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**ENSURING
THE HUMAN RIGHT TO A DECENT LIVING**

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CONCEPTUAL BENCHMARKS OF THE THESIS

The relevance of the researched topic. The complexity of the economico-social realia, the great global problems engendered from the tendencies of asymmetric development of the states, within them the inequality of the social strata, education, technological transformations and the rapid informational, financial exchanges, etc. have marked at this beginning of the millennium the radical transformation of humanity. A transformation, where the respect towards the human being and the quality of living overall are being threatened more virulently by the plague of subculture and poverty, where the law tends to be a simple and pathetic ritual, technoco-juridical one by the exercise of power. These are the issues which bring in the scope of our research one of the greatest interrogations of post-modernity and namely in which measure nowadays governments and legislations meet the requirements and the existential needs for a normal/adequate/decent standard of living. Such a research becomes increasingly more challenging in the context in which we associate this complex fundamental right (ensuring the right for a decent living) with the educational level of the population, education which, as we well know, gives substance to all the expectations and needs of the postmodern human being.

Thus, the relevance of the research is mirrored in the inherent contemporaneity of the realia which make the object of the topic under investigation – *ensuring the human right to a decent living*. This is a right which targets essentially, the condition of the postmodernist human being from the Republic of Moldova. On the other hand, the novelty consists also in the fact that in encountering difficulties, which negatively affect this fundamental right, we come with legislative and government solutions, including constitutional ones, drawn from the historical fluctuations of the society (particularly, of the Romanian and Moldovan society), as well as from the current changes and ambitions of the nowadays society.

As a matter of fact, the research itself of the *human right to a decent living*, a right which in its turn is formed or in connection with a multitude of other rights, some of them being fundamental and inalienable, undersign for a research of certain values of maximal importance for the society within which the national educational systems plays a special role, certainly beside the legislative and government systems, a fact which is highlighted beside the profoundness and complexity of the research topic as well as its relevance.

Identifying the scientific problem. The scientific problem which we are launching for research consists in the elucidation, within the rapports between the individual and the state of the *constitutional right for ensuring the human right to a decent living* in Romania and the Republic of Moldova, the fact which generates the necessity to clarify its complex scope and content, in the context of a democratic society, the role of the state, institutions and public authorities (including the educational, administrative and economic perspective), the difficulties encountered in the fulfilment of this right, as well as the necessary ways and means for overcoming the respective challenges.

The research hypothesis has an anticipatory character and is focused on pointing out the juridico sociological dimension, from the constitutional perspective, the right to ensuring a decent

living for a human being within the relationship of the individual with the state authority¹. In the support of the feasibility of such an endeavour, we will first report on the studies and research performed until present regarding the notions, concepts and theories indispensable for our topic, including the normative jurisprudential framework of the researched topic. Then, we will focus on research of the historic evolution², of the Romania and Republic of Moldova's guarantees and failures in ensuring a decent living for a contemporary human, failures which subsequently we will define within the framework of the three ontological dilemma that are preoccupying the contemporary society, making reference in particular to the challenges that come from:

- Educational system;³
- From an executional standpoint, more explicitly, from the perspective of the deficient way of governing the society;⁴ and
- From the part of the objective right, more exactly the rituals and the voluminous amount of juridical incongruent and coercive norms, which as is well-known have flooded the space of the public and private life.⁵

The purpose and objectives of the research. The research is carried out on the conceptual core of the rapport between the state and the individual and has as purpose to deepen the research of the constitutional right to ensure the human right to a decent living in Romania and the Republic of Moldova from the educational, administrative and economic perspective, regarding bringing a clarifying light on the ways and means necessary to overcome the difficulties encountered by this right.

Certainly such challenges-consequences of a real system crisis – highlight the drama of the present, but at the same time give expression to the necessary objectives for reaching the goal of the present paper, **objectives** consisting in:

- establishing the role of education in ensuring the human right to decent living;
- analyzing the influence of the rapport between the individual and the state/public authority upon the ensurance of the human right to a decent living; and
- the impact of the economy upon the ensurance of the human right to a decent living and the way of distribution of resources.

In order to define the requirements which guide our course towards reaching these objectives which ultimately are going to be reflected in the conclusions and recommendations for amending the

1. Vlăescu Ge. *Distance from power and influences on the constitutional law to a decent living*. Scientific report presented at the international Conference "Supervizare în psihoterapie", II edition, 28-29 June 2019, Timișoara, p.263-270.

2. Vlăescu Ge. *The "survival" of roman law in the comparative modern organizational structures and its impact on the decency of living*. In: Revista Anale. Seria Științe Economice Vol. XXIV, Ed. Eurostampa, 2019, p.159-167.

3. Smochină A., Vlăescu Ge. *Educația- determinant primordial al asigurării dreptului constituțional la un trai decent*. In: Revista de Studii juridice universitare, nr.3-4, Chișinău, 2018, p.85-94.

4. Smochină A., Vlăescu Ge. *Dificultățile asigurării dreptului omului la un trai decent din perspectiva drepturilor încălcate*. Scientific report presented at the international Conference, dedicated to the aniversăry of 27 years since the foundation of FIUM, 16-18 October 2019.

5. Vlăescu Ge. *Juridismul - un pericolul care vine din partea dreptului*. În: Revista de studii juridice universitare, ULIM, nr.3-4, Chișinău, 2018, p.146-154.

constitutional norms of the national legislature and of the manner in which the state power is exercised, we would take into consideration:

- fixing the doctrinary, legislative and jurisprudentiary framework for ensuring the human right to a decent living;

- analysis of the historical and conceptual evolution of the human right to a decent living within the rapport of the public authority and the human individual and the ties with the fundamental human rights, a complex analysis focused on the education, equity and wellbeing as well as on the trust/expectations of the individual (as elements of normal living of the individual), within the state power.

- the research of the human right to a decent living in the light of the proportionality principle and limiting the fundamental rights;

- the identification and analysis of the guarantees and determining factors which influence the ensurance of the human right to a decent living and the relevance from a juridical and social perspective of this fundamental right (including the consequences of not observing it, such as diminishing the trust in authorities, corruption, poverty, the lack of social cohesion, cultural and civilization discrepancies between the nations of the European states);

- the identification and analysis of the contemporary challenges for ensuring the human right to a decent living (difficulties understood from the perspective of the educational, governmental and legislative challenges);

- the identification of instruments and ways for overcoming the difficulties in ensuring the human right to a decent living.

As a matter of fact, as it can be noticed from the assumptions presented above the working hypothesis refers to the support of the state towards the individual, this vulnerable human being, is often unwillingly placed in the center of a real panoply of political versatile and irrepressible commandments, that come equally from the positive right and the acts of government.

Undoubtedly, the applied **methodology** for the topic of research, by its revindicated by its encyclopedic and interdisciplinary nature, the rigour of construction and critical interpretations, a fact which denotes the qualitative preponderance of the present research, the applied **methods** in the investigation process and the scientific research are the historical, logic, comparative methods and synthesis.

Nevertheless proceeding from the idea that through the methods and arguments used, our research looks for essentially finding solutions capable to remedy the causes and effects of the attitudes of the legislative and executive bodies regarding the human right to a decent living, we appreciate that, once the respective remedies are going to be identified the present work would reach its pursued goal.

Scientific novelty and originality. Although it is unquestionable that the main scientific novelty is derived from the purpose and the objectives of the thesis, we endeavour to bring to attention the fact that the present scientific undertaking is among the first works that are concerned with the respect owed to the ordinary human being from the perspective of the decent living but also within the coordinates above mentioned. From the other perspective, the direct reflections over

details which bring a new spirit to the present scientific research can also be found in the theoretical statements of the author among which we can retain:

- the approach of the notion of a decent living through the wider perspective of international, European and constitutional norms, as well as of social psychology (the trust and the expectancies of the population), beyond the horizon of the "social right", which as is well-known treats the notion at the level of work relationships, social welfare and social security;

- the argumentation of the necessity to reconsider the principle of *legitimacy of state power* from the perspective of improving the quality of human living, with which the educative, legislative and governmental power complement each other, proceeding from the assertions of the authors who state that the legitimacy of the power must go beyond the electoral moment in which the citizens place their trust, the fact which involves on one hand the obligation of the power holders to maintain during the entire mandate, within reasonable limits, the level of trust initially obtained (the modern technology is a promising tool in this direction), and on the other hand to act in such a manner as every move by the state power would be reflected in the supreme purpose of the law: the common good;

- drafting some proposals of *lex ferenda*, some of which are original enough for the remediation of the current difficulties (which alter the substance and predictability of the rule of law) regarding the guarantee and observance of the fundamental human rights in general, of the decent living in particular.

The scientific issue solved consists in the elucidation in the framework of the rapport between the individual and the state, of *the right to a decent living*, as freestanding, but in particular as a complex right which is engendered through the interaction with other fundamental or non-fundamental rights, so as to meet the requirements of democracy and human aspirations in general, as well as of a decent living for any individual, in particular, both of them representing some premises for reaching public and individual happiness.

The importance and the applicative value of the thesis. Regarding the **relevance of the research**, this underscribes to the demonstration of the fact that the high level of crime and aggression, anxiety and in general the level of civilization of a nation are the concrete consequences of a lack protection of the fundamental elements which belong to the normal living of the citizens. In other words, it is about a inadequate attitude of the decision-makers towards the ordinary citizens, an attitude which originates from the unhonoured depths of the millenary history, based on fear and social inequalities (through an exaggerated distancing of the individual from the power), especially in the East European countries. An attitude in which the lack of respect has perpetuated until nowadays under the most varied forms, while the good faith once of reference for the individual – has become nowadays a simple juridical concept, measured and evaluated in the formal terms of the positive right. In the clutches of this viral social archetype in which the price of the work has been kept beneath the human dignity, while the fiscality has escalated beyond the moral norms of Christianity, the decision-makers have played their role, whose primordial concern was to keep under control and exploit the population (sometimes beyond human endurance) and very little the social comfort.

Such an attitude, has pushed us during the recent decades to the periphery of a more globalized world in a zone of legislative uncertainties and the economic plunder under all forms, of banking, contravention and penal sanctions – the depopulation of the two states and the humiliation of the autochthon individual – were not late to appear. All these alongside history, have divided Europe in two distinct worlds: ”a world” of tolerance and of a reasonable prosperity, let us su (the Occidental part of Europe) and ”another world”, the one of coercion, poverty and fiscal, physical, moral pressure (Eastern Europe). The first being there where the civil society and mass-media are in particular concerned with style, music, gastronomy, while the second pictures a society polarized by poverty, the language of the justice system, politics and authorities.

Accordingly, the practical relevance of the research consists precisely in the idea of easing through efficient juridical measures and means (in which the standard of living plays a vital role) of approaching the two cultures, reducing *the distance in relation with the governing power* (a sociological indicator to measure the distance between an ordinary man and authorities, on the basis of the degree of social inequalities and inaccessibility of individuals to the economic resources). Such a fact would be difficult to imagine in the absence of protection and guarantee of the fundamental human rights, rights which have the cornerstone in education, respectively in the observance of the freedoms and human dignity, in particular in *ensuring the human right to a decent living*.

Implementation of scientific results. The elaboration of the thesis was carried out under the aegis of the Doctoral School managed by the Free International University of Moldova and the results of the research find their axiological and juridical reflection both in publications and scientific reports presented as author and co-author.

CONTENT OF THE THESIS

Summary of the thesis parts. The thesis starts with an introduction and is divided in 3 chapters, subdivided in their turn into subchapters, followed by conclusions and recommendations, as well as by the bibliographical references.

In **Chapter 1**, entitled ”*Analysis of the scientific situation in the domain of research of ensuring the human right to a decent living and identifying the research problem*”, we are presenting the opinions and research results on the theme of investigation, such as we could find in the treatates and specialty journals, in diverse studies, papers and monographies, online articles etc. Also we are presenting the normative and jurisprudential regulations in this domain. As a theoretico-scientific support of the paper we have used the works of several researchers, among whom we insist on mentioning the following: Smochină A., Gamurari V., Cârnaț T., Creangă I., Guceac I., Muraru I., Țurcan S., Baeșu V., Deleanu I., Drăganu T., Duțu M., Dănișor D. C., Humă I., Aramă E., Țiclea A, Pivniceru M.-M., Arseni Al., Baltag D. , Odainic M., Potângă A., Costachi Gh., Andreescu M., Hofstede G.

Taking into consideration the purpose of the paper, in this chapter we started with the edification of the three objectives of the paper, objectives which, as we have already shown, regard the role of education in ensuring the human right to a decent living, the influence of the relationship between the individual and the state/public authorities, as well as the impact of economy and distribution of resources.

Precisely, in order to achieve this endeavor we proceeded to elucidate the content of ensuring the human right to a decent living and the degree of regulation through the perspective of the doctrine, focused, in principle on the constitutional values of the EU states [19, p.25-32], but also from the perspective of the national and international juridical regulations, as well as of the European and constitutional jurisprudence.

Certainly, that from the perspective of the subjects on juridical relation to ensure the human right to a decent living, we can say that we are in the presence of a human right which implies the obligation of the state and of the international community to ensure the content of this right, having thus a strong international connotation, including from the perspective of the human security [7, p.13-23]. Thus, the international cooperation represents a necessity in order to fulfil such a right [1], however in our opinion, this fact does not mean that in the absence of such a cooperation, the state, being regarded as singular is exempt from the obligation to fulfil the right.

In what concerns the *elucidation of the content* of ensuring the human right to a decent living, in this first chapter we have managed to establish the fact that ensuring the human right to a decent living is a human right which involves the obligation of the state and of the international community to ensure a continuous improval and without limits of the standard of living (in relation with the social possibilities and standards); which is, thus a complex constitutional right which embodies all the rights (singular or in their turn complex), which through their nature or in certain circumstances are converging towards the complete satisfaction of the human needs and aspirations, in all its complexity. More exactly this is a dynamic and expansive right, in the way that it embodies all the rights which concern the quality of the human life, rights which in their turn can be fundamental or non-fundamental, of a patrimonial nature (the right to a salary, pension etc.) as well as personal extrapatrimonial rights (health, education, physical and psychocological integrity, respect of the privacy), indivisible, unhyerarchical, present and future rights. It goes without saying that a right of such a complexity, involves the exclusion of any discrimination based on criteria os sex, race, nationality, religion, opinion etc.

With regard to *establishing the degree of regulation* of ensuring the human right to decent living the research highlights the fact that it hasn't been sufficiently elucidated and it hasn't either been regulated in its conceptual multidimensionality. What is even more dramatic is that paradox which reveals that despite being recognized as a fundamental right, it has always been deprived of those normative regulations – national or communitary – which would dedicate its independent and implicit character, the means and the juridical guarantees necessary for its application into practice. The only guarantees are being found fragmented and disparate at the level of its component rights and unfortunately, these are far from ensuring the fulfilment of this fundamental right, which is at the same time unique in its dimensional individuality and vastitude.

Relating the above-presented facts to the objectives of the thesis, we could deduce the following:

Regarding the *role of education in providing an anti-reference*, the doctrine reveals that only the authentic (undoctrinated) education, moral and of a high professional standing, can play a primary role in improving the quality of human living. This the only one in the position to cultivate the good-will, professionalism, dignity and trust between the governing power and governed

individuals, elements which if absent any, social construct would be condemned to failure. That is why not in vain, the right to education is regarded as a free-standing, complex and inalienable right, which plays a crucial role in the development of the human personality, but also as a component right of the human right to a decent living, relating to the essence of the latter, in its complex turn [16, p.85-94].

From the perspective of the relationship between the individual and the state/public authority upon ensuring the human right to a decent living, the research starts from the bookish premises (accepted acciologically by the postmodernist doctrine) that the democracy is the most apt political regime to propel the standard of living of the individual [11]. Such a thesis reveals the necessity to eliminate the tendencies of juridicization of the modern society [18] and the need to consolidate the democracy, that is the approaching of the individual to the public authority (so-called reducing the distance towards the power) [8, p. 61-93].

This is a true gordian knot of our society, because it seeks to approach us more to the moral and philosophical values of the natural right [9, p. 48-54], to proceed with the elimination of social inequalities and the equitable distribution of economic resources. This is a challenge which shakes the foundation of the classical constitutional paradigmes whose time has come to accept the fact that the axiological core of the real democracy (the only one capable to ensure a decent living) is the one to materialize the rapprochement, trust, cordiality and sincere respect among people, irrespective of their social standing [3, p. 235].

Regarding *the role of the economy and the way of distribution of resources*, two elements are implicated in the wellbeing of the society, the research reveals the fact that the economic management, the way of distribution of economic resources and the way of taxation, must be balanced in such a way that it would result in a sufficient wealth for all members of the society, without great discrepancies in property. The economic development and the equity in distribution of economic resources are defining in strengthening the democracy and achieving the decency of human living [10]. The modern economy represents a serious problem, which focuses not only on the development itself but in particular rather on the lack of equity. Nevertheless, not being an economic research we would not be able to emphasize on some innovative theses on increasing the economic surplus, but rather on those normative measures connected to equity, capable to ensure the freedom of the markets, equality of chances, a taxation well-adjusted to the social needs, fighting the corruption, equitable distribution of resources etc.

The scientific problem solved in this chapter consists in the reconceptualization of ensuring the human right to a decent living, a direction which contributes to the edification of the three objectives of the research and which guides our pace in solving the scientific problem, through scientific argumentation of *ensuring the human right to a decent living*, concerning establishing the dimensions and its complex content.

Approaching from such a perspective the opinions of Romanian, Moldovan and foreign researchers, the national and international regulations, the interpretations of the European courts and of the Constitutional Courts, we have managed to rise the scientific scaffolding of the research. Thus, we have built the foundation of the investigation – in the following chapter – of the conceptual evolution to ensuring the human right to a decent living, of the factors, guarantees and

soci-juridical effects of this right, its problematic aspect, would finally lead us to the edification of objectives, conclusions and recommendations of the thesis.

In **Chapter 2** entitled: "*The evolution, determining factors and effects of non/observance of the human rights to a decent living*", we would take the next step from the descriptive one of the Chapter 1 towards the analytical part of the research. This stage reveals, first the evolution of the research on the concept of *ensuring the human right to a decent living*, but also the conjunctural factors which have influenced along the time such a process. We are making reference here at the interminable antithetic struggle between the ordinary man and the state authorities [13, p. 27-44], which in the name of the "*common good*", through constraint and intimidation, has been deprived along centuries from his subsistential resources, without receiving anything in exchange, or receiving too little [12, p. 5-28].

In this chapter we have continued the scrutinizing process of the complex socio-juridical phenomenon which concerns the aspirations of the human individual for a better living, which nowadays we call the *human right to a decent living* – from the perspective of the conceptual evolution, as well as of the determining factors, guarantees and the effects of their non/observance. Relating such a study to the 3 objectives of the research, we have come to the following conclusions:

Regarding the role of education in ensuring such a right. First of all, it can be easily noticed that if in the first chapter we have established the primary role of education in developing the quality of life and of human personality, in this chapter we have analyzed deeper its historic evolution, dynamicity and interrelation of education with the concepts of equity, wellbeing, within the framework of historical relationships of the human individual with the state and the law [21, p. 106 - 126]. Such a research, reveals a difficult and winding evolution of education – subordinated to the interests of certain social classes – as well as its overwhelming impact upon the relation of dis/trust between the ordinary man and the public authorities.

In the 2 chapter we have also analyzed the education as a (social and legal factor) in correlation with human rights (including the one of human dignity), but also with the shortcomings of the decent living from the agenda of the modern Romanian and Moldovan society and not in the least with the deficiencies of concrete juridical guarantees from the educational system [16, p. 85-94]. From this perspective, the research reveals the necessity to adopt some non-politicized and non-indoctrinated educational systems. Adopting some systems which would focus attention on the quality of education, so as to promote trust among the people and ensure the free and complete development of the human personality, certainly in conformity with the essential values of the society (moral, compassion, respect for the national and universal cultural values etc.).

The influence of the relationship between the human individual and the state/public authority. From this perspective, the research emphasizes the major role played in the conceptualization of ensuring the right to a decent living by the institutional evolution of the state in relation with civil society, since the initial stage, that one of entity with quasi-military attributes dedicated to the defense and public order, towards the one of social and democratic state charged not only with the attributes of tempering and exploiting the human being but also with the resolution of social problems. Precisely such a lengthy process of socio-historic metamorphosis has determined

the legal science to bend and reconfigure the philosophy of the values and principles which guide the relationships between the state and individual [22, p. 263-270].

Thus, if in the first chapter, the democracy and the reduction of distance of the individual towards the power represented an axiomatic point of departure in studying the human right to a decent living, the 2 Chapter analyzes the multiseular evolution of the relationship between the citizens and the public authorities [24, p. 159-167]. The relationship within which the trust/distrust between individuals and the state has always represented the cause of prosperity or decay of the society, being perceived as a veritable binder of state consolidation, together with the cordiality, cohesion and social wellbeing. By analyzing these relationships from past towards the present, in the second subchapter, we focused our research on the determining factors, guarantees, and effects of observance/non-observance of the right to decent living at the level of Romania and Republic of Moldova, including the proportionality perspective [17, p. 353-360].

As a result of these research undertakings, we have identified the education, legislation and government as the main actors responsible of the depreciation of the level of living and evidently that the deficiencies of these systems in the two states, shortcomings that are mirrored in the big distance towards the power and as a consequence in the precarious standard of living of the society.

Analyzing the factors which have determined these causes, including through the juridization perspective [4], the research highlights the necessity of a normative framework which would promote the human dignity, to oblige the legislator to thoroughly substantiate any normative act when adopting legislation, which would provide general criteria of performance for any eligible function under efficient sanctions, which would obligate any public dignitary or official to justify the acquisition of his property and in general, any person who benefits, manages or who has access to public funds and not in the least to promote legislation which would disqualify from his rights the member of the parliament or the magistrate who do not meet the expectations for the required performance, quality or occupied position.

The impact of the economy and the way of distribution of resources. We have undertook a study of the economic evolution along the time to substantiate this objective, by analyzing the wealth – as a precursor of the current human right to a decent living – in correlation with the education, equity and public authorities [14, p. 79-85].

In the second part of the Chapter 2, we have continued the research of the concept through a kaleidoscope of human rights (in particular of the human dignity), of proportionality, but also of the determinants, guarantees and the effects of non/observance of the human right to a decent living, restricting then its practical applicability at the level of Romania and Republic of Moldova [20, p. 87-105].

In the light of this latter undertaking we have identified the practical deficiencies of the antereferred right in the two states, lacuna which require to adopt several legislative remedies, such as the stimulation of the economic development of the country through the encouragement of the free initiative [2,p.127-137] and also of the small entrepreneurs, ensuring the freedom of the economic market through combatting the monopoly, discouraging the manipulation (including through incrimination "fabrication of consent"), taxation policy which would reduce the big discrepancies between the rich and the poor, the extension and adaptation of the constituent content

of the infringement of theft, embezzlement, fraud, to the socio-economic realia, the instauration of incompatibility between the public function and the quality of trader, the normative establishment of the content of the human right to a decent living, the obligation of the state to quantify from the economic point of view the minimum threshold for a decent living, on scientific grounds, holding responsible the public official, authority or public institution which in bad faith, dishonestly is guilty of infringing the human right to a decent living.

Researching the *ensurance of the human right to a decent living* in the above-specified directions, we have managed to obtain not only an improvement of the scientific standard claimed by the attainment of the 3 objectives of the research, but in particular to see a good substantiation – in the next stage – of the necessary recommendations and conclusions for the completion of the respective objectives.

In **Chapter 3**, entitled "*Difficulties in ensuring the human right to a decent living, instruments and ways of overcoming them*", we have continued our research as an expression of the logical architecture of the doctrinary, jurisprudentiary and legislative considerations, presented in the preceding chapters of the thesis [15]. More exactly, in this chapter we have left behind the bookish weight of the research, focusing in the first part (3.1), on the concrete aspects of the difficulties encountered by the ensurance of the human right to a decent living on the territory of the Republic of Moldova and in the second part (3.2), on the identification of those solutions necessary for overcoming the respective difficulties.

Thus, concerning the first part of this chapter (regarding the practical difficulties in ensuring the antereferred right), we have reported for each individual objective the situation from the field [5, 6] also the results of research obtained as follows:

In relation with the role played by the education in ensuring the human right to a decent living. Scanning the recent realia of the educational systems from the two states have substantiated us on the fact that the competent ministries and the legislative body did not concern themselves in a constructive manner to improve the quality of education, the modern realia offering us a diametrically opposed image to the official discourse (governmental and normative ones). More precisely the reports on the performed studies present to us an education system that is subfinanced, politicised, with a high rate of functional illiteracy, with a population who does not know their rights and obligations and with the non-involvement of the state in ensuring the access to get to know and to exercise such rights.

Within the influences of relations between the individual and the state/public authorities. The sociological studies carried out on the postmodernist society indicate a population situated at an alarmingly big distance towards the public power, frustrated by the enfringement of the elementary rights by the state/authority. Within the scope of the most frequently enfringed rights we could distinguish: the right to health care, at privacy (enfringed not only by authorities but also by the big companies), the right to expression, to equality and non-discrimination. An obvious lack of respect and cordiality of the governing authorities towards the governed, is also being noted, non-consultation and non involvement of the civil society in making decisions by the public administration and also a multitude of cases of inhuman treatment.

As a consequence of these serious irregularities, the state institutions have entered an accelerated process of diminished trust by the population towards authorities (a fact which signals the dissolution of the state), while the civil society in a process of moral errancy, of school abandonment, of desertation of national territories, obliterating the opportunities of the two countries to integrate in a civic and democratic culture compatible with the human dignity.

In what concerns the distribution of revenues, these ones follow a series of rules both written and unwritten whose purpose has substantiated in the deeper segregation of the society into rich and poor, because not even in this direction there is not a serious concern to establish a balance.

The second part of this chapter (3.2), entitled "*Means and ways for overcoming difficulties in ensuring the right to a decent living*" [15], is the expression of the measures which result following the deductions from the first part of the chapter, measures which, as we are going to see would participate in the substantiation of the recommendations presented in general conclusions of the thesis.

We could say that the analysis regarding the frequency and intensity of the infringed rights has allowed us a relative prioritization of instruments and ways for overcoming difficulties, by placing in the foreground those of non-material nature, which are related to attitude (the education and the relation between the individual and the state), although in reality, these ones are being found in a close symbiosis with those of material (economic) nature.

Basically, what validates the measures proposed by us, irrespective of their nature, are the legitimacy, the purpose and feasibility. Thus, we could say that the *legitimacy* is being conferred by the fact that the measures are being grounded on universal values and principles: liberty, equity, proportionality, participatory democracy, trust etc., *the purpose*, by the fact that they are converging towards the idea of wellbeing, security and social progress, while the *feasibility* is given by the potentiality of the measures to reach their goal, a potentiality which would be reflected in the final recommendations.

Practically the research materialized in the content of this chapter comes to deepen and elucidate the ensurance of the human right to a decent living from at least two perspectives:

- First, it contributes – from the perspective of the *de facto* realia – to the improvement of the scientific level of those 3 objectives of the research (3.1); and
- Secondly, it participates in the achievement of the final recommendations through an ample set of measures (3.2) which involve, in principle, the modification of the legislation and of national Constitutions, and which focuses on overcoming the practical difficulties encountered by Romania and the Republic of Moldova regarding the ensurance of the human right to a decent living.

CONCLUSIONS AND RECOMMENDATIONS

Nowadays , more than ever being seduced and manipulated by the technical progress involved in the epidemic spin of hyper-normativisation, hyper-hyerarchisation, hyper-formalization, conformity, servility and im/amorality consumerism, which altogether have healed the profusion of the moral conscience and of the interhuman relationship, politicians and in general the vernacular

consumers of taxes and fees are the most ardent supporters of some copycat policies: the common good. Unfortunately, behind the public appearances, the social inequities and malpractices continue to simmer, which are like obstinately keeping in a historic captivity the Romanian and Moldovan society, as one of the most deprived culture of the Terra, at an unexcusable distance from the power, captive of the authoritarian principles and moreover of the socio-economic inequalities [24, p.159-167].

Trying to connect the constitutional right to such assertoric conditions, both past and current, which have crippled the quality of the human living in the two states, in the present research we have set out to study deeper the research on ensuring the human right to a decent living with the aim of identifying those remedies capable to overcome the obstacles which are consuming and temporizing it. Obviously this is subsumed to the research of a complex fundamental right, which focuses on the decency of the human life – a purpose of the entire human activity, whose resolution has projected our objectives within the framework and beyond the conventional frontiers of the constitutional right in a labyrinthine galaxy of domains and disciplines, where the past rejoins the present, the rational aspect with the soul and the social with the law. A law whose conceptual roots are going lost in the rough fetishisations and violations of history and which regrettably left its defining mark upon the relation between the individual and the state, upon deeply embedded in the archetypal genome of the life philosophy of the two nations.

Returning to the juridico-social context of the moment, where the public policies and Keynesian positivism continue to remain the grey clouds from the European justice system, there is an increased need to reconnect the law to its real sources, that is to its purposes, to its moral and philosophical values, as well as to the individual's needs and expectations.

These are the considerations for which we endeavoured to formulate as **objectives** of the research of the right to a decent living, establishing the role of education in ensuring this right, the analysis of influences of rapports between the individual and the state/public authority, the impact of the economy and the way of distribution of resources, all these together constitute the premises of attaining the goal of the thesis, respectively for ensuring the human right to a decent living, as it is required by the dignity of any human being.

All the objectives have been achieved through the conclusions of the chapters 1, 2 and 3 of the thesis, but also through the formulated recommendations as we are going to present further on.

I. In what concerns the substantiating **conclusions** for the first objective – *establishing the role of the education in ensuring the human right to a decent living* – these are presented in:

- Chapter 1, where the research helps us to establish the content of the human right to decent living, as a complex constitutional right, which sums up all the rights which influence the quality of human living – setting up the fact that the right to education is one which is related to its essence [16, p. 85-94]. Researching the degree of profusion and juridical regulation, we are concluding that this right, although it follows the plenary satisfaction of the individual's *needs and aspirations* (evidently, except those which are conflicting with the general interests of the society), nonetheless as a freestanding right, does not benefit from much attention, especially from the perspective of the means and guarantees necessary to ensure its application into practice [21, p.106-126].

- Chapter 2, which involves the probing of the complexity of the evolutive side of the antereferred right, approaches the education as much through its conceptual evolution as a precursor factor of the wellbeing (2.1). Another important study in this direction constitutes the analysis of the correlation between the education, equity and wellbeing, in relation with the state and the law (2.1.1) and not in the least from the perspective of the determinants and the guarantees of the human rights in general (2.2), respectively as a factor of determining the right to a decent living, in particular (2.2.2.2.) [14, p.79-85].

- Chapter 3, the section regarding the *difficulties in ensuring the human right to a decent living through the perspective of the infringed rights* (3.1), where we are materializing the real problems from the practical activity, withing the subsections regarding the right to education and information on human rights, the right to culture and cultural identity.

Regarding the associated conclusions of the second objective – *the analysis of the influences of relations between the individual and the state/public authority upon the ensurance of human right to a decent living* – these ones come in the support of the antementioned objective through the arguments exposed in:

- Chapter 1, where we a setting out the doctinary, legislative and jurisprudential framework of the relations between the individual and the state.authority;
- Chapter 2, in which we are approaching the relations among ordinary people and the holders of the public power from the perspective of the conceptual evolution but also as a precursor factor for the wellbeing (2.1), a section of the thesis, relevant in this direction, constitutes *the public power and the trust/espectancy of the individuals* (2.1.2.).

Certainly, a trust that is connected to the consciousness - individual and collective one – which in its turn, comes since ancient times with a certain moral load, transtemporal, ingenue and transcendental and which, unfortunately, has come to our times increasingly more relativized, desecrated, exploited, and volatile by the juridical systems and politico-economic regimes which are devastating, globalizing, cynical, and intrusive, whose motto has always been, as always the *common good*.

Likewise, in the same chapter, we are analyzing the relations between the individual and the state/ authority from the perspective of the human rights, of the determinants and guarantees of the human rights in general (2.2) [22, p. 263-270], relations which, today, when the formalism and the contagious fears of the juridicity have flooded all the aspects of life [23, p.146-154], need more then ever trust, transparency, flesibility and legitimacy. Also the analysis focuses predominantly on the principle of proportionality (2.2.2), of the detrminants, guarantees, of the effects and non-observance of the respective right (2.2.2.2.), including through the perspective of legislation and government [17, p. 353-360];

- Chapter 3, the subchapter concerning the *difficulties in ensuring the human right to a decent living through the perspective of the infringed rights* (3.1), treats the practical difficulties intervined in the relations between the state-individual, more exactly in the subsections regarding the right to life and health care, to privacy, the right to expression, at an equitable trial, at equality and non-discrimination, the right to not be subjected to torture and degrading treatments, to participate in making decisions by the public administration.

Finally, regarding the conclusions intended to support the third objective – *the development of the economy and the equitable distribution of resources* – these are synthetically presented in:

- Chapter 1, in the contents of which the economic rights are being approached from a doctrinary, legislative, jurisprudential perspective, deducing actually that these ones as well as the non-patrimonial rights, appear both as freestanding rights (the right to a salary, the right to economic initiative etc.), and as constitutive rights which make a part of the content of the right to a decent living;

- Chapter 2, where the economic factor and the economic rights are examined from the perspective of the conceptual evolution (2.1), from the correlation with other rights (2.1.1), of the public power (2.1.2), as well as determinants and guarantees (2.2), from the perspective of the human dignity (2.2.1.2.), but also from the perspective of the principle of proportionality (2.2.2);

- Chapter 3, the section which focuses on the difficulties of ensuring the human right to a decent living from the perspective of the infringed rights (3.1), in the contents of which the right to economic initiative within a free market economy is being treated, as well as the right to an equitable salary and social protection, rights which come to ensure the economic content for dignity [20, p. 87- 105], at the same time the decency of living. Practically, the subchapter 3.1. marks the prefinal "test" of each individual objective, while the subchapter (3.2.) is concerned with the formula for overcoming the difficulties in ensuring the right to a decent living, a research which leads, finally to the completion of the goal of the research and further on to the present recommendations and conclusions.

II. Hereafter, we are presenting the recommendations which come in the support of the achievement of every individual objective.

The associated recommendations for the first objective – *establishing the role of the education in ensuring the human right to a decent living* – represents a set of measures necessary for the improvement of quality in education, measures which consist in:

- *Taking out from the state's custody of the didactic and academic aspect of the education and placing it under an independent institution's, which would be governed by notorious personalities of a high academic and moral standing, politically non-regimented;*

- *Training the young generation in respects of self-protection against manipulators (especially of those who come from the politics and trade fields) and being aware of the threat which is engendered by juridisation:*

- *Introducing some matters of elementary juridical education on notions of maximal importance such as democracy and freedom;*

- *ensuring an effective development of the human personality. This can be done, for instance, through the diversification of the school curricula, respectively through reducing the number of scholar mandatory disciplines, the multiplication and diversification of the optional disciplines, so as in the margin of development of every young person's peculiarities (peculiarities which are marking out the personality) the most possible options would be available, which would respond more closely to everybody's individuality, uniqueness and creativity;*

- *encouraging the development of the consciousness in the spirit of morality, fraternity, love for the homeland and the respect for the cultural, national and universal values;*

- *the adequate funding of education, funding which, after health should have priority towards any other domains of living.*

Among all these recommendations, we have alloted a special attention to the increased threat which comes from the contemporary law system, a threat upon which it is worth abiding by, given its more relevant and incisive criminal potential, and which as was above-proven, there is a necessity of adopting some remedies, we say, of maximal expediency. We must be honest and recognize that we are having in front some rough, almost insurmountable tendencies, which have brought modernity in front of an obviously deformed and devious law away from its inherent veridicity and authenticity. Therefore, namely this fact generates within the society a feeling of fear, of quasi-militarisation, insecurity, annihilates the social trust and finally, deprives the society of those essential elements for the safety and free human development and beyond.

Indeed, an introspective look at the bigger picture upon the relation individual-state shows us that several decades ago, the countries with highly developed economies and with robust democracies have benefitted of summary legislations, "aired out" and predictable, while the countries with authoritarian regimes, generally less well-developed and with a remarkable level of corruption, were restricted by legislations which were abundant and intrusive, intended to crumble the entire privacy and freedom of the civil society. Unfortunately the modernity has taken over the juridical system of the countries from the second category, assisting nowadays at an unprecedented quasi-generalized juridisation, towards which the constitutional law cannot remain indifferent.

Returning at the recommendations which focus overall on improving the quality of education, we notice that some of them are interfering with the Constitutional norms. From this consideration, we have proposed the amendment of the Fundamental Law of the Republic of Moldova³ (proposals equally valid for the Constitution of Romania), thus:

Art. 35 (1)¹ – The state ensures the depolitization and placing the entire educational system under the control and supervision of an independent institution, headed by personalities of notoriety with a high academic and moral standing, chosen according to democratic criteria, under the law.

Art. 35 (1)² – It constitutes a priority of the entire national educational system the ensurance of a free development of the human personality and the development of individual consciousness in the spirit of morality, fraternity love for the homeland and respect towards the cultural, national and universal values.

Art. 131 (3)¹. The order and volume of funding from the state budget and the budget of the social and state insurance is being established by the law, but always with the observance of priority in health and educational domains.

In what concerns the recommendations in connection with the second objective of the thesis – *the analysis of influences of the relation between the individual and the state/public authority upon the ensurance of the human right to a decent living* – these ones are being materialized in a set of

³ All the amendments from the present conclusions are equally valid for the Romanian Constitution, given the fact that this one contains, mostly the same provisions as the ones from the content of the Constitution of the Republic of Moldova

measures which focuses on the reform of the relation between the individual and the state/authority, as much as from the behavioural aspect, as from the perspective of making more efficient the guarantee of the fundamental human rights:

In the sphere of the recommendations summed up for the necessity of reform of the relation between the individual and the state/authority we took into consideration the following:

- adopting and promoting a national legislative Code of human dignity;
- mandatory scientific grounding of any normative act;
- adopting a legislation regarding the real health care;
- mandatory obligation of the authorities/public institutions to inform and involve the civil society towards participating at the decisional administrative processes, including of the normative nature;

- the imposition of several general criteria of performance, with predefined terms, for all the eligible public functions, some performance criteria, which if not met would bring the legal disqualification from the occupied public post and launching the procedure of organizing early snap elections;

- *termination of the quality of member of parliament for those who has repeatedly voted, normative regulations, which subsequently have been declared unconstitutional by the Constitutional Court;*

- *justification for the acquisition of assets by the state dignitaries, public officials and generally, by any person who benefits from, manages or has access to the public funds;*

- *release from position of the magistrate when a certain number of solutions is abolished in legal appeals;*

- *creating a body specialized in prevention and combatting the crime of corruption, where the focus would be placed on prevention of committing such acts (a body composed from professional lawyers who are enjoying a high moral probity).*

By the way, the goal of all the above-exposed recommendations is a predictable, the one of effectiveness and repositioning the relation between the individual and the state/authority on criteria of trust, performance, transparency and legitimacy, without which the decency of living would become a infertile expression.

It is only natural to be so, because, as we could see, the distance towards power has been rendered vulnerable by a multitude of disruptions in the juridical rapports, some of them extremely ostentatious, especially against a background of non-observance by the states of the fundamental rights. From this reason the participatory democracy – which reveals itself as the most promising formula – must be encouraged as much in the direction of transparency of the activities in the public administration, as in the sense of making the ordinary man responsible through his active implication in the public life, including in the decision making process and normative acts.

It goes without saying that such a problematic of the rapprochement of the common man to the poles of the public power contributes to the social cohesion and to the elimination of suspicions, acting like a veritable remedy of human consciousness and of the resurgence of trust. Since we should not forget that the research of the analyzed topic has unfolded in the the atithetic core of the respect between the state and the individual, a respect whose gordian knot is the *mutual trust*. A trust

which from our perception, represents the solution of any undertaking of improving the quality of living and whom the fundamental norms of the two countries and beyond, have juridized giving it the rank of constitutional obligation/duty, not taking into consideration the fact that the trust, as an essentially psychological element, should be first earned and afterwards regulated.

Finding out that in the case of the first set of recommendations as well, some of them implies the **necessity to modify the Fundamental Law**, we have proposed the following amendments:

Art. 46 (3)¹ - *The lawful character of the acquisition of assets shall not be presumed, in the case of state dignitaries, public officials and all those who benefit from, manage or have access to public money.*

Art. 59 (1) – *The quality of Parliamentarian is not compatible with that of person who carries out private commercial activities, directly or through interposed persons, along with exercising any other remunerated function.*

Art. 99 (1) – *The position of member of the Government is incompatible with the one of person carries out private commercial activities, directly or through an intermediary, as well as with exercising any other remunerated function.*

In what concerns the legislative Code of human dignity, we appreciate that this one, although does not involve the amendment of the texts of the Constitution, it presents a special importance for the ordinary legislator regarding the catalyzation of the democratic relations among the members of the civil society on one side and the state, authorities, public officials in general, on the other side. From this consideration we have appreciated that such a Code is imposed by the necessity, basically it could contain:

- an informative part, centered on the synthesis of rights and fundamental duties of the person, in the most accessible and explicit language possible, with clear examples, selected from the international, regional, national jurisprudence;

- another legislative part, which would contain juridical rules of behaviour for those two social categories, individual and the state/ authorities/public officials in general, rules based on moral values such as equality, tolerance, empathy, generosity, honesty, fraternity etc., values which would embody all those virtues which through their nature are able to create a bridge of trust, harmony and solidarity among people.

Thus, through such rules it is envisaged to induce the authorities/public institutions to adopt a cordial, transparent, cooperating attitude towards the civil society but also the other way around, an attitude which represents a real measure of human dignity and at the same time of the degree of consolidation of democracy. In other words, in socio-politologic terms, to reduce as much as humanly possible the *distance of the man towards the power*.

However, the juridical undertaking is not a simple one, first due to its delicate nature of the juridical regulations from the second part of the Code – regulations which require much professional mastership, including for the consideration of not interfering with certain norms of indictment such as the traffic of influence and abuse of power etc. On the other hand, we appreciate that such regulations must be endowed with a juridical force which would ensure their application preemption in relation with other norms called for to regulate the rapports between the public officials and members of the civil society.

The recommendations which support and edify the third objective of the thesis – *the impact of the economy upon the enurance of the human right to a decent living and the way of distribution of resources* – are taken in a set of measures related to the *development of economy and equitable distribution of resources*. Thus, these are referred as much to the material component itself, as to the equity and equilibrium revendicated by economy with a free market, elements which are in a indispensable existential and functional connection without which the economic premises of the decency of living are unimaginable.

In the category of recommendations for the economic development of the society, we have proposed, first, *ensuring the freedom of the economic markets* through drafting a legislation which would discourage the practices of domestic market monopoly (used at large scale by the multinationals) and at the same time to encourage the small-scale private entrepreneurs. Then we have drawn the attention to the need of a *real protection of the consumer physical person but also of the consumer juridical entity*, while a primary form of protection may be achieved through criminalizing the infringement of "fabricating consent". Thus, manipulating the public opinion with the help of the neuromarketing techniques, as well as through other means, practices which are as inhonorable as dangerous by the fact that these tend to blow up in the century of human rights in full force, all the institutions of law.

Another form of protection of the consumer consists in extending the content of the concept of consumer, from the banking domain to the domain of juridical person, known being the fact that at present only the physical persons are protected from the perspective of abusive clauses from the contracts of bank credits, not the juridical entities as well. Also in the horizon of the requirements for developing the economy, the thesis of *encouraging the small-scale enterpreuners to create jobs* could be included; a measure which could be achieved through the extensive accession of private persons to the economic resources and to credits with low interest, or even with zero interest, especially in the deprived but essential fields of economy, such as agriculture.

Furthermore, being well-known the problem of corruption, being generalised at the level of the two states, it is well-understood that a harmonious economic development involves the eradication of corruption. Such a fact, in our opinion could be achieved not only through combative measures, but rather through prevention measures, that is through legislative amendments in the way of preventing such an undesirable phenomenon. Adhering particularly to the thesis of prophylaxis of corruption, a first measure proposed by us focuses on the *reform of the taxation based on the principle of social equity and protection*.

This last recommendation is considering the *reduction of large income differences between the individuals, as it would be normal to happen as a consequence of applying the norms of taxation* (such differences being in themselves the expression of fiscal inequity), while on the other hand, *protecting through non-taxation of those social categories which do not exceed the economic minimal threshold for a decent living*. The urgency of ensuring the social security for all the underprivileged categories must be the priority of any governance, known being the fact that the poverty is incompatible with the human dignity, while the state and even the international community have engaged to provide for the individual a reasonable level of living.

Moreover, the poverty is the favourable medium for the proliferation of corruption, while the society confronts with a large number of cases in which people, for reasons external to their wish are losing the only income-bringing or subsistence goods (for instance, through enforcement). For such kind of situations it is appropriate to adopt several protecting norms, even at the constitutional level, which would make intangible the object of the right to private property, in the conditions and limits in which the dispossession would jeopardize the minimal level of living of any individual person.

Another measure represents *expanding and adapting the constitutive content of the infringements of theft, embezzlement, fraud to the socio-economic realia, as well as establishing the incompatibility between the public position and the quality of trader/professional*, for the considerations already shown in the subchapter (3.2.) of the thesis.

Finally, a last category of measures are those regarding the ensurance of an equitable distribution of economic resources because, as we could see, the policies of the two states, similar to the ones of many other states, have allowed (not to say encouraged) the orientation of the economic resources towards the top of the pyramid of the society concomitantly with discharging the losses/expenditure towards those enrolled at the foundation of this social construct. Thus the freedom of the economic market, as any other freedom cannot be absolute. This can be limited when it manifests itself against the good of the individual, against the members of the community. A classical example, constitutes the multinationals focused on the exploitation of work force against some dirisory salaries, on the monopolisation of the markets (evaporating the freedom of the market), or the concentration of properties, all these in the detriment of the small-scale entrepreneurs and in the final resort of the entire society.

This is exactly why, we maintain that in order to reduce the economic inequalities, it would be applicable a radical restructuring of the current economic systems through the inventory and redistribution of resources according to criteria which would reconcile the free initiative (at present without any real chances) with equity and competitiveness. Indeed there is a need more than ever to have an equilibrium, an equilibrium which sounds extremely fragile and to whose support we are coming with measures regarding the implementation of economic distributism, excluding lands from the commercial circuit and suspension of use in case of non-working establishing a revenue (salary/pension/welfare etc.) a guaranteed minimum at the minimal level of the amount of the associated costs for reasonable living, prohibition of property concentration to the detriment of the general good.

After seeing that in the content of the recommendations dedicated to the third objective, there are some which require the amendment of the Fundamental Law, we have proposed the modification of the Constitution, as follows:

Art. 46 (2)¹ – Excluding the expropriation, the private ownership right cannot be prejudiced through enforcement, except within the limits which exceed the ensurance of the debtor's right to a decent living.

Art. 58 (2)¹ – Any fiscal burden is limited to the difference in value which exceeds minimum economic threshold for ensuring a decent living.

Art. 126 (2) – The state must provide: [...] letter b)¹ – not to allow the free trade to concentrate properties in the detriment of the members of the community and national interest;

Art. 126 (2) – The state must provide: [...] letter c) – the protection of national interests and of the members of the community in the economic, financial, currency exchange activity;

Art. 126 (2) - The state must provide: [...] letter c)¹ - economic support for free initiative and of small business, including through tax incentives and allocation of economic resources;

Art. 126 (2) - The state must provide: [...] letter h)¹ - except for wealth and properties of public interest, the resources of the economy would be distributed to private persons so as to serve the best possible for the common good.

However, as all those 3 objectives are subscribing to the constitutional law regarding the decent living, we consider that it would be applicable to modify the Fundamental Law, the more so because we know the prejudicial manner in which this right was enshrined through art. 47. Therefore, we are proposing, through this latter perspective **the amendment of the art. 47 from the Constitution** as follows:

Art 47 (2) – People have the right to insurance in case of: unemployment, illness, disability, widowhood, old age or in other cases of losing the means *intended to ensure a decent living* following some circumstances beyond their wish.

Art. 47(2)¹ – Based on the human right to a decent living, the state commits, in addition to the rights listed in paragraphs 1 and 2, to create for the person the premises for meeting the needs and aspirations in all their plenitude and complexity, except for those contrary to the common good.

Art 47 (2)² – The state undertakes to quantify annually, from the economic point of view, the minimum threshold for decent level of living, on the basis of a scientific specialized expertise and ensure that every member of the community shall benefit from an income which may not be below the minimum threshold of decent living standards.

Art. 47(2)² - The public official, dignitary, public authority or institution is liable to civil, disciplinary, non-criminal or criminal liability, as the case may be, if with ill intent are guilty of infringing the human right to a decent living.

Coming close to the end, we could say that what validates the recommendations proposed by us, irrespective of their nature, is the fact itself that these are a consequence of the logical architecture of the doctrine, case law and legislative considerations of the chapters 1, 2 and 3 of the thesis. Moreover we appreciate that they enjoy legitimacy because they are based on universal values and principles such as freedom, equity, proportionality etc., have a legal and determined goal, more precisely they are converging towards the idea of wellbeing, safety, social progress and are feasible, that is have the capacity to reach their goal, more exactly, contribute to the achievement of the objectives of the thesis, and this fact is being mirrored in the fact that they represent effective requirements for reducing the distance from the power, the main sociological indicator, specific for the states with consolidated democracy.

Therefore, we say that these represent the key for ensuring a good functioning of democracy and evidently, for the improvement of the quality of life in the two states whose policies, unfortunately, have resumed to some retrograde steps from the last decades, steps which, nevertheless people should make backwards so as to get off the momentum to move forward.

Furthermore, we wish to draw attention to the **future plans for research**, which the present investigation opens and we refer here at the possibility of analyzing the human right to decent living

from several perspectives (not covered by the thesis, or maybe approached tangentially), under the following aspects:

- the freedom of the person under all its forms of manifestation. Such a research is seen applicable given the fact that through laws and in particular through the exercise of the public power by administrations and governing authorities, the person might be robbed of his freedom in an imperceptible way, moment by moment with a terrible precision, but also with future effects, unpredictable for the level of living;

- of the right to conscientious objection, including from the perspective of religious convictions, a right recognized relatively recently in the practices of the ECHR, which, however could raise the interest to explore this right at a more extensive scale, taking into consideration the multitude of existent conflicts between the sincere convictions of the person and the extent of the imposed obligations by the juridical norms;

- of the „*fabrication of consent*” (manipulation), which has an incontestable effect upon the decency of living and which in our opinion, represents one of the most embarrassing offence brought to the human right and dignity by the public power and the large companies;

- another problem which could make the object of research for a distinct investigation is that of the *in facto* conflict engendered between the constitutional law to a decent living and the phenomenon of juridicisation of the society, an increasingly more aggressive juridism, which we have characterized by a hyperhierarchy and an excessive normativisation, run out of control, almost breathlessly and by a more imperative request for conformity. A more dangerous juridism, which has made out of the normative act a pathetic ritual of the exercise of the power and the cleansing of the moral values, terribly harmful for the quality of the human life and which does not represent anything more than a deviation of the positive right from the grounding and finality of the right.

We are concluding, not by eulogizing in academic terms attaining the goals of our research, but rather by conveying a prognosis which we consider the ”monolith” of the entire analysis of our thesis and namely the fact that the *decency of living of an ordinary man could become an ubiquitous reality only then when the society would become aware of the criminal potential detained by the laws and states/institutions/authorities.*

BIBLIOGRAPHY

1. **Arseni Al.** *Cooperarea internațională în asigurarea unui nivel de trai decent.* In: Revista Drepturile omului. [online]. <https://juridicemoldova.md/10847/conferența-cooperare-internațională-in-asigurarea-unui-nivel-de-trai-decent.html> [Citation 02 aprilie 2021].
2. **Baeșu V., Țurcan S.** *Reglementarea juridică a drepturilor economice ale omului.* Chișinău: Tipogr. „Notograf Prim”, 2019. 164 p.
3. **Deleanu I.** *Instituții și proceduri constituționale.* C.H. Beck, 2006. 936 p.
4. **Duțu M.** *De iustitia et de iure sau despre nevoia reabilitării ideii de drept.* [online]. <https://www.juridice.ro/essentials/1282/de-iustitia-et-de-iure-sau-despre-nevoia-reabilitării-ideii-de-drept> [Citation 08.08.2019].
5. **ECRI.** Raportul ECRI privind România, adoptat la 03 aprilie 2019, al cincilea ciclu de monitorizare, publicat la 05 iunie 2019, Strasbourg. [online]. <https://rm.coe.int/fifth-report-on-romania-romanian-translation-/168094c9e7> [Accessed 02.05.2020].
6. **ECRI.** Raportul ECRI asupra Republicii Moldova (al cincilea ciclu de monitorizare), adoptat la 20.06.2018 și publicat la 02.10.2018, Strasbourg. [online]. <https://rm.coe.int/fifth-report-on-the-republic-of-moldova-translation-in-official-language/16808de7d9> [Accessed 02.05.2019].
7. **Gamurari V., Gușan C.** *Reglementarea juridică a asistenței umanitare în lumina conceptului de securitate umană elaborat de ONU (Partea I).* In: Revista de Studii juridice universitare, ULIM, nr.1-2, Chișinău, 2019, p.13-23.
8. **Hofstede G.** et all. *Culturi și organizații, Softul mental – Cooperarea interculturală și importanța ei pentru supraviețuire.* Translated by M. Zografii. București: Humanitas, 2012. 511 p.
9. **Humă I.** *Dreptul natural, justă măsură a drepturilor omului.* In: Revista de studii interdisciplinare „C. Stere”, 3/4 (11-12), Ed. Vasiliana’98, 2016, p. 48-54.
10. **Medaille J.C. Hurduzeu O.** *A treia forță. Economia libertății.* Logos, 2009. 352 p.
11. **Pivniceru, M.-M., Tudose M.** *Efectele juridicizării și ale judiciarizării, ca fenomene sociale, asupra eficacității jurisdicționale* - [online]. <https://www.juridice.ro/174818/efectele-juridicizării-si-ale-judiciarizării-ca-fenomene-sociale-asupra-eficacității-jurisdicționale.html> [Accessed 08.02.2018].
12. **Rădulescu-Motru C.** *În vremurile noastre de anarhie. Scrisori către tineri.* București: Anima, 1992. 46 p.
13. **Smochină A.** *Organele Constituționale ale Republicii Moldova în condițiile regimului totalitar.* Chișinău, 2001. 192 p.
14. **Smochină A., Vlăescu Ge.** *Bunăstarea și/sau traiul decent al omului - interogație a trecutului și prezentului.* In: Revista de studii juridice universitare, nr.1-2, Chișinău 2019, p.79-85.
15. **Smochină A., Vlăescu Ge.** *Dificultățile asigurării dreptului omului la un trai decent din perspectiva drepturilor încălcate.* Comunicare științifică susținută în cadrul Conferinței științifice cu participare internațională, dedicată aniversării a 27 de ani de la fondarea ULIM, 16-18 octombrie 2019.

16. **Smochină A., Vlăescu Ge.** *Educația - determinant primordial al asigurării dreptului constituțional la un trai decent.* In: Revista de studii juridice universitare, 3/4, Chișinău, 2018, p.85-94.
17. **Smochină A., Vlăescu Ge.** *Evoluția și vocația universală aplicativă a principiului proporționalității în viața socială.* Conferința „Știință, educație, cultură”, Vol. II, 2020, Comrat, Moldova, 15 February 2020, p. 353-360.
18. **Tratatul** de la Lisabona, de modificare a Tratatului privind Uniunea Europeană și a Tratatului de instituire a Comunității Europene, semnat la 13 decembrie 2007 și publicat în JO C 306, 17.12.2007.
19. **Țurcan S.** *Valorile constituționale ale Republicii Moldova în raport cu valorile Uniunii Europene.* In Conference "Știința juridică autohtonă prin prisma valorilor și tradițiilor europene", Chișinău, 14.11.2014, Institutul Cercetări în Domeniul Protecției Drepturilor Omului, ULIM, p.25-32.
20. **Vlăescu Ge.** *Aporiile drepturilor privind demnitatea umană și decența traiului.* În: Revista Anale. Seria Drept. Vol. XXIX, Ed. Eurostampa, Timișoara, 2020, p. 87- 105.
21. **Vlăescu Ge.** *Cea mai înaltă expresie a standardului de trai sau... dreptul la fericire.* In: Revista Anale. Seria Drept. Vol. XXIX, Ed. Eurostampa, Timișoara, 2020, p.106-126.
22. **Vlăescu Ge.** *Distanța față de putere și influențele asupra dreptului constituțional la un trai decent.* Comunicare științifică susținută în cadrul Conferinței internaționale “Supervizare în psihoterapie”, Ediția a II-a, 28-29 iunie 2019, Timișoara, p. 263-270.
23. **Vlăescu Ge.** *Juridismul - un pericolul care vine din partea dreptului.*” In: Revista de studii juridice universitare, no. 3-4, Chișinău, 2018, p.146-154.
24. **Vlăescu Ge.** *The "survival" of roman law in the comparative modern organizational structures and its impact on the decency of living.* În: Revista Anale. Seria Științe Economice Vol. XXIV, Ed. Eurostampa, 2019, p.159-167.

PUBLICATION LIST ON THE TOPIC OF THE DOCTORAL THESIS

Articles in scientific journals

1. Vlăescu Ge. *Cea mai înaltă expresie a standardului de trai sau... dreptul la fericire.* In: Revista Anale. Seria Drept. Vol. XXIX, Ed. Eurostampa, Timișoara, 2020, p.106-126. Category C. ISSN 1582-9359.
2. Vlăescu Ge. *Aporiile drepturilor privind demnitatea umană și decența traiului.* In: Revista Anale. Seria Drept. Vol. XXIX, Ed. Eurostampa, Timișoara, 2020, p. 87- 105. Category C. ISSN 1582-9359..
3. Smochină A., Vlăescu Ge. *Bunăstarea și/sau traiul decent al omului - interogație a trecutului și prezentului.* In: Revista de Studii juridice universitare, no.1-2, Chișinău 2019, p.79-85. Category C. ISSN 1857-4122.
4. Vlăescu Ge. *The "survival" of roman law in the comparative modern organizational structures and its impact on the decency of living.* In: Revista Anale. Seria Științe Economice Vol. XXIV, Ed. Eurostampa, 2019, p.159-167. Category B+. ISSN 1582 – 2680.
5. Vlăescu Ge. *Juridismul - un pericolul care vine din partea dreptului.* In: Revista de Studii juridice universitare, no.3-4, Chișinău, 2018, p.146-154. Category C. ISSN 1857-4122.

6. Smochină A., Vlăescu Ge. *Educația- determinant primordial al asigurării dreptului constituțional la un trai decent*. In: Revista de Studii juridice universitare, no. 3-4, Chișinău, 2018, p. 85-94. Category C. ISSN 1857-4122.

7. Vlăescu Ge. *Consecințe-pe planul dreptului procesual - ale dezincriminării unei contravenții*. In: Journal „Dreptul”, no. 12/2008, p.165-172. Category B+. ISSN: 1018-0435.

Articles in other journals

1. Vlăescu Ge. *Naționalism, globalism și... fiscalitate*. In: Revista Economistul, no. 9, București, 2017, p.82-85. ISSN 1221-8669.

2. Vlăescu Ge. *Coeziunea economică... concept sau slogan!* In: Revista Economistul, no. 9, București, 2017, p. 48-50. ISSN 1221-8669.

International Conferences

1. Smochină A., Vlăescu Ge. *Evoluția și vocația universală aplicativă a principiului proporționalității în viața socială*. The Conference ”Știință, educație, cultură”, Vol. II, 2020, Comrat, Moldova, 15 February 2020, p. 353-360.

2. Smochină A., Vlăescu Ge. *Dificultățile asigurării dreptului omului la un trai decent din perspectiva drepturilor încălcate*. Scientific report presented at the scientific Conference internațional participation, dedicated to the anniversary of 27 years since the foundation of FIUM, 16-18 October 2019.

3. Vlăescu Ge. *Distanța față de putere și influențele asupra dreptului constituțional la un trai decent*. Scientific report presented at the scientific International Conference “Supervizare în psihoterapie”, II edition, 28-29 Jun 2019, Timișoara, p. 263-270. Indexed ISI. ISBN 978-88-85813-66-3.

ADNOTARE

Vlăescu George, „*Asigurarea dreptului omului la un trai decent*”. Teză pentru obținerea titlului științific de doctor în drept. *Specialitatea 552.01- Drept constituțional, Chișinău, 2021.*

Structura tezei. Lucrarea este împărțită sintetic în introducere, trei capitole, concluzii și recomandări, încheindu-se cu referințele bibliografice ce ilustrează un număr de 370 de izvoare. Ea se desfășoară pe un număr total de 159 de pagini cu texte de bază, iar rezultatele obținute se oglindesc în 12 articole și comunicări științifice.

Cuvinte cheie: Asigurare, trai decent, bunăstare, calitatea vieții, nivel de trai, echitate, protecție/securitate socială, putere de stat, garanții juridice, distanța față de putere, democrație participativă.

Domeniul de studiu. Drept Constituțional. Teza aprofundează cercetarea asigurării dreptului omului la un trai decent în regim democratic și prin caleidoscopul raporturilor juridice dintre omul de rând, pe de o parte iar, pe de altă parte, din perspectiva educației, legislației și a modului de exercitare a puterii executive a statelor, cu precădere pe teritoriile României și Republicii Moldova.

Scopul și obiectivele cercetării. Scopul cercetării are în vedere analiza aprofundată a *asigurării dreptului omului la un trai decent* și elucidarea particularităților legate de structura și conținutul acestui drept în vederea valorificării gradului de reglementare juridică și a transunerii reglementării în viața omului de rând, mai exact în identificarea acelor cauze din sfera puterii publice care obnubilează finalitatea urmărită de acest drept, în vederea găsirii unor soluții, sperăm noi, apte să ranforseze statul de drept și democrația participativă și, totodată, să ofere alternative capabile să răspundă exigențelor traiului decent. În realizarea acestui scop vom avea în vedere următoarele obiective: stabilirea rolului educației în asigurarea dreptului omului la un trai decent, analizarea influențelor raporturilor dintre individ și stat/autorități publice și impactul economiei și modul de distribuire a resurselor.

Noutatea și originalitatea științifică. Lucrarea înțelege să-și esențializeze noutatea și originalitatea cercetării asigurării dreptului omului la un trai decent prin supunerea analizei acestui drept fundamental provocărilor antemenționate - venite din partea educației, legislației și a guvernărilor (inclusiv, economiei) -, precum și prin modalitățile inedite de depășire a dificultăților prin formula micșorării distanței față de putere (democrație participativă) care se reflectă în recomandările noastre de îmbunătățire a calității educației, de modificare a legislației și a modului de exercitare a puterii publice.

Problema științifică soluționată vizează elucidarea, în cadrul raportului dintre individ și stat, a *dreptului omului la un trai decent*, ca drept de sine stătător, dar mai ales ca drept complex care ia naștere prin interacțiunea cu alte drepturi fundamentale sau nefundamentale, lucru ce contribuie la eficientizarea reglementării și a garantării asigurării acestui drept în România și în Republica Moldova, astfel încât să răspundă nevoilor și aspirațiilor umane, în general, și a stării de prinoare, a liberei dezvoltări a omului și a siguranței individului uman, în special.

Valoarea aplicativă a lucrării. Recomandările și concluziile lucrării vin în întâmpinarea actualelor deficiențe de sistem (educative, legislative și executive) și, prin măsurile practice pe care le recomandăm, urmărim nu doar detensionarea relațiilor dintre stat și organismul social ci propunem reșezarea acestor relații într-un cadru normativ suplă și relaxat care să orienteze mersul societății pe făgașul unei civilizații cât mai autentice și orientate spre propriile interese fundamentate pe demnitate și pe libera dezvoltare a personalității umane. Ori, tocmai acest lucru presupune ocrotirea și garantarea sustenabilă a acelor valori de maximă importanță pentru societate care își au piatra de temelie în *asigurarea dreptului omului la un trai decent*.

Implementarea rezultatelor științifice. Recomandările și concluziile cercetării nu sunt lipsite de conținut practic. Dimpotrivă, pornind de la o analiză îndeaproape a realităților sociale și juridice, recomandările includ instrumentele și modalitățile concrete de îndeplinire a obiectivelor și finalității cercetării.

ANNOTATION

Vlăescu George, "*Ensuring the Human Right to a Decent Living*". Thesis for obtaining the scientific title of Doctor of Law. Specialty 552.01- Constitutional Law, Chişinău, 2021.

Thesis structure. The paperwork is divided into introduction, three chapters (the last chapter one also includes recommendations), general conclusions, a bibliography consisting of a number of 370 sources and is developed on a total number of **159** pages with basic texts. The obtained results are published in 12 scientific articles.

Keywords: decent living, well-being, quality of life, equity, social protection/security, State power, fundamental human rights, distance from the governing power, participatory democracy.

Field of study. Constitutional right. The thesis is an insight to the research of ensuring the human right to a decent living in a democratic regime and through the kaleidoscope of legal relations between the ordinary man, on the one hand and, on the other hand, from the perspective of education, legislation and the way in which the States exercise their executive power, especially on the territories of Romania and the Republic of Moldova.

The purpose and objectives of the research. The purpose of the research consists in the in-depth analysis of *ensuring the human right to a decent living* and in elucidating the particularities related to the structure and content of this right in order to capitalize on the degree of legal regulation and the transposition of the regulation in the life of the ordinary man, more precisely in identifying those causes from the sphere the public power that obnublate the purpose pursued by this right, in order to find solutions, we hope, able to strengthen the rule of law and the participatory democracy and, at the same time, to offer alternatives capable of responding to the demands of a decent living. In achieving this goal, we will consider the following objectives: establishing the role of education in ensuring the human right to a decent living, analysing the influences of the relationship between the individual and the state/public authorities and the impact of the economy and how resources are distributed.

Scientific novelty and originality. The paper understands to essentialize the novelty and originality of the research of ensuring the human right to a decent living by submitting the analysis of this fundamental right to the above-mentioned challenges - challenges arising from education, legislation and governments (including, the economy) - but also by the innovative ways to overcome the difficulties through the formula of reducing the distance to the governing power (of the participatory democracy), which is reflected in our recommendations to improve the quality of education, to modify the laws and to change the way in which public power is exercised.

The scientific issue solved consists in the elucidation, within the legal relations between the individual and the State, of the *human right to a decent living*, as a self-standing right, but especially as a complex right that arises through the interaction with other fundamental or non-fundamental rights, which contributes to the efficiency in regulating and guaranteeing this right in Romania and in the Republic of Moldova, so as to respond to human needs and aspirations, in general, and to the state of wellbeing, the free development of man and the safety of the human individual, in particular.

The applicative value of the paperwork. The recommendations and conclusions of the paperwork address the current deficiencies of the system (educational, legislative and executive) and, through the practical measures we recommend, we aim not only to relax the relations between the State and the social body, but we propose to re-state these relations in a flexible and relaxed normative framework meant to guide the society's course in the rut of a civilization as authentic as possible. Or, it is precisely this that requires the sustainable protection and guarantee of those values of maximum importance for the society that have the cornerstone in *ensuring the human right to a decent living*.

Implementation of scientific results. The research recommendations and conclusions are not devoid of practical content. On the contrary, starting from a close analysis of the social and legal realities, the recommendations include the instruments and concrete modalities for achieving the objectives and the purpose of the research.

АННОТАЦИЯ

Влэску Жеорже. „Обеспечение права человека на достойную жизнь”. Диссертация на соискание ученой степени доктора права. Кишинэу, 2021.

Структура диссертации: введение, три главы, общие выводы и рекомендации, библиография из – 370 наименований, 159 страниц основного текста.

Полученные результаты были отражены в 12 научных статьях с общим объемом 4,5 а.л.

Ключевые слова: достойный жизненный уровень, право на социальное обеспечение, качество жизни, государственная власть, социальная защита, юридические гарантии, демократический режим

Область исследования: Специальность 552. 01 – Конституционное право

Цель и задачи диссертационного исследования. Основной целью исследования является комплексное проблемное представление юридической природы и проявлений института прав человека на достойную жизнь в механизме обеспечения основных прав и свобод личности, анализе проблем гарантирования и реализации, конституционных прав и свобод личности в условиях обеспечения права человека на достойную жизнь. А также в выработке предложений и рекомендаций, направленных на совершенствование законодательства и правоприменительной практики в сфере обеспечения права человека на достойную жизнь.

Исходя из этого, ставятся и конкретные задачи работы, очерченные, в своей основе, содержанием данного диссертационного исследования. Их суть в следующем: определение роли образования в обеспечении права человека на достойную жизнь, анализ взаимодействия отношений между личностью и государства/публичных властей и влияние экономических механизмов на распределение ресурсов.

Научная новизна и оригинальность полученных результатов заключаются в оценке достаточности конституционных норм, которые предусматривают обеспечении права человека на достойную жизнь в ходе анализа этого фундаментального права происходящие в сфере образования, законодательной и управленческой практики, в том числе управление экономикой, которые отражаются в наших рекомендациях по улучшению качества образования и законодательства а также в области реализации публичной власти.

Решенная научная проблема состоит в многостороннем исследовании и выявлении несовершенства конституционных механизмов регулирования и юридической защиты права человека на достойную жизнь и выявлению аспектов связанных с прямой связью между прямым действием с другими основными правами человека, которые будут способствовать повышению качества урегулирования и обеспечения этого права в Румынии и Республики Молдова

Теоретическая значимость и прикладная ценность работы. Рекомендации и выводы диссертационной работы свидетельствуют о наличии существенных недостатков в системе образования, деятельности законодательной и исполнительной власти. Рекомендуем конкретные практические меры по урегулированию отношений между государством и обществом с целью определения названных отношений в нормативное русло, направленные на свободное развитие личности, которые послужат в качестве краеугольного камня в обеспечение права человека на достойную жизнь.

Внедрение научных результатов: рекомендации и выводы исследования не освобождены от конкретных практических рекомендаций. Наоборот, включают механизмы и конкретные предложения по реализации предложенных, в результате исследования, рекомендаций.

VLĂESCU GEORGE

**ENSURING
THE HUMAN RIGHT TO A DECENT LIVING**

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