B A B E Ș - B O L Y A I U N I V E R S I T Y C L U J –N A P O C A

Faculty of History and Philosophy

Doctoral School of International Relations and Security Studies

DOCTORATE THESIS
SUMMARY

Scientific coordinator: Prof. univ. PhD.

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Postgraduate:

Ion Tudor Felezeu

Cluj-Napoca, 2015

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The idea of law in the European spirituality

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Conclusions

Abstract. *The relationship of law with the social life have represented a reflection subject both for the philosophers and for the jurists for a very long time, because it is in fact the desire of any society to build itself on a certain system of values (Truth, Good, Beauty and Justice) and then, of trying to perpetuate the effort of materializing them, of implementing them into the lives of the people.*

Along the entire paper we have followed these three sets of issues starting from the idea that the value of law which is defining for the human condition followed along the history different ways of structuring and of promotion which were dependent on each people and in very moment of his development.

Even though there is a common inheritance over the European spirit regarding the value of law and its materialization in norms, respectively its application in the act of justice, that we due to the Greek culture and to the Roman one since Antiquity and to which Judeo-Christianity is added. From their interwining was born a certain understanding of the nature and role of law, of the value of law, as a fundamental value along with the Truth, Good and Beauty.

Our analytical discourse debuted through an analysis of the value of right from the perspective of its relationship to law. The reason for such an approach is that we cannot talk about right and ignore the law, especially when the stakes of the research belong to the axiological spectrum. Hence, we intended that the reference to the element of law to confer clarifying benefits for the analysis of right as a value.

Keywords: political identities, the theory of identification, political agents, mass media, manipulation, european identity

Mass media has an important role in structuring the political identities. As some authors showed, mass media is very important in any democracy; its presence in the social life can determine changes in the cultural values of the public life, both at the level of the attitudes and to the level of the behaviours.

The relationship of law with the social life have represented a reflection subject both for the philosophers and for the jurists for a very long time, because it is in fact the desire of any society to build itself on a certain system of values (Truth, Good, Beauty and Justice) and then, of trying to perpetuate the effort of materializing them, of implementing them into the lives of the people.

In a work consecrated to the fundamental principles of a legal philosophy, Eugeniu Speranţia argued that, “by extorting ourselves from the ruts of the instinct and of the brutal

enforcements, law is an instrument for spiritualizing humanity" in the sense that through itself can be introduced the law of the reason in the human activity[1].

Hence, understanding the role of law in the society means the resolution of three types of issues. The first one takes rise from what Speranţia calls the transcendental character of law which means that beyond the varieties of achievement, in different places and times, at different races and social lives, the idea of law is not absent from any man so, "from any people no matter how primitive it mind would be and no matter how arbitrary would be the management of life", "the desire of law, the need for justice is unanimous"[2].

The second type of issues refers to the "research of the external influences, which are extrinsic, and that the elaboration of juridical order suffers on behalf of the historical conditions", meaning on behalf "of the different factors of the social life, anthropological, geographical, as are ideologies, beliefs and conceptions which are spread in a society, group interests or general interests.

The third type of issues desires to establish the ways in which the functioning of a certain law in a society can be accomplished, for the progressive spiritualizing of mankind, for introducing in the peoples' lives the value of law and of materializing the norms that make it concrete.

Along the entire paper we have followed these three sets of issues starting from the idea that the value of law which is defining for the human condition followed along the history different ways of structuring and of promotion which were dependent on each people and in very moment of his development.

Even though there is a common inheritance over the European spirit regarding the value of law and its materialization in norms, respectively its application in the act of justice, that we due to the Greek culture and to the Roman one since Antiquity and to which Judeo-Christianity is added. From their interwining was born a certain understanding of the nature and role of law, of the value of law, as a fundamental value along with the Truth, Good and Beauty.

Presenting the evolution of the relationships between law and society was related to the great historical eras, because the changes of the meanings given to the nature and role of law also took place in relation to the general social structures, to the specific power relationships and also to the dynamic of the spiritual life. To this effect we kept in mind the idea of R.

[1] E. Speranția „Principii fundamentale ale filosofiei juridică", Institutul de Arte grafice„Ardealul" Cluj, 1936, p.8.
[2] Id., p. 14

Jhering according to which there is an objective sense of the value and notion of law, that he researched in "The spirit of the Roman law" and which designates the way in which a society invests a certain content to the idea of law which to ensure itself the maintenance of its identity and of its balanced functioning[3].

On the basis of this spirituality a subjective law is being built, an ensemble of norms which are, according to E. Speranția "an emanation of the type of society", meaning "of the civilization", of the "group"[4].

Starting from these premises we searched to highlight the relationships between law and social life of the great historical eras, considering that for the European culture and civilization Greek, Roman and Judeo-Christian roots which were founded in Antiquity are essential.

The juridical culture of Ancient Greece was built through the elaboration of the juridical values and norms in the Cities which through law asserted their identity. Even though each City had its own Constitution as a political and juridical act which to consecrate its own interest given to the norm of organization and general leading, Aristotle could subsume the most essential features of a rate-setting which to respond to some general demands of law and which to generate a justice, a specific application. In fact, Greek civilization emphasized the idea of the degree of generality of a legal norm and so the possibility of finding common elements in different juridical systems too, as a way of building some norms of law which are valid in a wider social framework.

As far as the establishment of some norms which are common to the systems of law must be related with the will of the political power we must refer to the efforts of legislative unification, which we can say that they are a permanence of the European history. M. Gagarin argues that in Greece the law "nomos" was so important that it expressed a way of life, a way of being of the City, and for some authors a handbook for serving in the interest of the City and of its identity[5].

For the Greeks of Antiquity Right, along with Truth, Good and Beauty were supreme values in which they had to believe and which were meant to be lived so Right and Justice could not separate from the moral values and they had to relate to the Truth. This obliges the collective intelligence of the City to abandon improvisation and sentimentalism in order to transform the rule of law into a rational construction.

[3] George Mousourakes, "Roman Low and the Origins of the Civic Low Tradition", Ed. Spronger, Dordrecht, 2015.
[4] E Speranția, op. cit., p. 81.
[5] M. Gagarin, P. Woodruft, F. Miller, „A. History of the Philosophy of Law", vol., 6, op. cit., p. 22.

Should it answer to the general interest, it is rationally built, the law reflects the demand of truth of the peoples' lives, and through the contribution of the political power it can be considered compulsory for all the members of the City.

Through Socrates and Plato European spirituality wan the idea of the need for obedience by law, of the respect for the property, for the freedom of the other, because they emanate for the nature's laws themselves. Laws are different because they are built on different cultures which makes that the value of Right to find its materialization in different norms and especially in different forms of application, because justice is one thing and law is another.

Hence the idea that the law must aim at a more comprehensive universality and to take the form of an uncontested expression (the law must be written in order to have endurance and to be invoked as an argument).

The second root of the European spirituality was given by the Roman culture in which right had a clear preeminence. Since the formation of Rome in 753 B.C. until the fall of the Byzantine Empire in 1453, the Roman Empire never stopped to offer thinking about right and justice perennial expressions which could be found in distinct formulas up to nowadays.

Roman law was related, on the one hand, on the needs of rate-setting of the society (giving the rights of the person, of property, of contract and of exchange) in what was called private law, in what was the relationship of man with the society, and on the other hand, to the public law and to what was the relationship of the City with other cities, to what later became the international public law. Hence, we owe Rome the clear structuring of the great fields of law with the stipulation of the content of each branch. The stoics, Cicero, Epictetus, Seneca, Marcus Aurelius refined with their philosophical arguments these components of the system of law.

We mentioned the fact that the evolution of the relationships between law and society was also marked by other orientations, as were the ones grouped under the name of Hellenists, epicureans, paripatetics but the strongest seal belongs no doubtfully to the Judeo-Christian culture[6].

To a Middle Age which was characterised by the social and political disruptions also corresponded a disruption of the systems of law, which imposed a codification process, of search for the common elements, which enhanced the European spirit.

[6] Fred D. Miller, Early Jewish and Christian Legal thought, in: M. Gagarin et all., op. cit. p. 166.

Andrea Padovani shows that along with Christianity man and society are seen as realities which produce ideas that have their source within Divinity. So, Antiquity and Justice are from God and giving them life means respecting His will[7].

The influence of St. Augustine is important for hundreds of years of Christianity through the idea that the City of men must get close through law to the divine city. The glossators from the University of Bologna worked according to this philosophy. But about as important as this is the philosophy of Thomas de Aquino for whom, within the Aristotelian spirit, benefiting from the winnings of logic and dialectics, law is produced by people, applied by them because it is the expression of the freedom gave by God, to which people have the responsibility of respecting His precepts. Hereby Thomas opens the way on which modernity will build the idea of the natural law and of its reflection in the positive law built by the legislator. Modernity will accentuate the role of the law in establishing the limits of the freedom of human action, in dependence on the state of a society (Montesquieu). A social contract – according to Rousseau – could create the premises of a system of law which to answer the needs of the nation; and the breaking of the norm must be followed by a punishment, rationally established, as Beccaria believed.

In the modern era and then in the contemporary one the role of law, seen as a system of norms which regulates different fields of the social, internal and international life, will be asserted in a doctrinaire manner (in the sense of relation to certain political and juridical doctrines) and it will built on more and more clearly specialised branches up to nowadays (commercial, financial law, etc.) or (private, public) international law which will be extended with the debates on human rights. From positivism to the analytical philosophy, from ius naturalism to the theory of pure law (H. Kelsen) will manifest different conceptions regarding a better relationship between law and the real problems of the society.

But what must be noticed, with reference to this relationship between law and society is the permanence of the idea of law as value, as a substance of a culture and so, of an axiology. Hence our attention towards this subject into an entire chapter or our paper.

According to the title of the paper itself, the stake of the second chapter was to investigate and elucidate the axiological meanings of the value of law in the European culture. In other words, we wanted to retrace the path of the concept of law from the perspective of a general theory of the values. Given the nature of the aim of our research, the content of the chapter was ensured with consistent footnotes from the philosophical resources. Hence, the ideatic

[7] A. Padovani, Theology and Law, in: A. Padovani, P. Stein, M. Lobban, A Treatise of Legal Philosophy and General Jurisprudence, vol. 7, op. cit., p. 61.

consistency of the chapter was philosophically founded and, we hope, it is in condition to highlight both value dimensions of the law.

The structure of the chapter was articulated through five points of analysis: law as a value in relationship to the norm; encompassing law as a value in the European philosophical culture; the particularities in encompassing the axiological significance of the value of law; Aristotelian contributions to the axiological dimensions of building law; and law and/or justice in the European philosophical tradition.

Our analytical discourse debuted through an analysis of the value of right from the perspective of its relationship to law. The reason for such an approach is that we cannot talk about right and ignore the law, especially when the stakes of the research belong to the axiological spectrum. Hence, we intended that the reference to the element of law to confer clarifying benefits for the analysis of right as a value.

Hence, we started from the idea that the relationships between people need a stable environment and a secure institutional framework. Even though we are aware of the expectations we have from one another, and the mutuality facilitates communication and coordination between people, still, the scenario of giving up the state are related to the sphere of fiction. For hundreds of years we evolve with the ideal of the supremacy of the law and we need the security that it brings along with it the existence of the juridical rules, so that we all come to know them. The accent is put on stability, on certitude, on objectivity, on the constancy of the application of laws over time, on the character logically consistent, on the absence of the internal contradictions, on the congruency of the official and individual conduct with the rules of law. All these aspects define an ideal with a real value in any contemporary civilized society. This ideal, in its axiological dimension, offers to the human life a value above any other possible circumstances. Of course, this ineluctable ideal does not confer an exclusively positive value in the way of applying the law, nor does it guarantee that the right endorsed by the application of the law would be enough for discarding any mistakes.

All these observations which now belong to a common discretion place were concurred and fixed through the effort of conceptualizing made by some philosophers who hence made history. We hope that we succeeded to underline at least a few of the significant aspects of this juridical relevant history, but philosophically articulated. For that matter, the philosophers were the ones who questioned the necessity of the laws, of the legislators, of the entire juridical construct.

Hence, we searched to show how it is made that, if at the level of the reality law has technical valences, at the level of the philosophical theory, law reveals larger problems. Such

an investigation implies a difficult research, according to the eternal preoccupation of the philosophers who marked the European culture trying to solve it. Practically, all political philosophers, from Plato to Hegel, all the philosophers preoccupied with the problem of the natural law wrote hoping to offer a definitive solution.

Without allowing ourselves an exhaustive approach, we tried to rediscover law retracing the path of normativity. We started from the idea that, according to the naturalist conception, the concept of normativity is specific to a necessary leaning of the human being towards normativity. Practically, it refers to a fundamental idea about what would be imperative and compulsory for the human being. It issues that law has a "normative" character as far as it is or it tends to represent a natural and a moral imperative order as far as being the just conduct of people in their relationships with the others.

We insisted on underlining the fact that normativity according to the vision adopted by the positivists, and in the one preferred by the ius naturalists is, still, a controversial concept. Moreover, we showed how the "realist" interpretations from the juridical thinking demand for the fallibility of both directions of approach and sanctions as improbable their normativity. Because the realism accepts as exclusively "real" the physical entities and their states, the norms, being either positivist or adopted by the ius naturalism, cannot enrol into this category. The history of the juridical thinking offers us two ideas that occur in order to counteract the conception according to which the compulsory character of the law depends on the coercive application of some penalties. An idea is founded on the observation that the penalties have a legal nature only when they are imposed by the agents that have the right and duty to do so. Hence, it results that not any legal obligation legitimises its compulsory status by the fact that it is accompanied by some penalties. Also, there are rules of law that do not impose through themselves obligations. For instance, there are laws that empower or grant rights, regulating their accomplishment. We have, in this case, specific laws, authentic as juridical norms, even though they are not explicitly associated with compulsory formulas.

On the other hand, we dispose of an opposite idea, which accepts that compulsion is justifiable in terms of practical reasons. From this perspective, we can see the practical primacy of the moral dimension: the compulsory character of the law and the manifest enforcement of the law necessarily depend on its moral compulsion character. But it can be compulsory if and only if should it have a "morally peremptory" quality. Here we talk about a ius naturalist conception in which the juridical obligation is a particular and derived case of the political obligation. The aspects concerning the nature of law and of right demand answers to problems from the field of the legitimacy of the authority in human communities. All in all,

the obligation cannot be explained through the coercive nature of a legal prevision, because the compulsory character of the law confers a justification for coercion.

Advancing into a direction that supports the fact that human beings have fundamental rights which belong to them in any context, including in their natural estate, we admitted that the essential function of the laws installs for supporting these rights. For the theories that admit the hypothesis of the natural estate, rights are plausible and applicable among people who are uncurled as a community, not to say as a state. The most solid philosophical support of this theory can be found at Thomas Hobbes, an English philosopher of the 17th century, and also at John Locke, another bright philosopher of the modern thinking. In both cases, the law, as a buckler of the rights, is previous to its institutionalization.

We also tried to show that the theories about rights and laws do not imperatively involve subscribing to the theories related to the state of nature. There are alternatives. Law can be accepted as an "institutionalized technique" of protecting the demands of the individuals towards the utilitarian politics that aim at obtaining the maximal happiness for as many individuals as possible. Here we referred to the utilitarian vision. We centred our attention on the utilitarian direction because it occupies a central place within the moral theory, and an approach of the axiological meanings of the value of law must include a few ideas about this theory. Moreover, at the present moment, through the effervescence of the applied ethics, the utilitarianism is maintained as a relevant source of arguments.

From the concept of the history of the doctrines of the philosophy of law emerges an initiation method in the study of the philosophy of law. For being able to discuss about the axiological meanings of the value of law, it was necessary to make, first, reference to what is the philosophy of law in the European cultural conception. This demarche that we referred to was the object of an deepened study of many researchers of the socio-human sciences. Establishing something which is apparently very simple can be a difficult attempt when we are wrought up by questions as for example: what is the reason to be of the philosophy of law? What is the object of the philosophy of law? As simple as the definition of the analysed object is, as complex the area of the wrong answers found was. Each school had its own variant of valuing law, but nevertheless the mission of the historic of the philosophy of law remains a difficult one. Our finding was that it had the obligation to value law by virtue of a science of law which is based on principles on which it cannot rationally justify itself.

Because the philosophy of law belongs with the critical study of the principles of the scientific and axiological principles of law, our demarche framed as a synthetic display of the most significant ones. All the great philosophers, authors of philosophical systems tried to

formulate the principles of law. Either we talk about Plato, Aristotle, St. Augustine, St. Thomas de Aquino William Ockham, Thomas Hobbes, John Locke, Baruch Spinoza, Gottfried Wilhelm von Leibniz, Jean-Jacques Rousseau, Immanuel Kant, Johann Gottlieb Fichte, Georg Wilhelm Friedrich Hegel, Auguste Comte, Karl Marx *et all.*, they all tried to establish the principles of law, they were all concerned with valuing this concept which is *de facto* and *de iure* so rich. Our attention was particularly directed towards the Greek horizons, especially Plato and Aristotle. Greece was the cradle of the European philosophy, and the philosophy of law, in general, also started with the great works of the two Greek philosophers. The theory of the natural law itself has its treads in Ancient Greece. Here there also appeared the founding elements of the juridical positivism, of relativism, of sociologism, etc.

After we pointed the defining elements of law as a value from a Plutonian perspective, we continued by offering a synthesis of the meanings of the value of law since Aristotle, and here me referred to three major texts: Politics, Nicomachean Ethics, Rhetoric. If at Plato, *nomos* and *dikaion* are terms that overlap, to Aristotle we owe the merit of making a clear distinction between the two concepts, and also between law and justice. Along with the Aristotelian moment, law is agglutinated by moral and it develops in a special manner inside of it. Moral laws are also building inside moral and are different from the juridical laws. Not any type of law can be a juridical law, only the specialized ones accomplish this condition. Thanks to Aristotle, we can say that the science of law becomes autonomous in relation to the science of justice or to politics. The Aristotelian presentation induces us an unfamiliar idea concerning law. But, where we are privileged through the tradition that we inherited, Aristotle made an absolute spadework trying to problematize law.

To conclude, we specify that at the moment that the 20th century ended, the interrogation on the axiological valences of the modern law generated hopes and certainties. Modern law offered both an unfinished institutional work, eternally unfinished, submitted to two types of difficulties. On the one hand, it is hypothetical when it confronts with the reality of men's violence. On the other hand, reason, on the pretence of leading towards liberty (de)generated in multiple alienation forms. Liberal humanism of which the European culture is proud and which is guaranteed through the axiological dimension of law was and remains vulnerable. An exhaustive approach of the axiological meaning of the value of law in the European culture would need a generous analyse which to include the philosophical systems of law in Europe since Antiquity and up to the 19th century. The history of the philosophy of law became a discipline in itself, at an academic level being object of analyse in the faculties of

law from the space of the European Union, and also in USA, and more recently, from the highly competitive Asian university area.

In a paper since 2011, professor Liviu-Petru Zăpârţan showed that "law has in the European spirituality a special place, as a supreme value, along with Truth, Good and Beauty of the human condition, (...) as an ordering principle of the mind and of the human condition, (...) as a set of rules that are elaborated, promoted and sanctioned by an ordering power in a society, all making reference to the law that must govern the relationships between people in order to establish what is Just and to distinguish it from what is unjust"[8]. The author presents the way in which law was built in the European spirituality since Antiquity and until present, finally showing that the founding fathers of the European Union desired the elaboration of a juridical construction which to regulate the community institutional activity. For this reason the author considers that the entire European construction "is a construction through law" which was started by regulating on the basis of the unity of willpower of the elites. Subsequently European law becomes an instrument for the building of new relationships between the European peoples and whose will it expresses[9].

In the research literature there took shape the idea that, at the present moment, European Union is in crisis from many points of view: the economical crisis, the crisis of the Member States which are the prisoners of the markets, the institutional crisis of the Union, the leadership crisis triggered by the absence of the founding fathers of the Union from the chain of succession, the democratic crisis of the Union, the crisis in defining the European project. To all these crises we can still add the civilizationist crisis of a continent on which the social model hardly resists in facing mondialization[10].

Approaching the role of law in the European construction in the third chapter of the present paper, in this context of the European crisis triggered on more than one fields, represents a major challenge. For answering this challenge, we made reference to the following aspects: the values and objectives of the European Union, the notion of European Union law, the structure of the European Union law and its impact on people in time and space.

According to Article 2 of the TEU, the values on which European Union is founded are: the respect for human dignity (a new value); liberty; democracy; equality (a new value);

[8] Liviu-Petru Zăpârţan, Reflecţii despre Europa Unită, Ed. Eikon, Cluj-Napoca, 2011, p. 121.
[9] Ibid., pp. 121-128.
[10] Antoine Mégie, Antoine Vauchez, „Introduction, Crise, crises et crisologie européene", in vol. Politique européenne, Crise, crises et crisologie européene, Antoine Mégie, Antoine Vauchez (coord.), no. 44, 2014, L'Harmattan, Paris, 2013, p. 9.

the rule of law; the respect for human rights, including the rights of the persons belonging to the national minorities.

These values are common to all the Member States "in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevails". The respect for the values of the European Union from the part of the Member States is surveyed by the European Union, which can interfere if a Member State breaks or even if there is just a risk for them to be broken[11].

In turn, the objectives that justify the existence of the European Union and its competences are presented in Article 3 of the TEU. They are clearly formulated and consolidate the fact that the economical objectives are as important as the social, cultural, humanitarian and environmental ones. Promoting peace, the values of the European Union and the welfare of its population represent the major objectives of the European Union. Among the specific objectives of the European Union we recall: the creation of an area of freedom, security and justice; the establishment of an internal market which to follow not only economical objectives, but also social, cultural and environmental targets; the establishment of an Economical and Monetary Union (EMO); the enhancement of the European Union's presence on the international scene with the purpose of promoting its values and interests and of contributing to the protection of the EU's citizens outside of it[12].

The Lisbon Treaty defines and provides a better understanding than the previous treaties on the problem of reuniting the Member States within the Union and on some of the values and objectives that are shared by the citizens of the European Union. The Preamble of the Lisbon Treaty makes reference to the "cultural, religious and humanist heritage of Europe, from which there developed the universal values of the inviolable and inalienable rights of the human person, of liberty, democracy, equality and rule of law". The external characteristics of the objectives of the Lisbon Treaty are the accent on the respect, promotion and protection of human rights and the engagement of the European Union to become more democratic and more relevant for its citizens[13].

In the subchapter called "Notions of the European Union law and the nature of the European Union" we made reference to the fact that European Union is a creation of law and the European community is founded on law. So, it is about an interdependence relationship which is created between the European Union seen as a community and the law. The

[11] Alina Kaczorowska, European Union Law, second edition, Routledge, London, 2011, pp. 39-40.
[12] Ibid., p. 40.
[13] Id.

economical life of the peoples from the Member States is governed through the European Union law which is at the basis of the European institutional system and which establishes the decisional procedure for the European Union's institutions and regulates the relationships between them. European Union law is also the one which offers European institutions the means of legal expression, of regulating the actions of the Member States and of their citizens. Within this context, persons become the main concern of the European Union. This legal order affects the daily life of its citizens, granting them with rights and imposing them obligations so that, in their quality of citizens of the Member States, and at the same time, of the Union, they are lead by "a hierarchy of the juridical orders" – which is, as different authors show, "a familiar phenomenon starting with the federal constitutions"[14].

European Union offers an integrated system of legal protection, defining, at the same time, the relationship between the European Union and the Member States. Within this context, Member States have the obligation to take all the necessary measures for ensuring the fulfilment of the obligations imposed by the treaties or through the actions of the European Union's institutions. At the same time, Member States have the obligation to facilitate the fulfilment of the European Union's objectives and of abstaining from taking measures that could endanger the fulfilment of those objectives. Finally, Member States can be held accountable towards the citizens of the European Union for any breaking of its law[15].

Timothy Moorhead believes that the nature of the European Union's legal order has a sui generis character given the institutional characteristics that are common to both the international order and to the national one[16].

All along this subchapter, we considered that it is necessary to present, in a schematic manner, the historical evolution of the European Union and of the European Union law, from its origins till present. We also made short references to the application of the principle of primacy of the European Union law over the law of the Member States, and also to the need that the European Union chooses between the regime of executive federalism and the one of the transnational democracy – this last aspect being approached through the angle of the Habermasian vision on the issue. Only this way can be framed the framework and the role of law in the European construction.

[14] Klaus-Dieter Borchard, The ABC of European Union law, Publications Office of the European Union, Luxembourg, 2010, p. 079.
[15] Ibid., pp. 079-080.
[16] Timothy Moorhead, „European Union Law as International Law", in vol. European Journal of Legal Studies, Volume 5, Issue 1, Spring/Summer 2012, http://www.ejls.eu/10/128UK.pdf, pp. 106-107.

In the subchapter entitled "The structure of the European Union law" we made reference to the sources of the European Union law, to their classification and to their hierarchy. In the absence of other clarification on these themes, other factors as the indications of the treaties, the practices established by the European Union's institutions and also by the Member States, the decisions of the European Court of Justice establish the identification of the following sources[17]:

- *Primary sources* – composed of the following treaties of the European Union: Treaty ECSC and EAEC revised through the following treaties; protocols and annexes attached to these treaties and which are a part of them; the adhesion treaties of the Member States. As some authors show it, the primary sources are at the top of the hierarchy of the European law's sources.
- *The general principles of the European Union law* – which refer especially to a set of unwritten principles and which are the foundations of the European legal order. Still, some principles are expressly provided by the treaties and for this reason they are considered primary sources. The Court of Justice of the European Union took refuge in the general principles in order to supplement other sources of the European Union law. They are positioned under the primary sources but on top of other sources, except the case in which they are not already included into the category of the primary sources.
- *External sources* which derive from the international agreements concluded between the European Union and the third countries or other international organisms. As some authors show, European Union has a legal personality and so, has the capacity to conclude such agreements. According to the previsions of Article 216 (2) from the Treaty on the Functioning of the European Union such international agreements oblige European Union and the Member States and are an integrative part of the European law. The hierarchy of the sources of the European Union law they position under the category of the primary sources but before the secondary ones.
- *The secondary sources* – are composed of relevant legislative and non-legislative acts which enter into the adoption competence of the European Union's institutions. There are three types of such acts: regulations, directives and decisions – which are compulsory; and recommendations and advices – which do not have a juridical force. Non-legislative acts are implementation or delegation acts.

[17] Alina Kaczorowska, op. cit., 2011, pp. 198-199.

- *The acts of the European Union* which are not expressly mentioned in Article 288 from TFEU. Their importance, depending on the coercive force they impose, is determined by their object and their material content.
- *The jurisprudence of the European Court of Justice* – the previous decisions of the CJEU are important because they offer the directory lines for the subsequent decisions which have a similar object. Nevertheless, some authors show that the previous decisions are not considered as being compulsory for the national courts or for the ECJ. Within this context, it is considered that they are not sources of the European Union law.

At the basis of the classification of the European Union law sources stand different criteria and for this reason we can distinguish the following[18]:

- Written and unwritten sources,
- Internal and external sources,
- Primary and secondary sources,
- Sources mentioned by the Treaties and sources which were introduced by practice,
- *Strict sensu* sources of the European Union law which condense the primary and secondary sources; and *lato sensu* sources which encompass all the rules applicable to the juridical order of the European Union (written, unwritten, external and internal).

In order to appreciate the impact of the European Union law on people in time and space, in the last part of the third chapter we wrote about two essential aspects. First it is about seeing which are the ways in which the European Union understands to involve in the life of its citizens, and secondly, we considered that we must regard things from bottom-up, meaning from citizens towards the Union in order to see how integrated they feel within this European construction.

With reference to the first aspect of the ways in which the Union understood to involve in the life of its citizens we can observe that through the European Union law it tried to create the favourable legal framework for the mutual cohabitation of the peoples of Europe. In practice, the Union adopted over time different strategies which to implement the objectives foreseen in the Treaties of the Union and also in the secondary legislation of the European law – Europe 2020[19].

[18] Ibid., p. 199.
[19] Comisia Europeană, Comunicarea Comisiei – Europa 2020 – O strategie europeană pentru o creştere inteligentă ecologică şi favorabilă incluziunii, COM (2010) 2020 final, Bruxelles, 3.3.2010, http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52010DC2020&from=RO.

The Presidency of the European Union Council from the third semester of 2015 interfered into a different institutional context after the adoption of the Lisbon Treaty, elaborating a paper in 2015 with reference to the impact of the European law on the European citizens. According to the opinion presented in this paper, at the present moment, more than before the adoption of the Lisbon Treaty, "the citizen is at the centre of the European project". The Presidency of the European Union Council considers that it has the vocation to watch over the process of taking into account by all the European Union's policies of all direct and real interests of the citizens. It also desires to contribute to the good application of the principles of subsidiarity and proportionality, to updating the inter-institutional agreement entitled "A better enactment" which would allow the formalization of the ways towards an improved institutional cooperation, to the negotiation for the establishment of a basis which to ensure a quality legislation in the context of a durable development, and also at the deepening of the inter-institutional dialogue on the content of the Commission's annual working programs[20].

If we observe things from bottom-up, meaning from the citizens towards the Union, then we must refer to a few aspects which mainly concern the awareness of the European Union's citizens about their status as citizens of the Union, and also of the rights they enjoy through the angle of this status. To this effect, we made reference to the Report of the European Commission prepared in 2013[21]. We insisted on some relevant aspects as for example: the familiarity of the European citizens with the term of European Union citizen and with the rights that they enjoy with reference to the previsions of the European law.

[20] Présidence du Conseil de l'Union européenne, Une Union pour les citoyens, Les priorités de la Présidence luxembourgeoise, 1er juillet – 31 décembre 2015, pp. 07-08.

[21] European Commission, Flash Eurobarometer 365, European Union Citizenship, Report, http://ec.europa.eu/public_opinion/flash/fl_365_en.pdf, p. 6.

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