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Soft and hard power in the design of the “Global Strategy for the European Union’s Foreign and Security Policy”

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Abstract

The European Communities, founded over 60 years ago, after the end of the dramatic Second World War, were meant to bring peace between Europe’s great powers, by appointing cooperation as the desirable method to resolve issues. For decades, this aim was successfully achieved, the six founding Member States being, in time, joined by other European countries that shared the same ideals of peace, rule of law, social welfare, and were attracted by the development model offered by the Communities. While the geographic expansion of the European Union can be considered as a regular model of soft power use, the continuous thoroughness of the organization can be regarded as a consequence of the strong influence of the European model. The aim of this paper is to analyze the ways in which the European Union is conducting the shift from an iconic soft power to a more involved hard power. In order to achieve this, we will introduce the explanation of the two types of power and the meanings associated with them by various specialists in the International Relations theory and continue by presenting the main provisions of the European Union Global Strategy – key document in the field of foreign and security policy. We will continue by highlighting and debating on Europe’s need for hard power in its strategy, and then present the conclusions on the analysis of the Strategy in this frame.

Keywords: *security, European Union, hard power, soft power, policies.*

1. First steps in creating a European security identity

The struggle for European defense can be traced back to the end of the Second World War, when the Cold War divided Europe in two teams. But, starting from 1917, Europe’s security also depends on the Americans, who interfered in the First World War, but also on the Soviets, whose socialist revolution aimed, at first, for the Western part of Europe, too (Vaisse 2008: p. 28). After 1947, the soviet threat forces the European states to stretch the lines, the Brussels Pact creating, in 1948, the Western European Union. But the Europeans are soon to realize they cannot be protected without help, so the United States take on the task of defending Western Europe, by creating the North Atlantic Organization (Cook, 2017).

Also, created with the aim of controlling the German arming process, the European Defense Community (European Defense Community Treaty 1952: p. 167) turned out to be a fail. On the other hand, the integration process within the European

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Communities was significantly progressing in the economic sector. The exception is represented by General de Gaulle's attempt to build a "European Europe" throughout the Fouchet Plan, and later on within the Elysee Treaty (Vaisse 2008: p. 29), where the military dimensions were obvious.

In 1969, at the Hague Summit, the European Economic Community (EEC) member states discuss the issue of security again, as part of the European political cooperation (Buchwald 2015). But the Tindermans Report, aiming to include the foreign and defense policies among the competences of the EEC is not accepted (Thorn 1976: pp. 130-131). A couple of years later, the Ottawa statement of the Council of the Atlantic Alliance states the absence of an incompatibility between the progresses towards European unity and Europeans' contribution to NATO.

To sum up, until the late years of the Cold War, in the matters of European defense had not been made significant progress, despite the fact that the Single European Act in 1986 (The Single European Act 1986: art. 30) included a formal juridical commitment of political cooperation. The political struggles in Eastern Europe and the Gulf crisis proved that Europe was absent in the international arena. The French president Mitterand and the German chancellor Kohl suggest, in April and December 1990, "defining and creating a common foreign and security policy (CFSP)". This is soon to be put to test by the Yugoslav crisis and by the void created in Eastern Europe by the extinction of the Warsaw Pact and the Soviet Union, void soon to be filled by the North-Atlantic Organization.

European defense needs to join the new strategic concept of NATO, that demands creating mobile multinational forces. So, in 1992, a common French and German body of army is being created, presented as the core of a future European army, named Eurocorps, which becomes operational in 1995; it has over 50 000 soldiers (France, Germany, Belgium, Spain and Luxembourg), staff of Eurofor (Terrestrial rapid action force) and of Euromarfor (naval force). The European Union seemed to be the virtual frame of creating a European defense, towards which even the British started to show interest. After the Treaty of Maastricht (1992), in which the European Policy for Common Security (EPCS) was adopted, the Treaty of Amsterdam (June 1997) brought along the decision to create the High Representative for EPCS, position to be occupied by Javier Solana.

At the summit in Koln (June, 4th, 1999), the fifteen Member States expressed their will to accelerate the building of the "European identity for security and defense" and anticipate that, by 2003, the Eurocorps (which took command of the KFOR troops in Kosovo in the spring of 2000) would be transformed in a European quick action troop. In March, 2000, a military committee is being installed in Brussels, as the prefiguration of a future General Headquarters. At last, the meetings in Nice (December, 2000) foresee a permanent structure for security.

The evolution of the European Communities, and, later on, the European Union, in the field of security and defense, displays the attempts made in order to build a common force, able to represent all the member states in these matters. The current "Global Strategy for the European Union's Foreign and Security Policy" brings forward the goals undertaken by the Union in this regard and the policies and instruments meant to be used in achieving them.

2. Soft power and hard power in international politics

The idea of highlighting the differences between soft power and hard power, as well as defining them, was first introduced by Joseph Nye in 1990. Hard power uses tools such as military interventions, coercive diplomacy and economic sanctions (Wilson 2008: p. 114) and is usually based on power resources such as armed forces or economic means, which can be counted (Gallarotti 2011: p. 29). The Realists have always considered force, military strength, as the value that determines the power of a state, as Waltz contends, “in international politics force serves, not only as the ultima ratio, but indeed as the first and constant one” (Waltz 1979: p. 113). Nye, on the other hand, defined power as “the ability to affect others to obtain the outcomes you want” (Nye 2008: p. 94), giving way to speculation on the nature or source of this ability. Also, he identifies three ways in which behavior can be shaped: threats of coercion (“sticks”), inducements and payments (“carrots”), and attraction that makes others want what you want (Nye 2008: p. 95).

Regarding soft power, it can be defined as “the capacity to persuade others to do what one wants” (Wilson 2008: p. 114). Nye also argues that this type of force, based merely on persuasion rather than strength, includes phenomena such as attraction and emulation, being usually “associated with intangible power resources such as culture, ideology, and institutions”. These can, therefore, be considered the tools for the spread of this kind of power. Other specialists, such as Robert Cooper, draw the attention upon the concept of legitimacy when speaking of soft power (Cooper 2004: p. 173). In his perspective, the actions of the states need to be perceived as legitimate in order to enhance soft power. Such is considered to be the example of the dispersion of American culture within the Eastern bloc during the Cold War, indicating the existence of American soft power, or even the more recent processes of EU enlargement, as indices for soft power possessed by the EU.

However, soft power “is more difficult, because many of its crucial resources are outside the control of governments, and their effects depend heavily on acceptance by the receiving audiences” (Nye 2004: p. 1). Furthermore, soft power is also difficult to achieve because it can take a long time for a country to be able to develop adequate soft power capabilities (Nye 2004: p. 5).

3. Main provisions of the “Global Strategy for the European Union’s Foreign and Security Policy (EUGS)”

The *Council conclusions on implementing the EU Global Strategy in the Area of Security and Defence* issued in November, 2016, state, even in the first paragraph (Council of the European Union 2016: p. 2), the need for a “strong European Union, able to promote peace and guarantee the security of its Member States and citizens. This demands a concerted and cooperative response by the EU and its Member States to address evolving security threats and challenges, making full use of the Treaties. In this respect, the Global Strategy for the European Union’s Foreign and Security Policy (EUGS) provides a shared vision and proposes common action”.

In the understanding given by the High Representative of the European Union for Foreign Affairs and Security Policy, and also Vice-President of the European Commission, Federica Mogherini, “global” does not only have a territorial meaning, but it also regards the wide array of instruments and policies included in the Strategy. Therefore, its content designs anti-terrorism policies, development of military capabilities, but also social and economic instruments meant to ensure the security of

the European citizens. In order to achieve all the goals proposed in this document, the European Union needs to bring together both elements of hard and soft power, to match all the various types of threats the current international arena displays.

The “Global Strategy for the European Union’s Foreign and Security Policy” issued in June 2016 is structured under four main titles, as follows: 1. A Global Strategy to Promote our Citizens’ Interests, 2. The Principles Guiding our External Action, 3. The Priorities of our External Action, and 4. From Vision to Action. The third part of the document brings together the main issues this Strategy is meant to address, including: The Security of Our Union, State and Societal Resilience to our East and South, An Integrated Approach to Conflicts and Crises, Cooperative Regional Orders and Global Governance for the 21st Century.

The first title, “*A global Strategy to promote our citizens’ interests*”, advances the idea that the principles and values of the European Union go hand in hand. Furthermore, it is stated that “peace and security, prosperity, democracy and a rules-based global order are the vital interests” (EUGS 2016: p. 13) underpinning the external actions of the European Union. This way, the main policy interests in the field of civilian security are included in the foreign relations agenda. These desiderata of peace, security, prosperity and democracy, meant to support the welfare of the European citizens, are common ground to all the Member States, as expressed by the idea that “as a Union of medium-to-small sized countries, we have a shared European interest in facing the world together” (EUGS 2016: p. 15).

The second chapter of the Strategy, “*The Principles Guiding our External Action*”, enhances the very nature of this document, arguing that “Principled pragmatism will guide our external action in the years ahead”. Even from the signing of the Brussels Treaty back in March, 1948, the same fundamental values of the Western society worth defending are stated: human rights, the democratic principles and freedoms (Sauron 2010: p. 30). The principles that the current Strategy refers to are: unity, engagement, responsibility, partnership, each of them standing as common fundamental values of the Member States. Unity is regarded as the foundation of the European construction, both in purposes and in actions, across Member States and between institutions. Regarding the engagement in all external affairs, the European Union is demanded to take part in the international decision process, tackling issues such as international migration, the terrorist threat, global value chains, in order to turn them into opportunities. Responsibility is another one of the guidelines for the common foreign activity, setting out the need for Europe to engage in solving international crises, by enforcing the rule of law and human rights. In the matter of partnership, the EUGS highlights the need for the European institutions and representatives to cooperate with international partners, including states, companies, international organizations, in order to set and achieve common goals.

Following these principles, the third title of the Strategy, *The Priorities of our External Action*, sets five main priorities for the future actions of the EU: the Security of Our Union, State and Societal Resilience to our East and South, An Integrated Approach to Conflicts and Crises, Cooperative Regional Orders and Global Governance for the 21st Century.

The first priority, ensuring the security of the European Union, sets its grounds on the achievements of the previous years, aiming to “strengthen ourselves on security and defence in full compliance with human rights and the rule of law” (EUGS 2016: p. 19). Furthermore, this priority is intended to be responded by five lines of action. The

first one, Security and defence, includes deterrence, protection and quick response to all possible kind of external threats, recalling the EU-NATO strategic partnership but also the need to strengthen the security community. The second line of action regards the Counter-terrorism, identifying as the core of this battle the need for the EU to live up to its values internally and externally. Cyber security is the third line of action, expressing the common will to mitigate threats and the resilience of critical infrastructure, network and services, and reducing cybercrime. As stated in the Strategy, “Cooperation and information-sharing between Member States, institutions, the private sector and civil society can foster a common cyber security culture, and raise preparedness for possible cyber disruptions and attacks” (EUGS 2016: p. 22). Energy security is the fourth direction of action assumed by the European Union, including the attempts to diversify energy resources, routes and suppliers, as well as monitoring the evolution of nuclear safety standards in third countries. Last, but not least, EU internal security means Strategic communications, by investing in and joining-up public diplomacy across different fields, in order to connect EU foreign policy with citizens and communicate more efficiently with the partners (EUGS 2016: p. 23).

The second priority regards State and societal resilience to the East and South. Arguing that fragility beyond the borders of the European Union threatens all the vital interests, the need to invest in the resilience of states and societies to the east stretching into Central Asia, and south down to Central Africa is reinforced. This section of the Strategy includes specifications regarding the enlargement policy, which should be “grounded in strict and fair conditionality”, as an “irreplaceable tool to enhance resilience within the countries concerned”.

Resilience is defined as a strategic priority across the EU’s east and south both in countries that want stronger ties with the EU and in those – within and beyond the ENP – that have no wish to do so. In this regard, the EU plans to pursue a complex approach to resilience, and to cooperate with other international players, coordinating EU’s work on capacity-building with the United Nations and NATO in particular.

Regarding the migration policy, a special focus will be on the origin and transit countries of migrants and refugees. The tools meant to support these initiatives in the countries of origin are development, trust funds, preventive diplomacy and mediation, while transit countries are to be supported by improving reception and asylum capacities, and by working on migrants’ education, vocational training and livelihood opportunities.

In the third part of this chapter, *An Integrated Approach to Conflicts and Crises*, it is stated that “Implementing a *multi-dimensional* approach through the use of all available policies and instruments aimed at conflict prevention, management and resolution is essential” (EUGS 2016: p. 31). The Strategy thus regards all types of threats, expressing the will to invest in prevention, resolution and stabilization, as well as to avoid premature disengagement when a new crisis erupts elsewhere. This integrated approach designed by the EU fight conflicts and crises is based on several dimensions: establishing a climate of pre-emptive peace, ensuring security and stabilization, conflict settlement and fostering the space in which the legitimate economy can take root and consolidate. In the enunciation of the Strategy, “restrictive measures, coupled with diplomacy, are key tools to bring about peaceful change. They can play a pivotal role in deterrence, conflict prevention and resolution. Smart sanctions, in compliance with international and EU law, will be carefully calibrated and monitored to support the legitimate economy and avoid harming local societies” (EUGS

2016: p. 32). All these actions aim at protecting the civilians first of all, thus the foreign action of the European Union being designed to bring a better standard of life for the European citizens.

The fourth part of this section, *Cooperative Regional Orders*, defines the fundamental rationale for the EU's own peace and development in the 21st century. The strategy sets the goal of supporting regional organizations, not in the meaning of exporting the European Union model, but rather by seeking reciprocal inspiration from different regional experiences. The meaning of cooperative regional orders does not only comprise regional organizations, but also a mix of bilateral, sub regional, regional and inter-regional relations, also featuring the role of global players interlinked with regionally-owned cooperative efforts (EUGS 2016: p. 32).

The strategy also sanctions, one more, the fundamental principles that apply to all states, both within and beyond the EU's borders: sovereignty, independence and territorial integrity of states, the inviolability of borders and the peaceful settlement of disputes.

The relationship with Russia represents a key strategic challenge for the European common security, demanding a consistent and united approach as the cornerstone of EU policy towards Russia. "Substantial changes in relations between the EU and Russia are premised upon full respect for international law and the principles underpinning the European security order, including the Helsinki Final Act and the Paris Charter" (EUGS 2016: p. 32). The European Union Global Strategy also states that the EU will not recognize "Russia's illegal annexation of Crimea nor accept the destabilization of eastern Ukraine".

Furthermore, the European Union commits to a global order based on international law and the principles of the United Nations Charter. This commitment involves the ambitious determination to reform the UN and the International Financial Institutions, in order to stand up for the principles of accountability, representativeness, responsibility, effectiveness and transparency. In addition to this, the European Union intends to invest in the peacekeeping, mediation, peacebuilding and humanitarian functions of the United Nations.

The final part of the Strategy, *From Vision to Action*, reinforces the Union's commitment to pursue these priorities by mobilizing the unparalleled networks, the economic weight and all the tools at the disposal of the EU in a coherent and coordinated way. In order to achieve this, the Common security and defence policy must become more effective, and the Member States are required to enhance the deployability and interoperability of their forces through training and exercises. The need for a more joined-up Union, in the establishment and functioning of the European institutions playing parts in the external actions – such as the innovations of the Treaty of Lisbon - the double-hatted High Representative and Vice President of the European Commission (HRVP) and the European External Action Service (EEAS), can be translated into a more effective and stronger common voice.

A general overlook at the European Union Global Strategy gives the impression of an intention of transformation, a shift that is to take place in EU's foreign policies and actions. The European Union considers itself as the biggest exporter of soft power, but, in order to preserve its leading role in the international arena, it is willing to take more part in the debate for hard power, as we will see in the following section.

4. The need for hard power in EU's security

After the end of the Cold War, in a world facing the globalization process, but yet so fragmented, Europe must undertake all the responsibilities implied by the management of these phenomena. The role it should play is that of a power fighting against violence, terror, fanatics, and that does not remain untouched by all the injustice the world is facing nowadays. To sum up, it should be a power that aims at influencing the development of international events, so that the beneficiaries are not only the rich countries, but also the poorer ones (Luzarraga and Lorente 2011: p. 290).

But, as some opinions point out (Buzan and Little 2009: p. 376), once the state of conflict was replaced by mutual security, the transforming and shaping forces of competitions become less driven by military arguments, and more by the economic and social ones.

For decades, the European states have faced the need of a stronger voice in the international security matters (Sauron 2010: p. 27-29). Despite the fact that the European Union has provided enough resources in the area of soft power, managing to make this international organization one of the major players in the international arena, current threats reinforce the demand for stronger action. Some authors assert that (Tuomioja, 2009: 3) "while the European Union is not a military super-power or even a lesser one, nor does it have any plans or need to become one, all the member states of the European Union do employ national armies. The military capabilities of the EU countries are increasingly oriented towards crisis-management operations and not towards traditional territorial defense".

As stated in the final part of the European Union Global Strategy, "In this fragile world, soft power is not enough: we must enhance our credibility in security and defence. To respond to external crises, build our partners' capacities and protect Europe, Member States must channel a sufficient level of expenditure to defence, make the most efficient use of resources, and meet the collective commitment of 20% of defence budget spending devoted to the procurement of equipment and Research & Technology" (EUGS 2016: p. 44). Some specialists assert that "The European Union has no army although this is one of the areas where unity would bring obvious increase in efficiency and influence. It relies on law, on negotiation, on multilateral organization. Its relationships are often in the form of "contractual agreements", itself a revealing phrase. It seems a model of soft power, as America is of hard power" (Cooper 2004: p. 169).

Furthermore, it seems that the global changes occurred after the end of the Cold War argue for the possibility that the international system is entering a new phase of transformation that raises questions regarding the nature of the dominant element. Since the beginnings of human civilization, the dominant elements have always been the political and military ones, usually integrated in a territory. But can this pattern be maintained if the political and military sector loses its domination and globalization pushes the state from many aspects of the economy? (Buzan and Little 2009: p. 371). It seems that the economic actors (companies, organizations) have a much more important role to play than military forces.

Being given all these international coordinates, the European Union needs to find itself a role, a status on the chessboard, as long as it wants to be one of the major stakeholders. Being for decades regarded as the "cradle of civilization", a model of multiculturalism, political plurality, multiethnic cohabitation, "united in diversity", the

world now turns the look on the old continent for more decisive actions in matters of international security, border protection, human rights enforcement. And this are the quests the Europe of the future is called to fulfill, in order to preserve its leading role in the world.

5. Conclusions

The European Union is an international actor with a unique architecture, evolving from an organization to a union of states, borrowing from its members' national sovereignty in order to legitimate its own actions. The issue of soft and hard power in its international agenda is rather a matter of the extent of tasks it is enabled to perform. Despite the fact that it is commonly agreed that a single voice speaking for all the Member States has more power than 28 different voices, the representatives of the countries still seem reluctant to giving away too much of the national sovereignty in order to strengthen the Union. With the growing diversity of both external and internal threats, it seems that nationalism is more present on the European agenda than ever, linking sovereignty to territories more bounding than ever: "although nationalism is potentially subversive of any particular territorial *status quo*, it is the basis of territorial sovereignty *per se*" (Griffiths and Sullivan 1997: p. 56).

The soft power of the European Union is a remarkable success; but ultimately the order was based on hard power (Cooper 2004: p. 178). The case of the European Union – as well as others – is merely a proof that soft power can play a crucial role in international relations as well as in a domestic order, as long as it obeys and promotes the respect of international law. The main issue is that of establishing legitimacy. Whereas in domestic situations our ideas of legitimacy are well explored and, in the West at least, well established, in the international sphere the position is less clear. There are many sources of legitimacy and, therefore, also of soft power (Cooper 2004: p. 179).

Despite the fact that the European Union is usually regarded as a leading model of soft power, one would be wrong to assume that this is a natural strength of Europe. For instance, the internal order in the EU is based on law, while in its foreign actions force is largely used. But soft power goes with hard power internationally as it does domestically.

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Aspects of the Romanian-Spanish relations between 1881-1885

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Abstract

The main events that marked the Romanian-Spanish relations between 1881 and 1885 were: the sending of a Spanish extraordinary mission at Bucharest for the proclamation of the Kingdom of Romania; the opening of a Spanish Legation in Bucharest, and vice versa and the Romanian participation at King Alfonso XII funeral. For financial reasons, Madrid opted to send at Bucharest a minor diplomat, Juan Pedro de Aladro, in 1881 as a Chargé d'Affaires. He was elevated to the rank of Resident Minister in March 1883. A subsidiary problem was the controversy of accrediting the Spanish diplomat both in Bucharest and in Belgrade (1882). The Spanish Foreign Minister discouraged such attempts due to the animosity of the two neighboring countries. At the King's funeral the Romanian representatives met with the Spanish Foreign Minister, the Queen Regent, foreign diplomats from Madrid, and politicians.

Keywords: *diplomacy; King of Romania; Spanish Legation; Juan Pedro Aladro; Chargé d'Affaires Count Benomar.*

The proclamation of Carol Hohenzollern Sigmaringen as King of Romania, a great event for modern Romania and Europe also, couldn't be ignored by the poverty-stricken Madrid diplomacy. Sending an extraordinary mission at Bucharest was needed. Juan Pedro Aladro was appointed to hand a letter from King Alfonso XII to the first King of Romania. From Paris Emil Ghica delivered the news to Prime minister and Foreign Affairs interim, Dimitrie Brătianu, that J.P. Aladro would probably be accredited definitively as Minister Plenipotentiary at Bucharest after an agreement with the Romanian Government, thus solving the issue of establishing a Spanish Legation (Arhivele Diplomatice ale Ministerului Afacerilor Externe, vol. 93, hereinafter A.M.A.E 93 1881: p. 311).

In anticipation of this event, the Spanish legation in Vienna expressed his Government's gratitude to Iancu Bălăceanu for the subscriptions opened in Romania for flood victims in Murcia and Cartagena (A.M.A.E. Arhiva Istorică, hereinafter A.M.A.E A.I. 1881: C 4). Thus, Romania didn't forget its common origins with Spain and knew how to show its solidarity with these exceptional circumstances.

Regarding J.P. Aladro there was a lack of information. Announcing to Brătianu that on the 5th of May, Aladro began his journey to Romania, where he intended to attend the coronation ceremony, Emil Ghica outlined a professional portrait of the Envoy Extraordinary, which showed he wasn't such a notorious diplomat. Aladro had been Chamberlain of Her Catholic Majesty, occupied various diplomatic posts and for

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several times he held the position of deputy in Spain Cortes. Ghica reiterated the assumption he would be the future Envoy Extraordinary and Minister Plenipotentiary in Bucharest, adding this time the condition of reciprocity (A.M.A.E. 93 1881: p. 312).

The Spanish diplomat served as messenger of Isabel II, the Queen Mother exiled in Paris, when he informed Ghica that Her Majesty wanted to know the staff of the Romanian Legation in Paris, for which an audience was scheduled at her residence, Palais de Castille (A.M.A.E. 93 1881: p. 312).

In the presence of Aladro, the former Queen of Spain met the Secretary Alexander Lahovary and the diplomatic attachés Alexandru, Filipescu and Edgar Mavrocordat. Ghica appreciated Isabella's qualities as a host. She treated her guests with courtesy and addressed in glowing terms to the Romanian royal couple.

Strangely, she stated her regrets of not knowing personally the two of them (A.M.A.E. 93 1881: p. 313), although in 1862 (Andronache 2012: pp. 208-209), in his youth, with no idea he will rule Romania in the future, Carol visited Spain and the Court of Madrid. Perhaps this omission was explained by the almost twenty years passed since the visit and Carol's change of status from Prince of Hohenzollern-Sigmaringen to King of Romania.

Isabela wasn't only pleased with sending verbal wishes to Carol and his wife Elisabeta, but wanted to address a letter to the King of Romania and entrusted Aladro with the document. The Spanish diplomat had the support of the exiled Queen, who wanted to recommend him "very specially" to the Romanian Sovereign and to the Foreign Minister, as he was a "faithful and active supporter of the dynasty" (A.M.A.E. 93 1881: p. 313).

During the audience, Ghica was asked by Isabella to transmit to Carol another of her requests: granting the Grand Cross of "The Order of the Star of Romania" to the Marquis de Alta-Villa, Grand Master of Ceremonies of her Court. Not knowing what to answer, the Romanian diplomat assured her he would forward the request to his superior. He emphasized to Brăianu that Isabela insisted, arguing that the Marquis was already the holder of such distinctions of several orders. She added she will be "particularly pleased to see the highest official of Her Royal House receiving a distinction so valued" (A.M.A.E. 93 1881: p. 313).

Aladro's lack of experience in handling high-level diplomatic missions have revealed even in this audience, when he asked Ghica whether he should give a speech when presenting Alfonso XII's letter to Carol I. The Romanian diplomat advised him to discuss the matter with Dimitrie Brătianu and first submit the text to the Prime minister, in case a speech was needed (A.M.A.E. 93 1881: p. 313).

The Spanish Envoy insisted to stop in Vienna on his way to Romania as he wanted to meet the Romanian representative in this capital. In Vienna, Bălăceanu expressed his concerns regarding Aladro's behavior who had arrived for a few days, but didn't yet settled the time of his departure for Bucharest. The explanation given, a hilarious one, was he forgot to pack his uniform. Bălăceanu also informed the Foreign Minister that the Envoy Extraordinary was only a second secretary of Legation and the diplomatic circles were surprised by King Alfonso XII odd choice, given the fact he could have sent Conte instead, the Spanish Minister of Vienna. For reasons that eluded Bălăceanu's comprehension, the idea of sending Conte to Bucharest was unsuccessful (A.M.A.E. 93 1881: p. 315).

The circumstances which made possible this option to Madrid were best summarized by the Minister of Foreign Affairs, Vega de Armijo, in a letter dated June

27, 1881, addressed to Count of Benomar, the Spanish Minister in Berlin. The document stated that after Alfonso was notified about the Proclamation of the Kingdom of Romania, the Spanish Government had to seek a person not that well known but with ties to King Carol I. Also that person had to support the mission expenses. Apart from this strong argument of the Spanish Government, who was trying to reduce spendings, Vega de Armijo considered a former Member of the Cortes couldn't remain in a lower rank and was given the chance to a diplomatic ascension. Furthermore, he added Aladro was chosen because their king didn't want to give such a great importance to this mission (Real Academia de la Historia, Legajos, hereinafter R.A.H. L 27.06.1881).

On May 13th, 1881 the Spanish diplomat asked Brătianu to arrange an audience with Carol I in order to hand him the letter from Alfonso XII (A.M.A.E. 93 1881: p. 316). He also added a copy of the letter and a transcript of his presumed speech. Alfonso XII's letter dated in April 28th, expressed, in the usual tone of diplomatic courtesy, good wishes, congratulations for the important event in Romania's process of modernization and the desire to establish even closer ties between the two nations. "Without being given to me a better opportunity, Alfonso XIII wrote, to demonstrate Him the interest I have in His Person (Carol I), I instructed Don Juan Pedro Aladro, former deputy of the Cortes, to submit this letter to HM and to express my sincere congratulations and at the same time the warmest wishes for the glory of His kingdom and the prosperity of the Nation whose destinies were entrusted by Providence to HM. I believe this memorable event will forge even closer the ties of sympathy that so happily exist between Spain and Romania" (A.M.A.E. 93 1881: p. 317).

In another letter, Aladro used flattering words towards Romania and its Sovereign, preparing a way into the diplomacy of Bucharest. Soon, Dimitrie Brătianu thanked him for his statements and assured him his Government wanted to tighten the blood ties and friendship between Romania and Spain. He also insisted it was necessary for Spain to be represented in Bucharest and also Romania in Madrid (A.M.A.E. 10/A 1, 1881: doc. 2).

In early June 1881, the Government took actions in this regard, as it intended to ask the Romanian Parliament for funds to create a Legation in Madrid. Vârnav-Liteanu, the Romanian Minister in Berlin, notified his intention to Count of Benomar, a *connoisseur* of the Orient situation, and asked him to support the dialogue between Madrid and Bucharest (R.A.H. Corespondecia..., 1881: p. 137).

The Spanish representative in Berlin took his role seriously, given the fact he gathered information about Romania from his mission in the previous year. He contacted his Foreign Minister, Vega de Armijo, and exposed his arguments for the appointment of a reputed diplomat in Bucharest. From the beginning he stated that in the absence of instructions given from his superior, during the conversation with Liteanu he did not approach the matter of the rank for a possible Romanian representative in Madrid. Moreover, he revealed Romania had Envoys Extraordinary or Ministers Plenipotentiary in the main European capitals, but in Brussels and Athens there were just Resident Ministers. He, therefore, warned Spain couldn't accept a lower rank to the ones from Belgium and Greece. He added that in reality, the most appropriate would have been an Envoy Extraordinary and Minister Plenipotentiary, a rank more suitable with the international status which the Count gave to his country.

His opinion was based on the belief that the presence of a such representative would also be an advantage for Spanish interests. "Nowadays, Benomar wrote in a letter to Vega de Armijo, June 13, 1881, Bucharest is a very important diplomatic capital and

an observation center of the Eastern Question, better and more interesting than Constantinople. A diplomat with experience in the Romanian capital could give to H.M. Government very useful reports" (R.A.H. C. 1881: p. 138).

To support his statement he gave the example of the Great Powers who were represented by diplomats with a vast career and whose intelligence was widely recognized. He listed the most important foreign diplomats in Bucharest, specifying for each the positions previously held. In accordance, sending a Spanish diplomat was not a simple act of courtesy, but one that had a huge significance in Europe's eyes, and at the same time, bringing benefits to Alfonso XII foreign policy. The infiltration of Madrid's diplomacy in the Balkans was for him the equivalent of leaving "the absolute withdrawal in which we find ourselves concerning the Eastern Question, and it is possible that more than once, our opinion to be consulted in Bucharest, where it will be decided whether the Balkan Peninsula will be slavish or not in the future" (R.A.H. C. 1881: pp. 139-140).

Therefore, he appreciated that the first Spanish representative in Romania had to have an equal rank with the representatives of the Great Powers and, through his experience and magnitude, to have the appropriate status of an Envoy of Spain. He reached this conclusion by analyzing the example of Belgium who accredited in the Romanian capital an Envoy Extraordinary and Minister Plenipotentiary, without enjoying reciprocity. Finally, he warned that Bucharest was a very expensive city and thus the Legation should be well equipped, (R.A.H. C. 1881: p. 140) which meant an exhausting effort for the Spanish budget.

Unfortunately, the Foreign Minister not only didn't take into account the recommendations of Benomar, but also didn't even announce him the decisions concerning the opening of the Legation in Bucharest, although theoretically he had intermediated its foundation. On June 23, 1881, due to the desire of Alfonso XII to regulate from his part the diplomatic relations between Spain and Romania, Vega de Armijo requested Eugene Stătescu, the Romanian Foreign Minister, the approval for Juan Pedro de Aladro's accreditation as Chargé d'Affaires. It was noted that the zeal and distinguished personal qualities of the diplomat outlined the perspective of a benevolent reception from the Romanian authorities, while providing credibility in accordance with the instructions sent from Madrid. The Foreign Minister said that the main purpose of these instructions was to identify the best ways of strengthening and development of mutual relations (A.M.A.E. 10/A1 1881: doc. 3).

In his reply from July 7, the Minister of Foreign Affairs told to Vega de Armijo the Romanian Government was happy with opening a Spanish Legation in Bucharest, a premise for a closer friendship between Romania and Spain. As it was customary, the Romanian Government declared its willingness to facilitate the mission of Juan Pedro de Aladro (A.M.A.E. 10/A1 1881: doc. 4).

Although there were rumors in the Romanian diplomatic circles that Aladro would be appointed as Envoy Extraordinary and Minister Plenipotentiary in Bucharest, due to financial reasons, Madrid opted for the rank of Chargé d'Affaires, which meant less spending. It is surprising the lack of communication between the Foreign Ministry and Benomar regarding the procedure of electing the candidate for this office. Benomar was the most well-informed Spanish diplomat from this part of Europe. The Romanian Ministers in Paris and Vienna were aware of the possibility of Aladro's appointment a few months before it happened. Instead, the Spanish minister in Berlin was later

informed by a letter of Vega de Armijo that the establishment of the legation was a "fait accompli".

The Foreign Minister initially described the reasons, primarily financial ones, which have qualified Aladro for the extraordinary mission occasioned by the proclamation of the Kingdom. Then stated the Romanian Government agreed with the establishment of a Legation in Madrid, where a Minister Plenipotentiary would be named. But his ministry had no funds to ensure the reciprocity of such a gesture, being very difficult to increase costs and Aladro had to be somehow rewarded for his generosity. The Minister clearly stated until the Cortes voted a fund increase to extend the representation in Bucharest, Spain had to be satisfied only with a Chargé d'Affaires. Anticipating Benomar's distress that Spain had an inferior representation compared to other small Powers, Vega de Armijo suggested some viable solutions in the future: either Aladro came before the Cortes and plead his cause, getting promoted to a higher rank, or in case of establishing a plenipotentiary office another person should take the post (R.A.H. L 27.06.1881).

Benomar's disappointment caused by the fact he wasn't informed and his advices weren't take into account is observed from the answer to his superior, where the topic of the opening of the Legation was minimal treated, unlike the letters where he exhaustively approached the issues related to Romania. Although Madrid didn't ask for his opinion, he tried to justify his involvement in the appointment of the Spanish representative by saying he believed his duty was to supply to Armijo all the data he personally gathered about Romania during his stay in Bucharest. The Count showed some confidence in Aladro's diplomatic capabilities, stating "if he works hard, he can make a beautiful campaign in Romania, because there, as you know some aspects of the Eastern Question are better revealed, aspects which are unknown even in Constantinople". In the same letter, the Spanish Minister in Berlin declared that King Carol I had intended to appoint a Plenipotentiary in Madrid, but he reconsidered after an agreement with the Spanish Government (R.A.H. C. 1881: p. 157).

The economic difficulties had further negative effects on the actions of the Spanish diplomacy. A year later it was seen facing a dilemma regarding the opening of a Legation in Serbia, proclaimed also Kingdom. The Foreign Minister deplored the limited resources that had led to an inadequate endowment of the Spanish Legations (R.A.H. L 03.03.1882).

The lack of funds made it difficult to send a representative of Alfonso XII in this state, also considered a good point of observation regarding the Eastern Question. The Serbian Envoy Extraordinary and Minister Plenipotentiary to Berlin, Milan A. Petronievici, during a visit in Bucharest in early 1882, talked to Aladro about the possibility of accrediting the Spanish diplomat both in Bucharest and in Belgrade. Finding out about this projects from Petronievici, Benomar wrote to Vega de Armijo trying to discourage such attempts, considered harmful to Spain's image. Among the reasons that explained his attitude, was the tension between the two neighboring countries. "(...) Bucharest and Belgrade are the centers of two tendencies eagerly opposed, who fight in the Balkan Peninsula and certainly one of our Ministers that would be well seen in Bucharest for that very reason it would not be in Belgrade" (R.A.H. C. 1882: p. 77).

Benomar's opinion was shared by Vega de Armijo, who informed him until then Spain had not been formally notified of the creation of the Kingdom of Serbia. He was aware of the animosity of the two neighboring countries, saying he never took into

account the appointment in Serbia of the Spanish representative from Romania. Instead, he proposed considering the low budget and the geographical proximity of Romania to send Aladro on a mission in Belgrade after the notification of proclamation of the Serbian Kingdom, while making a substantial saving for the Spanish budget (R.A.H. L. 27.03.1882).

Six months after the Spanish Legation was established, the Romanian Minister of Foreign Affairs submitted to the Council of Ministers a report outlining the Romanian options had to meet this "act of courtesy and to contribute from our part to maintain the most cordial relations with a blood-related nation". The first option was to accredit the Plenipotentiary Minister from Paris in Madrid, and the second, the best in terms of diplomatic etiquette, was to appoint a Chargé d'Affaires in Spain. Unfortunately, the whole matter was conditioned by the financial resources of the Romanian authorities. However, Eugene Stătescu observed the first option required also a considerable monetary effort: the travel and cost of living expenses in the Spanish capital, the chancellery's rent, the salary of a secretary, at least Class II. According to these arguments he suggested creating a post of Chargé d'Affaires in Madrid. The Council of Ministers approved Stătescu's report in March 1882 (A.M.A.E. 82 1882: pp. 10-17). However, neither this time a Romanian Legation was established in Spain.

Instead, Madrid continued to show its good intentions and increased the representation in Bucharest, Aladro being elevated to the rank of Resident Minister in March 1883 (A.M.A.E. 10/A2 1883).

After Cánovas' short stay in power between 1884-1885, Sagasta and his Liberals returned for another term during 1885-1890. Alfonso XII died on the 25th of November 1885 from tuberculosis leaving behind a pregnant wife, Maria Cristina, who had to assume the role of Regent until her son reached adulthood. To strengthen her position, the chiefs of the two more important parties, Liberal and Conservative, accepting the alternation in power, signed the Pact of Pardo in the eve of the King's death.

The Royal Court of Romania, according to the etiquette, had mourned for three weeks (A.M.A.E. A.I 1885: p. 83). Because V. Alecsandri, the Romanian Minister in Paris, couldn't represent the Romanian Royal Couple at the funeral in November 1885, the diplomat Alexander Plagino and C.N. Nanu, the Secretary of the Romanian Legation in Paris, were delegated. Plagino met with Segismundo Moret, the Spanish Foreign Minister, with the Queen Regent, foreign diplomats accredited in Madrid, and with politicians. In the report of the mission were recorded his impressions about Moret and the Queen. The Foreign Minister was described as a punctual person, "nice, warm, brilliant in appearance, and in conversation".

He received Plagino kindly, speaking nicely of our country. The Romanian diplomat stated an unique fact. Moret showed him Romanian newspapers, which he claimed he can read and understand. Possibly they were provided by the Spanish Legation in Bucharest, revealing the interest of the State Minister for Romania. He was struck by Maria Cristina's appearance that of "a great and rare serenity, totally confident" and having "a freedom of spirit that surprises". Coincidentally, the audience took place in the same room where he was received before during his mission of notifying the Romanian Independence. The Queen recalled that very moment. She expressed her admiration for Elisabeta, whose evolution she watched carefully. Plagino confessed his surprise felt at hearing her speak about the Queen: "(...) She even described H.M. Elisabeta's daily life, Sinaia, Peleş, the wanderings in our Forests" as if "those things were made yesterday: and yet she repeated that only once she had the

satisfaction of a meeting; I spoke to H.M. of the fact that our Queen identified herself with our genius, was inspired by our country's traditions and legends. H.M. Cristina, who had spoken with my German and Italian predecessors in their language, expressed the regret of not knowing our language" (A.M.A.E. A.I. 1885: pp. 89-90).

Plagino detailed the main moments of the funeral Mass, commemorated in the biggest church of Madrid and attended by 30 bishops and archbishops. In the first rows there were four princes. Then followed the Extraordinary Ambassadors and in the third row the Envoys Extraordinary. As a sign of Spain's consideration for Romania, Plagino was seated "before the Turkish Envoy". Regarding the political atmosphere, Plagino considered that, currently, the Government was "able to counter any eventuality". He discussed, it seems, with E. Castelar, former President of the First Spanish Republic, about his republican ideas and the possibility of overthrowing Maria Cristina. He declared that after the wave of sympathy for the woman who lost her husband passed away, "the stranger would leave his country on the same path indicated by Amadeo" (A.M.A.E. A.I. 1885: 90-91), words that didn't come true.

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Western Societies and the fight against terrorism and hate crimes

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Abstract

In our days, the international community is confronted with a terrible challenge, terrorism, which had and continues to have important consequences on Western societies. The importance of government action in the countries involved in the fight against terrorism grows every day, from it, depending the evolution of societies, national and international institutions, the economy, businesses, to the daily lives of people.

Lately, terrorism has evolved from an irrational act to a rational sabotage and hate crimes, an alternative form of conflict. We can say that terrorism tends to become an international concept, its meanings turning it into a global risk for all the societies in the world.

Our research seeks to show how government policies change after terrorist attacks, such as the use of “legal, economic, political and social instruments” in institutionalizing the fight against terrorism, public perception of the authorities involved in anti-terrorist fight, which institutions are most trusted and how civil society perceives its security.

Keywords: *terrorism; hate crimes; western societies; global risk; security.*

1. Introduction

In recent years the international community has faced a terrible challenge, terrorism, which has had and continues to have important consequences in our Western societies. The importance of the actions of governments in the countries concerned in the fight against terrorism grows every day, depending on them the evolution of societies, national and international institutions, the economy, businesses, up to people's daily lives.

From 11 September 2001 until today, international terrorism has changed a lot, starting from the objectives, the ways to act in creating terror up to the objectives to be hit. In the 1990s we witnessed the actions of terrorist organizations such as “IRA (Irish Republican Army), PKK (Kurdistan Workers' Party), ETA (Basque Homeland and Liberty)” and so on, after the 1990s, the massacres of 2001 changed all. The new Islamic terrorism (of ISIS, Al Qaeda etc.) has become very active in the world and more difficult to stop.

Lately, terrorism has evolved from an irrational act to a rational sabotage, an alternative form of conflict. We can say that terrorism tends to become an international problem, its meanings turning it into a global risk for all societies. The research on Globalization and tools for the fight against terrorism aims to be an applied and detailed research to identify the “legal, economic, political and social ways” and instruments in the fight against terrorism. The research aims to highlight how

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government policies change after terrorist attacks, how “legal, economic, political and social tools” can be used in the institutionalization of the fight against terrorism, and to detect public perception towards the authorities involved in anti-terrorist combat, in which institutions it has more confidence and how civil society perceives its security.

2. Core of the problem

Western societies are looking for better tools to fight terrorism, even though in recent years globalization and global governments, tried to annihilate it, but without fully understanding or using the importance of legal, economic and political instruments at their disposal in the struggle against terrorism and the institutionalization of it.

Some help might come from authors such as Mona Eltahawy, who in her book “Because they hate us. My story of a free woman in Islam”, Einaudi, in 2015, tells “the double fight that Islamic women must carry forward: the one in the public context, in the front row next to the men against the oppression regimes, and that in the private sphere, where there is an entire cultural and family system to be demolished. From Yemen to Tunisia to Egypt, Eltahawy denounces legislation, news and individual events to tell the “poisonous cocktail of culture and religion” that leads to oppression and hatred of women. Persuaded that no Arab country will ever find peace and balance until it has resolved the female issue” (Eltahawy 2015).

Another very interesting book is that of Loretta Napoleoni, “Isis, the state of terror”, Feltrinelli, 2014, in which Napoleoni “offers the portrait of Isis, whose very name has changed many times, depending on the different conditions on the field and in the media system. Because, writes Napoleoni, “what distinguishes this organization from any other armed group that preceded it and what explains its enormous success is its modernity and its pragmatism”. This new threat is aimed at an ambitious goal: to raise from the ashes of Middle Eastern conflicts not a terrorist group, but a real state, with its own territory, its economy and a huge force of attraction for fundamentalist Muslims throughout the world” (Napoleoni 2014).

A book that analyzes “the political, cultural and religious causes that lead young Europeans to participate in jihad is that of Renzo Guolo, “L’ultima utopia. The European jihadists” (Guolo 2015), Guerini e Associati, 2015.

Khaled Fouad Allam, the greatest expert in Italy of Middle Eastern issues, in his book “The jihadist next door. Isis, Occidente” (Allam 2014), Piemme, 2014, “unravels an intricate skein starting from the history of the first European jihadist who became terrorist in 1995” (Allam 2014). The author traces “the roots of euro-terrorism, entering the psychology of modern Islamic radicalism that uses the Internet to seek consensus and globalize fear” (Allam 2014).

The book by Tahar ben Jelloun, “And this scary Islam”, Bompiani, 2015, the author “talks with his daughter - French of Muslim origins, like many in today's Europe. He explains what Isis is like, how he was born, how he managed to make proselytes among the most fragile young people, bewildered by the lack of work, moral and material misery. But it also makes us reflect on the responsibilities of us Westerners, often indifferent to the serious hardships of first and second immigrants’ generation that populate our cities” (Jelloun 2015). An important contribution is also that of Gianmarco Cifaldi, Social Security in the Adriatic-Ionian Macroregion. Security and social sciences, vol. 3/2015, p. 171-184 (Cifaldi 2015). In this essay, the author presents “the European policies concerning territorial cohesion in the Adriatic-Ionian Macroregion between legal,

economic and political dimensions” (Cifaldi 2015). One of the most important contributions on the “legal and social dimension of the European Union in globalization” is that of Romano Orrù, “The social dimension of the European Union to the test of the global crisis, Milan, Franco Angeli, 2012” (Orrù 2012). There are many foreign contributions on terrorism, globalization and global governance¹: Charles Allen, “God’s Terrorists, the Wahhabi Cult and the Hidden Roots of Modern Jihad”, Abacus, London, 2006; Cristian Barna, “Terorismul. Last solutie”, Top Form, Bucharest, 2007; John Horgan, “The Psychology of Terrorism”, Routledge, London, 2005; Bruce Riedel, “The search for Al Qaeda: its leadership, ideology and future”, Brookings Institution Press, Washington, 2008; Alex P. Schmidt, Albert J. Jongman, “Political terrorism: A new guide to Actors, Authors, Concepts, Data Bases, Theories & Literature”, 2005; Magdalena Brexell, Ulrika Mörrth, “Democracy and Public-Private Partnership in Global Governance”, Palgrave Macmillan, Basingstone, 2010; Nayan Chanda, “Bound together: How Traders, Preaches, Adventurers, and Warriors Shaped Globalization”, Yale University Press, New Haven, 2007; Ken Conca, “Governing Water: Contentious Transnational Politics and Global Institutions Building”, MIT Press, Cambridge, 2005; Claire Cutler, “Private Power and Global Authorities: Transnational Merchant Law in the Global Political Economy”, Cambridge University Press, Cambridge, New York, 2003; Cesar de Prado, “Global multi-level governance: European and East Asian leadership”, United Nations University Press, Hong Kong, 2007; Jean Grugel, Nicola Piper, “Critical Perspectives on Global Governance: Regulatory Rights and Regulation in Regimes”, Rutledge, New York, 2007; Assem Prakash, “Greening the firm: The politics of corporate environmentalism”, Cambridge University Press, Cambridge, 2000 etc.

3. Description of the theoretical phenomena

To give a broad and complete definition to terrorism and an impossible enterprise. Summarizing, it would be “the action of a social actor who uses violence or threat with violence to induce fear in the population and to create pressure on the decision-making factors of that state” (Primoratz 1990: pp. 129-138; Biro 2013: pp. 231-247). The expert F. Legarré proposed, for terrorism, the following typology: “political, criminal and pathological terrorism” (Schmidt 2005: pp. 50-65; Biro 2013: pp. 231-247). The political form is divided into “state terrorism (governments that want to frighten and eliminate identities considered harmful), insurrectional (clandestine groups that attack state institutions to force a regime change), parastatale (attacks by non-state human groups above similar groups to intimidate or eliminate them)”.

“The new terrorism” has been defined as “transnational, asymmetrical, based more on religious factors, global, with militants willing to provoke the adversary great damage, with more loss of life”. If Al Qaeda had and has “cells in the Middle East, Asia and North Africa, these were present until 2001 also in Europe and the United States” (Schmidt 2005: pp. 50-65; Biro 2013: pp. 231-247). The extinct Middle East, from the area defined by American experts, “from Morocco to Pakistan, has been considered the epicenter of terrorism” (Schmidt 2005: pp. 50-65; Biro 2013: pp. 231-247). The common element of these networks “has been identified, by a large part of European and American public opinion, with Islam”. Thus, there is a perception that “religious fundamentalism was the

¹ See the final bibliography.

most frequent motivation for contemporary terrorist acts” (Smith 2002: pp. 72-81; Biro 2013: pp. 231-247). As a typology terrorism can be classified from a “geographical point of view (domestic, international, non-state, sponsored by the state, fratricide); from the objectives (political, non-political, quasi-terrorism, politically limited, state official); from the modes of action (revolutionary, political, nationalist, based on a cause, environmental, sponsored by the state, nuclear, genocidal)” (Schmidt 2005: pp. 50-650; Biro 2013: pp. 231-247).

The new terrorism is a “practice of transnational groups with a religious base, which affects more civilians, but also the compatriots and those of the same religion that the attackers” (Horowitz 2010: pp. 33-64; Biro 2013: pp. 231-247). In the last “few years, starting from the 1980 attacks in Lebanon, up to London, Paris or Barcelona, we can see an increase in the successful suicides attacks that were very successfully spent” (Horowitz 2010: pp. 33-64; Biro 2013: pp. 231-247). Globalization as a phenomenon is not a new thing (Horowitz 2010: pp. 33-64; Biro 2013: pp. 231-247). It has existed from “historical times, from the first attempts of human communities to cross the borders known through trade, geographical discoveries or territorial conquests”. “Attempts to regulate these inter-connectivity are of recent date”. As a phenomenon, “the Government was developed later than globalization” (Chanda 2007: pp. 21-27; Biro 2013: pp. 231-247). Today, “globalization is promoted by more than 65,000 multinationals that make up the global market along with international peacekeeping forces, humanitarian aid workers and environmental protection activists”, etc (Biro 2013: pp. 120). The presence of the “clear signs of globalization and the creation of informal rules to regulate certain sectors have not accelerated the formation of global governance”. In “1948 the World Health Organization” (World Health Organization, WHO Constitution, 1948) was created together with the GATT (General Agreement on Tariffs and Trade) (Biro 2013: p. 120).

The absence of “technical rules in the current situation would prevent a large part of global trade. Despite these successes, the global government has continued to encounter obstacles. The acceptance of de technical rules were necessary to continue economic development” (Tehrani 2002: pp. 3-27). Although globalization has shaped reality for centuries, the rules “governing this reality continue to be underdeveloped”. If this has not had “important repercussions in the past, in the current environment of a very inter-connected world, the lack of global rules to organize these inter-connections can have serious consequences, such as the 2008 financial crisis” (Tehrani 2002: pp. 3-27). Globalization “is the phenomenon that causes significant structural changes in societies, involving a number of new processes like massive technological development, demographic aging or facilitating access to education, all these producing permanent changes of values” etc. (Niță and Goga 2017: p. 11). The ordering of sectors such as “nuclear proliferation, the access of the population to drinking water resources or the development of renewable energy is transforming the global government into a key concept that must be clarified. In the context of current transformations in the global sphere, the way in which the authority, legitimacy and right to use the coercive was substantially amended. In Rosenau's view, even if government and government represent systems of leadership and reference to behavior in the international system that support human activities, they are not synonymous” (Rosenau 1992: pp. 1-30; Biro 2013: pp. 231-247). The global government does not “hierarchize the actors involved in the global political process, the state is important the same as non-governmental organizations (NGOs), trans-national companies or global civil society actors” (Witman 2009: p. 64;

Biro 2013: pp. 231-247). In today's globalization, it is necessary for the global government to take a stand against the new international terrorism through the instruments it has at its disposal (juridical, economic, political and social) (Witman 2009: p. 64; Biro 2013: pp. 231-247). The most important perhaps and the legal one. All important decisions taken at the global level must be subject to the principle of the laws and norms of international law. The essence of international law is its international existence, therefore with jurisdiction over a plurality of states or in places not regulated by national laws, such as the sea (regulated by the United Nations Convention on the Law of the Sea) and the cosmos (Biro 2013: pp. 231-247). International private law often refers to the "discussion of economic and commercial issues that may fall under international commercial law, regulated by appropriate international treaties and by UN bodies and supranational bodies such as the European Commission and the European Parliament. The fight against terrorism, through international law, could be launched through the International Court against Terrorism, a proposal from Romania and Spain that also has the support of Holland. From the economic point of view, the fight against terrorism could be started with a more effective control of economic and financial resources, thus avoiding that money reaches terrorist organizations" (Biro 2013: pp. 231-247). Even closer monitoring of energy resources, such as oil or gas, could diminish the incomes of terrorist organizations, especially those in the Middle East that rely almost entirely on oil resources. Even multinational companies could more closely control that their funds and their resources are not channeled into intermediaries by terrorists. Special attention should be given to companies that "produce and market armaments, as well as some states that sometimes sell without knowing the final destination of their products" (Biro 2013: pp. 231-247). As for the political instrument, the possibilities almost always depend on political will. For example, to implement the proposal by Romania and Spain concerning the International Court against Terrorism we should unite the political will of the European Union and other important actors in the international community. The political factor is the one that also decides on international legal and economic regulations with important consequences in globalization but also in the fight against terrorism. From a social point of view, it is up to non-governmental organizations (NGOs), civil society and ordinary people play their roles against this scourge. From the already consecrated actions of the highly esteemed NGOs such as the International Association of Criminal Law, the Coalition for the International Criminal Court, the ASSER Institute, the Clingendael Institute etc., we can support civil actions to inform people how to act and react in cases of terrorist attacks, how to act in the civic spirit also to prevent abominations.

4. Conclusions

One of the most important actors in the fight against terrorism, even if sometimes it is not realized, is the same population. People depend on society how it works in the most difficult cases it confronts. In globalization, social media play a crucial role in the dispersal of information, and the people who can intervene and stop "the propaganda dispersal of the different groups that intend to recruit innocent people" (Biro 2013: pp. 231-247) for their destructive goals. Perhaps the most important part of the population's role is in which, in situations, in the most difficult conditions of their daily life, people must show unity against evil, against hatred and against intolerance. Another very important way of not giving in to the fight against terrorism and that in which people have to demonstrate that, despite the evil done by the horrible attacks, their lifestyle, their daily life does not change,

because one of the objectives of these horrible acts is precisely to put fear and determine a change in the way of life and "corrupt" democracy. As a final objective of the research, the thesis will try to propose the institutionalization of the fight against terrorism. The relevant conclusions and practices extracted from qualitative and quantitative research will help to improve the objectives of national and international legal policies against terrorism and also to provide theoretical support for founding the International Court against Terrorism by establishing clear objectives, its attributions, its composition, skills, relationship with other national and international legal institutions and its internal organization etc.

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Corruption as a threat to the social security

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Abstract

Since ancient times, corruption, was a widely known crime, but nowadays has become a threat to the social security. Corruption is a social phenomenon, being the epicenter of economic, normative and moral derangements, the decrease of the feeling of solidarity and the weakening of the social control mechanisms. There are many definitions of corruption. Its broadest meaning is to use it abuse of the official position for a personal gain. This article is presenting the definition of corruption, but it also analyzes the structure, features and models of corruption. On the second part, the present material analyzes the phenomenon of corruption in Italy and presents the main legislative aspects of this country.

Keywords: *corruption; Italy; law; organized criminality; social security.*

1. About the phenomenon of corruption: structure, features and models

Corruption is a social (but also antisocial) phenomenon, being the epicenter of economic, normative and moral derangements, the decrease of the feeling of solidarity and the weakening of the social control mechanisms (No justice 2008).

The sources of corruption are fueled by the perpetuation of poor economic, political and social structures that are unable to mitigate economic difficulties, social conflicts and tensions, economic crises and inflation, poverty and unemployment, inequalities and social inequities between individuals and social groups, since only a small part of these causes could be counteracted by social and economic reforms; in many societies, acts of fraud, deception and bribery continue to increase sensitively, corruption becoming a real scourge that strongly undermines the social, economic, moral and political state, although measures have been taken to tighten the system of preventive and repressive sanctions against individuals, groups or organizations involved in corruption (No justice 2008).

From a sociological point of view, the phenomenon of corruption includes all immoral, illicit and illegal activities carried out by various groups and organizations (public and private) and various individuals with leading positions or exercising a public role in order to obtain some material advantages or moral or superior social status, by using forms of coercion, blackmail, bribery, buying, influence, intimidation, etc.

Corruption, since ancient times was a widely known crime, but nowadays has become a social problem. The term "corruption", according to the Italian Digesto, comes from the Latin verb *corrumpo*, meaning to damage, to rot, to undo and, figuratively speaking, to deprave. The Digesto also says that the fundamental concept of corruption stemmed from Greek legislation (Cifaldi 2018: p. 78).

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The organizational structure of corruption is the following (No justice 2008):

- "the corrupt", a function held by a person who bribes, buys, intimidates, negotiates with police, justice, administration, civil servants.
- "the corrupted," a public, political, financial, banking person who can be bribed in favor of the organization.
- "the planner"
- "the executing".
- "the crime planning" department (strategy planner),
- "the department" of internal justice (executor),
- "the public affairs" department (corrupt-corrupt)
- "the coverage" department (trade or industry).

The main features of corruption are (No justice 2008):

- corruption acts must be supported by the internal rules that characterize the organizational culture of the respective social control agency;
- these acts of corruption must be legitimate and justified to every new member of the organization through a socialization process in which the new members learn the norms, values and codes of conduct specific to the respective organizational culture;
- such acts must be supported by members who work and effectively fulfill the organization's goals;
- the same acts of abuse and corruption must be supported at the same time by the dominant administrative "coalition" of the organization.

The main theoretical models of corruption are (No justice 2008):

- the participatory model or co-opting of the subjects on which the social control is exercised, when developing the decision-making policy of the respective social control agency. Once you "co-opt" into the social control agency, the subjects in question can change the organization's (agency) formal goals, making it adopt deviant goals (Ilie Goga 2017: pp. 78-90);
- the "capture" model of social control agencies for the benefit of external users or exploiters;
- the "dominance" model exerted by the internal exploiters of the resources of the social control agencies. This model refers to the dominant administrative coalition of the social control agency, which manages the activity of the institution for its own benefit and which takes advantage of any violation of its aims in order to obtain personal benefits (No justice 2008).

Corruption must be punishable in order to create an example in society and discourage people to try (Ilie Goga 2015, pp. 183-194), but the way for states to this path is long and difficult, given that corruption often reaches the highest levels of structures states.

2. The notion of corruption

There are many definitions of corruption. Its broadest meaning is to use it abuse of the official position for a personal gain. Investing in a job official is an act of trust by which a person acquires the authority to act on behalf of a private, public or nonprofit institution. Corruption means the imposition of an illicit price for a service or the use of power conferred by the function to promote illicit purposes. Corruption is manifested through acts of omission or committing. It may involve legal or illegal activities. It may appear inside an organization (for example, embezzlement) or outside (for example, extortion). The effects of different types of corruption are very varied. Although corrupt

acts may sometimes lead to a net social benefit, corruption generally leads to inefficiency, injustice and inequality (Klitgaard 1988, pp. 30-48).

Corruption is considered a form of organized crime (Rădulescu 1998: p. 145), along with drug trafficking, arms trafficking, human trafficking, prostitution and pimping, forgery and use of forgery, money laundering etc.

According to F. Cazzola, three denotative criteria must be taken as permanent features in order to delineate a more precise explanation: legality, public interest (common good), public opinion. Of course corruption is everywhere the violation of legally defended ethical norms (Meny 1995: p. 9 197 apud. Cifaldi 2018: p. 80).

Due to the expansion of economic crime, corruption has become the main way in which power is gained in various countries, not only in the public sector but also in the private sector. From a general perception of several countries, it appears that corruption acts have a direct link with organized crime, but the reasons are not known and the facts do not come from a certain kind of committed act. And in the Netherlands in 2004, various acts of corruption were detected even in customs. Customs officers were suspected of collaborating with criminal groups in view of passing goods and people (Folea 2009: p. 194).

The functionalism in America has pointed out the advantages of a certain amount of corruption in socialist and undeveloped countries: corruption was the necessary key for certain stiff and rusty engines to get started again (Della Porta and Meny 1995: p. 2). Merton, following the sociological and anthropological turn of structural functionalism, came to theorize that the corruption of the political apparatus would help to implement certain functions unattended by official structures, thus coming to the conclusion that corruption could not be restrained, for this would imply devastating consequences on the system's stability. Corruption as a means to compensate for the functional flaws of official structures (Cazzola 1992: p. 482 197 apud. Cifaldi 2018: p. 80).

Integrationist theorists such as Merton have maintained that corruption allowed the humanization of public interventions, making up for the functional flaws of the official apparatus in an impersonal and objectifying contemporary society (Cazzola 1992: p. 484). Corruption is, according to these theories, perfectly able to foster the integration of certain groups in a given social and political system. Otherwise the system's integrity would be jeopardized by these groups' behavior. The economists' approach to corruption is somehow similar to Merton's theorization. Corruption is regarded as a favourable phenomenon for economic investments since it would halve consumption –the entrepreneur would find these occult, illegal practice the best way to develop his business (Cazzola 1988: pp. 18-19 197 apud. Cifaldi 2018: p. 81).

Pareto, as commented by G. Sapelli, gives a different explanation: We have now, on a different scale, a new feudality, partly reproducing the substance of the old one. In those times, gentlemen would gather their horses to go to war and, in case of victory, they would get the war chest. Nowadays politicians, unionists do the same: they gather their troops for the elections, to fight their enemy and obtain the profits of the winner (Sabelli 1994: p. 59). Pareto's passage is a crucial one, for it clearly depicts the factual historical and general form of corruption, especially in contemporary society's political systems. Pareto gives no alternative: the social apparatus of uniformity puts on display the impossibility of finding any behavior which would not be founded on fraud and deception, in politics as in the market. [...] The peoples' ethical conscience is the only thing that would "save us" (Sapelli 1994: p. 60). This is a consequence of conceiving power as a praxis, the ruling class using

two fundamental instruments for its self preservation: force and art, the capacity of politicians held “by the romans and by our contemporaries” (Sapelli 1994: p. 61). Pareto’s position are thus illuminating, in their punctual explanation of what corruption is. He speaks of “demagogic plutocracy”, a new way of administering power which uses money and decorations as its principal instruments. Weber’s theory is just as illuminating as Pareto’s: political and economical corruption is the consequence of the tendency to guarantee the acquisition of goods by groups or individuals, thus establishing a “political capitalism” which is nothing but the reproduction, in modern times, of the medieval class power (Sapelli 1994: p. 56 197 apud. Cifaldi 2018: p. 81).

3. About the phenomenon of corruption in Italy

In 2017, Italy has placed 60th in the Corruption Perception Index (CPI), released by anti-corruption campaign group Transparency International (The Local 2017). Only two European countries appeared to be more corrupt than Italy, namely Greece and Bulgaria (The Local 2017).

The latest laws pursuing the goal of fighting and preventing illegal activities in public administration by enhancing supervisory bodies are two: a law passed on November 6th, 2012, n.190 implementing the UN convention against corruption dated October 31st, 2003, and Strasburg’s penal convention on corruption dated January 17th, 1999. Law n. 190 modified the Italian penal code as follows: 1) it increases the penal terms for the crime of corruption; 2) it separates the crime of duress bribery by introducing embezzlement in giving or promising utilities instead of duress bribery; 3) it introduces the crime of illicit influences and corruption among privates; 4) it introduces extra punishments and confiscation of goods for active subjects in bribery and corruption (Cifaldi 2018: p. 81).

The Italian legal system orders the crime of corruption according to sections going from 318 and 322 of the Penal Code. The aforementioned sections contain a complex and articulated discipline, conjured up to fight, as Vassalli wrote, one of the gravest phenomena “of disgregation of the State and of the social order” (Cifaldi 2018: p. 81).

These very sections enlist a number of hypotheses for corruption, as follows:

Corruption for the performance of duties. More specifically, n. 318 quotes: the public officer who, to perform his duties or power illegally receives, for himself or a third party, money or other goods or accepts a promise, is punished by a prison term ranging from one to five years:

Corruption for an act contrary to official duties, also with aggravating circumstances,

Corruption in judiciary acts

Embezzlement in giving or promising utilities

Corruption of a public officer

Punishment for the corruptor

Instigation to corruption

Embezzlement, concussion, corruption and instigation to corruption of members of the EU and Foreign States and its functionaries (Cifaldi 2018: p. 82).

Corruption, according to the Italian legal system is therefore a necessary collusion type of offence, consisting in a criminal arrangement, *factum sceleris*, with commodity of the functional activity of public administration as its main object (Fiandaca et al. 2002: p. 219 apud. Cifaldi 2018: p. 82).

The Code distinguishes between proper and improper corruption. Proper corruption happens when the commodity concerns an act which is contrary to official duties, while improper corruption occurs when the commodity has for its object an act which is in conformity with official duties. Corruption is also antecedent or subsequent (Cifaldi 2018: p. 82).

Antecedent corruption happens when the retribution is established before the act and with the purpose to perform it (Fiandaca 2002: p. 220). On the other hand, subsequent corruption regards an act that already took place (Fiandaca 2002: p. 220 apud. Cifaldi 2018: p. 82). According to the authors, Fiandaca and Musco, the legislator considers proper corruption as a more serious offence, since the commodity has for its object an act which is contrary to official duties. On the other hand, improper corruption expresses an attenuated non-value (Mirri 2008: p. 3 apud. Cifaldi 2018: p. 82).

Part of the juridical theory maintains that corruption should be divided into two different crimes: active and passive corruption. Other theorists holds that the two subjective positions should be unified in a multi-subject offence. On a structural plan, corruption is a figure requiring, to be enacted, two or more people (Mirri 2008: p. 3 apud. Cifaldi 2018: p. 82). Leaving these different theoretical approaches aside, the most relevant distinction is that between proper and improper corruption (Cifaldi 2018: p. 82).

The “public officer” is the active subject of proper corruption. Moreover, according to sec. 320 -1, active subjects are also “any person in charge of public service” and according to sec. 321, “the private person” (*estraneus*). If one considers the definition of “public officer” given by the Penal Code, corruption involves all public officers, from low rank employee to managers (Cafferla 1992: p. 36 apud. Cifaldi 2018: pp. 82-83).

Apart from penal theory, the range potential active subjects widens notably, including those who hold power in a given society. Of course parts can be exchanged on various levels, when corruption is acted. The essence of corruption as the act of receiving or accepting the promise, for oneself or for a third party, of money or any other utility, remains unaltered. The position of the subject in the dynamic of the corruptive act can vary. Criminal conduct is enacted when the intraneus receives or accepts the promise, and the extraneus promises money or any other utility. The notion of utility is a broad one, and it has been broadly interpreted (Cifaldi 2018: p. 83).

Corruption demands at least two actors. According to the political economy approach, as Rose Ackerman stated, single episodes of corruption are the result of the meeting of two individuals who, on the basis of a cost-benefit ratio, decide it more convenient for them to pay and receive a bribe (Della Porta et al. 1994: p. 17 apud. Cifaldi 2018: p. 83). He who is corrupted must necessarily be the agent of another individual (or of an organization), since the main goal of bribing is to give precedence to individual needs in detriment of those of the organization he works for. In order to be suitable for a corruptive act, he who is corrupted must necessarily hold a position of power (Della Porta et al. 1994: p. 17 apud. Cifaldi 2018: p. 83).

4. Conclusions

Corruption is a universal problem, but local government around the world seems to be particularly vulnerable to it. Corruption acts different in size and type. Some are “free professional”, generated by the activities of certain individuals or groups of officials try to take advantage of the monopoly of power through bribery.

Regardless of terminology, when corruption reaches an advanced stage, it becomes deadly; and unfortunately this is the situation in many cities in worldwide. Systematic corruption generates economic costs by distorting incentive measures, political costs by undermining institutions and social costs by redistributing wealth and power to those who do not deserve it.

The disequilibrium between social question and the ability of the system to get back to it leads to a phase of “rebellion”, the followed by one of “innovation” (Magatti 1996: pp. 195-196 apud. Cifaldi 2018: p. 83). “Rebellion” in Italy can be traced back to the seventies, the so called “years of lead” and terrorism, Merton defines rebellion as a form of adaptation which encourages men to abandon their social structure, while forcing them to re-enter in a new type of society. This new structure will imply alienation from the goals established beforehand. Innovation is the “attempt to force and search for alternatives that go beyond the existing institutional order. [...] Innovation is, on the other hand, akin to, and often encompasses, deviant behavior” (Magatti 1996: p.196 apud. Cifaldi 2018: p. 83). In today society, corruption also occurs in the form of tax evasion, which indirectly affects us all (Xhango 2017: p. 46).

A fragmentary social structure and a semi-permanent political crisis gives way to two types of reaction. On the one hand a new bottom-up type of growth is looked for, on the other deviant behavior are fuelled, and they find in corruption and influence peddling its main reference background (Magatti 1996: pp. 196-197 apud. Cifaldi 2018: p. 83).

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Opportunities and risks to worldwide security “connected” to file sharing

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Abstract

During the last years with the impressive advances in digital technologies there has been an exponential growth of the use of audio and video material and of the numbers of Internet accesses at global level. Big amount of data have become freely (or almost) available to users who, more or less ethically, have started to use and share them.

Keywords: *security; file sharing; oportunities and risks; European Union; policies.*

1. Introduction

During the last years with the impressive advances in digital technologies there has been an exponential growth of the use of audio and video material and of the numbers of Internet accesses at global level. Big amount of data have become freely (or almost) available to users who, more or less ethically, have started to use and share them.

The majority of users have followed this digital revolution by legally exploiting the arising opportunities and advantages but a part of them, unobserving the legislative aspects, have breached the laws on "Copyright" in the name of the free circulation of music. In addition there are those who have gone further spreading child pornography and / or luring children on the Net, committing the most vile and shameful of crimes. In this scenario the key role has been played by Internet, the global network that connects an incalculable number of informatics networks, and that has experienced a dizzying expansion. Nowadays we are living in societies of “big numbers and high mobility in which most interactions are not direct but mediated, meaning that they occur among strangers who no longer share a common life experience” (Udangiu 2017: p. 38).

The publication of the first web page dates back to 1991 when Tim Berners-Lee made it accessible to everyone and delivering directly on the hands of end-users the greatest invention of the century.

It was a web page (still existing on w3.org) that explained in text and link what the *www* project really was: the spontaneous adhesion of the users to the project that also determined the connective amplitude of the network itself.

From the initial idea of a sort of "home-based" library, over the years there has been an evolution towards an increasingly interactive and multimedia model. The possibility of obtaining a quick and free access to all types of files was immediately assumed as an indispensable right for most Internet users (De Blasi 2000: p. 82).

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2. Internet and file sharing

Internet, often defined as an a-cephalous entity (Corrias Lucente 2000: p. 256), is self-sustained by the decision of individuals who autonomously decide to connect to each other through common protocols. By removing barriers to access, the amount of information transmitted and exchanged is so large that there is no possibility for an individual subject to verify all of them.

The mutual exchange of files, literally "file sharing", was born to satisfy the above needs and consists in sharing data within a common network; this exchange of information can take place in two different ways: through a server-client network or through a peer-to-peer network.

Using a server-client network, the user connects to a server in order to have access to a database that is essentially a set of information related to the same topic or to several related subjects.

According to this logic, the roles of the two parties are well defined and immutable: the client submits a request, the server queries the database and generates a response that it sends to the client.

The peer-to-peer network arises in contrast to this logic: each node (peer) acts simultaneously both as a client and as a server to all other users of the network.

These "nodes" may differ from each other but, within the group connected on the network, they are all able to both formulate requests and generate responses; in this regard, the peer-to-peer mode seems to faithfully reflect the native spirit of the Net.

This phenomenon was born in 1999 in order to allow the sharing of data between individuals and immediately gave rise to though controversies between users and those who own copyrights on the material exchanged.

The Internet has revolutionized the way people share files, where once it meant physically passing a copy from one person to another, whereas today it can be done simply pushing a button on a keyboard.

For example, an emerging music band can create their own music and share it with millions of people, greatly increasing its visibility.

File sharing is not an illicit practice, but everything depends on the materials that is shared and exchanged. It must be noted that the vast majority of this material is protected even if a different extents.

Today copyright is a global battlefield on which there have been and will continue to be great disputes; not so much on the fundamental principle, for which the author is the owner of all the rights on his work, as on the rights of users who, once legally acquired a copy, can make certain uses and not others (for example, they can not make a copy).

In practice, when we buy a CD, we pay "only" the object and the right to listen to the content, nothing more; the music contained therein is not ours but of the author! (Assante 2008: p. 6).

But with the advent of new technologies, recorders and of digital formats like mp3, the domain on the sector has overwhelmingly passed into the hands of listeners. The issue started to become clear to the music industry already with the advent of audiocassettes.

It was a small but significant "analogical revolution"; ordinary people could copy a vinyl and even extract songs from the album by creating the first form of "personal playlist".

The record companies have in fact controlled the music market until they were able to dominate the copies, then gradually lost their power, not accepting it and in any case trying a strong but vain resistance.

The 1999 Napster case was the first and most evident example of a legal battle for the protection of copyright and involved not only the record companies but also some artists.

This was a surprise because at the beginning those who invented the file sharing had invited the major record companies and the major publishing groups to collaborate, develop and share!

In the following years and until today the majors have never stopped fighting piracy, with increasingly disappointing results, and not resilient enough to recognize that the market had definitely changed.

The music has now assumed a "liquid" form and cannot be constrained by any form of mechanical or digital protection. With the advent of the Internet the dematerialization of music is now definitive, the media have become interchangeable and therefore irrelevant. It no longer make any sense the intimidating messages towards those who illegally download music, nor to spread catastrophic announcements on the consequences of the decline in sales of CDs, because it has been proven that this is only a partial true and the drop in sales it is counter-balanced by a growing consumes of music: people buy less but listen more.

Music is everywhere and totally accessible, even if illegally, to most people and the risk to face to take advantage of it is really low. In addition, the scenario is evolving and today is not needed to download and then somehow to own a song: on the Internet there is everything and music can be heard on demand from the global archives. It is digital technology that has opened this vast range of possibilities. A real revolution because, unlike the old "piracy" of physical cd, today millions of users spontaneously connect on the web to freely exchanges their files. Despite the users are aware that it is something of illegal, the term "theft" has always sounded inappropriate to them. First of all because in file sharing there is no exchange of physical media and, in the alternative, the files are exchanged in a sort of "barter" that morally appears more acceptable. The forms of collaboration and sharing on the web, from P2P to social networks, basically represent a gift given to strangers without an immediate instrumental use (Aime and Cossetta 2010: p. 56); downloading music appears so not much different than listening to free music on the radio or via the web. In a world where many of the entertainment services are free, from radio to TV, from online newspapers to music videos on Youtube and even phone calls via Skype, it seems anachronistic in the eyes of consumers to limit the use of music to the purchase of an object.

A new type of listener is dominating the scene, the on-user (Castelli 2009: p. 11); a user who knows where to find music, how to listen to it, how to share it, how to tell it, overcoming every physical/virtual barrier. The digital nature of content on the Net makes it manageable by anyone. The evolution of technology has in fact enabled the separation of the work from the support and a considerable ease of diffusion of the same, through the most powerful means of communication existing today: the Internet.

However, this instrument has also prompted the consumption of illicit and conducts of dubious legality that affects the rights of the authors. With the advent of the mp3 compression format, the Internet and the Net has become the main node for the dissemination of illegal music. New technologies allow you to distribute and download songs in minutes without needing special skills or overly sophisticated equipment.

The appearance of programs such as Emule and similar on the Internet has made everything even simpler and has allowed a widespread diffusion of digital piracy. Just a few numbers to give the idea of the phenomenon: tips of 10 million active users at the same time, one and a half billion tracks available for illegal downloading, about 20 billion of songs downloaded.

The latest study published by the private company MUSO reveals that in 2017 there were about 300 billion accesses to sites offering pirated content, with an increase of 1.6% compared to 2016.

The report also establishes a ranking of the most active countries: the U.S.A. in first place, followed by Russia, India, Brazil, Japan and the United Kingdom. It comes as a surprise the absence of a country like China (14th place) notoriously accustomed to piracy.

With the rise of P2P networks, the cd market has undoubtedly suffered a heavy loss, also due to the concomitant global economic crisis that does not allow everyone to spend about 15/20 euros for a CD or to buy more than one. The customers end up buying original CDs of established artists and illegally downloading, but free of charge, the music of emerging artists. The theory therefore that P2P is the cause of the decline in CD sales is at least questionable. Despite this, the majors continue their battle claiming a lack of revenue due to the increasingly widespread sharing of files on the Net and the lack of legislative framework to intervene against the downloaders. This claim is further supported by evidence that revenues for majors are larger on the physical support than from the digital download. It should also be noted that the majors have seen the role of intermediary between the artists and the public take off, a role that allowed to manage production costs, the organization of concerts, relations with the press and compensation to the artist in based on certain sales percentages. Today, in fact, the Internet offers the possibility of bypassing "the intermediary" by redesigning new revenue strategies that allow the artist to sell a CD, directly through their website, in mp3 format and give fans extra content and this is all the more appreciated the end users!

Pioneers of this new marketing strategy were in 2007 the "Radiohead", who have left the freedom to their fans to give a cash offer by downloading their album "In Rainbows" for free and exclusively, in mp3 format from your site starting from an "up to you" price (free offer).

Alternatively, for lovers of physical support, it was possible to order a luxury box at the price of 40 pounds which would however only be shipped within a few weeks or wait about two months for the single-CD version. A strategy that went against any law of the market but that would prove to be a milestone in this evolving scenario. Radiohead were well aware that their tracks would still end up on the Internet, so it was better to anticipate the times and maybe earn something; at the end of the operation the band declared that the revenues related to the offers from the download was much higher than what it had spent to distribute every single copy!

The project was based on some basic intuitions that would have proven successful:

- The band was aware that if any fan had contributed, even with only one pound, the project would have been successful;
- It was not necessary to adopt an aggressive selling campaign toward the listener but to attract him with an innovative commercial scheme;

- The interest towards free download would have brought a global visibility, a huge amount of free publicity.

- The sale of the CD was just one of the earning prospects, the live performances and the sale of gadgets and merchandising would have been an integral part of the commercial strategy.

It was no longer just about selling music; the important thing was to win the trust of the public, build a direct relationship, honest, as transparent as possible, involving the fan in a more immersive experience that bouncing forth and back between analog and digital, passing through downloads and concerts (Castelli 2009: p. 143).

But who made up this audience of fans?

Cooper and Harrison, in a research of 2001, have qualitatively analyzed the composition of downloaders sorting them into three distinct groups:

- Leecher: (leeches) are those who seek content without being integrated into the Web;

- Trader: they are involved in forms of organized exchange;

- Citizen: are characterized by made totally available their resources for sharing.

This portrait of users makes us understand how the phenomenon is anything but marginal, and how it represents a social form of organization that goes beyond the world of discography and classic distribution channels. Sociality is increased tremendously through the use of the web and P2P; the download is just the tip of an iceberg that consists of web communities, forums, fan clubs that allow the exchange of materials and news on artists and the world of music (Assante 2008: p. 81).

Another research concerns a survey conducted by Federico Valerio Abiusi, a student of the University of Milan, on social behavior in the use of file sharing and in the musical use of 2009.

From this survey it emerged that 100% of the interviewees would never have bought all the tracks downloaded from P2P networks or at least would have done it only in a small percentage. This data confirms that there is absolutely no exact correspondence between the P2P and the lost of revenues reclaimed by the majors. The possibility of having unlimited access to a huge database stimulates, obviously, the curiosity for the discovery of new artists who otherwise would not gain the attention of potential purchasers.

In fact, downloaders are often real music fans and also the major buyers both in web-stores and in traditional CD shops, surpassing about four times the pro-capita sum spent in music purchases by a non-user on the Net. The overwhelming majority explicitly states that they have increased their culture thanks to P2P because otherwise they would never have had access to many movies or songs!

There are two other aspects to consider:

- The age of consumers.

It emerged that the young public is more prone towards the mp3 format for its enormous versatility.

The physical support resists instead in the age group 40/60 years that is less computerized or otherwise linked more to the collectible charm of the CD.

- Linguistic redefinition brought by Internet and new media.

In the everyday vocabulary have entered many terms, often of Anglo-Saxon origin, but sometimes also neologisms, which today seem natural, but that at the end of the last century would have been not understandable by many: e-mail, download,

torrent, streaming, blog, P2P, mp3, not to mention brands like Google, MySpace, YouTube, Facebook, iPod.

Finally a consideration: today, the possibility of having quickly and freely millions of files on your PC is increasingly legitimizing, for web users, a phenomenon of normalization and acceptance.

The American Internet users in 2012, pioneers in this sense, gave life to the first "strike of the Net" of the web era. Wikipedia, the most famous free digital encyclopedia, promoted a 24-hour blackout to protest against the law under discussion at the Congress, pushed by the lobbies of cinema and music, which included blocking access to sites that "channeled" pirated content and increasing the penalties.

The web platform did it in the most democratic way possible, consulting its users via the web; in 72 hours more than 1,800 Wikipedians met online to discuss the mode of action that the virtual community wanted to undertake, in order to defend the survival of free information as built by volunteers (Gaggi 2012).

Afterwards, 40,000 sites obscured their home pages and another 30,000 (including Google, Facebook and Twitter) posted messages of protest against the law. What is surprising are the effects of the strike: the postponement of the discussion, 10 members of the Congress in favor changed their minds while 19 others, who had not taken a position before, declared themselves against the law! (Luna 2012)

3. European Union and international copyright policies

On the other side of the world the European Parliament's commitment towards copyright deserves a discussion.

In the footsteps of the oldest source of international law in terms of copyright, namely the Bern Convention of 1866 and the following Universal Copyright Convention of 1956, the European Union has always sought to align itself with the signatory states by engaging to take all necessary steps to ensure sufficient and effective protection of the rights of authors.

Each Contracting State may, however, make exceptions to the above-mentioned rights, according to its own national legislation, provided that each of them has a reasonable level of effective protection (Gambino and Falce 2009: p. 137).

However, it must be noted that European directives often suffer from "difficulties of integration and disharmony" when it comes to integration with laws of each Member State.

Italy is known for having difficult and not particularly profitable interactions with the European Union and in particular in respecting the entering into force of directives, delaying their finding and partially adapting them (Giuliani 2006: p. 2).

Political instability in recent years has also contributed to accentuating its problems in this regard. In a micro and macro cooperative context, a more informed parliament would improve the degree of adaptation of the Member State contributing to a unified European political strategy.

The spread of the Internet in the European Community has determined, in addition to numerous positive aspects, a growing concern for the privacy protection, given the frequent phenomena of intrusion into the private sphere (data breach) of the individual compared to those occurring off-line.

Some computer security companies, including Top10VPN, have given details on the rates of stolen information on the black market: a Facebook profile can be worth

up to 6 euros, one on Netflix can get up to 8 while an Apple account over 15. A complete profile, with access to PayPal and a personal email can be worth € 1,200!

If it is true that the online activity of citizens facilitates the spread of social contacts, the use of the Net must not lower the level of confidentiality of the exchanged information.

The personal computer, as well as a means of communication, is an extension of citizens home and therefore their privacy should not be less on the Internet than in the real world. The common perception may be that people are more cautious online than off-line, but in reality it is not so. On the Internet, we tend to accept invasive behavior that would not be accepted off-line, as if the partial loss of privacy was a natural assumption, a necessary evil to accept for being a member of the net community.

The duty of the legislator is therefore that of balancing the various conflicting interests.

Comparing with the United States of America, where the protection of privacy is entrusted to a mix of legislation - administrative regulation - self-regulation, the EU relies on a deeper and more comprehensive legislative framework with precise rules.

This in consideration that the law does not have to regulate and stiffen everything that happens online, but it cannot even refrain from intervening when the rules are not compatible with the sensibility of the community.

In this regard, the European Commission has definitively ratified on May 13, 2014 the "Right to Digital Oblivion" (right to be forgotten by the Net) forcing the search engine Google to delete data of a Spanish citizen Mario Costeja González. In 1998 he had been forced to sell his house at auction to face serious economic difficulties; after the critical phase and in spite he had repaid all its obligations, this unpleasant personal affair was still just a click away on the web.

Of course, Google did not like it, but it has made available to European citizens a form through which you can request the removal of your sensitive data.

Over three and a half years after the EU Court of Justice ruling on the "right to be forgotten", Google has removed one million internet connections. From 2014 to 2017, over 2.4 million requests, 43.3% were accepted with a gradual decline over the years. At the geographical level, the main reports come from France, Germany and the United Kingdom, followed by Spain and Italy. Nevertheless some issues still remain unresolved.

With which criteria will Google decide what to cancel without a real counterpart?

Is it right for a private subject to proceed with such a delicate matter as privacy?

It is worth mentioning a reference to the most interesting and complex case of interpretation of copyright law: CHINA.

Without falling into the easy cliché of the "nation of the false", but without even neglecting the reality, we have analyzed the most hidden aspects of the phenomenon we found out that that the country of ancient traditions does not make an exception in matter of copyright violation.

In ancient China, music was not only a means of communicating sensations, but was also given a moral force, that is, the power to influence people's behavior and therefore the customs of a people.

Music was therefore considered an art to educate young people with a didactic perspective.

It was also invested with metaphysical meanings; it was in fact considered part of a complex cosmological system and from its perfect execution the delicate balance between Heaven and Earth was derived, and therefore, by extension, the stability of the empire. Unlike in the West, whose history of art has experienced alternating phases between splendor and censorship, Chinese art over the centuries has been characterized by continuity. Literature, music, painting have constantly and faithfully followed the footsteps of the previous dynasties; one reason for this is the "respect for tradition" that has always been a pillar in the Chinese culture.

The primary objective of the artist was not the creation of the new, but the imitation, as close as possible to the original of the models of the ancients, therefore not perceived in any way as plagiarism; this vision takes its origins from a conception of the Confucian world that imposes the veneration of the master to the disciple (Jandoli and Bian 2011).

The attention paid to file sharing phenomenon by the media in recent years has mainly concerned the problem of copyright infringement, but this is not the only risk related to P2P: viruses, spam, online scams are just some of the drawbacks of the web . In 2017, 917 people were reported as part of the illegal processing of personal data and of the personal replacement, and 8 were arrested for cyberstalking.

In relation to institutional sites and critical infrastructures, 1006 cyberattacks were launched while, in the context of the fight against terrorism contents at risk on 17,000 web spaces were removed to prevent radicalization. The first definition of "cybercrime" (computer crime) dates back to 1983 and concerns "any illegal, unethical or unauthorized behavior concerning the process of processing and / or transmission of computer or electronic data".

The 2000 Optional Protocol to the New York Convention defines child pornography "any representation of children, regardless of the medium used, involved in explicit sexual activities, real or simulated, and any representation of sexual organs of children for sexual purposes".

The law n.38 of 6 February 2006, which amended law 269/98, introduces the new type of offense of virtual child pornography that "occurs when the child pornography material represents images related to children and adolescents, realized with graphic processing techniques not associated, in whole or in part, with real situations, whose quality of representation makes real situations appear unreal".

On the Internet there are a multitude of websites containing images and videos of a child-pornographic nature and chats dedicated to this subject that can be accessed simply by entering a keyword that is not so secret (e.g. child, sex, hard).

Anyone from all over the world can access this immense database.

The greatest risk inherent in P2P is that of unwanted content, specifically pornography and violent images.

Numerous studies have shown that pornographic images are widely shared on the main file sharing systems and that file names are often voluntarily disguised to deceive those who download them; the filters generally used to prevent access to websites rarely block pornographic files on P2P systems.

Just to give an example, files named "Winnie the Pooh" or "Pokemon", traced on such systems, actually contained pornographic material.

The author of a cybercrime is relatively sure of not being discovered because of the considerable technical capacity required and due to the difficulties in ascertaining the facts (Serra 2000: p. 782).

A feature that differentiates the Internet from other media lies precisely in the anonymity allowed to users that often turns into impunity, with the foreseeable consequences for victims of wrongdoing.

Anonymity can be obtained either by indicating false data in the registration to access the Internet, or in the case of a line shared by multiple users, where the registration allows tracing the computer but not to the physical subject that activated the connection. The practice of sharing files of a so vast dimension that is considered of no use to introduce a general obligation to identify Internet users towards providers! (Corrias Lucente 2000: p. 263).

Interpol has estimated that every year at least 500 thousand new original child pornography images are uploaded online, and there are 550 thousand images of abuse on 20 thousand children.

Child pornography is predominantly a European phenomenon, with 61% of customers and consumers of online pedophilia in fact being European. In particular The Netherlands hosts more than 35% of the reported pedophile sites and witnesses the most significant increase in these materials every year.

Last year alone, 55 arrests were made and 595 people reported and with an increase in online child luring.

Just as the Internet allows fans of a topic and friends to meet and share personal information, criminals like pedophiles and "violent digital" exploit the potential of the web to find victims and give vent to their perverse fantasies.

Hiding behind telematic masks, these people thus have the freedom to express their deviated desires and impulses that are not confessable and that in real life would remain inhibited (Sivilli 2011); invisibility cancels preconceptions, dissolves embarrassments and guarantees greater freedom of expression compared to face-to-face interaction.

Through the Internet, the marginalized person in society, like the pedophile, feels reassured by the anonymity that the medium seems to offer and by sharing the same insane impulses with many others.

The Network also allows the pedophile greater ease and confidentiality in finding pornographic material due to the elimination of the embarrassment of face-to-face contact at the time of purchase.

The influence of new information technologies acts on traditional crime by modifying the classic forms of crime itself, altering the processes of crime perception; in fact, unlike the "classic" crime, within the web there is not an offender identifiable as a person but only a computer that, in some circumstances, can be located.

The most dangerous sites are those of exchange, the so-called peer-to-peer, where a teenager thinks of downloading harmless files (perhaps with the titles of cartoons) and then finds child porn videos, and chats, but also social networks are becoming at risk and ideal for luring.

The chats, in particular, allow close relationships but absolutely unreliable; the profile declared or shown by photos by the interlocutor, in most cases, does not correspond to the truth.

In addition by offering an alleged anonymity, the use of the Internet is accompanied by online disinhibiting first and off-line later; it is easy to fool by writing with a keyboard because at first suspects it is possible to disconnect!

By putting pedophiles around the world in communication, the Internet has offered the opportunity to consider their instincts normal, giving the impetus to validate their sexuality. In fact, realizing that there are many others with similar attitudes reduces the interior conflict, if present, favoring a more relaxed repetition of pedophile fantasies and a possible removal of feelings of guilt, pushing further and further the search for pathological satisfactions.

The presence of pedophilia in social networks, although quantitatively less statistically significant than the diffusion of commercial child pornography, deserves further study due to the evident implications of a psychological and socio-cultural nature.

Social networks are born as communication systems between subjects who share a common interest; by their very nature, therefore, they are well suited to organize the impulses of individual pedophiles in social networks centered on the possibility of satisfying and sharing individual fantasies.

The possibility, for the pedophile, of feeling part of a large community, also diminishes his perception of the social stigmatization of pedophilia and favors the mechanism of self-justification and de-responsabilization, reinforcing the typical cognitive distortions that characterize the subjects affected by this paraphilia.

Who are these "cyber-monsters" and how do they work?

First of all they are people with a minimum of familiarity with the use of new technologies. Obsessively search for pedophile photos and just as easily send them. They use, in chat rooms, nick names only vaguely allusive, decipherable by others like them, for example containing the word "pics" for "pictures", images, or "pret" for "pretty girl".

The emotional alteration, for the excitement and together the fear of being discovered, affects their construction of sentences, the choice of words, the timing of typing.

Numerous psychologists and criminologists have concentrated their studies on these and other elements, thus drawing a profile of the "cyber pedophile " (Strano 2002).

The propensity to collecting (newspapers, photos, DVDs, clothing, files) was the first common feature of the psychology of the pedophile even before the advent of the Internet.

Self-produced material purchased or received in exchange for another analog, also used as an electronic pass, to understand if you really came across a similar person and not in a police officer or a curious.

This material, in addition to being used as a bargaining chip in a communication network between people sharing the same interest, is used to circumvent victims by convincing them that certain acts are normal, given that many other children the same as them (Cifaldi 2004: p. 81).

They show them the attached photos to convince them that these are things that all children do while having fun! And also to blackmail their victims; holding and exchanging child pornography makes involuntary accomplices. Furthermore, the victim's silence is guaranteed by footage of the report during the abuse that, if widespread, would result in unbearable social costs and stigma for the victim.

This phenomenon, called "Grooming" (from English to groom: to take care), consists precisely in luring by adults, through subtle techniques of psychological manipulation, which can also be followed by a meeting in person and true physical abuse.

The pedophile is in general a rather lucid criminal and with a poor perception of the severity of his inclinations: often then manipulation is a mode that they know how to use and that put at the service of a good ability to maintain "epistolary" relations and written conversations, the typical forms of online communication.

Pedophiles are also always profound connoisseurs of the world of children and adolescents and therefore know how and where to concentrate their energies to maximize the probability of obtaining confidence from minor users of the Internet.

What an online pedophile does, is to introduce yourself into the child's solitude, to feed his complaints about family life; it acts in such a way as to distance the child from the parents and take him to his side, attempting an alliance of "us against them".

At the end of this discussion it is worth to reflect on some considerations.

The Internet is a virtual world of various facets; without a doubt, behind the liquid crystals of the screen, you can hide a thousand pitfalls, but avoid unnecessary demonization of the vehicle.

The added value of the Net consists precisely in its communicative power, which derives from the possibility of expressing and spreading one's own ideas, skipping all the constraints and intermediations.

Much is certainly still entrusted to the sense of individual responsibility and, to the extent that it is extremely difficult to impose sanctions, we are still left to mechanisms of self-regulation of the system.

Surely it was highlighted the need for regulatory intervention that ensures a balance between the right to know, the right to privacy and copyright, but the battle for the web, should not be between the law and the anonymous downloader, as both are a consequence of how the market has redrawn the terms of exchange.

The various problems will have to be resolved in some way, but it will be unlikely the intervention of a Court to create the new rules; it perplexes the idea that such a "liquid" matter and without boundaries can be regulated by legal codes.

Perhaps the right path will be that of commercial agreements between the majors and all Internet stakeholders.

When Napster was born for the record industry it was the beginning of a nightmare ... then iTunes was born, until today the most effective weapon against piracy, and people have shown that in the right ways it was willing to pay.

Lowering the prices of CDs and digital downloads, currently, is in fact the best alternative to make the illegal exchange of files no longer convenient.

Will then be the interaction and continuous adjustments between stakeholders and end users to provide acceptable solutions (Pellegrino 2009: p. 159) but each artist will have to find his solution, based on his characteristics, his music and his public.

Starting from the centrality of the fan, enter into symbiosis with him, understand it to offer him what he needs.

4. Conclusions

In the age of file sharing, where everything is just a mouse away, the fan is willing to spend any amount in exchange for emotions!

Moreover, some problems of the Internet should be resolved with a different approach to the repression of individual "crimes" and closer to the world of the Internet.

The economy of the future will be based on relationships rather than ownership, and the works will no longer be detected as a product but as a stream of bits that can be used because of a relationship that will be directly between the author and the user (Pascuzzi 2006: p. 181).

It is possible to conclude that the music that circulate for free is just a background with respect our real interest, that we buy and to which we give the right value.

Those who love music also love objects that have been able to contain it and will always be willing to buy "original" music.

From vinyl to CD each work is associated with a unique, valuable support that no copy can match.

Suffice it to reflect on the fact that, given the high demand, the record companies are also printing vinyl and music cassettes the new musical releases ... and at prices much higher than the cd!

If the mp3 format will inevitably represent, for obvious practical reasons, the future of music, cd and vinyl will remain in vogue thanks to a small audience, loyal to the artist and fetishist towards the physical support.

The digital download will continue to fail in sales given the habit now rooted the user to download.

Despite the controversies over copyright, the conventions and the persistence of the digital divide, the impression is that, over the years, music is freeing itself from the constraints imposed to spread and reach those who know how to welcome it.

The younger generations have understood it and are making it treasure, transforming it continuously into something new.

From a recent study by Luis Aguiar and Bertin Martens (2013) of the Seville EU Information Society Unit on behalf of the EU Commission, the illegal downloading of digital audio files would not damage the economy of this sector.

The research, based on the analysis of the purchasing habits of over 16 thousand European users, found that for every 10% increase in illegal downloads, sales on the legal market increase by 2%!

Most of the illegally consumed music would not have been legally bought in the absence of the same "pirate" channels.

Willy-nilly, nostalgic or not, we must accept that now the anchor has been removed!

Good surfing.

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