) psychological; b) logical; c) biological; d) social.

The psychological theory says that ethical value has a psychic foundation. Therefore, H. Meyer considered ethical value as a product of the ego's will, of the will to perfect personality.

The value is the result of a subjective act of will, of an impulse towards value.

The following theories of ethical value nature were distinguished: intellectualist, affective and voluntarist. The ethical voluntarism is the most spread theory nowadays, because the ethical value stands for aim of the action.

The logical theory- affirms that the ethical value is logical, Kant being the most important representative. He founded the philosophy of ethical value beginning with the analysis of the moral consciousness, from the opposition between the tendency of sensitivity and the duty dictated by the categorical imperative. The ethical value is an imperative to which we all should submit.

The biological theory of ethical values-; the well-known representative Spencer considered as ethical value everything that contributes to the maximum of life, the maximum of pleasure; natural law being an ideal. The ethical value considers life as the ultimate principle.

Nietzsche considered as moral everything that helps life. Life being the power of will and its ideal is the superhuman.

Paulsen affirmed that humans distinguished good from evil before morality was born. Ethical laws are natural laws and their breach brings evil. The biologism destroys the real sense of moral value.

1.5. Historical values

All human creations are meant to add something to the patrimony inherited from ancestors, thus compiling the cultural tradition of a nation.

History deals with facts; it does not look for general principles and laws but searches facts as they were. The object of history is therefore the continuous change of things within their particularities.

Lotze considered history as the science of individual. According to this philosopher the mankind is only the total of individuals.

Xenopol considered history as the science of time evolution, irrespective of individual phenomena or general phenomena in space.

According to Condorcet, the object history is not the individual but the people, the mass, the progress of the mass. According to Marx and Engels the historical social evolution is determined by the economical structure of the society

History is the science that establishes the available causal links but it has nothing to do with the concept of value. The historical phenomena are the important ones for the cultural development of a nation.

Such phenomena are determined by the political ideas or by economical facts or by tradition. When choosing the historical material and close to it we have a fundamental regulative idea-; the cultural unity. This is the value that establishes multiple and various historical values.

1.6. The esthetic values

The logical theory of value considers the phenomenon as the logical content of reasoning wearing the sensitive intuition.

When we talk about the esthetic value, we perceive it as an object of value and a subject for which that value exists. The beautiful is the central esthetic value and all the other values retrospect to it.

The aesthetics as theoretical-philosophical discipline embraces all other esthetic values and their ties, from the highest level of the beautiful-; sublime-; to its types of artistic creation.

By their characteristic, the esthetic values are sensitively related. Hegel defined the beautiful as the apparition of the idea in a sensitive form. Kant appreciated that art "is not the representation of a beautiful thing but the beautiful representation of a thing". The esthetic values may be sensed, felt, lived, represented, imagined.

The artistic spirits preponderantly possess an intuitive and imaginative reasoning while the science people predominantly possess an abstract reasoning.

1.7. The religious values

Religious values are among the oldest according to their genesis, referring to them being essential for the understanding of the genesis of moral, juridical and political values.

The religious manifestations bear as common and defining the value of sacred. The sacralization is related to the perpetual aspiration for self improvement and human content, oriented towards an ideal, absolute, transcendental and surreal projection. For the religious man there are established sacred spaces, a sacred time and sacred nature.

The religious values are spiritual by their nature. The bearers are the human being and his consciousness, the human community and the collective spirituality. The religious values as all the spiritual values are purpose values. They are based on belief and revelation, on feeling and experience.

The love for the neighbor occupies a central place within religion. Titu Maiorescu stated that "the religious sentiment accomplishes the mission of lifting the spirits beyond the interests of daily egoism".

F. Nietzsche noted that "to love people for God's sake-; this is the most refined feeling that humans have achieved until now".

Philosophy as wisdom, as ontology having anthropologic and axiological purpose, watches over the democratic communication of all values. The values are founded upon specific powers and if aiming to outrun their own axiological area may become tyrannical.

Conclusions

Various approaches regarding the theme of elites in sociology or politology suggest a rather vast diversity of definitions and research strategies, so that it is impossible to achieve a list of characteristics of the elite/elites that are generally available. We have already seen how the social-political background in which different theories were elaborated, significantly influenced the conception of the authors about elites. 19th century Italy, that propelled Mosca as the main political theoretician, was much more different than the America of Kicsman.

During the 6th decade of the 20th century, the initial meaning awarded by Pareto, based upon the abilities and value for the definition of elite, was promptly neglected, particularly within the surveys regarding the political elites, mostly because of the impossibility to verify and measure the effective capacities of the individuals that were part of the elite (Sartori, op.cit).

The surveys therefore oriented upon the other three ways to define and identify elites. Concurrently, there was registered an extension of the meaning of the concept of "elite" from that of "political caste" in Mosca's view, to the multiple, plural, sectoral divided elites and to the discovery of the importance of informal leaders as a special type of elite. Through this, the attempts to describe the main features of the elites become complicated.

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In a recent work, two young Romanian politologists achieved a synthesis of the main features of the elite within a modern democratic society (Tudor and Mirlescu, 2002). This seems like a great attempt to provide a unitary and coherent image upon elite, even a first step towards an operational definition.

"The approach that represents the start is that the elites of a modern democratic society are recognized according to a common set of features-qualities." (Ibidem, p. 30)

1. "The elite has a high occupational position". The occupation is a source of earnings but also of prestige. Elite is thus formed by persons by persons that occupy the highest positions in different fields of activity.

2. "The elite represents a minority" because the occupied positions are limited as number.

3. "The elite enjoys a high status". The leading social positions confer prestige and diverse material and symbolic rewards to their occupants.

4. "The elite has a distinct way of life". The members of elites adopt common styles and seem socially homogenous. "The accumulation of wealth and power must be associated to a way of life confirmed by the statute of elite". (Ibidem.p.30)

Some authors notice nevertheless that the emblems of status have lately become less visible.

5. "The elite has self-awareness". Overall, members of elites are aware that they belong to a distinct group and share a series of common values and interests. Quoting Parry (1969), the two authors show the fact that elite means a group that acts as a whole and not as a simple ensemble of important individuals. I believe that this issue is debatable. If we accept the statement of Parry within this general context of identification of the main features of elite, then we might walk into the trap of the argument elitism-pluralism. I believe that at this point we should bear in mind the idea of existence of a possible set of values, interests or lifestyles common for the elite, but also reluctantly accept the view upon elite as a group that acts unitary (as a whole).

6. "The elite demonstrates both exclusivity and openness". On one side, there is a certain distance of elites towards the other social groups and a certain closure that protects "the collective identity". But at the same time there are "mechanisms necessary for new enrollments". (Ibidem.p.32)

7. "The elite is morally responsible". Although classic elitists believed that when defining elite the moral aspect does not count (Pareto admitted, for example, the idea of elites of malefactors, provided that they are the best in their domain), authors show that democratic elites are morally responsible within the societies that they lead. "Democratic elites are judged not only according to the success when accomplishing tasks but also according to the validity of these tasks within a society. Such a restriction excludes « the elite of gangsters » because its actions are not approved by the community". (Ibidem, p. 33)

"The elite possesses, on different scales, the power". Hierarchy can be admitted both in the interior of elites and in the various types of elites. Therefore, some elites are more powerful than the others.

This pattern of elites in democratic societies is not free of ambiguities. On one hand, as we have seen, it is said that elites possess group consciousness and act as a whole and on the other hand, it is said that there are discrepancies regarding the capacity of folding that the elites possess and the fact that they are various and divided according to the occupations. Therefore, emerges a contradiction between the neo-elitist and pluralist unitary vision regarding the elites.

Moreover, there is nothing said about what we have earlier named *formal elites*. The approach is therefore positional. Nevertheless, the pattern synthesizes the main features of elites as they appear in the sociologic literature that we have earlier mentioned.

As a conclusion, if we accept that it is interesting and useful to speak about *a sociology of elites* and if we claim that this branch of sociology deserves to be developed, the task of any

researcher in this field is to choose one or another of the criteria of definition, even to merge them, aiming to reach an adequate agreement in point of the concept of elite and of a methodological and enforceable formula for this research, according to the specific research objectives.

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PUBLIC ADMINISTRATION UNDER MILITARY OCCUPATION: A PRESENTATION OF COGAT C.S. Georgia

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Abstract

Following the Oslo accords, Areas A, B and C have been created, with area C under Israeli military occupation. Our paper aims to offer a brief look into the core values that animate the Israeli political and security establishment and how these are reflected in the way the governance of area C of the West Bank is implemented.

Key words: *Security, Israel, The West Bank, cultural identity, governance*

1. Introduction

The present paper aims at presenting the particularities of the Israeli civil-military environment and by doing so also draw a sketch of the Israeli governance of Area C. The West Bank has been under military occupation ever since the 1967 Six Day war and was governed by a military unit which today is called The Coordinator of Government Activities in the Territories (COGAT). The governance process stands out by being a hybrid between a military and a civilian system, with the prevalence of the military one. In the chapters to come we will take a brief look at the Israel's security situation between 1967 and 2005, we will take in account the main conditioning factors of the Israeli security environment, will present the COGAT and in the end draw our conclusions.

2. The History and Background

In this chapter we will look at Israel's regional security and part of its history, as well as the conflicts related to the Palestinian issue. We believe that these aspects are quintessential to understanding one of the most important particularities of this state: that it has been fighting for its survival, in one form or another, since its creation in 1948 and this fact has come to shape the collective mind, the strategic thinking of the decision-makers and the very nature of Israeli institutions. Because of our space limitation we will only focus on the period between 1967 and 2005 as this is directly relevant to our subject.

Following this was the War of Attrition of 1967 which lasted until 1970. Besides Jordan, Egypt and Syria, the U.S.S.R. and Cuba also participated in the conflict, which took a great toll on the Israeli forces but no important territorial losses were imposed on the Israeli State. One important detail is that, as we will argue in a following chapter, Israeli military doctrine was not designed for an attrition war but for short conflicts, making this war one of the hardest fought by the Israeli side.

It's worth to mention that since 1968, the Palestinian Liberation Organization supported militants in South Lebanon which conducted raids against Israeli targets. Israel's military retaliated against Lebanese targets in an effort that their punitive operations would force the Lebanese to deal with the PLO militants on their own. The so called PLO insurgency in Southern Lebanon lasted until the PLO's expulsion from Lebanon in 1975.

Three years after the War of Attrition, during 1973 Yom Kippur's celebrations which coincided that year with the Ramadan, an Arab coalition launched an attack against Israel in

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the Golan Heights and Sinai. The war was launched at the initiative of Syria and Egypt with the intent of recovering the lost territories of the Six Day War. They were also supported by Jordan, Iraq, Saudi Arabia, Algeria, Cuba, Morocco, Libya, Tunisia, Kuwait and North Korea. Although vastly outnumbered and outgunned, the Israeli State managed to win the war after 18 days of fighting, with its territories intact and a strengthened military deterrence. However, this war left a deep scar in the Israeli public psyche.

The 1978 Southern Lebanon conflict was another one of the high points of the Israeli-Palestinian conflict. After a PLO Fatah sanctioned operation which came to be known as the “Coastal Road Massacre”, the Israeli Defence Force implemented Operation Litani, an invasion of South Lebanon. The operation ended with the displacement of the PLO from its positions in Southern Lebanon but its continued residency in the country and the creation of the United Nations Interim Force in Lebanon.

On the background of repeated engagements between PLO militants and the IDF which caused civilian casualties on both sides, Israel launched Operation Peace for Galilee also known as the 1982 First Lebanon War. The “casus belli” was also reported to be stemmed from the attempted assassination attempt of Israel’s ambassador to the United Kingdom by the Abu Nidal group (which was in fact an opponent of the PLO). On one side there was Israel and its allies, the Free Lebanon State and the Phalange and al-Trazim militias and on the other the Lebanese National Resistance Front (Jammoul), the PLO, Syria, Hezbollah, the Amal Movement, the Independent Nasserite Movement (Al-Mourabitoun), the Islamic Amal military movement, the Armenian Secret Army for the Liberation of Armenia, The Islamic Unification Movement (Al-Tawhid) and the Kurdistan Workers' Party (PKK). Following this conflict, the PLO was relocated to Tripoli. Israel also gained a security zone in the South Lebanon Security Belt which was based on the Free Lebanon State. Israel’s image was tarnished during this conflict by being associated with the massacre of Sabra and Shatila, perpetrated by the Christian Phalangite militias on Palestinian refugees and Lebanese Shiites at a few meters from the Israeli positions.

Between 1985 and 2000 there was a low intensity conflict, fought by proxy between Israel and Lebanese Christian militias and Hezbollah affiliated groups backed by Iran. The conflict was mainly fought within what was called the South Lebanon “Security Zone”. Seen as a Hezbollah victory, the Israeli military retreated from the area in 2000 during Ehud Barak’s administration and the Christian militia group The South Lebanon Army collapsed.

The first Intifada (1987-1991/1993) and the second one (2000-2005) which happened in parallel with some of the aforementioned events came to open a new a painful chapter in the Israeli security environment, one in which the already dissolute nature of “the enemy” became even more so and announced an era in which the battle would be fought not only using the strategic depth available to the country but one that would be carried out in the hearts and minds of the Palestinian and world population alike, where pressure on Israel would come from within and beyond its administered territories. Along civil unrest and disobedience which materialized in acts from throwing stones and Molotov cocktails at Israeli security force to boycotts, riots, strikes and widespread violence. The toll of the first intifada was heavy on civilian losses and badly damaged the image of the IDF, also drawing a great deal of external pressure on Israel and ended between the Madrid conference and the signing of the Oslo accords. The second Intifada came at an even higher cost, raising new challenges for the Israeli security forces and politicians alike and ended after Yasser Arafat’s death and the subsequent Fatah-Hamas conflict. These two phenomena are very complex and would require further expansion but since this is not our paper’s focus we can only briefly remind them.

3. The conditioning factors of Israeli National Security

Before delving into any analysis of this extremely complex institution which has played and continues to play a crucial role in the Israeli state we need to take in account, even if briefly, the conditions that affect Israeli national security and the main strategic

requirements which the state must fulfil in order for it to assure its existence and efficiency. Like other authors⁴¹, we have stated in previous paragraphs that the fact that Israel has been at war since the beginning of its existence as a state is a major if not the most important factor in the conditioning of Israeli political, military and societal consciousness. Establishing this, there are several conditions which have shaped this collective consciousness and which, in our opinion, to this day and for a long time to come, will shape collective consciousness and public policies alike for many years to come.

First of all, one must mention the inexorable link between the Israeli political and security environment. In a country which, as we stated before, has been in an almost continuous state of war since its independence and which relies on conscription for its military system, many of the Israeli citizens have at one point in their lives, performed military service. As a matter of fact, all of Israel's prime ministers except Golda Meir have had important military careers before entering politics. Before we present the conditions below, it is very important to note this very intimate relationship about which other authors have written extensively⁴²⁴³⁴⁴⁴⁵.

The geography, as in any other geopolitical analysis, is a first step in getting one's bearing in understanding a phenomenon and particularly in this case, understanding Israel's geography is one of the sine-qua-non conditions of understanding its core need of security. Sitting in the Rothberg amphitheatre on Jerusalem's Mount Scopus and looking at the Dead Sea and the Jordanian border puts things into geopolitical perspective. "Strategic depth" is a very valuable resource in Israel. The term is used in military terms to refer to the distance between the battle lines, the front or the danger zones of the areas of operation in a conflict and Israel's own civilian and industrial infrastructure, namely cities, industry and other key strategic assets. The solution up to this point for addressing this shortcoming was creating "artificial" strategic depth.

Especially after the Yom Kippur war, which posed some very tough challenges to Israeli forces, precisely because it turned in a war of attrition and one in which Israel could not apply its most effective strategy, the general consensus among decision-makers and military men alike was that the challenges posed by Israel's 1949 would make those positions indefensible. As a consequence, the concept of "defensible borders"⁴⁶ took life at the same time with the pursuit of the political and military elites to achieve such assets through border modifications and security arrangements.

Such an achievement of artificial strategic depth was achieved for instance by entering security arrangements with actors like Egypt on the situation in Sinai and to some extent, with the Palestinian Authority concerning the situation in some parts of the West Bank⁴⁷. Another approach which has been extensively used especially in the first decades of the existence of the Israeli state is the building of fortified settlements and thus not only establishing a presence but erecting fortifications that would harass and impede the progress of the enemy⁴⁸.

Another solution found by Israeli strategists was to transfer the battle to the enemy's territory as fast as possible. This way even if some damage is sustained by the Israeli strategic

⁴¹Rebecca L. Schiff, *The Military and Domestic Politics: A concordance theory of civil-military relations*: Routledge, 2009

⁴²Yoram Peri, 'The Political-Military Complex: The IDF's Influence Over Policy Towards the Palestinians Since 1987', *Israel Affairs*, 11, no. 2, 324-344

⁴³Amos Perlmutter, 'The Israeli Army in Politics: The Persistence of the Civilian Over the Military', *World Politics*, 20, no. 04, 606-643

⁴⁴Gabriel Sheffer and Oren Barak, *Israel's security networks, A theoretical and comparative perspective*, New York: Cambridge University Press, 2013

⁴⁵K. Michael, 'The Dilemma behind the Classical Dilemma of Civil-Military Relations: The "Discourse Space" Model and the Israeli Case during the Oslo Process', *Armed Forces & Society*, 33, no. 4, 518-546

⁴⁶B. G. Bromet, 'Defensible Borders and Strategic Depth', 2011. (accessed 2015)

⁴⁷Bromet, *idem*.

⁴⁸Yoav Ben-Horin and Barry Posen, *Israel's Strategic Doctrine*, Santa Monica, CA: RAND, 1981.

civilian infrastructure, it would be at least limited and as the battle lines shift the destruction would be transferred to the enemy's infrastructure. Needless to say, this approach still shapes Israeli and civilian military thinking, requiring a great emphasis on very good offensive capabilities coupled with an equally important early warning and pre-emptive capabilities⁴⁹, as past events have shown.

Because of the 1948 and the following wars against Israel's Arab neighbours, strategic thinkers in the country have come to treat the "enemy", the Arab states themselves as a monolith and one of the strong points in the "us versus them" strain of thought is population. In 1981 it was not uncommon to speak about this ratio as 3.2 million Jews versus 120 million Arabs and even if today's Israeli demography yields a higher number, close to 8 million, the situation from this point of view did not change. As a result, an emphasis was put on the quality of the troops, at the same time using a reserve system with a very good ability for rapid mobilisation in case of war. This way, even if the state has limited manpower and resources, it would be able to balance the use of the two in order to achieve high combat effectiveness without having to spend the resources for a large fighting force. It's important to mention that since the Yom Kippur war Israel has expanded its military and today's IDF is much larger and better equipped than two decades ago.

Taking in account the above mentioned facts, the main vulnerabilities of the IDF, for a long time, were a surprise (coordinated) attack from its neighbours and/or a war of attrition. Both of these were also speculated upon as history proved it in the Yom Kippur War. For many years and even today, Israeli strategy is synergistically linked to these conditions. The structure of the IDF is tributary to this, being essentially a small standing army with a reserve system that can mobilize in case of need. The lack of strategic depth that intensely conditions any Israeli resolve is also an asset in this case, the encirclement of the Israeli position being dealt with by interior lines and enhanced mobility that the proximity of the lines grants to the defender. As the occupation of the Sinai demonstrated it, the management of the added strategic depth proved to raise challenges for a system designed for rapid deployment and mobilization within a territory with a limited strategic depth resource.

4. The Coordinator of Government Activities in the Territories

The COGAT is, in its essence, a military unit created by the Israeli state in order to better manage civilian life in the occupied territories. In the wake of the 1967 six-day war, the captured territories raised the challenge of governance and the sole option was to establish a military government. Despite having some experience with establishing a military government during the Sinai campaign in 1956, at the moment of cessation of hostilities, there was no plan in place for the governance of the newly occupied.

Inextricably military in the first days of its creation, the COGAT has gradually taken on elements of civilian identity, in order to be able to better manage the civilian affairs in the administered territories and to better cope with the challenges raised by the complexity of social life.

At the beginning, as the Israeli military doctrine was focused on hostile states which posed a conventional threat and this also reflected in the management of the territories. Although there were paramilitary forces acting against military and civilian targets, the threat was not as big as today and also the external threat was much more virulent than today. This determined the Israeli military leaders to employ additional measures in order to ensure that there is civil obedience in the territories. One important principle of governance during the 70s for instance was that the occupation has to be as invisible as possible⁵⁰. Also, COGAT worked close with Palestinian officials and leaders with which they negotiated the implementation of Israeli policy. After Oslo I and II and nowadays, Israel's military doctrine has changed and it is now primarily focused on asymmetrical threats. With an added emphasis

⁴⁹Yoav Ben-Horin, Barry Posen, *op.cit.*, p. 5.

⁵⁰Shlomo Gazit, personal communication, 2015, Tel-Aviv, Israel.

on preventing terrorism, the Israeli doctrine is now hanging in the balance of the very thin red line between armed combatant and civilian. As a result, COGAT stopped working with its Palestinian partners from the 70s and started implementing policy as a central authority, enforcing its orders through the Israeli army.

One of the characteristics of this institution is that, from the moment of its creation until the present moment at which we are perfecting the present study, it has a dual dependency, on one hand to the Ministry of Defence, to which it directly reports and to the General Staff. Although COGAT reports directly to the Minister of Defence regarding to all its activities and most of the interior affairs of the unit, it has a special relationship with the General Staff of the Israeli Defence Force which directly affects the efficiency of the unit and its very possibilities to project actions within the Palestinian Autonomous Territories.

Continuing with a brief sketch of the institution, we will start at the leadership and work our way downward, towards the agents in the field. Thus, the COGAT is headed by a military commander who reports directly to the Minister of Defence. The military commander also works closely with the Chief of Staff of the IDF and its whole hierarchic military structure⁵¹. The commander of the COGAT leads two main departments in the institution, one dedicated to economy matters (fiscal, commercial etc.) and another one to matters relating to services (education, health etc.). These two main departments are run by staff officers who act like intermediaries between the policy of the Israeli Government, through its various specialized ministries and the implementation of these institutions' policies in the Palestinian Territories. COGAT's point of contact with the material reality on the field is possible through a military interface it is connected to, through an area commander. The area commander is an officer within the Israeli Defence Force system, subordinate to the General Staff through the military hierarchy⁵².

In an attempt to clarify things and offer a good image into how the systems works and what this framework looks like, general (ret) ShlomoGazit makes a reference to the trajectory of a curfew order within the system in his book "Trapped Fools".

Thus, as a response to specific security situations on the ground, a sub-district commander would issue a request to the area brigade commander, who in his turn would forward the request to the territorial commander, who would verify it by sending it to the Head of the Operations Department at the General Staff. At the same time, the sub-district commander also reported to the civilian-affairs commander who had a direct subordination relation with the COGAT, which in turn reported to the Ministry of Defence. In conclusion, in this example we would have two separate documents climbing up two different systems. First, we have the curfew request which follows the military hierarchy through the chain of command to the General Staff, which in turn then issues a curfew order, together with a timetable and all the details relating to the operations to take place. Second, we have a recommendation which follows the Civilian Administration chain of command with the entry point at the level of the sub-district commander, passing to the civilian-matters commander and through the system made of department-specific staff officers, each in charge of a specific branch of the governance system (identical to the Israeli government one with the specific ministries and policies dictated by Jerusalem). This way, at least in theory, the institution that implemented the civilian policies and had the best grip on the civilian political-social realities could contribute with feedback and recommendations vis-a-vis of a military operation or order.

5. Conclusions

Israel's management of the West Bank is a unique case in the world because of the very nature of the security and political situation of the region. As we have noted, several factors stand out as distinctive particularities of the studied phenomenon. The Israeli

⁵¹*Idem.*

⁵²Shlomo Gazit, *Trapped Fools: Thirty Years of Israeli Policy in The Territories*, London: Frank Cass, 2003.

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occupation of the West bank dates back to 1973 amounting to 42 years. During this time, as the Israeli geopolitical and security situation was shaped by the events mentioned above, this also influenced the management priorities, linking them irrevocably to the main security apparatus which is the Israeli Defence Force.

The initial and current objectives of the COGAT are to ensure an efficient management of civilian life in the West Bank, although this objective has not been always implemented the same. For instance, as modern combat and military doctrine shifted from focusing on conventional engagements to asymmetrical warfare involving a very thin line between combatant and non-combatant, COGAT as an institution primarily subordinated to the IDF and Ministry of Defence has also aligned its policy to the general security objectives of the country's national security system. While not the most effective or good governance-focused system, COGAT is definitely a very interesting civil-military endeavour of governance.

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GENERAL CONCERNS REGARDING THE FISCAL POLICY IN ROMANIA

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Abstract:

The fiscal policy represents an incentive and also an inhibition factor for certain activities with special impact over the development policy, as well as the taxation system plays a major role in investment decisions. In the present context, a reform of the taxation and billing system is required, due to the low efficiency of the system. In order to increase Romania's competitiveness in the world hierarchy, it is necessary to implement a reduction in the number of taxes and the amount of the existing taxes, to encourage investments, create an honest and competitive taxation system, and properly computerize its entire fiscal management system.

Key words: *fiscal policy, taxation, budgetary revenues, tax obligations;*

Introduction

The fiscal policy represents the sum of all fiscal nature decisions, taken by the political decision-maker factor, for the purpose of insuring the necessary resources to finance the public necessities and the achievement of economical and social output, in conditions under which various factors act (C.I. Gliga, 2007).

The fiscal policy is in fact the policy of establishing the public financial resources. It also sums up all the ideas and strategies translated in legal regulations in order to achieve the most efficient modalities of establishing and collecting of budgetary revenues.

The fiscal policy according to the government's options in matter of taxes and bills, sets the instruments and the procedures with fiscal character in order to determine the structure, level and the regime of the fiscal facilities.

The fiscal policy represents all the decisions with fiscal character adopted by the government in order to secure the financial resources necessary in realizing its attributions (Paul Zai, 2008; Musgrave & Musgrave, 1984).

Regarding the fiscal policy, Dan Grosu Saguna described it as follows: "the largest and the most prudent science of taxation and billing promoted by the government in order to assure revenues for the state and for the society, without it being a burden or a serious damage to the interests and the patrimony of private persons or legal entities" (Saguna, 1996).

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Over time, in Romania the tax policy suffered many changes mostly regarding the fiscal sustainability of the public sector. With reference to this aspect, it is underlined that “ In our country were registered constantly and continuously small budgetary revenues, the predominant part in the revenues in the PIB being much lower the EU average (Vintila N., Filipescu M.O., Lazar P., 2013).

Through the measures of tax policy it is intended to establish the volume and origin of public financial resources, methods of drawing fiscal revenues, and modalities for providing tax benefits (if provided, under what form and to which sector of activities) (Avram M., Avram A., 2012).

Today at the level of the European Union, there is not an integrated taxation system, instead a gathering of various national taxation systems. As a result of the diversity of these systems, appeared the backgrounds of a fiscal competition.

This fiscal competition generates responsible taxation policies, which can contribute to the increase in the mobility of capital and the liberalization of economies (Mitchell, 2002).

Also, there are many opinions regarding the effects of the fiscal competition on the mobility of capital and labor force internationally, in correlation with the volume of tax revenues at regional and national level (Bretschger and Hettich, 2002).

In the context of the existence of these differences between the taxation conditions and the levels of the imposed contributions among the EU member countries, the main objective of the EU's taxation and billing policy is to avoid distorting the competition on its single market and to control and reduce tax evasion.

In this sense each member state can opt for the most suitable fiscal system, in compliance with the EU standards.

According to some authors, the EU should have the power to establish and gather taxes regarding the measures of the taxation policy (Trovato, 2007).

The fiscal policy in the European Union interval suffered in the last years major transformations mainly in realizing a stabilized taxation and in reducing on medium and long term the public depts.

In the fiscal policy of the EU member states, 2008 was a turning point. In this way, as a result of the economical and financial crises, came a drastic drawback in the tax revenues in all member states along with an increase of the debt degrees and the budgetary deficits. In this context, all EU member states were forced to adopt measures for diminishing budgetary deficit by increasing some of the taxes and reducing the public costs.

In the same time were adopted also a series of fiscal measures through which was intended to stimulate economical activities by granting some tax exemptions and fiscal benefits, thus the fiscal policy being situated seemingly between two opposite directions, with different objectives very difficult to achieve.

The period after the financial crises of 2008 was marked by the adoption by each member state of the EU, of most radical fiscal measures. After 2008 came a change in the architecture of the taxation in the sense of replacing and consolidating of the fiscal policies on new foundations of stability, by implementing measures for increasing indirect taxation, as well as modifications regarding direct taxation and social contributions.

The measures taken were imposed by the transformation of the financial and economical crises into a taxation crises expressed in the increase of budgetary deficits leading to a crises of sovereign debts.

The situation created after the economical crises, was the subject of many themes approached by studies authored by Tatiana Mosteanu (2008), Nickel, et al. (2010), Walker (2011), Thornton (2011), Molanescu & Aceleanu (2011).

From the analysis of the fiscal reforms unfolded in the European Union, it can be observed the fact that there is much effort put into modifying the taxation systems of member state with an accent on creating new jobs, economic growth and insuring correctness.

Also it was and still is put a special accent on fighting the tax evasion, many EU member states concentrating on fiscal reforms through which the competitiveness can be stimulated.

The activity reports in the fiscal field published by the European Committee, present the achievements of EU in this field along the fiscal aspects that have to be adopted further on.

As a result, the system of public resources in Romania is independent of the EU public resource system, this independence being materialized through the inputs and outputs of cash flow in and out Romania's government budget, in favor of the EU's budget.

1. Fiscal policy and discipline

The government's fiscal policy is associated with the power of collecting bills and taxes. The fiscal policy was defined as being "the art of determining general characteristics of taxation considering the economic and psychological data offered by the society".

The fiscal policy represents "the use of budgetary expenses and taxes in a manner that influences the national economy" (Horton Mark, 2009).

The fiscal policy designates "the concept, measures and the actions of the government regarding taxes and their role in forming the budget revenues, and the financing of budgetary expenses, types of taxes, their collection and use as encouraging instrument for economical growth" (Dobrota, Nita, 1999).

As integrated part of the states economical policy, the fiscal policy establishes according to the choice of each state, the proportions between the direct and indirect taxes, the share of taxes and bills in revenues, in order to affect the economic growth. The fiscal policy includes the ensemble of ideas and strategies translated in legal rules of establishing and collecting budgetary revenues.

The fiscal policy aims to realize the imposed objectives, influencing also the development policy. At the same time, the fiscal policy is an act of decision through which it is intended the reduction of fluctuations and the instability of the economy, the stimulation of growth and also the protection of the economies and incomes of the consumers.

In a market economy, the taxation system represents "one of the most important instruments of fiscal policy used by the government in all its social and economical activities" (Ioneci M., Marcu N., 2007).

Modern society can't survive in the lack of tax liabilities and their payment. Taxation defines a system of principals, rules and legal standards regarding the correct appliance of taxation legislation. In every society taxation is necessary, as it is a governments intervening instrument in economy.

Taxation represents a complex domain, also very dense, precise, legal by excellence, because the problem of taxation relies on the legislation adopted in this field, and also opened towards other law branches (M.S. Minea & C.F. Costas, 2008). It is considered by the tax payer as a constraint exerted by the predatory government which – throughout special methods – pulls out of the citizens pockets various sums of hard earned money, so well deserved by them (M.S. Minea & C.F. Costas, 2001).

In the last two decades, in Romania the taxation system suffered the most changes, the Romanian fiscal society being perceived by the tax payers as a factor of instability the development of the local economy.

The fiscal discipline is an essential component of the financial discipline, which defines the behavior through which are respected a set of rules of financial conduct. The fiscal discipline and the financial stability must become a state of normality in Romania (Mugur Isarescu, Governor of the National Bank, July 2015).

The fiscal policy and its modifications affect the tax payers which represent the main component of the taxation system. The degree of compliance by the tax payer is influenced by

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the number of bills and taxes (Paying Taxes 2008, The Global Picture, World Bank and Price Waterhouse Coopers).

The degree of compliance by the tax payer is influenced also by the inexistence of reduced taxes and the lack of a non bureaucratic and simplified taxation system. In this sense, the taxation system must be based on a state – tax payer partnership. An important instrument in consolidating this partner-ship, is the correct and stimulating taxation of global incomes.

2. Particularities of taxation policy in Romania

In our country, as a result of the necessity to adapt to the needs of the market economy, a series of changes were registered at taxation legislation level. After 1990, Romanian taxation system achieved serious developments as a result of joining the European Union.

The taxation system in Romania is characterized as a low degree of tax collection, an inefficient management of taxes, an excessive bureaucracy and high tax evasion. Also the taxation base is relatively low but with many exceptions and legal benefits.

Regarding the payment of bills and taxes towards the state, in 2013 Romania was situated 134-th from 189 nations and in terms of regulating the business environment situated on 73-d place. As bills and taxes, a company in Romania does a number of 39 payments, for which loses almost 200 man hours (Report “Doing Business” of the World Bank, 2013).

Regarding the competitiveness ranking, in 2013 Romania was placed 146-th among 148 nations measuring the effect of tax collection on the work environment and as 136-th concerning the effects of tax payments on investment motivation (World Economic Forum, 2013).

In 2014 respect the rest of the East European countries, Romania climbed in the global competitiveness ranking made by the World Economic Forum, from the 76-th to the 59-th place among a total of 144 countries (Ziarul Financiar, 2014).

Concerning the bills and taxes, Romania can't be compared with none of the Western European countries, as their fiscal policy is based on increasing taxes and less on the rationalization of public expenses. In 2012, Romania had the lowest taxation burden in the EU, along Lithuania, Bulgaria, Latvia, Slovakia and Ireland (Eurostat, 2012).

In 2014, in our country were collected no less than 39 various bills and taxes, among which 4 taxes on profit and 12 taxes over work. Meantime in other member states of the Union the number of taxes didn't exceed 10, while for example in Sweden and Norway, in both the countries the investors were paying no more than 4 taxes / year. In France business men who own companies pay only a number of 7 annual taxes, and in Denmark only 10.

In 2015, the number of payments descended considerably to 14, and that of necessary hours dedicated to tax payments has been reduced to 159 hours/year, but the total amount of taxation reached the level of 43.2% (Paying Taxes 2015, The Global Picture, World Bank and Price Waterhouse Coopers).

According to the same reports in the 2006-2015 period the values of the total taxation level, the number of payments done, as well as the number of hours necessary in order to comply to the fiscal legislation in state, had been reduced significantly, especially the number of payments required, from 113 (in the 2008-2012 interval) to 41 payments (in 2013), 39 payments (in 2014) and finally to 14 (in 2015) (Paying Taxes 2006-2015, The Global Picture, World Bank and Price Waterhouse Coopers).

The number of work hours necessary to carrying out the tax obligations also descended from 222 hours/year which was the highest level reached in 2010-2012 period, to 159 hours/year in 2015. These diminishes came also as a result of introducing of a new electronic system which permits along side the depositing of documents also the payments.

Between the years 2006-2015 the share of taxes over work from a total of taxes supported by a legal entity stayed over 70%, with the lowest rate registered in 2013 – 71.27%,

and the highest level being reached in 2009 when it was situated at 80%. (Paying Taxes 2006-2015, The Global Picture, World Bank and Price Waterhouse Coopers)

In 2013 Romania registered the lowest rates of fiscal and non fiscal revenues in its GDP that year representing only 32.7% when the level of taxes and health insurance contribution were at 27.5%, lower even than that of Hungary (38.6%), Slovenia (37.6%), Czech Republic (35.3%) and Poland (31.8%) (Fiscal Committee, Annual report 2013).

Regarding the taxation of profit, Romania was situated 7-th among the 10 Central and East European countries, registering a slight increase in the collection rate of taxes respect the precedent year. The rate of efficiency in health insurance contribution taxes was at 72%, Romania being ranked between the last among the east European countries (Fiscal Council, Annual report 2013).

Particularly Romania`s taxation system compared to other EU countries stands at a low level.

Regarding the flat tax on income which is 16%, Romania is situated after Bulgaria with a level of taxation of 10% and Lithuania which has a level of flat tax of 15%, and considering the level of taxation on profits (also 16%), Romania at European level the situation is the same, being situated after Bulgaria (10%), Lithuania (15%) and also Hungary (16%).

But the VAT quote in Romania is one of highest at European level (third after Hungary with 27%, Sweden and Denmark both with 25%), and regarding the rate of the social security contribution, our country is situated in 8-th place in Europe. In consequence, Romania`s taxation quotes on VAT and health insurance, but very low on profit and income in comparison with other European countries.

Romania sits on the lowest ranking among central and east European countries concerning tax payments (“Doing Business” report of World Bank, 2013).

The number of tax related payments/year that a company in Romania has to do is 39, which is a very high level comparing to other central and east European countries. Therefore, a Romanian company makes 12 payments/year for VAT taxes and same for social security taxes, when in most of the central and east European countries according to the World Bank methods, these two payments are done at the same time once, electronically by almost all the middle sized companies.

If Romania would ensure the declaration and electronic payment of these taxes (health insurance, tax on profit and VAT), the number of payments would go down from 39 to 14.

Although at first glance the level of taxation in Romania can be competitive at European level – from flat tax point of view – the economical practice demonstrates the opposite. According to statistics published by the European Committee, in case of VAT the level of collection barely exceeds 50% from the sums owed.

The degree of efficiency in VAT taxation in 2012 – 57%, is significantly inferior of that of Estonia (84%), Slovenia (71%) or Bulgaria (71%). Romania collected in 2012 8.5% of its GDP from VAT taxes (excepting ESA95), in comparison to 8.32% of GDP in Slovenia, 8.73% of GDP in Estonia and 9.15% of GDP in Bulgaria, given that in these countries the VAT rate was at the time 20% (respect 24% in Romania at the same period) (Fiscal Council annual report, 2013).

The data of finance ministry reveals a reduction of collection of VAT from 8.1% of GDP in 2008 to 7% in 2009 and to 7.5% in 2014. The results achieved in 2011 show a rate of VAT and excises collection to 12% from GDP, also due to the increase of excise levels as part of the alignment calendar to usual rates of EU. In 2013 – 2014 period VAT collections took a descending trajectory, the level being close to that recorded in 2010 (Ministry of Public Finances, 2014).

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Table no.1 – The evolution of VAT revenue and excise duties (% of GDP)

Year	2008	2009	2010	2011	2012	2013	2014
VAT	8.1	7.0	7.6	8.6	8.6	8.1	7.5
Excise	2.7	3.2	3.4	3.4	3.4	3.3	3.6
Total	10.8	10.2	11.0	12.0	12.0	11.4	11.1

Source: <http://cursdeguvernare.ro/wp-content/uploads/2015/02/tabel-11.png>

Romania has one of the lowest rate of budgetary revenues in GDP (fiscal and non fiscal collection), this rate being at only 33.5% in 2012, 11.9% (GDP pp) lower than the European average (Fiscal Council, Annual report, 2012).

Concerning the fiscal the share of fiscal collection and health insurance contributions in Romania's GDP, from the data selected for 2012 presented in table no. 2 results that the gap between Romania and other EU countries is not recorded at the level of the production and product taxes, in this case Romania being situated closer to the EU average even then Germany and Poland. The same time, the level of collection from the taxation of income is half that of Germany, which is also under the EU average. Regarding the health insurance contributions, we are situated under the European practice in this matter, it being at 30% (Eurostat, 2012).

Table no.2 – Fiscal revenue structure and health insurance contribution in the European Union and few of the member state (% of GDP) in 2012:

	UE 28	Romania	Germany	Poland
Taxes on production and imports	13.6	13.4	11.4	13.1
Product tax	11.3	12.8	10.7	11.6
- VAT	7.2	8.5	7.3	7.3
- Custom duties	0.4	0.5	0.8	0.4
- Other taxes on products	3.7	3.8	2.6	3.9
Taxes on production	2.3	0.6	0.7	1.5
Taxes on income and fortune	12.9	6.1	12.0	7.2
-Income tax	12.0	5.8	11.7	6.7
-Fortune tax, etc	0.9	0.3	0.3	0.5
CAS	13.0	9.0	15.8	12.3
-Employers	7.4	5.7	6.8	4.9
-Employees	4.0	2.9	6.4	4.9
-Freelancers and unemployable	1.6	0.4	2.7	2.5

Source: <http://cursdeguvernare.ro/wp-content/uploads/2014/11/tabvel-3.png>

The current structure of taxation in Romania is based on greater proportion on indirect taxes vs. direct taxes. Thus, over 47% of the taxes in Romania come from indirect taxation (comparing to the EU average of 34.5%), and only 21.6% from direct taxes (where the EU average stands at 33.4%) (AMECO, Fiscal Council).

The indirect taxes remain the main component of fiscal collection in Romania, their share in total being significantly above the EU average.

The taxation system in Romania is characterized by a faulty collection of taxes, with an inefficient management and an excessive bureaucracy, a relatively low base of taxation with lots of exceptions and legal benefits and a high rate of tax evasion (Fiscal Council, Annual Report 2012).

According to the calculations of Fiscal Council based on data from the National Statistics Institute, the tax evasion has a very high dimension in Romania, representing 16.2% from GDP in 2013 (Fiscal Council, Annual Report 2013).

If Romania would collect its bills and taxes at a maximum rate, it would have budgetary revenues as percentage in GDP, above the European average. Approximately 75% of the tax evasion is generated at VAT (12.21% of GDP) (Fiscal Council, Annual Report 2013).

According to the calculations of Fiscal Council based on data from the National Statistics Institute, presented in table no. 3, the degree of collection in case of the income taxes, taxes on profit, health insurance contributions and excises is around 80%, while in the case of VAT it is approximately 40%. Now then in 2010, when the legal rate of VAT was increased from 19% to 24%, the tax evasion on VAT collection grew from 8% of GDP in 2009 to 9.6% of GDP in 2010, maintaining itself at a growing trend also in next years (Fiscal Council, Annual Report 2013).

Table no. 3 – Degree of collection of revenues to budget

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Income tax	80	84	85	86	87	81	78	80	82	83
Profit Tax	85	81	79	77	76	79	74	77	79	80
CAS	85	86	85	85	86	79	76	77	78	79
Excise and sin tax	79	75	75	63	74	72	68	80	82	81
VAT	47	55	65	53	53	45	44	46	41	40
Total	66	70	74	67	66	61	57	58	55	56
The fiscal evasion (% GDP)	6.4	9.5	7.9	11.2	11.0	12.9	15.1	15.1	16.7	16.2
of which										
VAT	3.0	6.2	4.4	7.2	7.4	8.0	9.6	10.3	12.3	12.2
CAS	1.75	1.74	1.82	1.93	1.82	2.80	3.13	2.87	2.66	2.43

Sursa: <http://cursdeguvernare.ro/wp-content/uploads/2014/11/tabel-19.png>

As such there is an approximately 13% difference to the EU average, which generates a 40% deficit in collection respect the present collection rate. The low level of taxation efficiency in our country is influenced by the self-consumption and the rural market which hold an important share.

A profound reform of the taxes and bills management in Romania aimed at raising the degree of tax collection is absolutely necessary, being capable to create the necessary fiscal interval for the reduction of fiscal burden on employment which is a the very high level at the moment. A more efficient fiscal policy is realized through the reduction of bureaucracy in terms of fiscal obligations and increase of the importance of direct taxation.

3. Aspects concerning the fiscal reform in Romania

The fiscal reform, is a component of social and economic reform, aiming to create an efficient, coherent and balanced fiscal system.

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In Romania, the fiscal policy has been aligned to the EU fiscal system in the matter of indirect taxation as well as in terms of their share (pp in GDP) in budgetary revenues obtained. In exchange, the share of revenues from direct taxation is situated below the minimum registered in the European Union as result of a relatively low rates of flat tax on profit and income.

In 2004, the basic characteristic of the Romanian taxation system was given by the applying of differentiated rates of calculating the income taxes for private persons. The reform proposed by the 2004 government had as objectives a fair distribution of gains obtained as a result of the economical growth, the strengthening of Romania`s position in terms of competitiveness and improvement of business environment. Also, the fiscal reform watched the increasing of the predictability in the fiscal field, the reduction of tax related costs and a reduction of work taxation.

The process of reforming the fiscal policy continued at the end of 2004 through the introduction of the flat tax of 16% over salary. Beginning 2005, the government introduced the flat tax also taxation of profit of legal entities. This new fiscal reform of 2005 aimed the encouraging of big affairs and large companies with great financial power, increase of revenues, multiplication of direct investments, the decrease of underground economy and the creation of jobs.

From 2006, this tax rate extended also over investments income, revenues from dividends and interests.

These measures led to growing foreign investments (9.1 billion euro in 2006) and an economical growth of 7.7% in 2006, other objectives remaining unachieved. This way, the level of industrial production, work productivity in the industry, deficit of current account and so on, were situated under the level of performances reached in 2004.

The reform of the fiscal system promoted by the post 2005 administration did not manage to assure the increase of budgetary revenue rates in GDP. The stimulation of consume in this period had a negative effect over the economical balance deficit, which deepen from year to year.

Unlike Romanian authorities, which consider that the implementation of flat taxes brought revenues to budget, the International Monetary Fund specialists consider that this measure “determined a loss of revenues from income and profit taxation of approximately 1% of GDP in 2005 (International Monetary Fund, 2006).

From January 1-st 2005, another aspect regulated was that of establishing the level of debt degree for which is permitted the deductibility of interests, and also it`s calculation as relation between average value of loaned capital with larger than 12 month due term and the average value of own capital.

Regarding the indirect taxation occurred modifications in the name of harmonization with the European Unions taxation system. In this sense were imposed compulsory measures for all member states regarding the stability of VAT rate in the 15 – 25% range.

Beginning January 1-st 2007, the fiscal code suffered modifications throughout the coming in effect of long discussed amendments, and the implementation of flat tax of 16% over incomes and a VAT rate of 19%.

In 2010 at 1-st July as part of a pack of measures for the balancing between levels of revenues and levels of expenses, correlated with macro-economical objectives and the process of the harmonization of national legislation and European Union legislation in the domain, as a member state, Romania registered an increase of VAT from 19% to 24%.

In regional context, according to data provided Fiscal Council, the fiscal policy of Romania presents itself as follows :

Table no. 4 Romanian taxation in regional context

	Romania	Poland	Czech Republic	Slovakia	Hungary	Bulgaria	UE
Profit tax	16%	19%	19%	23%	20.6%	10%	23.2%
Income tax	16%	32%	22%	25%	16%	10%	38.9%
VAT	24%	23%	21%	20%	27%	20%	21.3%
Social Contributions	39.95%	41.19%	45%	49.4%	45.5%	30.3%	33.2%

Source: Fiscal Council

One of the concerns of Romanian authorities is simplifying as much as possible the VAT system and trying to diminish the administrative tasks for the companies.

At the level of tax on profit, fiscal policy in Romania watched its alignment to international rules in the field concerning transfer costs and costs for legal headquarter. The rules of taxation over profit realized by the resident companies still remained up to the Romanian authorities.

As a result of these changes it was achieved a uniformity from the point of view of taxation of dividends, received by resident companies from EU companies. It was also assured the fiscal neutrality in the situation of fusion between a Romanian legal entity with a foreign legal entity from the European Union (Dobrota G., Chirculescu M.A., 2011).

In the 2008 – 2010 period, through the applied fiscal policy, Romania`s government intended the creation of a non-discriminatory environment, the reduction of contribution rates to the social security and consolidating the public finance.

After the measures implemented in 2014 consisting in reduction of health insurance contributions for the employer and also the reduction of VAT for the food products, in 2015 were applied reductions of the main taxes – VAT, health insurance contribution, flat tax – as well as a series of penalty measures for micro-enterprises, and the introduction of compulsory payment of social security and health insurance contribution for every private person realizing revenues.

Romania took another bold measure consisting in the introduction of “holding type” legislation in 2014, which permits to Romanian legal entities to establish this type of companies without being taxed for distributed dividends and neither for capital profits, in conditions in which it would have been desired for some branches to be sold.

In 2015, Romania came up with a extensive reform of fiscal relaxation, by approving in march 2015 the new Fiscal Code. This new law brings new important modifications regarding the tax on profit, VAT, micro-enterprises, tax on income, social security contributions and local bills and taxes.

In 2015, the government changed the strategy regarding taxes, as such in june the VAT was diminished from 24% to 9% for food and non-alcoholic beverages.

According to the budgetary fiscal strategy for 2015 – 2017 period elaborated by the government, the fiscal policy is subordinated to the fundamental objective of economical development, being oriented towards stimulating and promoting investments, entrepreneurial initiatives and efficient spending of public resources.

On medium term, the government proposed to go on with the measures aimed to increase the efficiency of the taxation system, reduction of fiscal burden on the low income working class by implementation of a new system for social security contributions, extending their calculus base over the entire sector of private persons realizing incomes from independent activities, no matter if they have also other incomes.

The most important budgetary fiscal measures on the 2015 – 2017 horizon stipulated by the Law nr.227/2015 regarding the fiscal code are as follows:

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-“The tax on dividends is established by applying a rate of taxation of 16% over gross dividends paid to a Romania legal entity. From 01 January 2017, the rate of taxation for dividends will be 5% (Law 227/2015, art. 43(6), Official Gazette of Romania - M.O.688/2015).

- The effects of this law doesn't apply in case of Romania legal entities paying dividend to other Romania legal entities, if the legal entity that receives the dividends, holds at that moment a minimum of 10% from the shares of the vending legal entity, on a period of a full year till the date of the payment of these dividends. (Law 227/2015 art.23(a), Official Gazette of Romania -M.O. 688/2015)

- For the determination of fiscal result there are taken into account the deductible expenses, social expenses being deductible in a rate of max. 5% applied on the value of expenses with employees salaries. (Law 227/2015 art.25(3), Official Gazette of Romania-M.O. 688/2015)

- The profit invested in technological equipment, electronic computers and peripheral equipment, cashiers appliances for control and billing purposes, as well as investment in informational software, produced or purchased, including those based on financial leasing contracts, started up, used in the economical activities, are tax-free. Corporate assets which are tax-free are those provided in the subcategories 2.1 and 2.2.9 from the Catalogue for the classification and normal durations of functioning for these assets (Law 227/2015 art.22(1), Official Gazette of Romania -M.O. 688/2015).

- The rate of taxation for the revenues of micro-enterprises is 3%. By exception for Romanian newly established legal entities, which have at least one employee and are established for at least 48 months, and the share holders/associates of the company did not yet own shares or quotes in other legal entities, the taxation rate is 1% for the first 24 months from the date of establishment, according to the law. This tax rate is applied till the end of the trimester in which ends the 24 month period (Law 227/2015 art.51(1,2), Official Gazette of Romania - M.O. 688/2015).

- If throughout a fiscal year a micro-enterprise realizes incomes that exceed 65.000 euro, or the share of income made from consultancy and management is over 20% from total income, this micro-enterprise has to pay tax on profit, starting with the trimester in which the mentioned limits were exceeded (Law 227/2015, art.51(1) Official Gazette of Romania -M.O. 688/2015).

- Modification of the list regarding tax free incomes (Law 227/2015 art.62, M.O. 688/2015).

- The net income resulting from cession of use over goods is established by deducting from the gross income the expenses determined through application of the 40% share over the gross income (art.84 align.3).

- The rate of social security contributions are as follows:

a) 26.3% for normal working conditions, from which 10.5% for individual contribution and 15.8% for the contribution owed by the employer;

b) 31.3% for special working conditions, from which 10.5% for individual contribution and 20.8% for the contribution of the employer;

c) 36.3% for special working conditions and conditions as specified in Law 263/2010 regarding the unitary public pension system, with its ulterior modifications and add-ons, from which 10.5% individual contributions and the rest of 25.8% for the contribution owed by the employer (Law 227/2015 art.138, Official Gazette of Romania M.O. 688/2015).

- For the incomes realized beginning 01 January 2017, in the situation in which the basic income for calculation exceeds the value of five times the average gross salary specified at Art. 139 align. (3), the individual contribution for social security is calculated in the margins of this limit (Law 227/2015 art. 161(2), Official Gazette of Romania - M.O. 688/2015).

- The standard VAT rate is applied upon the base for taxation for taxed operations which are not tax free or which are not subjected to reduced rates, and its level is:

a) 20% beginning 01 January 2016 till 31 December 2016;

b) 19% beginning 01 January 2017 (Law 227/2015 art.291(1), Official Gazette of Romania- M.O. 688/2015).

- The lowered VAT rate of 5% is applied over the base of taxation for the following deliveries of goods and provisions of services:

a) school books, books, newspapers and magazines, with the exception of those destined exclusively and mainly for publicity;

b) services consisting in allowing access to castles, museums, memorial homes, historical monuments, architectural and archeological monuments, zoological and botanic gardens, fares, expositions and cultural events, sporting events, movie theatres, and others apart from those tax free according to art. 292 align. (1) let. m);

- Expression of level of excises in Romanian currency. Thus, beginning with 01 January 2015 the level of excises will be expressed in local currency on the measuring unit using the level in Romanian currency practiced in 2014. The level of excises established is updated annually with the increase of consumer prices in the last 12 months, calculated in September of precedent year , in comparison with the October 2014 – September 2015 period, communicated officially by the National Statistics Institute by 15 October (Law 227/2015 art,342 (2), Official Gazette of Romania - M.O. 688/2015).

- For residential buildings and annex buildings, property of private persons, the building tax is calculated by applying a rate between 0.08 – 0.2%, upon the taxable value of the building. The rate of the building tax is established by decree of the local council (Law 227/2015 art 457(1), Official Gazette of Romania - M.O. 688/2015).”

4. Conclusions:

The fiscal system has an important role in achieving social and economical objectives by the state.

The re-projecting of the fiscal system is imposed, in a manner in which it would be possible to put a strong accent on creating new jobs, economical development and increasing exports, but essentially a system that insures correctness.

At the level of Romania economy, it`s needed a real financial reform, so, at the same time with the reduction of bills and taxes, also must be reformed the system of the expenses of public resources , as well as reforming the system of collection, financial control and the fight against tax evasion.

A profound reform of tax administration in Romania oriented towards increasing the degree of tax collection is imperative, this being realizable by combined efforts for upraising the voluntary conformation and essentially reduced tax evasion.

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CONVERGENCES AND DIVERGENCES BETWEEN INTERNAL AND EXTERNAL AUDIT ON INTERNATIONAL CONTEXT

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Abstract:

From a company's point of view, it activates in a very dynamic climate of affairs, in which there are permanently acquisitions and company fusions, fact that leads to the necessity of knowing extremely well the company's internal and external business climate. Even in case of the company not participating in business fusions and acquisitions, it is obliged to submit reports regarding its activity, for the owners, for the market or in order to comply with legal requirements. All these considerations are valid also in the public sector, for maximizing its activity value.

Key words: *internal audit, external audit, governance, public sector, company.*

Introduction:

Audit means in general the professional examination of information with the intent of expressing of a responsible and independent opinion, in the report conditions of a quality standard or criteria. First, the significance of the term "audit" equaled financial audit, having the object of verifying financial reports, processes and transactions of an entity.

The types of audit that we find on international level are: financial audit, focused on controlling the financial reports; operational audit focused on evaluating the economical processes of a company; conformity audit analyzing the meeting of internal and external legal requirements; audit of IT systems; and the integrated audit which is centered on the economic activities cycle or part of it.

The audits have diverse influence on the persons in a company which have different expectations from this activity such as: upon the stakeholders; the management of the company who expect from auditor to relieve them from responsibility; upon governing staff who expect the auditors to bring added value to the organization by supplying useful tips; on the company's creditors, which hope that the auditors will insure them that the organization is capable of paying all debts; and on the employees who need the auditors to ensure them about the security of their jobs and the future of the company.

Through financial audit is understood the examination of an independent, competent and professional accountant of financial statements of a commercial entity (or part of these financial statements), in order to express a motivated opinion over the real image of the financial situation and the performances of the commercial entity.

According to the objectives of the company, the financial audit is classified in internal and external audit.

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The internal audit has a function that, although operates independent from other departments and reports directly to the audit committee, has its place in the company (internal auditors being employees of the company). The auditor is responsible for realizing the audit (financial or nonfinancial) in a large area of the economic activity of the company, according to the annual audit plan.

According to the Internal Auditors Institute, the internal audit is defined as “an independent and objective insuring activity, of consultancy, destined to bring added value and to increase the operations of a company. It helps an organization to accomplish its objectives by systematic approach and methods that evaluate and improve the efficiency of risk management processes, control and governance.

The internal audit is preoccupied with the identification of important risks that a commercial activity faces, and with what can be done in order to efficiently eliminate these risks, for the company to achieve its goals. For example, the internal audit can be preoccupied by the reputation of the company when it uses cheap labor force from foreign countries or the strategic risk of producing too many products with the available resources of the company.

The external audit is done with the help of independent and external organizations to the audited company. This audit is oriented towards the financial analysis or the associated risks to the commercial activity and it is addressed mostly to the stakeholders of the company. The main responsibility of the external audit is to realize the annual statutory audit of financial statements, emitting an opinion on correct or incorrect reflecting of the company's financial position. As part of it, external auditors examine and evaluate the internal audit activity, analyzing risks that could affect the financial statements.

The external audit can come in the form of statutory audit imposed by regulatory actions, or in the form of contractual audit which is realized by a third party, according to a contract.

The role of internal or external audit:

The main role of an internal or external auditor differs according to the main responsibilities of their functions. Despite these differences, there is a common part due to the fundamental objectives such as the aim of obtaining most certain and accurate information which has to be shared between them. An internal auditor makes various check-ups and evaluations, offering to the company's management extremely important information for the successful progress of the economic activity. This aspect needs a high level of independence and objectivity inside the company, which makes the internal auditors vigilant to the fulfillment of management directives.

The external auditor is responsible for supplying an independent opinion regarding the correctness of the financial statements of the company, even if he is requested to do only additional audit services. These tasks can be accomplished through various means, but the preferred approach is to obtain a reasonable guarantee for the smooth running of internal control activities, rather than through making a high number of background tests over the data supplied.

The types of audit realized upon different objectives can vary even though both types of audit are done with similar procedure. While the time period targeted by the external audit is in fact regarding the financial annual end report, the internal audits perform for longer periods, according to the specific activities of the company (example: Implementation of various systems, fusions, acquisitions, etc.), and having at the same time a different focus on the informational system. Once the time period, the target and the auditors objective are established, they will act through various procedures (example: interviews, detail tests, system

interrogations, etc.) in order to realize an evaluation of the internal control system and the processes targeted.

The results of an audit will materialize in form of an audit report which will be presented in a meeting with the most important stakeholders, this being the place where all the aspects discovered will be discussed, and where will be agreed upon measures to be taken and time frames for implementation of measures, in order to remediate the deficiencies found. The report will be forwarded to the users, which can be the organization or the state authorities, serving as a guarantee also, considering the fact that the users will decide based on the findings in the results of the audit.

Characteristics of the internal audit:

Internal audit means the systematic evaluation function realized in a company/organization, with the intent to analyze current activities and supply of suggestions for their improvement.

The internal audit represents the main pillar of good government. The activity of internal audit consists in a large range of activities, such as: the evaluation of the internal control system and the financial system; examination of the current operations; control of the realization of inventory according to legal demands; the analyzing of financial and nonfinancial information in the organization; detection of fraud and deficiencies.

The main objective of the internal audit is to increase the efficiency of the organization, monitoring the internal control system, doing internal checks in the company and pursuing the risk management system. By reporting to the company's management the most important risks identified as well as the measures for their relieve, the internal auditors help the management and the persons in charge with governing to demonstrate that they are efficient and work in the benefit of the stakeholders.

The role of the internal auditors includes monitoring, evaluation and analysis of risks and inspections of the company, reevaluation and conformation with the politics, procedures and legislations in force.

The internal audit has the role of promoting and supporting the improvement and increasing of efficiency, by utilizing of "friendly criticism" and not only, by managing the deficiencies identified at the level of a structure or a process.

Characteristics of external audit:

The activity of external audit refers to the independent and systematic examination of the financial statements of the organization, by a third party, with specific objectives, which makes it compulsory to realize it periodically according to the legislation in force.

According to the C.I.M.A. (Chartered Institute of Management Accountants), the external audit is defined as a periodic examination of the recordings and accounting operations of the entity, by a third party (auditor), in order to ensure maintaining the correctness, accuracy and learning of concepts, morals, standards of accounting, legal demands, and also in order to offer a correct and true image regarding the financial statements of the entity.

The main role of the external audit is also to ensure that the operations are complete and they respect the principals and financial standards registered at the time they take place. So, this target refers to the accomplishment of statutory responsibilities that the external auditor has, supplying an opinion about the financial statements, relating if this shows a "correct and real image".

External auditors are invested by decision makers in the organization. They have to be independent, meaning they can't have any sort of relation with the entity that is to be audited, so their work cannot be influenced. External auditors have access to all accounting documents in order to obtain the necessary information for the formulation of an opinion expressed in an audit report forwarded to the decision makers in the company.

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Differences between the internal and external audit;

The main differences are:

- The internal audit is a constant activity realized by a department inside the company, while the external audit is done by an independent third party, which analyses annual financial statements and issues an opinion on them;
- Internal audit is a volunteer activity, meanwhile the external audit is compulsory;
- The internal audits report is forwarded to the management, while the report of the external audit is transmitted to the stakeholders, creditors, government, etc.;
- Internal audit is performed constantly, while the external audit is performed based on the annual financial statements;
- The role of the internal audit is to reevaluate the current activities, and to improve those. The external audit follows the correctness and accuracy of financial statements;
- The target of internal audit is given by the organization`s management, while the external audit targets according to the legislation;
- Internal auditors are employees of the company as well, meanwhile the external auditors are not employed by the entity, being commissioned by the decision makers of the company;
- An internal audit can be externalized but it`s content remains the same, while the external audit is an independent activity, taking course only if the auditors are not employed by the entity audited;

Comparative chart:

Basis for comparison	Internal Audit	External Audit
Meaning	Internal Audit refers to an ongoing audit function performed within an organization by a separate internal auditing department.	External Audit is an audit function performed by the independent body which is not a part of the organization.
Objective	To review the routine activities and provide suggestion for the improvement.	To analyze and verify the financial statement of the company.
Conducted by	Employees	Third Party
Auditor is appointed by	Management	Members
Users of Report	Management	Stakeholders
Opinion	Opinion is provided on the effectiveness of the operational activities of the organization.	Opinion is provided on the truthfulness and fairness of the financial statement of the company.

Scope	Decided by the management.	Decided by the statute.
Obligation	No, it is voluntary	Yes.
Period	Continuous Process	Once in a year
Checks	Operational Efficiency	Accuracy and Validity of Financial Statement

Source: <http://keydifferences.com/difference-between-internal-audit-and-external-audit.html>

The internal and external audit in the public sector:

Here, the audits have to be correlated to the specifics of the public sector, following them to be quantifiable and transparent to the eyes of the public, and in the same time fulfilling its roles for economic efficiency, effectiveness, as well as ethicalness.

Governance is defined as a combination between the processes and structures implemented by the management with the intention to inform, direct, lead and follow-up the activities of the organization, towards the accomplishment of its objectives. In the public sector, governance is related to the goals established and assumed. This ensures the credibility of the entity from the public sector, establishes the equitable supply of services and insures a proper behavior of government officials by reducing the risk of corruption at this level.

In Romania, the internal public audit is exercised upon all the activities conducted by a public entity, including the subordinate entities, regarding the formation and use of public funds, as well as upon the administration of public patrimony of the state or of the territorial administrations, according to Law no. 672/2002 (of Romanian legislation in force) regarding the public internal audit, and according to the Order of the Public Finance Ministry no. 38/2003 for approval of norms regarding the exercise of public internal audits, order modified by Government Decree no. 1086/2013 – Order Of the Governments General Secretary no. 400/2015 for the approval of The internal control Code, which includes the management and control standards for the public entities.

The internal public audit is done in externalized system by certified persons in based on service contracts, this in the public entities at local level which have not established own departments for internal audit or did not enter in cooperation to ensure activities of internal audit.

The reports drafted by the internal auditors have in most cases purely formal character, the missions of internal public audit being oriented more on fund management as opposed an authentic internal audit which would serve the entities for a more efficient management as well as a source of information for them.

The role of auditing in the public sector.

Auditing is the foundation of governance in the public sector. By supplying objective evaluations over the administration of public resources in a responsible and efficient manner, the audit helps the organizations in the public sector to accomplish their responsibilities, maintain integrity, improve operational activities and none the last the increase of public trust. The role of the audit in the public sector consists in supporting the responsibilities of governance regarding identifying omissions and knowing well the internal activities and their forecasting. For the identification of omissions auditors check if the entity accomplishes its objectives, and the detection and stopping of corruption. Knowing the internal activities means assisting the decision makers by supplying them an independent evaluation of the programs, politics, operations and results of the public sector. The forecast of activity identifies trends and challenges that can appear. The auditors use instruments such as

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financial audit, performance audit, investigations and consulting services in order to realize each of these roles.

In Romania the external audit found after the evaluation of the internal control system regarding management and control standards for public entities, that the majority of territorial administration units and public institutions do not have organized a department for internal audit. So with no internal public audits being done, the managements of public institutions have no insurance for the good management of public incomes and spending, don't have the possibility to improve their activities and have no support in the accomplishment of their objectives through a systematic and methodical approach, which could permit them to improve the efficiency and effectiveness of their guiding system based on risk management, control and administration processes.

Key elements of an efficient audit's activity:

An efficient audit activity in the public sector leads to the consolidation of governance through the increase in the citizen's capacity to evaluate the entity in the public sector. It is important to well establish the activities of audit and to hold a sufficient mandate in order to achieve its objective. The activity of audit has to have the attribute of acting with integrity for more credibility in their services according to the specifications of the established targets. The audit activity needs the followings:

- Organizational independence. This permits the audit activities to be performed without any interference from the entity audited. Organizational independence combined with objectivity contributes to the correct work of auditors and to the growth of trust in the results obtained.

- A formal mandate. The attributions and tasks of audit activities must be established by the stipulations that govern the public sector, based on legal documents. These documents must contain the procedures and demands for the report, as well as the obligation of the entity to collaborate with the auditor.

- Unrestricted access. The activity of audit must be realized with full access to employees, properties, registers and documents.

- Sufficient funds. The audit must benefit from sufficient funding according to its dimensions and responsibilities. This element cannot be left on account of the audited entity, because the dimensioning of the budget has a direct impact over the capacity of realizing an adequate audit.

- Competent management. The leaders of the audit activities must be independent and efficiently recruited, with highly qualified personnel, without having any political or management influence. The leader must know the applicable audit standards, must have the necessary qualification certified by graduation diplomas for specialized courses and must have the competence to supervise and lead in an audit job. In addition, the leader of the audit activity must have public communication skills.

- Objective personnel. The audit personnel must be fully objective, have impartial attitude and avoid conflicts of interest.

- Proficient personnel. The activity of auditing requires competent personnel, which has the necessary qualification and skills to conduct the entire range of audit activities described by their mandate. The auditors must meet the continuous qualification demands established by the standards and by the most important professional organizations.

- Support of the stakeholders. The legitimacy of the audit and its mission must be understood and supported by most officials, as well as by involved citizens and the media.

- Professional audit standards. The professional audit standards such as the I.P.P.F. adopted by the Institute for Internal Audit, support the introduction of all elements mentioned above.

In Romania, The Central Union for Harmonization of The Public Internal Audit (U.C.C.A.P.I) is responsible for the coordination of the national certification system of internal auditors in the public sector, and for the system of continuous professional formation of the internal public auditors, which are government employees in a public function part of an organizational structures in public entities.

The definition of audit in the public sector:

The roles of the audit

As an essential element of the governing structure of the public sector, the audit has the role of overview evaluator, analytic evaluator and also an assessor for the perspectives of the entities activity.

The overview evaluation. The auditors help the decision makers to make an overview evaluation upon the activity of the entity, regarding what they have to do, in the spending of public funds and in conforming to legal demands and regulations. The audit is concentrated on answers to the questions: Actions have been taken as requested?; Has the management introduced efficient inspections in order to minimize the risks? The audit activity supports the governing structures through the verification of agent's reports and programs from financial performance point of view, and by testing these for legal and company directive compliance. Also, the overview evaluation contributes to disclosure to the public, by accessing the information regarding the evolution of activity of the public entity. The officials elected or invested as well as the managers in the public sector are responsible for the directing and defining organizational objectives. The managers have also the duty to evaluate risks and to impose efficient inspections in order to achieve goals and avoid risks. In this role the public auditors evaluate and report regarding the successes of these actions.

The overview evaluation describes the role of major part of public sector auditors in the detection and stopping the corruption, even fraud, losses or abuses and other defective utilizations of public resources and of power entrusted to government officials. The auditors monitor the efficiency of the internal management control system in order to identify and reduce the conditions that generate corruption. In most parts of the world, the audit of the public sector is responsible for the detection of suspicions for corruption inside organizations belonging to the public sector.

Detection.

The detection consists in trying to identify inefficient acts, illegal fraudulent and abusive acts, and also in the gathering evidence which can help indictment or other situation solving methods. The efforts of detection can take many forms such as:

- Audits or investigation based on complains or suspicion reports, including specific procedures and tests for identification of abusive activities, fraudulent or loss generating activities.

- Audits in the form of inspections of payment orders, bank accounts from which the payments have been made, or verifications of the informational system. These control the outputs of an organization and are connected to the internal inspection.

- Audits requested by legal commissioners, which analyze and interpret financial documents and transactions used in investigations and elaboration of case studies.

- Reviewing of potential conflicts of interests from the periods in which certain procedures, laws or regulations were implemented.

The stopping.

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The stopping is the intention to identify and reduce the conditions which permit the appearance of corruption. Auditors try to stop fraud, abuse as well as other possible breeches that can affect the public`s trust through:

- Evaluation of the controls over the jobs proposed or existent;
- Evaluation of organizational risks or specific to auditing;
- Evaluating the changes proposed regarding laws, regulations and procedures to be implemented;
- Evaluation of the control activity regarding possible conflicts of interest.

The success of these efforts for detection can have as result the stopping.

The analytic evaluation of activity. The auditors support the decision makers in the entity in evaluating the programs or policies that work or not, by sharing with them which are the best practices in the field and what are the criteria of measurement, in order to find or adapt the best solutions. The audit activity helps the organizations in accepting the feedbacks thus being able to modify different policies. The auditors accomplish their work systematically and objectively, in order to develop a detailed understanding regarding the operations and for drawing conclusions based on evidence. This way, the audits can offer an interior image of the problems, resources, roles and responsibilities which, combined with the understanding of the causes of the problems and the useful recommendations, can help the stakeholders rethink the solutions the new problems.

Not only the performance of certain program can be improved, but also the aspects brought to light by a specific audit can increase the coping capacity of the public sector and the public in general, when they will be confronted with similar problems. The audits oriented towards the interior aspects, must respond to the more complex questions such as: The policies applied lead to the desired results?

The evaluation of activity perspectives. Auditors aid the organizations to asses in perspective the activity, through identifying trends and by warning regarding challenges that can appear before these could transform in real crises situations. The audit can highlight obstacles that will appear, like demographic tendencies, economic conditions, security threats, and can identify risks and opportunities that appear due to rapid evolution of science and technology, complexity of modern society, various international events and due to economic changes. These aspects represent risks on long term, which can be overlooked by the officials, and which can receive a low rate of attention due to their concentration on other urgent issues or short term problems. Also, approaching an audit based on risks, concentrates the attention of the audit strictly on the risk management factor in general, which helps identifying and stopping risks of unacceptable level.

The audits based on perspective evaluation respond to the question: What policies or implementations used will have to be reviewed in the future and what risk do they represent? When the audit of the public sector directs it`s attention towards trends, it helps taking decisions. Also, the auditors help the managers to understand and initiate the risk evaluation. Even the evaluation of the audits own risks insures the fact that the resources of the audit are being used efficient and in the areas that present the greater risk exposures.

Through these roles, the audit protects the basic public values. By offering an overview audit, an evaluation of the interior and an evaluation of activities in perspective for the entities, auditors in the public sector contribute to the transparency, integrity and equity of the activities lead by managers and officials.

Auditors do not just have to evaluate abuses of power, but have to be informed also regarding their power in the organization.

The entities in the public sector around the world are divers and present different grades of complexity. Thus, a single model of governance to sustain by the audit activity is not the best solution. Lots of structures are linked to a series of activity combinations of

internal and external audit, based on needs and circumstances. However, the internal audit can have an advantage in the organization, due to its understanding and familiarity of operations, but may also influence the increase of the public trust due to the fact that its independence cannot be maintained or established with certainty. The public sector entities must constitute their means of protection in order to ensure the internal audit activities the capacity to report the important aspects to the appropriate authorities.

The maintaining of the independence of the auditors is necessary especially for the internal audit activities through the reporting to officials that have the capacity to evaluate and address any important problem. Examples for this kind of statutory demand are:

- Preventing the audited organization from interfering with the way the audit is conducted, interfering in the nomination of audit personnel and also in the publication of the report;
- Ensuring that the head of the audit department reports at the highest level in the organization in the public entity and that the requirements that imply the distribution of the report assure the transparency of the report's findings.
- Requirements of notification towards an external entity when there are plans for the removal and substitution of the head of the audit department
- Requirements regarding availability to the public of the audit report.

Types of audit

The auditors in the public sector do audits with different types of objectives. Requests of financial report, requests regarding the complaints, performance indicators for the different functions of the public sector vary according to the legal areas and the types of activities (example: health care, judiciary, national security, child protection, etc.), and the results may take years to materialize. The means to evaluate the performance and financial regularity of the public sector vary to a great extent. Auditors in the public sector must demonstrate different types of skills, abilities and specializations. Thus, auditors must understand the systems and standards of compatibility in order to examine the financial statements; the operations of programs and the measurements of their performance in order to evaluate conformity; the success or progress of governmental activities; standards and good practice for the governance of the public sector and the management and internal control.

In some cases, the audit must evaluate the functioning capacity of existing indicators, but has to measure also the performance of independent evaluation capability of various public programs. More than that, in order to make relevant recommendations regarding the improvement of the operations, they must be capable to apply standards and politics of good practices specific to the type of operation examined.

The role of the audit committee

The climax of the audit represents the report, which is based in the corporate sector on the participation of three distinctive groups: the management of the organization, the audit committee (which can supervise also independent auditors) and the independent auditor who is an external entity to the organization audited.

A common practice of corporate management in the private sector is represented by the audit committee, which assures a strong supervision of public companies from financial point of view, and from ethical standpoint. Because this responsibility of supervision is essential to achieve an efficient governance, the entities in the public sector seek to adopt audit committees to assume a similar role.

The audit committee can enhance the independence, integrity and efficiency of audit activities in the public sector, by supplying an overview look over the internal and external audit plans, evaluating the resources necessary to the audit and securing the mediation between the auditors and the organization. The audit committee makes also sure that the

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results of the audit are verified and that any recommendation of improvement and actions of correction are addressed to the persons responsible or that they are resolved. In practice, the audit committees admit that 40% of the audit program contains financial information, and the rest of 60% nonfinancial information by their nature. Also, there have been identified around 200 risks regarding the register of corporate related risks, which reach from general risks through specialized risks and all the way to unforeseeable risks, “black swan” type.

Conclusions

An overall coverage of audit activities is frequently done through ensuring the complementarity between the internal and external audits.

The external auditor can use the work done by the internal auditor, if he considers that it is necessary in his audit, but this fact does not lead to the decrease of the external auditor's responsibility. The internal audit acts as a tool for the verification of the economic activity, and supports through advices in various matters, the improvement of efficiency in the organization's operations.

The audit must be a positive experience and not one that creates unrests. It is an opportunity to receive feedbacks, to find out the strong and weak points of the system. Without the transparency given by the audit, the investors in an organization can raise questions regarding the credibility and correctness of the financial statements, and can be easily determined to withdraw their investments, leading to the collapse of financial markets.

The external audit has as main objective the limitation of risks, blocking the appearance of new errors in the activity of entities, being necessary the implementation of system management and internal control, elaboration of clear procedures for all activities conducted inside the entities, as well as identifying and managing risks.

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